

## Pennsylvania Bar Association Access to Justice Committee

### Resolution To Cosponsor the American Bar Association's Resolutions To Adopt the Proposed ABA Model Access Act and ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings

**WHEREAS**, the Pennsylvania Bar Association (PBA) has made the commitment to access to justice for underserved populations a key priority, as set forth in its bylaws, which define one of its purposes as ensuring that "no one on account of poverty is denied his or her legal rights," and as exemplified in the PBA House of Delegates' endorsing various measures to increase the availability of counsel for those who lack financial resources through enhanced pro bono service and through increased funding for civil legal aid.

**WHEREAS**, it is the charge of the Access to Justice Committee, formerly known as the Task Force on Access to Justice (Legal Access Committee) to review and recommend for adoption resolutions that advance legal access for all, and particularly for those for whom access to justice may be restricted by the lack of financial or other resources.

**WHEREAS**, in 2005-2006, the American Bar Association formed the ABA Presidential Task Force on Access to Justice in Civil Cases (ABA Task Force) to study and recommend whether a proposed resolution should be introduced to support the provision of counsel as a matter of right at public expense to low income persons in certain adversarial proceedings where basic human needs are at stake.

**WHEREAS**, in August 2006, the ABA House of Delegates passed the following resolution:

**RESOLVED:** That the American Bar Association urges state, territorial and federal jurisdictions to provide counsel as a matter of right at public expense to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.

**WHEREAS**, in November 2007, the Pennsylvania Bar Association's House of Delegates passed the following resolution, hereinafter referred to as the "2007 Legal Access Resolution":

**RESOLVED**, That the Pennsylvania Bar Association urges the Commonwealth of Pennsylvania to provide legal counsel as a matter of right to low income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody.

**WHEREAS**, the 2007 Legal Access Resolution cited an extensive list of states and the most common substantive areas where some level of right to counsel has been identified by statute, as well as the status of activities in expanding the right to counsel in selected states.

**WHEREAS**, Andrew Susko, then President of the PBA, appointed the Access to Justice Task Force to develop broad implementation strategies for the right to civil counsel, pursuant to the 2007 Legal Access Resolution.

**WHEREAS**, the Pennsylvania Bar Association, in concert with the Philadelphia Bar Association, convened a program on Civil Right to Counsel, also known as "Civil Gideon", in April 2008 to address the implications of recognizing the right and implementing that right.

**WHEREAS**, in the time since April 2008, a number of discussions and informal meetings have been held to address how the Task Force on Access to Justice, now the Access to Justice Committee, should proceed.

**WHEREAS**, Pennsylvania Bar Association President Gretchen Mundorff has urged the Committee to move forward in investigating, and developing proposals relating to, the recognition and implementation of the right to counsel pursuant to the September 2007 Legal Access Resolution.

**WHEREAS**, in May 2010, the ABA Working Group on Civil Right to Counsel distributed two reports, namely, a report with recommendations relating to a proposed ABA Model Access Act and a report with recommendations relating to proposed ABA Basic Principles of a Right to Counsel in Civil Legal Proceedings (collectively, the "Model Access Act and Basic Principles") to those states and localities addressing the topic of Civil Gideon and invited those jurisdictions to cosponsor proposed ABA Resolutions in support of the proposed Model Access Act and Basic Principles.

**WHEREAS**, the Access to Justice Committee has reviewed the proposed Model Access Act and the Basic Principles and determined that both the Act and the Basic Principles appropriately set forth the basic principles for a right to counsel in certain civil proceedings both on a national level and in Pennsylvania, while leaving appropriate discretion to the states and localities to determine the precise reach of Civil Gideon in their jurisdictions; and

**WHEREAS**, the Access to Justice Committee believes that adoption of the ABA Model Access Act and Basic Principles is consistent with the Pennsylvania Bar Association's support for ABA Resolution 112-A adopted in August 2006, as reflected in the Pennsylvania Bar Association's 2007 Legal Access Resolution.

**WHEREAS**, the Access to Justice Committee believes that the ABA resolutions proposing adoption of the Model Access Act and Basic Principles, if adopted by the ABA House of Delegates, will substantially advance the work of the Access to Justice Committee, and that therefore the Pennsylvania Bar Association should be listed as a co-sponsor of, or otherwise be on record in support of, the ABA Model Access Act and Basic Principles.

**NOW, THEREFORE, BE IT RESOLVED**, that the PBA Access to Justice Committee recommends that the PBA leadership approve the participation of the PBA as a cosponsor of the proposed ABA resolutions as set forth above, and direct the President of the Association to communicate the Association's approval to the American Bar Association in advance of its annual meeting.

Respectfully submitted,

Dveera Segal  
Committee Chair

June 16, 2010

***\*\*Approved by the PBA Board of Governors on June 25, 2010***