Editorial

(Penny) wise justice for California

A legislative bill offers a smart, cost-effective way to provide civil case legal counsel to those who can't afford it.

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It would be a mockery of justice and a waste of resources to force criminal defendants to trial without counsel. Not knowing rules of evidence, not realizing they are waiving their rights, unaware of the pitfalls of pleading to lesser charges, lawyerless defendants would be lost in a system that purports to grant equal justice. They would needlessly consume jurors' time as they flounder through trials, then would clog appellate courts while pursuing the justice they were denied in lower courts. But society, as well as the accused, is protected by the 6th Amendment right to counsel. Ever since the Supreme Court, in the historic case of Gideon vs. Wainwright, extended the right to counsel to state as well as federal trials in 1963, courts have supplied lawyers for defendants who can't afford them. It has proved to be quite a bargain all around.

Yet, on any given day, more than 4 million Californians who can't afford lawyers stand in jeopardy of losing their homes, the custody of their children, even the power to make their own decisions. Their fundamental rights are at stake, but in civil court. They are not charged with crimes, so the 6th Amendment does not guarantee their right to counsel.

Seniors without lawyers are too often cornered into guardianships by unscrupulous caregivers; unwary homeowners end up on the street; parents lose their children. Proceedings grind to a halt as judges try simultaneously to retain their neutrality and to ensure that the unrepresented are not improperly fleeced. Every Californian pays for this foolishness in higher costs for courts and county services.

Political activist and innovator Sargent Shriver helped launch the movement to provide legal services to those who can't afford them, but current programs and funding cover only about a third of indigent Californians who need lawyers. Now Gov. Arnold Schwarzenegger has the opportunity to remedy the problem while making the state a national leader in innovative and cost-effective ways to guarantee access to the justice system. He should sign by Assemblyman Mike Feuer (D-Los Angeles).

Schwarzenegger helped champion the idea, only to see it founder when the fiscal crisis compelled him to redirect the funding -- from modest increases in filing fees for various court papers -- to the courts' operating budget. Those increases already are in place; this bill leaves them untouched for two years, then directs the proceeds to two three-year cycles of pilot projects providing legal representation. Then, importantly, it sunsets the fee increases.

Money would not be spent haphazardly; it could be used only in matters involving housing, restraining orders, elder abuse, child custody, conservatorships and guardianships. The bill mandates that courts develop criteria for providing counsel and evaluation of the program's effectiveness. It includes flexibility for course corrections if warranted. It offers a smart, creative way to protect the rights of litigants and preserve the resources of the courts -- while making the best use of scarce tax dollars.

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