DISCUSSION IN SUPPORT OF A PBA RESOLUTION SUPPORTING THE ESTABLISHMENT OF A PENNSYLVANIA ACCESS TO JUSTICE COMMISSION

Over the past five years, there has been a growing movement throughout the nation for states to create Access to Justice Commissions (ATJC). Thirty-one states and the District of Columbia have now created Access to Justice Commissions and an additional six states are in the process of evaluating the benefits of creating one. While this has been a topic of discussion in Pennsylvania throughout that time, we are now able to learn from the experiences and successes in other states that have established these Commissions, which have all been very favorable. The time has come for Pennsylvania to take this step. Although the PBA was the first bar association in Pennsylvania to begin the consideration of this supportive resolution, in the meantime the Allegheny County and Philadelphia County Bar Associations have also adopted resolutions supporting the establishment of a Commission.

An ATJC is a blue-ribbon commission; a formal entity that brings together leaders of the courts, the bar, the business sector, civil legal aid providers and other key stakeholders to work in a coordinated and collaborative effort to expand access to justice at all levels of the courts, on the civil side, for low-income and disadvantaged people in the state, by assessing their civil legal needs, developing and enacting strategies to meet them, and evaluating progress. While the subject of funding for legal services would be a natural topic for such a Commission, that is by no means the only topic falling under the mission of an ATJC. Commissions in other states have addressed such areas as access to the courts for self-represented litigants, through standardized forms, help desks, and other forms of assistance; initiatives to help pro bono counsel; such as special court rules that could promote this kind of work; and other court, bar, or legislative initiatives that further access to justice. At the recent Legal Services Corporation visit to Pittsburgh, the Chief Justice of the West Virginia Court reported on a success of that state’s
Access to Justice Commission, which spearheaded some improvements in the workers compensation system, by developing and promoting a consensus among the various interests and seeing that through to legislative action. This is example in not meant to suggest this particular subject in Pennsylvania, but to demonstrate the broad range of access to justice topics that a Commission can address. A benefit of such a Commission is that it brings together varied interests, toward the aim of adopting common sense solutions to the justice gap.

As set forth in the resolution itself, Access to Justice Commissions in other states have had a major impact on legal services funding, new initiatives to increase pro bono services, expanding support for low income people who must represent themselves, promoting better coordination among the various legal services providers, instilling a public service commitment among law students, and educating legislators, the public, and key audiences about the legal needs of low income and disadvantaged people, as well as well as the social and economic benefits of ensuring that these needs do not go unmet.

The ABA House of Delegates, the national Conference of Chief Justices (CCJ), and the national Conference of State Court Administrators, which all included representatives from Pennsylvania, at their 2013 annual meetings all adopted resolutions reaffirming their commitment to establishing commissions in every state, and to promote the work of ATJ Commissions.

The resolution before the PBA Board of Governors is an endorsement in principle of the establishment of a commission. It contains two key conditions upon this general endorsement. First is that a Commission must be designed with careful concern to assuring a cross-section of interests and membership, so that it truly reflects the myriad of interests such a body will address. Second, it must be designed in a way that the operation funding of the Commission
itself is established and is modest. The Commission should be adequately supported to perform its responsibilities but should not be a drain upon the resources otherwise used to support access to justice itself. The Civil Legal Justice Coalition, whose Honorary Chair is Chief Justice Castille, has a committee reviewing these questions and the recommendations must be reviewed and adopted by the Coalition before their dissemination. The PBA has representatives on that Coalition, including President Forest Myers.

The PBA has a long history of promoting access to justice for the neediest among us, dating back through the past three decades. This year, the PBA has an opportunity to renew its strong commitment to improving the access to justice of the poor by passage of the proposed resolution.

At its May 1990 meeting, the House unanimously adopted the report and recommendations of the first Task Force on Legal Services to the Needy. In 2003, it adopted the report and recommendations of the second Task force on Delivery of Legal Services to the Needy. Each of these reports contained a comprehensive set of recommendations for improvements in access to justice, through funding, resources for self-represented litigants, enhancement of pro bono, and through other means. In 2007 the PBA Board and House of Delegates passed strong resolutions in support of pro bono services, full funding for legal services, and a right to counsel in civil cases involving basic human needs. At other times the PBA has taken separate action to endorse improved funding for civil legal aid.

Further study will address recommendations on the mission, composition, and structure of a Commission as well as the establishment of a home for a Commission. This resolution does not attempt to establish those follow-up questions but instead contains an endorsement of the importance of establishing such a Commission.