

The Access to Justice Committee recommends that the Board of Governors and House of Delegates approve the following resolution:

**ACCESS TO JUSTICE COMMITTEE
RESOLUTION**

WHEREAS, the Commonwealth of Pennsylvania is presently experiencing a budgetary crisis with significant ramifications to the Commonwealth's court system and the provision of legal services to Pennsylvania's low income community;

WHEREAS, the failure to fully fund the court system and legal services would have an adverse impact on access to justice, falling disproportionately on those with low income and the disadvantaged;

WHEREAS, the Commonwealth's court system faces its sixth, consecutive year of structural deficits not of its creation and despite historic cost-saving measures it is impossible for the system to remedy those deficits without additional funding;

WHEREAS, the Commonwealth's court system should be funded adequately through general government revenues;

WHEREAS, anticipated funding for legal aid in Pennsylvania will be significantly lower in the coming fiscal year due to federal budget cuts, the end of stimulus funding, and the continued low IOLTA interest rates;

WHEREAS, legal aid programs in the Commonwealth are already lean and leveraged, some having made significant cuts in past years by eliminating positions or pension contributions and by taking other concessions from employees to maintain staff positions in order to ensure access to justice for the poor, and all having obtained the assistance of pro bono lawyers to assist in representation of the poor;

WHEREAS, due to a lack of resources, the current funding for legal aid for the neediest among us in Pennsylvania forces legal aid offices to turn away half of the people who contact those offices and are eligible to receive services;

WHEREAS, many more eligible low income Pennsylvanians facing significant legal problems do not even attempt to access services;

WHEREAS, the current national and statewide financial conditions have increased the number of low income individuals who are in need of legal services in order to be able to achieve access to justice;

WHEREAS, dating back over 20 years, the PBA has consistently advocated adequate funding for access to justice, by state and federal funding for legal services, use of filing fees to help fund legal services, and more recently filing fees to help adequately fund the courts;¹

WHEREAS, the Pennsylvania Legislature has instituted Act 122, which includes provision for modest filing fees of \$2.00 for legal aid programs and Act 49 which provides for a temporary filing fee of \$11.25 imposed on various courthouse filings, \$1.00 of which is for legal services and \$10.25 of which is for funding of the Courts;

WHEREAS, the Act 49 filing fees were limited and did not include criminal convictions and traffic citations;

WHEREAS, the court and legal services portions of Act 49 are set to sunset January 1, 2012;

WHEREAS, the legal services portion of Act 122 is set to sunset on November 1, 2012;

WHEREAS, it is anticipated that the sunset of Act 49, January 2012, will likely be considered in the current budget discussions by the Pennsylvania Legislature;

WHEREAS, while recognizing that filing fees are no substitute for full funding of the Court and legal aid programs by the legislature, the current budgetary crisis does not allow the organized Bar to support termination of existing sources of funding that are required to adequately fund the Court and provide some access to legal services for low income Pennsylvanians;

NOW THEREFORE, be it resolved that the PBA supports extension of Act 49 fees on all court filings included in Act 122 for a period not to exceed 48 months, during which period the PBA shall further vigorously advocate increased appropriations to fund adequately the court system's general government operations and legal services, which would allow for the eventual elimination of those filing fees; and

FURTHER, be it resolved that the PBA supports the continuation of the Act 122 filing fees at an amount of up to \$3 per filing dedicated to funding legal services.

Respectfully submitted,

Dveera Segal, Chair

¹ (a) In 1990, approving the 1989 Report and Recommendations of the PBA Task Force for Legal Services to the Needy, the House of Delegates endorsed increased state and federal funding for legal services and a filing fee of \$5 to \$10 (depending upon venue) to support legal services;
(b) In May 1999, the House of Delegates modified the above resolution, by supporting filing fees of \$4 and \$5 (depending upon venue) to support legal services;
(c) In June 2005, the Board of Governors endorsed the "repeal" of the sunset on filing fees in Act 122, and authorized "the President to use the resources of the PBA through its leadership, legislative office and other means to help achieve that repeal and elimination;"
(d) In November 2007, The House of Delegates endorsed a resolution calling for increased state and federal funding for legal services;
(e) In July 2009, after endorsing the need for full funding of the courts, the House of Delegates also approved a resolution calling for an increase in filing fees of up to \$12.