

Opinion

henriette.campagne@lawyersweekly.com

Has Gideon's time arrived ... again?

Editorial

A Boston Bar Association task force released a report this year entitled "Gideon's New Trumpet."

The report revives a debate that has long simmered in the legal community: Are there certain civil cases for which individuals should be guaranteed a right to counsel?

It is hard to ignore the ever-present call for such a proposal. There is a constitutional right to counsel in criminal cases where one's liberty is at stake. So why does the law not promise a similar right where *civil* liberties are at stake?

Instead, a cruel reality of our system lingers — that,

in certain situations, people may face the grips of homelessness or the loss of child custody without legal representation.

But a "civil Gideon" has long been resisted due to fears that it is unrealistic or impractical.

The BBA states that a civil Gideon stands for the basic proposition that when a civil proceeding involves a basic need or right, and nothing short of representation by counsel will preserve that right, counsel must be provided.

No one, according to the BBA, is calling for a lawyer where the rights at issue do not involve basic human needs. And no one, says the panel, is calling for representation by counsel when more limited forms of assistance will provide meaningful access to justice.

To its credit, the task force did its homework. The report is hardly a blue-sky, aspirational dream of the way our legal system should be.

The plan would involve nine pilot projects, involving housing, family, immigration and juvenile law, which would be implemented for a total cost of

approximately \$9 million, assuming each pilot runs for three years.

While the task force urges that all be fully implemented, it acknowledges that the projects need not be launched all at once.

The timing of this report is not ideal. The economic downturn has hit government hard, and it will be a chore to try to locate the resources for this program.

On the other hand, the economic downturn also comes

at a terrible time for people whose civil liberties, homes and children are in peril.

It may not be the time to unveil a civil Gideon program. But the work of the task force provides tangible starting points for a more meaningful definition of justice for all in our courts.

In desperate times, the plight of far too many residents of the commonwealth means that a civil Gideon at least deserves serious consideration.

MLW

Massachusetts Lawyers Weekly's Editorial Advisory Board provides knowledge and guidance for the editorials that appear on this page. The board is an advisory panel only, with no official voting or participation record. The input from the board is a tremendous resource to Lawyers Weekly, however, the editorials represent the position of the newspaper and its editorial staff, not the members, nor any given member, of the board.

BOARD OF EDITORS: Jeanmarie Carroll, Canton; Randy S. Chapman, Chelsea; Hon. Suzanne V. DeVecchio, Brockton; Hon. James W. Dolan, Boston; Hon. Edward M. Ginsburg,

MASSACHUSETTS masslawyersweekly.com
LAWYERS WEEKLY ESTABLISHED 1972
STATEWIDE GENERAL CIRCULATION

617-451-7300

Publisher / Editor-In-Chief
David L. Yas, Esq. Ext. 12112
david.yas@lawyersweekly.com
Editor

Circulation Marketing Director
JoAnn Griffin, Ext. 12164
joann.griffin@lawyersweekly.com