Promoting Pro Bono from the Bench in Minnesota

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Outline of Presentation

• The Scope of the Need and State of Legal Services

• Ways for Judges to Promote Pro Bono
Recent Increases in Poverty

• The number of Minnesotans living at or below 125% of poverty has increased by 17% from 2008 to 2012: from 668,567 to 810,200.

• The current poverty rate in Minnesota is 11.5%.

• Poverty disproportionately affects diverse populations in Minnesota.
Civil Legal Aid Funding Cuts

- 13% decline in funding for civil legal aid organizations, which have traditionally provided representation for low-income Minnesotans, since 2008.

- 29% reduction in legal aid staff (FTE).

- Recent closures of legal aid offices: Cambridge, Thief River Falls, Stillwater, and two in Minneapolis.
Legal Aid Cannot Meet Client Need

• One private attorney for every 365 potential paying clients compared to one legal aid attorney for every 4,022 low-income individuals.

• Legal aid organizations must turn away 2 eligible clients for every 1 eligible client that they may represent.
Pro Bono Can Fill the Gap

• Every Minnesota attorney has a professional responsibility to provide at least 50 hours of pro bono legal services per year.

• Through the MSBA North Star Program, over 950 MSBA member attorneys certified they met Rule 6.1, contributing 108,500 hours of pro bono in 2013 with an estimated value of $21,700,000
  ▫ Although many others provide pro bono assistance, we have 23,000 licensed attorneys in the state who could and should provide pro bono representation in some form.
How Judges Can Help Promote Pro Bono

• “Court involvement is essential to the delivery of pro bono legal services. Judicial support of pro bono can increase lawyers' acceptance of pro bono responsibility and increase the acceptance of pro bono as a necessary component of the delivery of access to justice.”

  -ABA Standing Committee on Pro Bono & Public Service
Minnesota Code of Judicial Conduct

• Canon 3, Rule 3.7 (B): “A judge may encourage lawyers to provide pro bono publico legal services.”

• Comment 4: “... a judge may promote broader access to justice by encouraging lawyers to participate in pro bono publico legal services, if in doing so the judge does not employ coercion, or abuse the prestige of judicial office. Such encouragement may take many forms, including providing lists of available programs, training lawyers to do pro bono publico legal work, and participating in events recognizing lawyers who have done pro bono publico work.”
Encouraging Lawyers to Participate in Pro Bono Publico Legal Services

• Providing Lists of Available Programs
  ▫ Direct attorneys to regional civil legal aid offices in your district.
  ▫ Encourage attorneys to visit ProJusticeMN.org, a centralized resource designed to help attorneys connect with pro bono cases and resources.

• Training Lawyers to do Pro Bono Work
  ▫ Assist providers in training opportunities and offer to provider perspective as part of trainings.
Encouraging Lawyers to Participate in Pro Bono Publico Legal Services

- Participating in events recognizing lawyers who have done pro bono publico work.
  - Establish and develop a judicial pro bono recognition program in your judicial district.
  - Partner with existing civil legal aid programs and local district bar associations to encourage pro bono work.
Additional Ways to Promote Pro Bono

- Offer to send recruitment letters and periodic reminders to encourage attorneys to volunteer.

- Adopt a bench resolution calling for pro bono involvement by local attorneys.

- Write letters, editorials, and opinion pieces for media outlets on the need for volunteer attorneys.

- Describe the need for pro bono at CLEs and local bar association meetings.
Additional Ways to Promote Pro Bono

• Express the court’s appreciation to attorneys appearing pro bono (letters, etc.)

• Award attorney’s fees to pro bono attorneys when appropriate and available by governing law.

• Serve on advisory boards for local pro bono programs/committees.

• Provide flexible scheduling for pro bono cases, such as priority at the beginning of calendar call.
Additional Ways to Promote Pro Bono

- Promote court employee (law clerks, staff attorneys) participation in pro bono activities.
  - *See* Minnesota Judicial Branch Policy 3.07, *Practice of Law Other Than Court Employment* – may represent clients in uncontested matters or contested matters brought outside the district or appellate court where attorney is employed

These ideas and others are derived from the ABA Standing Committee on Pro Bono & Public Service and the 1994 Minnesota Supreme Court Report of the Committee on the Role of Judges in Pro Bono Activity.
Useful Resources for Pro Bono Lawyers

- **ProjusticeMN.org**
  - Free on-line resource for pro bono lawyers
  - Case placement alerts, forms, legal information, trainings, etc.

- **CLE for Pro Bono**
  - One credit hour for each 6 hours of pro bono service, up to 6 CLE credits maximum

- **Emeritus Rule**
  - In effect as of July 2013 – lawyers on retired status may serve pro bono clients as emeritus lawyers – must work with approved provider and obtain 5 CLE credits – 3 year certification
Any Questions?

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