

Access to Justice Commission Homes In on Specifics

by Gordon Hickey



Equal access to justice for all

Virginians has long been a concern of the legal community. The gap between what lawyers are expected to offer, under the Rules of Professional Conduct, and what is actually provided is vast and growing. For example, Joanna L. Suyes, chair of the VSB Access to Legal Services Committee, and John E. Whitfield, executive director, Blue Ridge Legal Services and commission co-chair, reported in a February 2014 *Virginia Lawyer* article that if each active Virginia lawyer met the minimum goal established by Rule 6.1, they would log 939,120 hours of pro bono legal services annually. Instead, they found that lawyers statewide are performing less than one-twenty-fifth of the pro bono work that the rule expects.

With that concern, and others, in mind, the Supreme Court of Virginia created the Access to Justice Commission a year ago. Justice S. Bernard Goodwyn, co-chair of the commission, put the problem succinctly at the group's first meeting in December 2013: "If people have rights they can't vindicate in court, then they don't really have rights." The commission most recently met on September 12.

Since its first meeting, the commission has created separate committees to better consider different aspects of the issue of access to justice. Those committees are Access for Self-Represented Litigants, Pro Bono, Public Relations/Communications/Education, and Judicial Education.

Those committees have begun to focus on specific ideas.

Access for Self-Represented Litigants Committee

The committee has discussed a number of issues that would aid self-represented litigants, Judge Deborah V. Bryan, Virginia Beach Juvenile and Domestic Relations Court, said.

Bryan, who is committee chair, reported at earlier meetings that the committee discussed making the attorney field mandatory in the trial court case management system, at least on the district court level. That way, it would be possible to track how many cases involved self-represented litigants and track differences in outcomes. Currently, the attorney field is not mandatory.

The committee is also working on two surveys, for judges and clerks, intended to provide information about which cases involve pro se litigants most often and the forms that are most frequently used by those litigants. The committee will then propose ways to make the most commonly used forms more user friendly.

At the September 12 meeting, Bryan said the judges' survey will be put online beginning in October, with the approval of the Chief Justice. "Until we get the information, we can't move forward with the solutions," she said.

Pro Bono Committee

The committee, chaired by George Hettrick, Hunton & Williams, intends to propose mandatory reporting by all Virginia lawyers of pro bono services, beginning in 2016. Whitfield, who is a member, reported on the committee's work during the September 12 meeting. He said the proposal would be ready for presentation to the commission at its next meeting in December. "We want people to understand how reporting improves pro bono," said Scott C. Oostdyk, a committee member.

Whitfield also cited an ABA white paper that noted some states have a rule of court allowing limited scope representation. "That would be a dream come true for us," he said.

Whitfield said the committee intends to set up meetings of local bars, based on judicial circuits, to develop pro bono plans "with the goal of universal participation in pro bono work."

The committee also wants to expand the Firms in Service model, which exists in the

Richmond area, to Tidewater and Northern Virginia.

Also, Whitfield said the committee wants to more publicly recognize major pro bono contributors.

Public Relations/Communications/Education Committee

Among the ideas coming from the committee is offering an "Access to Justice" vanity license plate, said James V. Meath, of WilliamsMullen, committee chair. People who opt for such plates pay a fee to the state and most of that money comes back to the sponsoring organization. It would be a way to raise money for legal aid.

Meath said the committee is working on public service announcements and has been in contact with the Martin Agency. And like the Pro Bono Committee, the public relations group is considering ways to recognize groups and individuals who are providing pro bono services.

Judicial Education Committee

Judge Tonya Henderson-Stith, Hampton General District Court, chairs this committee. Member Carolyn Kirkpatrick, Director of Educational Services with the Supreme Court's Office of the Executive Secretary, said the committee is working on a draft of practice points for judges when they are working with self-represented litigants. The committee also is proposing providing judges with statistics on self-represented litigants and information on available mediation.

Training focused on self-represented litigants will be including on the agenda for the Judicial Conference of Virginia in May 2015.

Justice Goodwyn said the committees will continue to meet and develop ideas with the full commission acting as a clearinghouse. "Most of the work is done through the committees. That's where the oars are going to get pulled really hard."

Some of the proposals, when finalized, will require approval by the Supreme Court. Others, he said, "Will generate a groundswell of support."

He expects the commission's work to continue indefinitely.