

Report Highlights

A Performance Audit of Pennsylvania's Access to Justice Act

Act 2012-79 directs the Legislative Budget and Finance Committee (LB&FC) to conduct a performance audit of Pennsylvania's Access to Justice Act (AJA) to determine if there is continuing justification for the activities and level of financial support provided for in the act. We found:

- **The AJA established a fund to provide civil legal aid to low income people through a fee on filings in state courts.** Of that fee, \$2 was dedicated to funding civil legal aid, an additional \$1 surcharge on certain state court filings was increased to \$2 in 2014. The funds are administered by Interest On Lawyers Trust Account Board (IOLTA) through a grant agreement with PLAN, Inc. Services are provided by 8 regional and 6 specialty legal services programs (LSPs) located throughout the state that handle cases involving, e.g., family law, housing, employment and economic benefits for individuals whose family income does not exceed 125% of poverty guidelines (\$30,375 for a family of 4 in 2016). LSPs are prohibited from using AJA funds for political activity, fee-generating cases, defense of criminal prosecutions, or where counsel is otherwise required to be provided.
- **AJA fees and surcharges represent 31% of total state and federal funding and have averaged \$10.4M since FY 2010-11.** In 2014, the General Assembly replaced a temporary \$1 surcharge with a separate \$2 permanent fee, but the anticipated revenue increase did not occur due, in part, to on-line mortgage filings and a decrease in court actions. Temporary funding was provided by the Homeowners Assistance Settlement Act (HASA) which allocated \$2.1M over a three-year period for legal assistance related to housing issues.
- **Legal Services Corporation (LSC) and IOLTA funding has decreased since FY 2010-11.** LSC funding, which accounts for 35% of total federal and state funding for legal aid in Pennsylvania, has decreased 16% and interest income from IOLTA has remained low due to low interest rates. State funding is approximately \$6.5M less than the expected level had FY 2010-11 funding grown at the rate of inflation.
- **Less than 50% of eligible clients seeking services do not receive services.** Due to funding constraints, the level of services provided to clients may have declined, with more clients being served through brief services. Since FY 2010-11, total handled cases dropped from 100,000 to about 70,000; AJA-funded cases handled declined from 23,000 to about 17,000 in FY 2014-15.
- **Effectiveness measures for LSP services are generally positive.** Case resolution statistics where the outcome is known for FY 2014-15 show about 87% of the AJA-funded cases were successfully resolved and 13% were considered unsuccessfully resolved. Case resolution was unknown for the 60% of cases that were resolved through advice to clients. Total direct dollar benefits reported for FY 2014-15 were \$14M.
- **Auditor General (AG) audits and program oversight mechanisms have found few problems with the collection and use of AJA funds.** We reviewed the most recent AG audits of the fee collection function performed by the courts, court officers, and magisterial district judges (MDJ). No significant problems were found with the collection and timely remittance of the fees. Monitoring reports of the 14 LSPs similarly found few ongoing problems and included required actions to address the issues identified.

Recommendations:

- **The General Assembly should consider eliminating the sunset provision of the AJA.** The need for civil legal aid has continued to increase as other funding has declined, therefore, AJA funds provide an important funding mechanism. LB&FC could be directed to conduct a performance audit without a sunset provision.
- **The IOLTA Board, working with PLAN, should collect data from LSP clients to determine the actual unmet need for civil legal aid.** This may be accomplished through the use of LegalServer and may help to inform policy decisions.