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Editorial: Conn. Should Ensure Right to Counsel in Civil Cases

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The Universal Declaration of Human Rights has been interpreted to ensure a right to counsel in appropriate civil cases in which basic human rights are at stake. For many years every member country of the European Union has afforded a right to counsel in such civil cases, and the European Court of Human Rights has enforced that right.

In contrast, the United States has been ranked near the bottom in assuring legal assistance to low-income individuals in civil matters compared with similarly situated countries in the World Justice Project's Rule of Law Index.

In a recent two-part article in the Connecticut Lawyer magazine, Connecticut Bar Association president-elect William Clendenen argued persuasively that Connecticut should follow suit and provide a civil right to counsel for the state's economically disadvantaged. Citing statistics that document the unavailability of legal services in civil legal matters to many low-income individuals in Connecticut—notwithstanding the herculean efforts of the state's underfunded legal services providers—he advocated that the CBA support the enactment of a Connecticut version of the American Bar Association Model Access Act.

The act was proposed in 2010 by the ABA's Working Group on Civil Right to Counsel to implement the House of Delegate's 2006 adoption of a resolution providing that "the American Bar Association urges federal, state and territorial governments to provide legal counsel as a matter of right at public expense to low-income persons in those categories of adversarial proceedings where basic human needs are at stake, such as those involving shelter, sustenance, safety, health or child custody, as determined by each jurisdiction."

The ABA Model Act provides that a state adopting it should establish a board responsible for administering and overseeing the funding of a legal services delivery system established by the legislature. The public legal services program would include both full- and limited-scope representation, paralegal assistance and technological supports sufficient to ensure that the basic human needs at stake are not jeopardized because of the absence of legal assistance. The program created by the act would not replace or absorb existing legal services programs, but would supplement them in order to afford legal representation in specified

problem areas to low-income individuals not assisted by existing programs because of limited resources.

Clendenen proposes that the Connecticut General Assembly approve the ABA Model Access Act and then appoint a commission to study, report and make recommendations regarding how the law should be adapted to address the unmet legal needs of Connecticut's low income residents in the most cost-effective and efficient manner. We agree with Clendenen and support his call to improve access to justice in our state through the enactment of a Connecticut version of the ABA Model Access Act.

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