

## Order Establishing the New Hampshire

### Access to Justice Commission

Part I, Article 14 of the New Hampshire Constitution provides:

Every subject of this state is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly, and without delay; conformably to the laws.

Consistent with Part I, Article 14, the Court hereby creates the New Hampshire Access to Justice Commission to expand access to and enhance the quality of justice in civil legal matters for New Hampshire residents. The Commission will develop and implement policy initiatives and will operate to coordinate participants in developing strategic alliances to effectively move ideas to action.

Notwithstanding the guarantees of Part I, Article 14, the Court notes that:

1. Gaps exist in developing a comprehensive, integrated statewide civil legal-services delivery system in New Hampshire;
2. As a result of these gaps, many people, including those who are currently eligible for free legal services as well as those who do not qualify for such programs but are in fact unable to afford the cost of legal services, are forced to represent themselves;

3. Many people in New Hampshire are underrepresented, in that they receive limited advice from a legal-services provider when they would in fact be better served by full representation on a civil legal matter;
4. Achieving a committed and active justice community in New Hampshire is essential to the effective delivery of civil legal-services;
5. National and state studies have shown that, at best, legal services programs meet between 15% to 25% of the need for legal services for low-income people.
6. Federal funding for the Legal Services Corporation (LSC) has plunged dramatically since its peak in 1980. As a result, even though both our general population and the poverty population have increased significantly in the past two decades, New Hampshire's legal services programs are significantly smaller than they were in 1980, with fewer staff attorneys, fewer offices, and more narrowly-focused and restricted funding.
7. Although participation in New Hampshire Bar Association's Pro Bono Program is considerably higher than that in comparable programs in most other states, the Pro Bono program does not presently meet the need for civil legal services for low-income people.

8. New Hampshire's population is growing and the nature of our communities is changing. New residents including a wide variety of new immigrants face many legal issues, plus additional barriers because of their language difficulties and cultural differences.

9. Leadership that is supported and encouraged by the New Hampshire Supreme Court and our partners in the state and federal judiciary in our state, which is committed to achieving full access and empowered to take action, is essential to realizing equal justice for all in New Hampshire.

10. On June 1, 2006, the New Hampshire Citizens Commission on State Courts issued a report containing thirty recommendations including four concerning access to justice:

A. Recognizing the importance of protecting the rights of civil litigants in certain legal disputes, the Commission recommends that New Hampshire examine the expansion of legal representation to civil litigants unable to afford counsel and study the implementation of a "civil Gideon." In the landmark criminal case of Gideon v. Wainwright, the United States Supreme Court found that people cannot adequately navigate the legal system on their own and that going to jail is too high a price to pay for one's inability to afford legal counsel. The concept of a civil Gideon extends the premise

of right to counsel to certain limited and specific non-criminal cases in which essential rights are at stake.

B. The State of New Hampshire should fully fund legal services staffing for traditional civil legal services.

C. The judicial branch should invest in the further education of pro se litigants.

D. All courts in the State of New Hampshire must meet or exceed the requirements for compliance with federal and state laws pertaining to accessibility (for people with physical and linguistic barriers). Currently one courthouse is not accessible for people with physical disabilities and a majority of court buildings in the state have some areas that are not accessible.

### The Commission's Specific Duties

The New Hampshire Access to Justice Commission will:

1. Foster the development of a statewide integrated civil legal-services delivery system;
2. Identify and assess current and future needs for access to justice in civil matters;
3. Consider the legal needs and access to the civil justice system of persons whose income and means are such that they do not qualify under existing assistance programs and whose access to civil justice is limited either by the actual or perceived cost of legal services; develop and implement initiatives designed to meet these needs, such as limited representation and limited appearances by attorneys and identification of types of services that could be provided by nonlawyers;
4. Work to increase resources and funding for access to justice in civil matters and to ensure that the resources and funding are applied to the areas of greatest need;
5. Develop and implement initiatives designed to expand civil access to justice;
6. Work to reduce barriers to the justice system by addressing existing and proposed court rules, procedures, and policies that negatively affect access to justice in New Hampshire;

7. Monitor the effectiveness of the statewide system and services provided and periodically evaluate the progress made by the Commission in fulfilling the civil legal needs of low-income New Hampshire residents;
8. Provide long-range, integrated planning among the numerous legal assistance providers and other interested agencies and entities in New Hampshire;
9. Coordinate civil access to justice, foster the development of a statewide, integrated civil legal services delivery system, and design and implement new programs to expand access to justice opportunities;
10. Work toward securing funding for civil access to justice;
11. Have the authority to apply for, obtain and administer grant funds and to hire, set the compensation of, and direct such persons as may be necessary to assist the Commission in its work;
12. Develop and implement other initiatives designed to expand civil access to justice, such as increasing community education, enhancing technology, developing assisted pro se programs, and encouraging greater voluntary participation of the private bar in providing pro bono legal assistance to low-income people in New Hampshire.

The Access to Justice Commission shall have the following members:

1. Co-chairs, Chief Judge of the Federal District Court for the District of New Hampshire, Steven McAuliffe and Associate Justice of the New Hampshire Supreme Court, James E. Duggan;
2. Chief Justice of the New Hampshire Supreme Court;
3. Executive Director of New Hampshire Legal Assistance;
4. Executive Director of Legal Advice & Referral Center;
5. Executive Director of Pro Bono
6. Executive of Director of New Hampshire Bar Foundation
7. Such additional members as designated by New Hampshire Supreme Court;

Members of the Commission shall serve three year terms beginning on January 1, 2007.