

LEFT OUT IN THE COLD:

# HOW CLIENTS ARE AFFECTED BY RESTRICTIONS ON THEIR LEGAL SERVICES LAWYERS



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The Brennan Center for Justice at NYU School of Law unites thinkers and advocates in pursuit of a vision of inclusive and effective democracy. Our mission is to develop and implement an innovative, nonpartisan agenda of scholarship, public education, and legal action that promotes equality and human dignity while safeguarding fundamental freedoms.

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## About The Access to Justice Series

This paper is the sixth in a series issued by the Center illuminating the accomplishments of legal services programs throughout the country, and documenting the impact of restrictions recently imposed by Congress on the federally funded Legal Services Corporation. It is the result of extensive investigative reporting by award-winning journalist Patrick J. Kiger in close collaboration with the Brennan Center's Laura K. Abel, Elisabeth S. Jacobs, Ilana Marmon, Kimani Paul-Emile, Amanda E. Cooper, and David S. Udell. The following individuals have been consulted as advisors for this series: Bonnie Allen, William Beardall, Martha Bergmark, Ann Erickson, Victor Geminiani, Peter Helwig, Steve Hitov, Carol Honsa, Alan W. Houseman, Esther Lardent, Linda Perl, Don Saunders, Julie M. Strandlie, Mauricio Vivero, Jonathan A. Weiss and Ira Zarov.

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The sixth installment of the ACCESS TO JUSTICE SERIES, *Left Out in the Cold*, explores limits on legal services advocacy from the clients' perspective, illuminating ways in which individuals' sympathetic problems could be effectively addressed by class-action suits brought by legal services lawyers:

- Parents of disabled teens in Illinois were facing a school board that intended to shut down a unique school that was offering their children real hope of becoming self sufficient.
- Disabled individuals in Louisiana were seeing government officials systematically reject their claims for federal disability benefits.
- Divorced and separated mothers in California were suffering as the state failed to collect or forward urgently needed child support payments owed by their husbands.
- Tenants in buildings in Ohio were waiting, forever, for a major landlord to do essential repairs with millions of dollars in grant funds he had received from HUD.
- Home purchasers in Virginia were being defrauded by brokers acting in collusion with a financial services company in an illegal lending scheme.

In each instance, individuals worked with legal services lawyers to secure vitally needed relief, while participating in class-action suits that they altruistically hoped would secure the same relief for other persons facing identical problems. The cases illuminate how class actions improve people's lives and how Congress's ban on federally funded legal services lawyers filing such class actions does a great disservice to clients.

The article also shows how Congress's ban on legal services class actions is compounded by Congress's separate ban preventing federally funded legal services lawyers from lobbying on their clients' behalf. Class actions and lobbying — important tools used routinely by private attorneys on behalf of paying clients — had always made it possible for legal services lawyers to tackle troubling, and often unlawful, harms befalling multiple clients. For now, and until Congress revisits and changes the law, many clients will continue to suffer from these harms.



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# FOR DISABLED TEENAGERS, CLASS ACTION OFFERS HOPE OF SELF-SUFFICIENCY

**Helga Bidawid\*** and other parents of mentally disabled children lobbied Chicago school officials for years to provide their sons and daughters with the special help they needed but seldom received in mainstream classrooms. In the early 1990s, the school officials built Jacqueline Vaughn Occupational High School, a \$1.3 million, state-of-the-art special education facility.

For students such as Bidawid's son John, a teenager with Down Syndrome, Jacqueline Vaughn fulfilled their dreams. John and others could participate in academic classes and job training tailored to their abilities. The curriculum provided instruction in skills — how to use public transportation, for example — that someday would enable them to achieve a measure of independence and self reliance. “It was not that we were totally against integrating mentally retarded children into the regular schools,” Bidawid explains. “But the regular schools weren't providing those services.”



Jacqueline Vaughn Occupational High School

Jacqueline Vaughn offered students a chance to blossom. “When these children went to regular schools in Chicago, they didn't participate in activities,” she says. “At Jacqueline Vaughn, they weren't pushed to the back and ignored. They had a chance to experience high school the way that everyone else does. They had proms, a basketball team, and theater productions. During the years that my son went there, he was very happy.”

In 1995 the Chicago Board of Education shocked Bidawid and other parents by voting in a closed-door session to shut down Jacqueline Vaughn. The school board decided to assign the students to special education classes at a mainstream high school, claiming that it wanted to convert the special education high school building into classroom space for regular students from an overcrowded nearby elementary school. Bidawid and the other parents disbelieved that explanation. “I think economics were the real reason,” she says. “Special education schools are expensive. Also, handicapped children are eligible for

\* Clients quoted or discussed in this report are identified by pseudonyms, to protect their identities (with the exception of Tim and Dixie Thomas, Lena Frakas, and Karen Divinity, whose names have been published elsewhere). For the same reason, some identifying details of their stories have been changed.

help from the federal government. I think maybe they wanted access to those funds for the regular schools. We were saying, ‘That’s crazy. Don’t close down a school that works for our children.’”

Since the parents had lobbied so fervently to get Jacqueline Vaughn opened in the first place, they refused to let the school board close it without a fight. They met with school board officials and city aldermen and organized protest rallies. Their vigorous attempts were ultimately unsuccessful. The parents saw that their only hope was to file a lawsuit, but they had no idea how to get legal representation. “A lot of the children’s parents lived in places like the Robert Taylor Homes [a Chicago housing project],” Bidawid says. “None of us had enough money to afford to hire attorneys. We went to every law firm in the city, I think, trying to get them to take the case, but we didn’t have any luck.”



Legal Assistance Foundation of Chicago’s main office

**“Special education schools are expensive. Also, handicapped children are eligible for help from the federal government. I think maybe [the Chicago Board of Education] wanted access to those funds for the regular schools. We were saying, ‘That’s crazy. Don’t close down a school that works for our children.’”**

Helga Bidawid

## Legal Services Corporation Act of 1974: Congressional Findings and Declaration of Purpose

The Congress finds and declares that—

- (1) there is a need to provide equal access to the system of justice in our Nation for individuals who seek redress of grievances;
- (2) there is a need to provide high quality legal assistance to those who would be otherwise unable to afford adequate legal counsel and to continue the present vital legal services program;
- (3) providing legal assistance to those who face an economic barrier to adequate counsel will serve best the ends of justice and assist in improving opportunities for low-income persons consistent with the purposes of this chapter;
- (4) for many of our citizens, the availability of legal services has reaffirmed faith in our government of laws;
- (5) to preserve its strength, the legal services program must be kept free from the influence of or use by it of political pressures; and
- (6) attorneys providing legal assistance must have full freedom to protect the best interests of their clients in keeping with the Code of Professional Responsibility, the Canons of Ethics, and the high standards of the legal profession.

(Source: 42 U.S.C. § 2996)



At last, one of the parents suggested that they contact the Legal Assistance Foundation of Chicago (LAFC). LAFC is one of the 258 law firms across the nation that provide legal counsel to low-income people with the help of grants from the federally-funded Legal Services Corporation (LSC). LAFC agreed to represent the parents, and in March 1995, legal services attorney Shelley Davis filed a class-action suit against the school board.

Davis' litigation quickly got results. Three weeks after she filed, Cook County Circuit Court Judge Edwin M. Berman enjoined the school board from continuing with its plan to close the school. Berman agreed with the parents that the school was a "centerpiece for handicapped children." He severely chastised the school board, saying its members should be "ashamed" for trying to close such a successful institution. The school board challenged the decision, but in August 1995 the Illinois Appellate Court upheld Berman's decision. Jacqueline Vaughn remained open.

For Bidawid, the legal services victory allowed her son John to finish his education in Jacqueline Vaughn's supportive atmosphere and graduate in 1996. Thanks to the preparation he received at the school, he now



Left: LAFC Attorney Amy Zimmerman, who worked on the Jacqueline Vaughn school case

Right: Pro Bono Attorney Nancy Hunter, who took over Bidawid's case after the 1996 restrictions forced LAFC to withdraw



works and takes classes at a local community college to further his goal of a career in nursing. "The things he learned at the school have been essential to his success," Bidawid says. "And we couldn't have done it without Shelley Davis and legal services."

That is why it makes Bidawid so angry to know that today federally-funded legal services lawyers would not be able to help mentally disabled kids like her son the way Davis did. In 1996, Congress imposed a set of restrictions on federally-funded legal services lawyers across the nation. Among other things, the

new rules barred them from filing class-action suits, which are litigation brought by one or more persons on behalf of a larger group. As a result, today no LSC-funded attorney would be able to bring a class-action suit to force the Chicago school board to give mentally disabled teenagers an education enabling them to survive in a world designed for non-disabled people. Bidawid, for one, does not understand why lawyers who represent low-income people are not allowed to do things on their behalf that private attorneys can do for paying clients. "It just isn't fair," she concludes. "It's a real shame."

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### Vaughn School Works: Keep It Open

Jacqueline Vaughn Occupational High School, a small public school for mentally handicapped students on the Far Northwest Side, has a graduation rate of 90 percent—twice the city average.

Students are edarable with various mental and physical impairments. They work for such employers as United Air Lines and Marriott Hotel Corp. Parents are firm believers in the benefits their children receive in a small school attuned to their needs.

But now, in a victory of ideology over common sense, the Chicago Board of Education plans to close Vaughn and transfer its 110 students to Taft High School. To stop it, parents have filed a lawsuit.

Chicago Sun-Times, August 18, 1995

### Don't Segregate the Disabled

In the surface it seems a common sense decision to support parents who are fighting to keep open Jacqueline Vaughn Occupational High School on the Northwest Side. As the editorial board of the Sun-Times writes:

Vaughn Should Be Preserved

Chicago Sun-Times, August 18, 1995

### Parents suing to block closing of Vaughn school

The parents of students who attend Jacqueline Vaughn Occupational High School, a vocational school for mentally handicapped teenagers, sued the Chicago Board of Education Friday to block the planned closing of the school later this year.

The class action lawsuit, filed in Cook County Circuit Court, claims the school board violated the state Open Meetings Act when it met in closed session on Jan. 22 to decide the fate of the school,

which teaches disabled students special job skills. The 110 students at the school, 4200 N. Linder Ave., are expected to be placed in special education classes at Taft High School when the school closes in June.

Chicago Tribune, March 12, 1995

### School Closing Blocked by Court

The Illinois Appellate Court Thursday upheld an injunction preventing the closing of the Jacqueline Vaughn Occupational High School on the city's North-west side.

The Chicago Board of Education had asked the court to allow the

required under law, nor did it conduct public hearings.

Larry Gorski, director of the Mayor's Office for People With Disabilities, said the decision "allows the public schools to take a longer view at the best way to

Chicago Sun-Times, March 15, 1995

### LAFC FIGHTS TO KEEP OPEN HIGH SCHOOL FOR SPECIAL NEEDS STUDENTS

Friday it is a lawsuit which has a class action, public decision and negative effect on the school's special needs students. One student, for example, is a student with multiple handicaps, having been in the school since he was born. He is now 16 and is going to school. He is a student with multiple handicaps and is going to school.

was closed to be the Vaughn High School. The Vaughn High School is a vocational school for students with multiple handicaps. It is a school for students with multiple handicaps. It is a school for students with multiple handicaps.

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Legal Assistance Foundation of Chicago, News

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Chicago Tribune, March 12, 1995

### Legal Help for Needy in Peril

Nonprofit Group Faces New Limits

Free legal help for an estimated 100,000 poor people in Illinois already curtailed by congressional funding cutbacks will be further limited by restrictions expected to go into effect next week.

Lawyers in the publicly and privately funded Legal Services Corporation will be barred from filing

but Justice mobile home park involved in a pending class action lawsuit against the park owner.

Legal Services Corp., a 24-year old not-for-profit corporation, receives money from federal and local governments as well as private donations. It funds 332 programs across the country.

Chicago Sun-Times, March 4, 1996

### Vaughn High School for disabled to stay open with court's backing

The Illinois Appellate Court Thursday refused to disturb a lower court ruling that prevented the Chicago Board of Education from closing the Jacqueline Vaughn Occupational High School for disabled students.

Because of the evidence that

still gave the school board the right to close the school, as long as it followed its closing and consolidation policy. And the school board may be facing even less restrictions about its plans for the school since it rescinded its

Chicago Tribune, August 18, 1995



# LEGAL SERVICES CLIENTS SEE RESTRICTIONS AS UNFAIR

**Congress' 1996 restrictions barred LSC-funded** lawyers from using particular legal tools and representing certain types of clients. They are not allowed to pursue cases involving legislative redistricting, challenges to welfare laws or regulations, and civil lawsuits on behalf of prisoners. They are not allowed to contest public housing evictions in which a tenant has been charged with committing certain drug offenses. They are no longer allowed to represent certain types of immigrants. (A case in which an undocumented immigrant woman was killed by her estranged common law husband six days after she tried and failed to enlist the help of a legal services attorney spurred an exception to this provision for women who are domestic violence victims.) They are not allowed to accept attorneys' fees from the other side in court cases — not even in states like Alaska, where the law specifically requires the loser of a suit to automatically pay attorneys' fees. They are not allowed to lobby legislators on behalf of clients, unless the lawmakers ask them to do so.

LSC's critics had insisted on the restrictions, claiming that LSC-funded lawyers were out of control. In 1995, United States Representative William McCollum, R-Florida, who as a member of the House Judiciary

Committee which has oversight over LSC operations was an author of the restrictions, charged: "Over the years, we have seen extensive abuses within the Legal Services Corporation by lawyers with their own political agendas actively recruiting clients, creating claims, and advancing their own social causes .... They have been involved in inappropriate lobbying, highly controversial issues like abortion litigation, and impact litigation in an attempt to social engineer changes in our laws and rules." McCollum proposed the restrictions to restore what he deemed "the very limited and appropriate federal role in delivery of legal services to the poor."

Suddenly, legal services attorneys had to withdraw from many cases, leaving their clients confused and upset. "I thought the legal services lawyers were wonderful," says Theresa Hill. She was a plaintiff in a 1995 class-action suit that Legal Services of Northern California (LSNC) filed to force Butte County, California officials to do a better job of collecting child support from deadbeat fathers. The restrictions forced LSNC to withdraw; fortunately, a non-LSC firm agreed to handle the case, which is still pending three years later. The legal services lawyers "really seemed to have my interests at heart," Hill says.

**"I wonder how many [members of Congress] have ever been in a situation where they needed help and had no money and nobody to turn to? We have."**

Karen Divinity

“As long as they [legal services attorneys] have a degree in law like everybody else, I can’t see any reason why they shouldn’t be able to do whatever they need to do,” says Veronica Cartier, a former legal services client in Louisiana. She was a plaintiff in a class-action suit against the state of Louisiana over disability benefits, which was stymied in 1996 when New Orleans Legal Assistance attorneys had to withdraw because of the class action ban. “The only difference I can see is that they’re not getting paid [by clients], because people can’t afford it.”

Other legal services clients are downright angry. “I wonder how many of them [members of Congress] have ever been in a situation where they needed help and had no money and nobody to turn to?” complains another former New Orleans Legal Assistance client, Karen Divinity. “We have.” Divinity’s diabetic daughter got much-needed federal Supplemental Security Income (SSI) benefits because of *Zebley v. Sullivan*, a 1990 Supreme Court case won by federally-funded legal services attorneys. Because *Zebley* was a class action, LSC-funded lawyers couldn’t file such a case today. “[Legal services] lawyers were doing too good of a job and winning against the government, so they had to put a stop to it,” Divinity says.

A close examination of pre-1996 cases reveals that legal services lawyers did not pursue class action suits and other restricted activities at the expense of clients’ mundane legal needs. To the contrary, most of the pre-1996 legal services cases that would be restricted today involved clients’ everyday needs, such as housing and medical benefits. Their purpose was not to promote some extreme ideology, but rather to protect basic rights that most of us take for granted — for example, the right of an elderly person not to be ripped off by a home loan, the right of a custodial parent to receive child support payments to which she is entitled, or the right of a mentally-handicapped boy to an education. And while class actions and other now-banned activities sometimes enabled legal services lawyers to attack systemic problems and achieve sweeping solutions, the results were not abstract philosophical

victories. Instead, the restricted activities helped people deal with serious problems and made their lives better in concrete ways. And, because federally-funded legal services lawyers today can no longer handle certain types of cases, represent certain clients, or use certain legal strategies and tactics that remain perfectly acceptable for private attorneys, people are being hurt.

## **Legal services attorneys provide a constitutional check and balance against government violations of constitutional rights.**

**Former New York Legal Aid Society attorney  
Wendy Kaminer:**

**“Thanks to recent congressional efforts to defund and de-fang the Legal Services Corporation, poor people have even fewer enforceable constitutional rights against the government. Funding restrictions bar legal services programs that receive any federal aid from challenging the constitutionality of welfare reform legislation, even if the challenges themselves are privately funded. Legal services lawyers are also prohibited from bringing class actions, which enforce people’s rights on a grand scale, and they are not allowed to lobby (in other words, advocate for their clients’ rights before legislatures).**

**“These restrictions . . . decrease the accountability of executive and legislative actions. Instead of stripping the courts’ power to hear cases involving the rights of poor people, Congress simply stripped advocates for the poor of the power to bring cases. You don’t have to regard the restrictions on legal services lawyers as a form of political repression in order to recognize it as another way of immunizing elected officials and bureaucrats from constitutional limitations on their behavior.”**

*(Source: American Prospect, January 1999)*



# FOR DISABLED, RESTRICTION ENDS CLASS ACTION CHALLENGING UNFAIR BUREAUCRACY

**LSC's critics vehemently denounced the class-action suit.** "Poor people are literally and figuratively left at the door while gangs of lawyers for legal services are filing class actions," United States Representative George Gekas, R-Pennsylvania, told fellow House Judiciary Committee members in 1995.

Such condemnations ignore the venerable history of class-action litigation, beginning in eighteenth-century England. The legal weapon has often been used by shareholders against corporate management. In the late 1960's, attorneys who worked for programs funded by the predecessor of today's LSC started using it to obtain justice for large numbers of low-income clients who, individually, had little power. Legal services lawyers know that class actions are an efficient way to make their limited funding benefit the greatest number of people — not just the clients who come in for help, but also scores of others suffering from the same wrongs.

"Often, there are a large number of people who don't even know their legal rights are being violated,"

explains Charles Delbaum, executive director of the New Orleans Legal Assistance Corporation, an LSC-funded program that sometimes filed class-action suits on behalf of its clients. "They don't know, for example, that they're entitled to a decision on whether they're eligible for Medicaid benefits within a certain time period, and that they shouldn't have to wait months and months. If one of those people comes to you and you file a suit on their behalf, the government usually gets wise and gives them their decision right away. So you've helped that individual client. But you haven't convinced the agency to change its illegal practices, so a lot of other people continue to be deprived of their rights. It's easier for the agencies to keep doing what they've always done, and just remedy the occasional complainer who knows enough to get a lawyer. Those are the kind of situations where you need a class action, to protect people from abuses."

In their rush to demonize class actions, critics often forget the real-life tragedies that force clients to turn to

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## **In their rush to demonize class actions, critics often forget the real life tragedies that force clients to turn class action litigation for help.**

class action litigation for help. Veronica Cartier, for example, does not have any ideological axes to grind. “I just wanted to make sure nothing would interfere with my benefits,” says the 66-year-old woman, whose terse locution is tinged with the graceful lilt of an Arcadian patois. She lives in a small town in southwest Louisiana where rice cultivation, farm-raised crayfish, and oil wells provide employment for the 5,000 inhabitants. Cartier herself worked at various unskilled, low-income jobs for many years. By the time she reached age 60, a lifetime of hard labor had left her with a bulging disk and degenerative disease in her spine and with carpal tunnel syndrome in her arms. She also suffered from high blood pressure and a heart ailment. When her health deteriorated to the point where she no longer could hold a job, Cartier applied for federal SSI benefits.

By any reasonable standard, Cartier would seem like exactly the sort of disabled person those benefits were intended to help support. Nevertheless, the State of Louisiana’s Disability Determination Program, which administers the federally mandated benefits, turned down her initial application. Officials decided that Cartier’s health was not so bad that she was not capable of “some kinds of light work.” That decision was in blatant conflict with federal Social Security Administration regulations. Those regulations provided that applicants between the ages of 60 and 64 who, because of medical problems, can perform only “light” work, are essentially disabled

unless they have highly marketable skills of the sort that laborers such as Cartier lack.

Carter was not the only worker unlawfully denied benefits. Louisiana officials were notoriously stingy about granting SSI benefits. In 1995, several years after the *Zebley* case forced officials to reevaluate thousands of children across the nation who had been denied benefits, a Louisiana official protested in testimony to Congress that parents were taking advantage of the opportunity to commit fraud. As legal services attorneys would later determine, Louisiana routinely turned down 75 percent of first-time applicants, compared with a 60 percent rate nationwide. Elsewhere in Louisiana, Beth Stevens, a 39-year-old cook’s helper and cashier, had suffered two severe strokes that left her speech permanently impaired, destroyed 80 percent of the grip strength in her right hand, and left the fingers on that hand too impaired to work cash-register keys or handle a carving knife. Nevertheless, state officials decided that she was not disabled. This ruling showed remarkable ingenuity; officials looked at the effects of each of Stevens’ strokes as separate, unrelated impairments and concluded that none was sufficient in itself to prevent her from working.

Left without support, Stevens’ only income came from her 18-year-old daughter’s part-time work at a fast-food restaurant and occasional babysitting. Worse yet, Medicaid denied her coverage because she was not legally disabled in Louisiana’s eyes. Her neurologist still continued to treat her, and he tried to help by giving her free samples of medication that he sometimes got

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New Orleans Legal Assistance Corporation Executive Director Charles Delbaum



from pharmaceutical salesmen. But even so, she was often left without prescription drugs that would help her control her blood pressure — a risk considering her history of strokes.

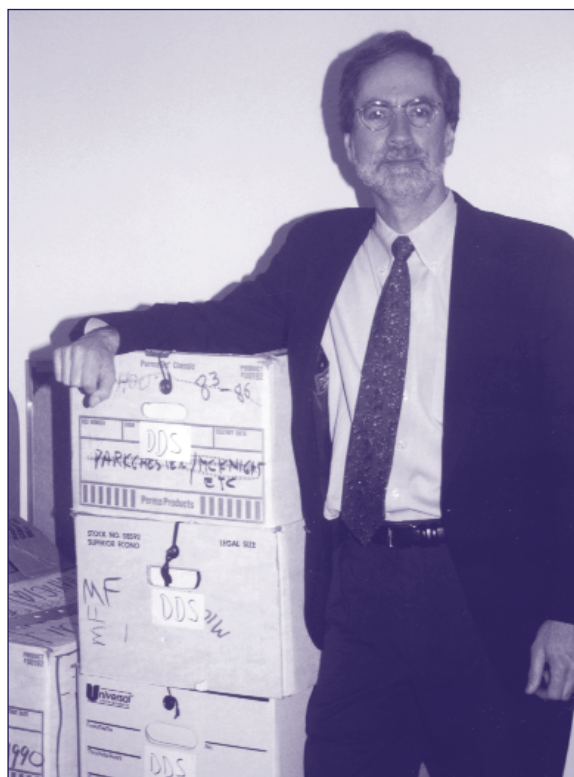
Another Louisiana resident, Timothy LeFarge, a former maintenance worker, was afflicted at age 39 with muscular dystrophy, a hereditary disease that weakened his limbs and made it increasingly difficult for him to lift objects, walk, or even sit upright. The state rejected his application as well.

All three workers went to legal services programs for help, and in each case the denials were eventually reversed. While the clients were happy to get the benefits to which they were entitled, legal services attorneys remained troubled. After all, three-quarters of the rejected applicants who appealed were successful. The attorneys theorized that state officials had — in the words of then-legal services attorney Charles Williams — a “secret and illegal” policy of systematically denying benefits to disabled people who were qualified for them. Since many applicants simply accepted the rejection and did not bother to appeal, the policy was a convenient way to reduce expenditures on benefits.

In December 1993, New Orleans Legal Assistance Corporation attorneys filed a class-action suit in federal court, seeking to end the state’s practice of routinely denying claims. The lead plaintiffs in the case included Cartier and other applicants who participated to ensure that when they came up for a redetermination of their benefits they would be treated fairly. The suit was still in progress in 1996 when Congress barred legal services attorneys from participating in class actions. Delbaum and the other legal services attorneys, unable to find any non-LSC-funded lawyer available and willing to continue the case, even with the American Bar Association helping to conduct a search, were forced to drop the suit. The court dismissed the case.

As for Cartier, she is relieved and grateful that legal services lawyers were at least able to get *her* disability benefits granted. “My [legal services] lawyer had done

all the legwork to get my records and gone with us to court,” she says. “I thank him for that. Having someone to represent you, free of charge — that really eases our minds, the senior citizens.” Although the abrupt end of the case means disabled Louisiana residents may not be getting a fair shake when they apply for benefits, Delbaum says he hopes this will not affect Cartier and the other named plaintiffs. But when they come up for re-determination in three years, whether they get fair evaluations or not might depend on whether the state still has this policy,” he notes.



New Orleans Legal Assistance Corporation Executive Director Charles Delbaum

# FOR MOTHERS, RESTRICTION ENDS CLASS ACTION SEEKING CHILD SUPPORT

**Theresa Hill knows the biggest deadbeat involved** in a child support decree is often the county agency charged with making sure the money gets to the custodial parent. “They’re supposed to be getting the money for me from my kids’ father,” says the 32-year-old from Chico, California. “But it doesn’t seem like I see very much of it.”

When she was still in her teens, Hill got pregnant by her high-school sweetheart and gave birth to their daughter. She accompanied her child’s father to Arizona so he could attend college. There she became pregnant with their son. “We tried to stay together, but it just didn’t work out,” she says with obvious sadness. After some failed attempts at reconciliation, she and the children’s father separated, and she returned to California. She married another man, but his kindness soon turned to violent abuse. “He attacked me right in the parking lot at the grocery store where I was working,” she recalls. Before she turned 30, she was on her own again, struggling to feed, clothe and house her family without the benefit of a college degree or a trade.

“I’ve done all kinds of stuff,” she says. “I’ve worked as a maid, as a cook in a restaurant. I’ve tried to find something better, too. I put myself through computer school, learned about office automation. But I couldn’t find a job right off, and I couldn’t afford to go back to

school and keep my computer skills current. So that kind of went by the wayside.” To make matters worse, Hill’s daughter suffers from severe acne; the medicine to alleviate her condition costs a staggering \$200 a month. “It’s really tough to come up with that kind of money,” she notes. “I’ve basically had to take any kind of job I could find.” From time to time, when things have gotten too rough and work has been scarce, she has reluctantly applied for public assistance.

Hill should not have to support her two kids by herself. Her children’s father owns a business and is capable of covering the \$400-a-month child support payment that a court decree obligates him to make. But Hill has seldom seen any money. In 1995, she spent several hundred dollars of her scarce savings to hire a paralegal and file papers in a Butte County, California court. “The judge basically threw me out,” she says, still shocked. “He said the county district attorney’s office already was on the case, collecting the child support for me.”

But if the county is collecting any money on her behalf, Hill is not receiving it. “I went to them and said, ‘What’s going on?’” she recalls. “They said, ‘Sorry, we don’t have the manpower. We can’t do anything.’” Hill eventually discovered that was not precisely true. The county did sometimes press her





Northern California Lawyers for Civil Justice Attorneys Bess Brewer (L) and Stephen Goldberg (R)

children's father for payment. "Whenever I've had to go on Aid to Families with Dependent Children [a public assistance program now called Temporary Assistance for Needy Families], they suddenly start getting that \$400 a month from him. But I never see most of it, because they deduct from it to cover my benefits. One time recently, he called and complained to me that they took \$900 in one month from him. I got \$50. But as soon as I'm working and off assistance, they go back to not collecting."

When Hill finally turned to LSC-funded Legal Services of Northern California (LSNC) for help in 1995, she discovered that she was not the only custodial parent with such problems. LSNC was hearing from 50 women a year who expressed similar frustrations with Butte County's lackadaisical child support collection efforts. As data obtained by LSNC illustrated, the county's performance was among the worst in the state. Of the 24,000 child support decrees

county officials were empowered to enforce, they had only managed to locate 12 percent of the parents who owed support. The county's district attorney admitted that some cases had "fallen through the cracks," but desperate parents had no use for such gentle euphemisms. One woman told the *Fresno Bee* newspaper that she finally grew so frustrated that she hired a private investigator to locate her ex-husband. "In four hours, [the investigator] had several possible addresses," she recalled. "In four hours, he did what the district attorney couldn't do in three years."

For mothers unable to afford such costly solutions, the situation was grim. "There have been times when we had no food, and my kids went to school hungry," one legal services client told the *Bee*. "They [Butte County] have given me excuse after excuse."

Hill gladly offered to be one of five lead plaintiffs — each of whom was owed more than \$20,000 in support — in a class-action suit that LSNC filed against Butte County and State of California officials, just before Mother's Day 1995. The suit charged that Butte County's child support enforcement program was badly mismanaged and ineffectual, and it sought a court order compelling the county and state to improve their performance.

It was a strategy that legal services programs in other parts of the country — from Arizona to Tennessee — had used to get mothers the support to which they were entitled. In Florida, for example, legal services attorneys filed a suit in 1994 on behalf of 12 women whose child support had gone uncollected. "My child



LSNC annual report



**Class action suits are a strategy that legal services programs in other parts of the country — from Arizona to Tennessee — had used to get mothers the support to which they were entitled. In California, however, LSNC never got the chance to finish their class action case on behalf of women seeking child support payments from deadbeat dads.**

should not have to go outside without shoes and have cold feet, or go without a meal at night, or not have clothes,” said one Florida mother, 25-year-old Yolanda French. “And that is what happens when I don’t get a check. Sometimes it seems like [the state agency] plays with the money — maybe they’ll send the right amount, maybe not.” Like other plaintiffs, French complained that the state was habitually late in forwarding her support. But in Florida, the state gave in. Officials guaranteed that parents would receive their payments within 15 days of when the support money was received, and they set up a mechanism which parents could use to file complaints and exact payment from the agency if it fell down on the job.

In California, however, LSNC never got the chance to finish the case. The Butte County suit was still in its early stages in 1996 when the class-action restriction forced LSNC to withdraw. Fortunately, unlike in the Louisiana SSI class action, Northern California Lawyers for Civil Justice, a non-profit law office composed largely of former legal services staff who had decided to leave rather than accept the restrictions, agreed to take on the case. “We basically inherited all of LSNC’s class-actions, all 30 of them,” explains Civil Justice Director Bess Brewer. The suit is currently in the discovery phase. Without federal funding to finance its litigation, the office counts upon an ambitious — and risky — way to make ends meet; it hopes to survive solely on legal fees awarded in cases in which it prevails.

**Women sue child-support program**

■ Butte County district attorney derides his office's system ranks among the state's worst.

*“There have been times when we had no food and my kids went to school hungry.”*

— **plaintiff Linda Young,** who says her child support payments have been erratic.

By Leslie Layton  
McKinley News Service

CEBCO — A class-action lawsuit filed by five local women Friday to coincide with Mother's Day claims Butte County's child-support enforcement program is ineffective and mismanaged.

Defendants in the lawsuit, filed in U.S. District Court, are Butte County, county District Attorney Mike Ramsey, state Attorney General Dan Lungren and state Department of Social Services Director Elaine Anderson.

“California's child support enforcement system is failing and nowhere in California is that more obvious than in Butte County,” said a statement from Legal Services of Northern California, Chico, which filed the suit.

**Custodial parents**

Plaintiffs in the class action are five custodial parents residing in Butte County: Linda Young, Cheryl Huppert, Patricia Mays, Tammy Hill and Ginger Robinson.

Lawyers for Legal Services distributed information Friday from a state report indicating that Butte County exceeded only Los Angeles among California counties in overall effectiveness of its child support enforcement system for the 1993-94 fiscal year.

Linda Norris, Legal Services attorney, said the county had 24,000 open child support cases in 1993-94. It had a 12 percent success rate in locating absent parents and a 18 percent success rate in establishing support orders, she said.

**Not accurate**

Ramsey denied his office's child support enforcement system ranks among the state's worst. He said the statistics cited by Norris were produced by Butte County but were not entirely accurate.

Norris said the Butte County District Attorney's Family Support Division has not been complying with federal regulations on timely enforcement of child support orders.

“There needs to be much better management of that department, and more resources,” she said.

Ramsey said most counties statewide are out of compliance with some of the federal regulations.

The lawsuit seeks a court injunction ordering the county and state to “clean up its act,” lawyers said.

“There have been times when we had no food and my kids went to school hungry,” said plaintiff Linda Young, who claimed she has received only sporadic child support payments since moving to Chico seven years ago.

District Attorney Ramsey conceded Friday that his family support division needs to improve its performance. But the unit has struggled with space problems and staffing shortages, and its support officers have caseloads of 1,500 apiece — among the highest in California, he said.

Fresno Bee, May 14, 1995

While Hill is pleased that the suit is still alive, she is disappointed that her old legal services lawyers are not being allowed to finish the job. “Heck, they were the first ones who ever gave me some real answers about what was happening,” she explains. “I really like legal services. They provide a great benefit to people like me.” As for the members of Congress who placed limits on what LSC-funded lawyers can do for people like her, she remains a bit puzzled. “I think they just don’t understand. I mean, if you’re driving down the road and you get in a car wreck, other people might see it, but they can’t feel your pain, because they’re not having the experience. You don’t really know what it’s like to be someone like me, unless you’ve been there.”



# FOR TENANTS, RESTRICTION HALTS CLASS ACTIONS SEEKING REPAIRS AND MORE

**William Mays had no hidden political agenda** when he became a named plaintiff in a class-action suit in 1989. Mays merely wanted to compel the landlord of his dilapidated apartment house in Cincinnati to get rid of the roaches and rats that were making it an unpleasant place to live.

In the early 1980's, when the landlord took over several buildings including the one where Mays lived, he accepted millions of dollars in grants from the federal Department of Housing and Urban Development (HUD) with a promise to renovate the apartments. HUD even guaranteed nearly \$1 million of the landlord's mortgage debt. Mays got a job working for the landlord as a maintenance man. But he soon quit, disillusioned. "He wouldn't let you do the work the way it was supposed to be done," Mays later explained to the *Cincinnati Enquirer*. "He just wouldn't do anything or buy anything . . . This guy, he wouldn't even buy sandpaper." Other tenants also noticed that the landlord was not making good on his commitment to fix bad plumbing or leaky roofs. "He

didn't keep the building up at all," according to another tenant, Mamie Waters. "He wouldn't do nothing. No repairs at all. He just wanted our rent."

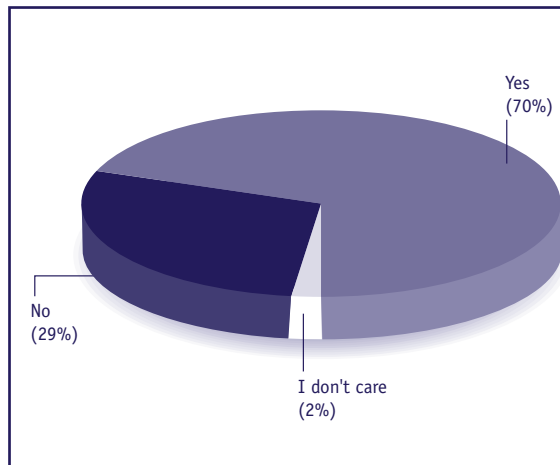
Several frustrated tenants finally turned to the LSC-funded Legal Aid Society of Cincinnati for help. In 1989, they filed a class-action suit on behalf of all of the tenants against both the landlord and HUD. After they proved in court that the landlord was not making needed repairs, the landlord agreed to hire a new manager for his properties and clean up his act. Once again, he failed to fulfill his end of the bargain, and over the next seven years, the Legal Aid Society of Cincinnati continued to fight for the tenants. In 1993, they brought a second suit against the landlord, this time, with HUD's cooperation. A federal judge sided with them, ordering HUD to take over the properties from the landlord, make the necessary repairs, and send the bill to the landlord.

In addition to helping protect renters, legal services attorneys have filed class-action suits to protect elderly homeowners from being taken advantage of by

**"[The landlord] didn't keep the building up at all. He wouldn't do nothing. No repairs at all. He just wanted our rent."**

Mamie Waters





**Currently, people accused of a crime who cannot afford an attorney are guaranteed a court-appointed attorney. Do you believe federal funding should be provided to low-income people who need assistance in civil cases, such as child custody, adoption and divorce, or not?**

**When asked about specific types of legal help, the support was even stronger. Eighty percent of Americans wanted federal funding for legal assistance to low-income victims of domestic violence, and 81 percent wanted tax dollars to pay for helping the low-income elderly who are victims of consumer fraud.**

*(Source: Poll conducted by Louis Harris and Associates, July 1997, published by PR Newswire, August and July 1997)*

mortgage lenders. In 1989 in Richmond, Virginia, Helen Ramsey, a 67-year-old widow with little education, rented out rooms in her house to augment her Social Security benefits. Mrs. Ramsey wanted to renovate her home, and she contacted a mortgage broker to see if she could obtain financing. The broker, in turn, put her in contact with a large interstate financial services company that agreed to give her a loan, provided that her adult daughter would co-sign. But Ramsey was not told about all the intricacies of the deal. As legal services attorneys would later allege in court papers, the mortgage broker and the financial-services company actually had a secret arrangement in which the company paid the broker hidden fees for steering customers its way. The financial-services company, in turn, reimbursed itself by charging customers higher interest rates for its loans and slipping in service charges that were not disclosed in the statements required by the Truth-In-Lending Act. In Ramsey's case, the hidden broker's fee on her

\$38,000 loan allegedly amounted to a whopping \$2,500.

The LSC-funded Central Virginia Legal Aid Society and a non-LSC public-interest firm, the Virginia Poverty Law Center, determined that such practices needed to be stopped. In April 1994, they filed a class-action lawsuit against several brokers and the financial-services company on behalf of Ramsey, her daughter, two couples who had been lured into similar deals, and everyone else who had been similarly swindled. That September, the defendants agreed to settle the lawsuit. Without admitting guilt, they agreed to reimburse borrowers for the illegal fees and to pay them a percentage of their loan principal in compensation.

**“Some people criticize consumer class-action suits, saying that the class members only end up with a few dollars and that the lawyers are the ones who profit. With this lawsuit, that certainly was not the case. We managed to get real compensation for people, as much as \$7,500 apiece.”**

*Henry McLaughlin, executive director of Central Virginia Legal Aid*



"Some people criticize consumer class-action suits, saying that the class members only end up with a few dollars and that the lawyers are the ones who profit," says Henry McLaughlin, executive director of Central Virginia Legal Aid. "With this lawsuit, that certainly was not the case. We managed to get real compensation for people, as much as \$7,500 apiece."

Unfortunately, if clients were to approach Central Virginia Legal Aid today with evidence of a home-finance rip-off, lawyers might be able to help them individually. But they would be helpless to do anything to protect thousands of other people in the community victimized by the same scheme.



Attorneys at the Central Virginia Legal Aid Society

## Legal aid programs face still greater restrictions, fund cuts

By SHELDON H. ROODMAN

Executive director, Legal Assistance Foundation of Chicago

For the past 30 years, the federal government has made historic progress toward the goal of providing low-income individuals and families access to legal representation in civil cases and, also, access to lawyers to present their views to officials in the legislative and executive branches of government. In 1995 Congress appropriated \$415 million nationally towards these goals. In 1996 these federal funds were slashed 33 percent. Hundreds of legal services offices across the country have closed and the number of lawyers and paralegals available to represent low-income individuals and families has declined dramatically.



The good news is that the federal Legal Services Corp. has survived for 1996, despite the efforts of some members of Congress to kill the entire program. Unfortunately, some members of Congress have expressed their intention to try once again to eliminate all federal funding for the legal services program for the next year or, at the very least, to reduce the funding by yet another one-third in 1997, and to eliminate the entire program in 1998.

The controversy surrounding legal services is not just about the level of federal funding to support the cause of equal justice in America. Much of the debate over the past year has been about what new and additional restrictions should be imposed on federally-funded legal services programs. As a matter of principle, many in Congress support fewer federal restrictions and regulations. In the case of legal services, these same members of Congress are seeking to impose substantial additional federal restrictions on the ability of legal services attorneys to represent their clients. These restrictions would apply not only to services provided with federal funds, but would also prevent private donors, such as United Way, private foundations, and even individual donors from funding any legal services activities which would be outside the range of legal services permitted by the federal restrictions.

A 1995 Chicago Tribune editorial entitled "Wrongheaded Restraint on Advocacy" discussed legislative efforts to force not-for-profit groups, including legal services programs, to choose between giving up their federal grants or advocacy on behalf of their clients. The editorial concluded: "This choice is the kind an extortionist gives you." The editorial urges that not-for-profit groups remain free to use private funds to engage in advocacy and lobbying.

The debate over the use of private funds is particularly important because the Congress is about to impose an extraordinary list of new restrictions on legal services programs. President Clinton has vetoed one bill in part because of these "excessive restrictions." (As this article was being written, Clinton and the Congress were negotiating the final terms of the restrictions. The deadline for resolving these restrictions was April 24th.)

One of the far-reaching restrictions almost certain to be adopted

Roodman - page 17

Chicago Daily Law Bulletin, April 27, 1996

## Some Legal Services-Related Headlines Across the Nation Since 1995

### Arizona

"Chances for Poor to Sue Clipped by Legal-Aid Cuts," *Phoenix Gazette*, July 19, 1996.

### California

"Legal Aid Can Be Vital for the Poor, But Is Woefully Underfunded Despite Recent Fiscal Gains, Advocates Say," *Los Angeles Times*, January 15, 1999.

"House Poised to Slash Legal Aid Funding In Half; Attorneys Who Serve the Poor Say They'll Have to Turn Away More People," *Fresno Bee*, September 23, 1997.

"Slaying of Woman Underscores Tighter Legal Aid Restrictions," *San Diego Union-Tribune*, July 21, 1996.

"Proposed Legal Aid Spending Axing Protested, Supporters Say Poor Women, Kids Would Suffer Lack of Justice," *San Diego Union-Tribune*, September 12, 1995.

"Budget Ax Hangs Heavily Over Legal Aid Services to the Poor; War on Poverty Agenda Meets the War on Deficit; Lawyers See Animosity to the Needy, but GOP Sees Tax Dollars Promoting 'Agenda,'" *Los Angeles Times*, February 15, 1995.

### Colorado

"Legal Aid Denied and Mom Died," *Denver Rocky Mountain News*, June 23, 1996.

### District of Columbia

"Cuts Turn Warning into Fact: Legal Aid for Needy is Stretched Thin," *Washington Post*, November 22, 1998.

"What About the Poor Folks Who Can't Afford Expensive Legal Services?" *Washington Times*, May 20, 1997.

"Without Federal Funding of Legal Services, Poor Get No Justice," *Washington Times*, May 19, 1997.

"Abused Immigrant Slain After Plea for Legal Services Help Is Denied; New Law Limits Federal Program to Lawful Permanent Residents," *Washington Post*, June 5, 1996.

### Florida

"Poor Often Find Legal Assistance Isn't Available," *Stuart News/Port St. Lucie News*, October 11, 1998.

"Free Legal Services for the Poor at Risk," *Tampa Tribune*, January 12, 1998.

### Idaho

"Poor Must Have Access to Legal Aid," *Idaho Falls Post Register*, November 2, 1995.

### Illinois

"Legal-Aid Programs Take Political, Financial Beating: 'Questionable' Cases, Budget Cuts Pressures Service for the Poor," *Chicago Tribune*, August 5, 1999.

"More LSC Funding Necessary to Ensure Equal Justice for All," *Chicago Daily Law Bulletin*, November 23, 1998.

### Iowa

"Blame for Cutback in Legal Aid to Poor Due to Implosion, or Enemies?," *Des Moines Register*, January 8, 1996.

### Kansas

"Seeking Justice for All: Budget Cuts Squeeze Legal Aid's Efforts to Offer Representation," *Kansas City Star*, January 9, 1997.

### Kentucky

"Court Ruling May Threaten Legal Aid for the Poor, Kentucky May Handle Funding Cuts Better Than Other States," *Courier-Journal (Louisville)*, June 22, 1998.

### Maine

"Federal Budget Cuts Threaten Pine Tree Legal Aid's Future; the Poverty Law Group Faces a Loss of up to Half Its Federal Funding," *Portland Press Herald*, October 8, 1995.

"Legal Assistance for the Poor Under Fire at Time of Great Need," *Portland Press Herald*, October 1, 1995.

"Poor, Elderly Face Loss of Legal Services, Proposed Cuts Threaten Pine Tree Legal," *Bangor Daily News*, May 13, 1995.

### Maryland

"Funding Crisis in Legal Services: A Renewed Call for Help," *Daily Record (Baltimore)*, March 19, 1998.

"Poor Have Trouble Getting Legal Help; Few Lawyers Agree to Give Free Service," *Baltimore Sun*, January 23, 1997.

### Minnesota

"Legal Services: Scrimping on Justice for the Poor," *Minneapolis Star-Tribune*, August 13, 1998.

"Budget Fallout: Cuts Look for Legal Services Programs, Staff Members Face Layoffs, Clients in Jeopardy," *Minneapolis Star-Tribune*, January 26, 1996.

### New Jersey

"Legal Services Socked With Cut," *New Jersey Lawyer*, February 16, 1998.

### New Mexico

"Funding Forces Legal Aid Lawyers to Turn Away Clients," *Santa Fe New Mexican*, August 12, 1996.

### New York

"Legal Services for Poor Are Jeopardized by Pataki's Vetoes," *Buffalo News*, July 3, 1998.

### North Carolina

"Legal Services Cuts Help No One," *Asheville Citizen-Times*, January 6, 1997.

### Ohio

"Legal Services Held Hostage to Budget Cuts," *Cincinnati Enquirer*, January 3, 1996.

### Pennsylvania

"In Appalachia, Poor Fear Cutbacks in Legal Services," *Philadelphia Inquirer*, July 8, 1996.

"To Not Kill Justice: Under the Guise of Fiscal Need, Republicans Aim to Cut Critical Aid for the Poor," *Pittsburgh Post-Gazette*, August 14, 1995. South Carolina

"Abolishing Legal Services Would Be 'Devastating' for Poor, Officials Say," *Charleston Gazette*, September 13, 1995.

### Tennessee

"Six Legal Services Offices Closing in North Mississippi Due to Budget Cuts," *Commercial Appeal (Memphis)*, February 19, 1996.

### Washington

"Legal Aid for the Poor Needs U.S. Support," *News Tribune (Tacoma)*, July 5, 1999.

"Legal Aid: Ideologues Slam Courthouse Door on the Poor," *Seattle Times*, September 22, 1995.

### Wisconsin

"Save Legal Services: It's a Matter of Justice for Those Who Can Least Afford It and Need It the Most," *Milwaukee Journal Sentinel*, August 26, 1996.

"Programs May Face Shutdown: Tax-Funded Legal Services Feel Budget-Cut Threat, Organization Handles Non-Criminal Cases for Low-Income People," *Milwaukee Journal Sentinel*, October 14, 1995.

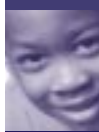
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"Funding Legal Services for the Poor Is Not a Partisan Issue," *Metropolitan News Enterprise*, July 7, 1996.

### International

"Hard Times for Legal Aid Programs; Congresses Budget Cuts Decimate Services for the Poor," *International Herald-Tribune (Neuilly-sur-Seine, France)*, September 6, 1996.



# THE BAN ON CLASS ACTIONS IS ONLY PART OF THE PROBLEM

**Legal services attorneys' low-income clients** deserve the same access to the legal and political system that everyone else has. They need attorneys who are allowed to represent their interests — not just in the courtroom, but before the legislative bodies and government agencies whose decisions often have profound impacts on low-income people's lives.

In Harrisburg, Pennsylvania, 23-year-old Doreen Thomas can attest to that. When she was growing up, Thomas wanted to become a doctor, and she enrolled at the University of Pittsburgh. At 18 she became pregnant and interrupted her education. When she became ill during her pregnancy, her doctor advised her to stop working. With no other way to support herself and her new daughter, Thomas reluctantly applied for welfare. "I didn't want to do that forever," she explains, "but I figured that welfare could be a stepping stone for me, a chance to get myself in a situation where I would be self-sufficient." Instead of a four-year college and medical school, she set her sights upon a more readily attainable goal — becoming a registered nurse.

Thomas enrolled in a two-year associate degree program in nursing at a local community college. She did well in her classes, but in the summer of 1997, when she was halfway through the program, the local welfare office threw her a curve ball. Her caseworker told her that under the new welfare reform law, she had to go into a full-time job search program. The only way she could be exempted and finish school without interruption was if she immediately found a job working at least 20 hours a week. Thomas had been following the new welfare requirements closely, and she knew that the 20-hours-a-week requirement was not supposed to take effect for another two years. But she could not convince the caseworker he was wrong. She quickly lined up a part-time job working in the community college's placement office.

Between working that many hours and taking care of her young daughter, Thomas had trouble keeping up with her studies. "Nursing school is very demanding," she says. "I was really struggling." Nevertheless, her caseworker told her that if she reduced her work hours, her benefits would cease.

**"I didn't want to [be on welfare] forever, but I figured that welfare could be a stepping stone for me, a chance to get myself in a situation where I would be self-sufficient."**

Doreen Thomas

**“Low-income families and individuals in rural Pennsylvania have no one to represent them before their state legislators, since the LSC restrictions prevent their advocates from ever playing that role.”**

Peter Zurflieh, attorney with the Pennsylvania Justice Center

Fortunately for Thomas, one afternoon at school she attended a workshop for students on welfare reform laws. Peter Zurflieh, the attorney giving the presentation, was a former LSC-funded lawyer who had moved over to the non-LSC Pennsylvania Justice Center in the wake of the 1996 restrictions. Thomas approached Zurflieh with her situation. “I think it must have been God who guided me there that day,” Thomas says. “I was so happy when he agreed to take my case.”

Zurflieh contacted the welfare office on Thomas’ behalf and pointed out their mistake. “She already had an approved plan, and then they improperly imposed this requirement,” he explains. The welfare department admitted their error, allowing Thomas to concentrate on her schoolwork again. But in early 1999, the 20-hour work requirement reared its head again. “This time, there actually was a basis in the law for it — a flaw in the rules, but it was there,” Zurflieh explains. “If they [welfare officials] had their way, they would have forced her out of school, two months before she was going to graduate.”

To Thomas, the whole thing was crazy. She was, on the verge of getting a degree and a high-paying job that would make her genuinely self-sufficient. Instead of helping her achieve that goal, welfare reform impeded it. “I just didn’t know what I was going to do,” she recalls. Zurflieh hit upon a solution. He approached welfare officials and convinced them to grant a waiver to Thomas so that she could graduate.

Zurflieh’s administrative advocacy paid off. Upon graduation, Thomas was quickly hired by a local hospital at a rate

of \$16 an hour, enabling her to live without relying on public benefits. “It’s pretty rare for a welfare recipient to make the immediate transition to self-sufficiency,” Zurflieh explains. “The exit

point for welfare in Pennsylvania is supposed to be 70 percent of the poverty level. She’s at 230 percent. Doreen really helped the welfare-reform system succeed, in spite of itself.”

But Thomas was left with the feeling that the rules were unfair and needed to be changed to benefit other welfare recipients struggling, like her, to get an education and achieve self sufficiency. Zurflieh startled her with the suggestion that she tell her story to state legislators who had the power to revise the welfare reform law. “I’d never ever imagined myself doing something like that, honestly,” she says. Nevertheless, the idea strongly appealed to her, and Zurflieh arranged it. In February 1999, Thomas, clad in her pink nursing scrubs, took the microphone at a hearing in the state capital.

“I’m so glad I got the chance to speak out and have them listen,” Thomas explains. “What I really hate is the stigma that people attach to being on public assistance — you know, that people on welfare are lazy, or whatever. There are a lot of people who don’t want to stay on welfare, who want jobs that are going to keep them and sustain them. They want to get ahead in life, but the system isn’t designed for people to get ahead.”

Later that spring, state legislators introduced two bills, one in the state House and one in the state Senate, aimed at allowing students like Thomas to stay

**“There are a lot of people who don’t want to stay on welfare, who want jobs that are going to keep them and sustain them. They want to get ahead in life, but the system isn’t designed for people to get ahead.”**

Doreen Thomas



## Welfare cutoffs need adjustments, committee told

A nursing student told legislators about a premature ultimatum. Protect children's food stamps, some said.

By Rena Singer

PHILADELPHIA STAFF WRITER

HARRISBURG — Her story is not unique.

Not as it cheerful.

But it may yet have a happy ending.

Testifying during a Pennsylvania House Democratic Policy Committee hearing yesterday, Doreen Thomas of Harrisburg, 23, a single mother and nursing student, explained how welfare reform had affected her.

In the summer of 1997, when the deadlines still seemed far away, Thomas, a student at Harrisburg Area Community College, was told by her caseworker that she would have to begin working at least 20 hours per week immediately — in addition to continuing her schooling and caring for her daughter —

if she still wanted to receive public assistance.

She knew the caseworker was mistaken. She knew that the deadline for welfare recipients to work at least 20 hours per week was nearly two years away, in March 1999. But the caseworker insisted that she work.

So she did. And her grades fell. Her voice cracking, Thomas recounted how she felt overwhelmed and worried about failing out of the nursing program.

"I am not against work," said Thomas, dressed in pink nursing scrubs. "But I wanted to successfully complete my nursing program."

Officials acknowledged the error by dropping the work requirement only after a lawyer Thomas had met with contacted the Department of

Public Welfare on her behalf.

"I knew I was being misinformed," Thomas said. "But there was nothing I could do about it."

Just three months shy of graduating, Thomas is among an estimated 25,800 welfare recipients in Pennsylvania now facing the real state deadline for finding work. If she is not working at least 20 hours per week after March 3, she and her 3-year-old daughter could be thrown off welfare, even though she has every intention of finding a job come June, when she has her diploma.

She has asked her welfare caseworker for a waiver, which would allow her to continue with her studies without working until her graduation.

Her request, she told the captivated legislators, is under consideration.

Thomas' experience illustrates a number of problems plaguing the welfare-to-work reforms, experts

testified yesterday.

Pennsylvania is one of 19 states that do not include training and education in the definition of work. So welfare recipients such as Thomas can be cut off even if they are working to improve their work skills or learning a trade that could win them a high-paying job.

"We need to expand the definition of work in a way that takes into consideration education and training for a limited period of time," State Auditor General Robert P. Casey Jr. said during his testimony before the committee. "If people are following the rules, we ought to help them with education and training. This will help people in the long run."

Casey also recommended that Pennsylvania alter its policy of penalizing children when their parents do not meet welfare guidelines. A child's food stamps should not be eliminated if the parent does not get a job on time, Casey and others testified. Thomas' daughter's food

stamps, for example, never should have been threatened, they said.

Other states that have cut entire families off welfare have found an increased incidence of violence, child abuse and health problems, Casey said.

Casey and other experts also lamented that caseworkers, who are supposed to help their clients navigate the new welfare landscape, often do not understand the new requirements.

"Caseworkers aren't understanding the regulations," said Maryann Haytmanek, director of New Choices/New Options, a Lehigh Valley Agency that works with single parents. "You've got caseworkers who are reading the regulations differently."

Policy Committee Chairman Victor Lescovitz said that Welfare Secretary Feather O. Houston had been invited to the hearing, but that she declined to attend. The hearing continues today.

Philadelphia Inquirer, February 17, 1999

in school while fulfilling their work requirements. Testimony by Thomas and other students in her situation has galvanized support for the bills, which are still pending.

Such testimony was important because it helped put a human face on the problem. Many Pennsylvania state legislators, particularly those from rural regions, never meet actual welfare recipients and base their welfare policies on stereotypes about people who receive welfare. As one of the few non-LSC-funded legal services lawyers outside of Philadelphia and Pittsburgh, Zurflied was able to bring the voices of the welfare recipients with whom he works to the ears of rural legislators. But he worries that in the rest of the state there are not enough unrestricted lawyers to shoulder this responsibility. "Low-income families and individuals in rural Pennsylvania have no one to represent them before their state legislators, since the LSC restrictions prevent their advocates from ever playing that role," he says.

Prior to the 1996 restrictions, LSC-funded legal

services clients could expect their lawyers to do the same sort of legislative advocacy that former legal services attorney Zurflied has been engaging in for Thomas. In Tennessee, for example, legal services lawyers fought for years to defend clients from exploitative high-interest, short-term loan companies seeking to take unfair advantage of the poor. In Oregon, they successfully pressed for changes in landlord-tenant laws to protect would-be renters against scam artists who charged them hefty application fees with no intention of actually renting them an apartment. In Maryland, a legal services attorney lobbied state legislators to fix state laws so that people who were bankrupt could protect more of their home equity. Zurflied thinks legal services clients should still be able to have their lawyers lobby for them when necessary, just as private attorneys do for paying clients. "It really means something to people, having a chance to make themselves heard," he says. As long as the restrictions continue, many of them will not have this chance.



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