

# CALIFORNIA COMMISSION ON ACCESS TO JUSTICE

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January 12, 2012

The Honorable Charles Calderon  
Majority Leader, California Assembly  
Sacramento, CA

RE: AB 1208 - The Trial Courts Rights Act of 2011: Oppose

Dear Assemblyman Calderon:

On behalf of the California Commission on Access to Justice, we are writing to express our support for a strong, coordinated statewide judicial system. In California, we have made many advances in the past 15 years improving access to our judicial system for some of California's most vulnerable residents – advances that would not have been possible without the visionary leadership of the Judicial Council and its focus on creating a true single statewide branch of government.

Through the leadership of the state's judicial branch, key partners such as the Legislature, the State Bar, local bar associations, local courts and local legal aid programs have come together to improve the administration of justice. Our achievements have been watched across the country, and millions of low-income, vulnerable Californians have benefitted from this improved system. AB1208 will have the unintended effect of reducing access to the courts for the most vulnerable populations in the state that has been shaped in recent years by the Judicial Council.

The Access Commission is concerned about returning to the times when a lack of access to the courts was common, as was true before trial court unification and state trial court funding were established.

While there were clearly a number of trial courts that worked hard to provide access for low-income and vulnerable Californians, advocates for the poor too often found themselves spending as much time trying to get their clients into court as they did actually representing them in the necessary hearings. While some may label the period before trial court unification and state trial court funding as the "good old days" there was little good about them from the perspective of most low-income, vulnerable Californians seeking access to justice.

Since 1997, the California Commission on Access to Justice has been working to find long-term solutions to those barriers, and to address the chronic lack of representation for poor and moderate-income Californians. The Commission includes appointees from the Governor, the Attorney General, the President Pro Tem of the Senate, the Speaker of the Assembly, the California Judicial Council, California Judges Association, the State Bar of California, Consumer Attorneys of California, California Chamber of Commerce, California Labor Federation, League of Women Voters, the California Council of Churches, the Council of California County Law Librarians, and the Legal Aid Association of California – all committed to improving access to our judicial system.

In pursuing long-term solutions, the Access to Justice Commission has been extremely gratified that so many creative mechanisms have been instituted in our statewide judicial system that improved access for low-income Californians. While some of these developments initially were a result of local court initiatives, their adoption statewide was only possible because of the strong, centralized judicial system that has evolved over the past 15 years, enabling people in every county in the state to benefit from economies of scale, the sharing of resources, the directed funding for these purposes, and the leadership provided by the Judicial Council.

Examples of the statewide improvements recognized across the country that we fear AB 1208 could undermine include:

- **Self-Help Centers and Family Law Facilitators.** There are now self-help centers and family law facilitators in every court in the state, serving nearly a million litigants every year who would otherwise have to face judicial proceedings without any legal help at all. These self-help centers have been particularly beneficial in the area of family law, which is an ongoing challenge for the entire branch. These centers have not only helped ensure that countless individuals have fair access to our judicial system, but judges have benefited from more educated litigants, and delays have been reduced because self-represented litigants are more prepared for their hearings. See Judicial Council Report to the Legislature on California Courts Self-Help Centers in 2007: [\[California Courts Self-Help Centers Report\]](#) Under AB 1208, courts could decide that self-help centers are not a priority for funding, and redirect monies allocated specifically for these purposes.
- **Language Access.** Access has improved for litigants with limited English proficiency because there are more services available, including at the Self-Help Centers in every county and on the AOC website, much of which is available in Spanish and other key languages spoken by a high percentage of Californians. In addition, dedicated statewide funds provide important branch wide resources to increase access for limited English proficient Californians, particularly in the area of domestic violence. AB 1208 would allow trials courts to redirect funds intended for court interpreters for other court operations.
- **Statewide Rules and Procedures.** Legal aid attorneys practice law in many counties; some programs serve as many as 23 counties, and others provide representation in every county in the state. The proliferation of local rules and procedures makes it extremely difficult for all attorneys to be aware of the requirements and avoid unwitting mistakes, but this is especially true for legal aid lawyers because of their high case loads and limited resources. Strong statewide leadership also has eliminated the adoption of local rules and practices which limit access to justice, such as those relating to fee waivers and handwritten court documents. The Access to Justice Commission is concerned that by eliminating the statutory language that directs the Judicial Council to "...allocate funding for the trial courts and perform the other activities...that best assure their ability to carry out their functions, promote implementation of statewide policies...in order to guarantee equal access to the courts...", AB 1208 will put such statewide procedures and rules in serious jeopardy.

- **Support for and Coordination of Access “Best Practices” throughout the State.** The Judicial Council and the Administrative Office of the Courts have become important clearinghouses for “best practices” information that has allowed local courts to more efficiently and effectively adopt policies and procedures which improve the ability of low-income, vulnerable Californians to access the courts. This “best practices” exchange has helped strengthen the continuum of service that is available across the state. The self-help centers in the courts work closely with the local legal aid programs that provide legal assistance to those who cannot get justice if they represent themselves. This strong, coordinated network provides an important safety net for low-income, vulnerable Californians as they confront life impacting legal concerns.

All of these important gains in the ability of low-income, vulnerable Californians to access the courts would be jeopardized by AB 1208. Despite the best of intentions, local courts might be forced to decide how much access they can afford at the local level, while also dealing with many other legitimate demands on scarce resources. Each court would autonomously face difficult fiscal, programmatic and administrative decisions. Programs assisting the poor and unrepresented are easy targets in such an environment, especially in the smaller and rural counties where the need for such services is often the greatest. Without the economies of scale and the sharing of resources possible through statewide coordination, many of the advances we have made might be reversed. It is not difficult to envision a scenario under AB 1208 where a local court decides to close its self help centers, close its collaborative courts, provide fewer services for limited English proficient court users and adopt local rules which make access more difficult.

Our state should justifiably be proud of the achievements made by our strong, judicial system – achievements that are the envy of other states because our system is so much more accessible for all Californians, not just those who can afford legal representation. Because AB 1208 would have the unintended consequence of jeopardizing those, we respectfully are opposed to the bill.

Please contact us if you have any question or need any further information.

Sincerely,



Hon. Ronald B. Robie – Chair  
Commission on Access to Justice



Joanne E. Caruso – Vice Chair  
Commission on Access to Justice

cc: Members of the California Assembly