

WESTERN CENTER ON LAW AND POVERTY

M E M O R A N D U M

To: People Interested in Access to Courts Issues  
From: Dick Rothschild  
Date: December 13, 1999  
Re: Update VIII

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Proposed Legislation Restricting IFPs

The Judicial Council has proposed legislation that would impose substantial verification requirements on public assistance recipients seeking in forma pauperis fee waivers.

Current law requires a court to grant a fee waiver to an applicant who declares under penalty of perjury that she receives SSI/SSP, AFDC, Food Stamps or General Assistance. The proposed legislation would amend Government Code §68511.3 to require applicants to "attach to the application documentation of benefits to support the claim and all other financial information on a form promulgated by the Judicial Council for this purpose."

In addition, applicants who do not receive public assistance but qualify on the basis of low income would be required to fill out more detailed financial forms.

For more information on this, contact Christine Minnehan of Western Center's Sacramento office (916-442-0753, ext. 14), or Dick Rothschild, 213-487-7211, ext. 24.

Los Angeles Superior Court Conciliation Court Fees

Family law attorneys are considering a challenge to Los Angeles County Superior Court's recent enactment of a \$110 fee for Conciliation Court services.

In all cases where custody or visitation is in dispute, individuals are referred to Conciliation Court, where they are told they must pay \$110. Only if an individual asks the right questions is she informed about possible fee waivers. Others apparently either pay the fees or drop out of the judicial system.

Betty Nordwind of the Harriett Buhai Center for Family Law is looking into a challenge to the new fees. The fees are not expressly authorized by any statute, and the statutory scheme for court fees appears to preempt the field against local court fees.

## Requirement for New Waivers on Filing Notice of Appeal

The Fresno courts are requiring indigent litigants who have received fee waivers in the trial court to apply for new waivers on filing a notice of appeal. The legality of this practice hinges on interpreting Government Code §68511.3(c). The statute permits the court to require litigants to appear and be examined on their financial circumstances no more than three times per year, but arguably conditions that reinvestigation on a change in financial circumstances.

Michael Kanz of CRLA's Fresno office is looking into the practice of the Fresno courts.