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Legal Aid seeks to balance scales of justice

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Five times more needy people ask for help than staff can assist

Albany In the morning, the phones ring relentlessly at Albany's Legal Aid office, each call bringing another story of low-income troubles, legal crisis or bureaucratic confusion.

The office usually is so overwhelmed, attorneys who work there say, that they have to stop taking calls and evaluating new cases for the day by 10 a.m.

The calls come from people like Tina Lavery of Scotia, wife of a self-employed auto mechanic. She called Legal Aid after months of wrangling with federal bureaucrats who denied her request for financial help -- about $6,000 a year -- to provide speech therapy for her 2-year-old son, who was born with autism.

"They almost always deny you at first," Lavery said. "You have to have a lawyer to show them you mean business."

Lavery considers herself among the fortunate few whose cases are accepted by Legal Aid, one of the only places in the Capital Region that provides free legal services for civil matters such as custody battles, landlord-tenant disputes or public assistance appeals.

Legal Aid workers say their 13-attorney staff can provide full services for only about one in every five people who ask for them, leaving many to fend for themselves.

Unlike criminal court, where those accused have a constitutional right to a taxpayer-funded attorney, people facing civil matters either have to hire their own lawyer -- often at rates of more than $200 an hour -- or go it alone.

"There is a whole class of people who don't get in," said Lillian Moy, executive director of the Legal Aid Society of Northeastern New York. "And for them, the price for losing your house or losing your kids or not getting the income the household needs is incredibly significant."

In many cases, poor people have to face off alone against adversaries who have attorneys. In landlord-tenant cases, landlords are almost always represented, tenants almost never.

In the family courts, single parents who can't afford attorneys sometimes have to go up against former spouses who can afford legal representation.

Although the courts often try to find court-appointed attorneys to represent those who don't have them, there is no guarantee.

"Clearly, it's not fair. There is a disparity: People of economic means will generally do better in the judicial system than those without economic means," said Thomas Levin, chairman of the New York State Bar Association's Access to Justice Committee.

And the ripple effects can be felt throughout the court system, as judges have to stop and explain basic rules that people with lawyers would already understand.

"It usually takes longer because you have to sort of nurse the people through the process," said Dennis Duggan, an Albany County Family Court judge who said he often sees people handling their own cases.

Legal Aid spends about $2 million a year culled from a variety of state and federal sources.

A large portion comes from the interest generated by the state's escrow accounts that is set aside by law for low-income legal services. The office serves about 4,500 people a year. About 81 percent receive only limited services, such as a single consultation, rather than full-time representation.

No-cost legal services also are offered to a more limited degree from places such as the Women's Bar Association of the Capital District or student clinics at Albany Law School.

But for lawyers who spend most of their time practicing other areas of the law, pro bono cases concerning aspects of family law or public assistance can be difficult, Levin said.

The vast majority of cases never involve a trial and can be taken care of administratively.

"It's such a bureaucracy that poor people deal with that a lot of it is just straightening things out," said Anne Erickson, executive director of the Greater Upstate Law Project, which provides support services and updated legal information for offices like Legal Aid.

Lavery said the help she got from Legal Aid, and the Social Security benefits it helped her secure, have been invaluable.

"I honestly believe if it wasn't for them, I never would have gotten it. I'd probably still be fighting," she said.