The *Public Interest Law Reporter* is an innovative legal publication that focuses on reporting the most current legal topics in a news format directed to students, educators and practitioners. PILR is edited and produced by Loyola students and is housed within the Center for Public Service Law. Founded in 1995, PILR offers feature articles and news of legal developments in the areas of human rights, economic justice, criminal justice, the environment, and governance. In addition to an editorial staff selected through a write-on process, Loyola law students direct all aspects of PILR’s research, writing, graphics, production and business management.

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Erratum

The Public Interest Law Reporter (“PILR”) strives to provide quality articles for our readers. Sometimes, however, errors occur during the editing process at no fault to the writer. The executive board would like to extend a formal apology to the following writers of the Fall Issue, Volume 18 for any errors that appeared in their articles.

Sabena Auyeung
Alisha Howell
Michael Lorden
Jessica Ratner

The executive board will continue to work hard to ensure that PILR represents the finest quality of reporting.
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FEATURE

THE PUBLIC TRUST DOCTRINE: DOES IT PROVIDE THE PUBLIC WITH ACCESS TO THE BEACHES OF LAKE MICHIGAN IN ILLINOIS?

by Henry Rose*

Beaches today are where we turn our backs not just on the world at large but also on our inland selves. They are a sanctuary, groomed to remove all distractions, sometimes including the other creatures that once made them their home. Beaches are thought of as a place where time stands still, devoid of a troubling past but also of an ever pressing future.¹
The ancient public trust doctrine, which experienced significant expansion in a celebrated Illinois case involving Lake Michigan, guarantees the public the right to use navigable or tidal bodies of water for commerce, fishing and navigation. In the last 75 years, some states have included recreational uses within the scope of the public trust doctrine.

Lake Michigan borders the State of Illinois. The Lake Michigan shoreline in Illinois includes extensive beaches. Some of these beaches are open to the public, while others are privately owned and not open to the public.

The purpose of this article is to examine whether Illinois courts should recognize that members of the public have a right, under the public trust doctrine, to use all of the beaches of Lake Michigan for recreational purposes, including walking along the shoreline.

History of the Public Trust Doctrine

The public trust doctrine has its origins in Roman jurisprudence which asserted: “Now the things which are, by natural law, common to all are these: the air, running water, the sea, and therefore the seashores. Thus, no one is barred access to the seashore . . .” The English common law adopted the public trust doctrine and concluded that tidal seas and tidal land, below the high-water mark,
are owned by the crown as sovereign but may be used by the public for commerce, fishing and navigation. The United States Supreme Court adopted these English common law principles in Shively v. Bowlby.

In Illinois Central Railroad Company v. Illinois, the public trust doctrine was applied to a portion of Lake Michigan bordering Chicago, Illinois. This decision by the United States Supreme Court has been described as ‘The Lodestar in American Public Trust Law.’ In Illinois Central, the court extended the public trust doctrine to the non-tidal Great Lakes, including Lake Michigan, because they are navigable waters that accommodate commerce. The court in Illinois Central held that the State of Illinois owned the lakebed under Lake Michigan in trust for the people of the state and that the state legislature’s grant of a portion of this lakebed to the Illinois Central Railroad Company was inoperative as a violation of the public trust.

The public trust doctrine applies not only to navigable and tidal bodies of water and the land beneath them but also to the land at the shore. For navigable lakes, like the Great Lakes, the boundary of public trust lands extends on the shore to the high water mark.

Each state entered the Union on equal footing with the original thirteen states with regard to public trust rights in tidal waters and the land beneath them. After entry into the Union, each state has the authority to define the limits of the lands held in public trust and to recognize private rights in such lands as it sees fit. As a result, the public trust doctrine has developed differently in each state.

One of the issues that developed differently among the states is whether the public trust doctrine should be expanded from the traditional protected uses of commerce, fishing and navigation to include recreational uses of the applicable bodies of water and shore. For example, courts in California and New Jersey have found that the public trust doctrine protects recreational uses. On the other hand, courts in Maine and Massachusetts have found that the public trust doctrine does not include recreational uses. The Michigan Supreme Court held that the public has the right to walk on the shore of the Great Lakes below the high water mark, but Ohio courts have held that the public has no right to walk landward of the water’s edge on the shores of Lake Erie in Ohio.
ILLINOIS AND LAKE MICHIGAN

Lake Michigan has 63 miles of shoreline in Illinois, of which 34 miles is beach. There are nearly six million residents of Illinois who live in the two Illinois counties that adjoin Lake Michigan. Lake Michigan is the largest recreational resource available to Illinois residents.

Some of the Lake Michigan beaches in Illinois are open to the public. Other beaches are open to persons who pay a fee for their use during the summer beach season. Some beaches are private and not open to the public at all.

Due to the limited amount of beach on the Lake Michigan shoreline in Illinois and the large population of Illinois residents who live in close proximity of Lake Michigan, public access to Lake Michigan beaches is an important public policy issue. The public trust doctrine bears on this issue.

THE PUBLIC TRUST DOCTRINE AND RECREATIONAL USES

The traditional scope of the public trust doctrine allowed the public to access the sea for commercial, fishing, and navigation purposes.

In the twentieth century, several states expanded the uses protected by the public trust doctrine to include recreational uses, such as bathing, hunting, skating, and swimming. The rationale for allowing recreational uses to be protected by the public trust doctrine was articulated well by the New Jersey Supreme Court:

_We have no difficulty in finding that, in the latter half of the twentieth century, the public rights in tidal lands are not limited to the ancient prerogatives of navigation and fishing, but extend as well to recreational uses, including bathing, swimming and other shore activities. The public trust doctrine, like all common law principles, should not be considered fixed or static, but should be molded and extended to meet changing conditions and needs of the public it was created to benefit._

No court has expressly held that recreational uses are protected by the public trust doctrine in Illinois. However, the Illinois Supreme Court approvingly cited the New Jersey Supreme Court’s flexible approach to expanding the protections of the public trust doctrine to include recreational uses in light of changing conditions and public needs when the court expanded the protec-
tions of the public trust doctrine in Illinois to include conservation and protection of natural resources, like Lake Michigan.\(^{34}\)

Since the Illinois Supreme Court has endorsed the New Jersey Supreme Court’s approach to expanding the protections of the public trust doctrine to include recreational uses, it is likely that Illinois courts would also decide that common recreational uses of Lake Michigan beaches should be protected by the public trust doctrine. Such a decision would go a long way toward fulfilling Lake Michigan’s potential as a recreational resource for the millions of Illinois residents who live within close proximity of it.

Illinois courts have yet to address whether members of the public have a right to walk along the shore of Lake Michigan on privately owned beaches. The Supreme Court of Michigan has held that members of the public do have a right, under the public trust doctrine, to walk on privately owned land along the shoreline of the four Great Lakes that border Michigan.\(^{35}\) Conversely, the Supreme Court of Ohio recently affirmed a decision of an Ohio Appellate Court that holds that members of the public do not have a right to walk on the shore of Lake Erie on land that is privately owned.\(^{36}\)

The Illinois Supreme Court has recognized that private owners of land abutting Lake Michigan own the land up to the water’s edge.\(^{37}\) However, the Illinois Supreme Court has also endorsed the view that the protection of the public trust doctrine extends on the shore up to the high water mark.\(^{38}\) Thus, when the State of Illinois first conveyed lands bordering Lake Michigan to private owners, the lands were subject to the public trust doctrine up to the high water mark even though the private ownership extended to the water’s edge. As a result, privately owned land between the water’s edge and the high water mark would be subject to public trust uses. This is precisely the set of legal principles that the Supreme Court of Michigan relied on to hold that members of the public have a right, under the public trust doctrine, to walk on privately owned lands on its shores bordering the Great Lakes.\(^{39}\)

Since the Illinois Supreme Court has also endorsed an expansive and flexible view of the public trust doctrine that “extend as well to recreational uses, including bathing, swimming and other shore activities,” it is likely that Illinois courts would include walking by members of the public among the activities that the public trust doctrine would allow on privately-owned beachfront land bordering Lake Michigan.\(^{40}\)
ACCESS EASEMENTS

If under the public trust doctrine, the public is recognized to have the right to access all of the Illinois beaches of Lake Michigan below the high water mark for commercial, environmental, fishing, navigation and recreational purposes, a question arises as to whether the public should be allowed to use adjacent privately-owned land to facilitate the exercise of these public trust rights. Specifically, should the public be allowed to cross privately owned land to reach the portion of the beaches that is below the high water mark if there is no public access to these beaches that is readily available?

The New Jersey Supreme Court held that the public trust doctrine may impose an easement for the benefit of the public over privately owned beaches that are landward of the high water mark. The court recognized that the public’s right to access the beach below the high water mark may, in some situations, be meaningless if members of the public cannot cross privately owned land to reach the beach. In order to facilitate the exercise of recreational rights of the public, under the public trust doctrine, the court held that the public must be assured a “feasible access route” to the beach below the high water mark. Thus, in New Jersey, members of the public have a right to cross privately owned land if it provides the only “feasible access route” to reach the beach below the high water mark. The court confirmed that the public does not have “an unrestricted right to cross at will over any and all property bordering on the common property. The public interest is satisfied so long as there is reasonable access to the sea.”

As in New Jersey, if the public’s access to the beaches of Lake Michigan in Illinois can only be reasonably accommodated by allowing members of the public to cross adjacent privately owned lands to reach the beaches, then the Illinois courts should interpret the public trust doctrine to include access easements over these lands. Without such access easements, the public’s right to use publicly inaccessible beaches would be rendered meaningless.

BEACH ACCESS FEES

Several municipalities that border Lake Michigan in Illinois charge members of the public fees to access their beaches during the summer season.
ern University, located in Evanston, Illinois, also charges members of the public fees to access its North Beach during the summer season. 48 This raises the question of whether or not Lake Michigan beach access fees are consistent with the public trust doctrine.

In general, beach access fees do not violate the public trust doctrine as long as they are reasonable. 49 The Illinois Supreme Court has held that the Chicago Park District can charge boat mooring fees in its harbors without violating the public trust doctrine. 50 Thus, reasonable fees may be charged to members of the public to access beaches and harbors because their owners incur necessary expenses to maintain them and ensure their safe use by the public.

Municipalities and private owners of Lake Michigan beaches who charge beach access fees should recognize that some members of the public cannot afford to pay the charged fees due to their limited financial circumstances. Despite their indigency, these persons are members of the public who have public trust rights to access Lake Michigan beaches. Municipalities and private owners of beaches like Northwestern University should follow the lead of the City of Evanston, Illinois and develop processes for waiving beach access fees for indigent persons. 51 If municipalities or private owners do not waive beach access fees for indigent persons, they run afoul of the United States Supreme Court’s direction in Illinois Central that public trust rights must be “freed from the obstruction or interference of private parties.” 52 By allowing beach access fees to be waived for indigent Illinois residents, the benefits of the public trust doctrine will be equally available to all persons in Illinois.

CONCLUSION

The public trust doctrine has deep roots in Illinois. Illinois courts should interpret the public trust doctrine expansively and flexibly to ensure that it fully meets the needs of its beneficiaries, the residents of Illinois. In particular, Lake Michigan’s beaches in Illinois should be accessible to all residents of the state so that they can all experience the wonderful recreational benefits that Lake Michigan and its beaches offer to the public.
NOTES

I would like to express my appreciation to Alexandra Stan for research assistance and Angelina McDaniel for production assistance. The photograph in this article is to the credit of Brad Snyder.

* Professor of Law, Loyola University Chicago School of Law.
2 Ill. Cent. R.R. Co. v. Illinois, 146 U.S. 387 (1892). (expanded the application of the public trust doctrine from bodies of water affected by the tides to navigable bodies of water, like Lake Michigan).
3 Shively v. Bowlby, 152 U.S. 1, 57 (1894).
6 Shively v. Bowlby, supra note 3.
7 Id.
11 Id. at 452
12 Id. at 460.
14 Id. See also Glass v. Goeckel, 473 Mich. 667, 681-94, 703 N.W.2d 58, 66-73 (2005). The court in Glass adopted the Wisconsin Supreme Court’s definition of the high water mark as the point on the bank or shore up to which the presence and action of the water is so continuous as to leave a distinct mark either by erosion, destruction of terrestrial vegetation, or other easily recognized characteristic. 473 Mich 691-94, 703 N.W 2d 72-73.
16 Id. at 474-75.
26 The United States Census Bureau estimates that in July, 2011, Cook County, Illinois had 5,217,080 residents and Lake County, Illinois had 706,222 residents. www.quickfacts.census.gov/gfd/states/17/17031.html.
27 www.epa.state.il.us/water/surface-water/lake-michigan-mon.html.
28 The Chicago Park District operates 24 beaches that are free and open to the public. www.cfmstage.com/beach-report/beach-report-list.cfm.
29 For example, Evanston, Illinois operates five beaches and charges fees for admission during the summer season. www.cityofevanston.org/parks-recreation/lakefront-beaches/.
30 Blair Kamin, “Let’s add lakefront parks,” Chicago Tribune (June 9, 2009), News Focus, p. 4.
31 Archer, et al. supra note 4 at 23.
41 Professor Kenneth K. Kilbert wrote an exhaustive article examining the rights of members of the public to walk on the shores of the Great Lakes under the public trust doctrine. The Public Trust Doctrine and the Great Lake Shores, 58 Cleve St. L. Rev. 1 (2010). Professor Kilbert opined that, in light of precedent in Illinois involving the public trust doctrine, “there should be no barrier to recognizing the public’s right to walk along the shore of Lake Michigan in Illinois below the ordinary high water mark.” Id. 50-51.
42 Matthews v. Bay Head Improvement Ass’n, 95 N.J. 306, 471 A. 2d 355 (1984), cert. denied 469 U.S. 821 (1984). The court in Matthews also recognized that members of the public who are using the beach below the high water mark for recreational purposes may also have rights to use the privately owned dry sand area above the high water mark for “rest and relaxation” if “use of the dry sand is essential or reasonably necessary for enjoyment of the ocean.” 95 N.J. at 325, 471 A.2d at 365.
43 Id. 325, 471 A.2d 364.
44 Id. 325, 471 A.2d 364.
45 Id. 325, 471 A.2d 364.
46 Id. 325, 471 A.2d 364.
47 For example, the City of Evanston and the Village of Wilmette charge beach access fees on either a daily or seasonal basis. www.cityofevanston.org/parks-recreation/lakefront-beaches/; and www.wilmettepark.org/parks-recreation/lakefront-beaches/. The City of Lake Forest charges non-residents a daily fee. www.cityoflakeforest.com/cs/rec/cs_rec2e3.html.
48 www.fitrec.northwestern.edu/facilities/beach/.
51 www.cityofevanston.org/parks-recreation/lakefront-beaches/season-tokens/. Even Evanston’s fee waiver program is flawed because it only allows indigent residents of Evanston to have beach access fees waived. The public trust doctrine provides all residents of Illinois with rights to use Lake Michigan. See supra note II and accompanying text. All Illinois residents who are indigent should be able to seek waiver of beach access fees.
52 See supra note 8, at 451.
“I will not talk—I want my lawyer.” When an indigent criminal defendant utters these magic words, the Constitution mandates that a public defender be provided free of charge. However, low-income individuals facing common civil legal problems—such as family, housing and consumer issues—are not entitled to this same right to representation. While the government-funded Legal Services Corporation (LSC) provides legal representation to some eligible, low-income clients, there are simply not enough available resources to meet the ever-growing demand. As a result of this disparity, commonly known as the ‘justice gap,’ low-income individuals often end up facing their legal problems with little, if any, guidance.
The statistics surrounding the justice gap are staggering. While one in five Americans qualified for civil legal assistance in 2012, studies nevertheless indicate that 80 percent of civil legal needs of low-income people go unmet. The LSC estimates that at least 50 percent of eligible applicants are turned away due to insufficient resources. With only one legal aid attorney available for every 6,415 low-income people, this result is not surprising.

While the vast majority of low-income Americans do not have access to an attorney, there is one thing that 87 percent of American adults do have—a cell phone. What if the solution to delivering necessary legal services to those in need was only a text away? Many legal aid organizations are asking this very question and have begun using technology to develop new ways of reaching clients.

A SHIFT FROM PERSONAL TO VIRTUAL REPRESENTATION

Legal aid organizations have taken advantage of technological advancements in order to effectively reach greater numbers of low-income litigants, despite conventional resource limitations. For example, since its inception in 1993, CARPLS Legal Aid Hotline has provided telephone-based legal advice and referral services to low-income residents of Cook County. Additionally, Illinois Legal Aid Online (ILAO) has been a frontrunner in developing websites to assist litigants in resolving their legal matters. Following ILAO’s lead, every other state now has at least one legal aid website.

At the federal level, the LSC Technology Initiative Grants (TIG) program funds the development of new technologies to efficiently deliver legal services. Since the program began in 2000, the LSC has funded over 525 TIG projects, totaling over 40 million dollars in advancements.

A MOBILE APPLICATION OF THE LAW

As technology continues to improve, so have the options for narrowing the justice gap. The use of mobile phones is the new frontier in the efficient delivery of legal services. With 87 percent of American adults owning cell phones and programs in place providing free and low-cost cell phone plans to eligible
low-income people, cell phones may be the final link connecting litigants with necessary resources.\textsuperscript{17}

The advent of wireless internet access on mobile devices has served to bridge the digital divide by making the internet accessible to individuals previously unable to afford a desktop computer and broadband connection.\textsuperscript{18} Data from April 2012 reveals that approximately 55 percent of cell phone owners use their phones to go online—a rate that has nearly doubled over the past three years.\textsuperscript{19} Furthermore, research indicates that young adults, minorities, people without college experience, and those with lower household incomes are more likely than other groups of cell phone owners to rely on their phones as their main source of internet access.\textsuperscript{20}

In light of these statistics, legal aid organizations have started to take advantage of technological advancements to reach clients via cell phones.\textsuperscript{21} The primary means of delivering legal information to low-income populations is through the development of mobile applications (apps).\textsuperscript{22} With the support of an LSC-funded grant, ILAO successfully developed the first ever mobile app of this sort, which launched in October of 2011 and had over 8,600 downloads as of April 2013.\textsuperscript{23} The Illinois Legal Aid Mobile App, which can be downloaded free of charge on both Apple and Android devices, provides users with zip-code based referrals to legal service providers as well as comprehensive instructions and information on the most common civil legal problems.\textsuperscript{24}

“The main advantage of the app is that it doesn’t require internet connectivity,” explains Teri Ross, Program Director at ILAO.\textsuperscript{25} Once someone has downloaded the app, that person will have access to the most popular information available at IllinoisLegalAid.org.\textsuperscript{26} Additionally, Ross explains that within the next year or two, ILAO hopes to switch over to a responsive design website, which will make IllinoisLegalAid.org accessible from any mobile phone or tablet.\textsuperscript{27}

One drawback of that app, notes Ross, is that current mobile device software does not support ILAO’s interactive forms tool, a free service that helps litigants prepare legal documents.\textsuperscript{28} As of now, this feature of ILAO’s website can only be accessed from a computer.\textsuperscript{29}

Another concern is that, “judges frequently tell us that although pro-se litigants’ pleadings have become legible and legally sufficient as result of ILAO’s
forms tool, those very same litigants often don’t know what to say when they actually go up to the bench. Cue cards and scripts may be a solution to this problem,” suggests Ross.30

To this point, mobile apps designed to assist litigants in court were a topic of discussion at the 2013 TIG conference.31 Apps are currently being developed which direct litigants to courtrooms and helpdesks, as well as provide litigants with cue cards and scripts for court appearances.32

TEXTING A-WAY TO COURT

Another way in which legal aid organizations are beginning to take advantage of mobile communications is through SMS text-based campaigns.33 For example, CitizenshipWorks, an online resource dedicated to helping low-income immigrants navigate the naturalization process, now offers SMS text-based services.34 The CitizenshipWorks campaign, which launched in 2012, enables users to text the word “citizenship” to 877877 and receive an SMS text in response containing contact information for nearby legal services providers, as well as information and alerts about naturalization-related events in their community.35 Additionally, ILAO is currently working with partners in other states on a TIG-funded SMS text project, which is expected to debut sometime in late 2014.36 “We are currently in the stages of setting our parameters,” Ross explains. “We have to decide on our target population, the type of information we want to provide, and whether we will provide referrals.”37

There are many advantages to legal aid organizations implementing text-based communications.38 By integrating texting capabilities into their case management systems, legal aid organizations are able to automatically send SMS text reminders to clients regarding appointments, court dates, and necessary information and documents to bring with them.39 By providing this type of information via text message instead of in person or over the phone, organizations could better allocate their time and resources to reach a greater number of litigants.40 Furthermore, delays resulting from litigants missing court or not bringing necessary information or documentation would be greatly reduced.41

Text messaging appears to be the preferred method of communication among legal aid clients.42 “No one disagrees with the fact that people tend to text rather than make phone calls, and research shows that lower-income people
actually text more. In fact, when our partner organizations conduct needs assessments with clients, they have noticed that clients request this type of communication more and more frequently,” explains Ross. “Unfortunately, most organizations are not currently equipped with this capability. On a national level, organizations have begun investigating their options for expanding their communication systems.”

NOT THE CELL-UTION FOR EVERYONE

While mobile-based delivery of legal services is an efficient method of bridging the justice gap, there are concerns with its growing popularity. While the information provided via text messages and apps may be helpful in many situations, there are still a multitude of issues that can only be effectively addressed by actually talking over one’s case with an experienced attorney. Further, it is imperative to maintain traditional methods of providing legal services for those whose access to technology is limited. While it is crucial for legal aid organizations to take advantage of the fact that most people own or have access to mobile phones, the lowest-income individuals as well as those who are less technologically advanced might not be accessible in this way.

A POTENTIAL RESTRICTION FOR COOK COUNTY LITIGANTS

On April 15, 2013, a ban on cell phones and electronic devices went into effect in Cook County courthouses. The ban is intended to address the issue of people misusing their cell phones during criminal proceedings—namely by taking photographs and videotapes to intimidate jurors and witnesses. However, the ban might have unintended consequences for litigants in civil proceedings. Although attorneys, among other specified groups, are excused from the ban, litigants in civil cases are not exempt and will be prohibited from bringing mobile devices into the courthouses. Additionally, although the Daley Center is exempt from the ban because it hears mostly civil cases, the ban will be enforced in all of the other Cook County courthouses, many of which hear civil cases in addition to criminal cases. Consequently, this ban has the potential to be particularly disadvantageous for pro-se litigants who do not have an attorney to represent them in person, and are left unable to access relevant information on their phones once they get to court.
LOOKING TO THE FUTURE

Although it is certainly neither possible nor optimal to replace in-person legal representation with texts and apps, technological advancements that enable legal information to be disseminated via cell phones have opened the doors to closing the justice gap.51 Despite the conventional resource limitations associated with providing low-income litigants with legal aid, mobile developments have the potential to assist a much broader population of people than attorneys could alone.52 By utilizing resources that the majority of Americans have at their disposal, such as cell phones, legal aid organizations empower litigants to bridge the justice gap themselves.53 With modern technological advances, there is no reason why anyone with a cell phone should be unable to access some type of legal advice. Say it together now: “I will speak—I’ve got my phone!”

NOTES

1 See Need Help?, FIRST DEFENSE LEGAL AID, http://www.first-defense.org/mhelp (last visited Mar. 31, 2013) (outlining the only words that people should say to the police after they are arrested or detained).
3 Lassiter v. Dep’t of Soc. Services of Durham County, N. C., 452 U.S. 18, 26-27 (U.S.N.C. 1981) (explaining that there is a “presumption that an indigent litigant has a right to appointed counsel only when, if he loses, he may be deprived of his physical liberty”).
5 Id.
6 Id.
7 Id.
8 Id.
16 Id.
19 Id.
20 Id.
21 LEGAL SERVS. CORP., supra note 4 at 17.
22 Id.
24 ILLINOIS LEGAL AID ONLINE, supra note 23.
25 Ross, supra note 23.
26 Id.
27 Id.
28 Id.
29 Id.
30 Id.
31 Wormhole to the Future: Unfettered Brainstorming about the Future of Legal Services Technology, 2013 TIG CONFERENCE MATERIALS, (Jan. 18, 2013), accessible at https://docs.google.com/presentation/d/1tbHeHqz0n4RzlV7yUCDnojRaNiQY9cQ8RNWsJ52qchs/edit#slide=id.p.
32 Id.
33 Aaron, supra note 11.
37 Ross, supra note 23.
38 Aaron, supra note 11.
39 Id.
40 Id.
41 Id.
42 Ross, supra note 23.
43 Id.
44 Aaron, supra note 11.
45 Id.


49 Evans, supra note 47.

50 Id. Delgado, supra note 47.

51 Aaron, supra note 11.

52 Id.

53 Id.
REMOWING ROADBLOCKS: CERTIFICATES OF GOOD CONDUCT AND RELIEF FROM DISABILITIES

by Michael Lorden

In 1985, Darrell Langdon was arrested for possessing cocaine; he was 27 years old. Langdon served six months’ probation and paid a small fine. At the time of his arrest, Langdon was a boiler room fireman for the Chicago Public Schools (“CPS”). He retained this position until CPS laid him off in 1995. Langdon then worked as a mortgage broker until 2008, when he decided to apply for an open boiler room engineer position with CPS.

CPS told Langdon he had the job. However, days later, CPS learned that his 1985 conviction made Langdon ineligible for the position. Langdon, a single
father, had been sober for twenty years, but ultimately had to take a job that paid much less than the $37 per hour he would have made with CPS.5

There are millions of people living in Illinois who, like Darrell Langdon, have criminal records,6 and it is likely that most are unaware of an Illinois law that could be used to their advantage. Certificate legislation,7 a law that can help people with criminal records obtain employment, is an underutilized tool in Illinois for those with criminal records. Advocates are attempting to increase awareness for this legislation because they know all too well that criminal records create roadblocks to employment.

THE NEED FOR REMOVING EMPLOYMENT BARS

Criminal records have the potential to significantly impact an individual’s life, effectively precluding rehabilitated individuals from living a normal life following a felony conviction.8 Their records portray them in a negative light without providing insight into that person’s rehabilitation and accomplishments post-conviction.9

Employee Screen IQ, a third party background screener, reported that about 30% of background checks conducted in 2012 uncovered a criminal conviction.10 Employee Screen IQ believes its clients consider a number of factors when deciding whether or not to hire someone, including: age and severity of the record, whether the person is a repeat offender, and the relevance of the record to the position.11

Todd Belcore, Staff Attorney with the Sargent Shriver National Center on Poverty Law, believes there are several problems with the use of background screening for employment.12 In particular, Belcore believes that background checks inaccurately measure the character of individuals.13 In addition, Belcore feels that the screening process can occasionally list convictions for the wrong person.14

Moreover, Belcore explains, “Despite the same levels of illegal activity as other populations, African-Americans and Latinos are disproportionately arrested and convicted. Since they are disproportionately getting criminal records, they are affected by the phenomenon of discriminating against individuals because of their criminal records far more acutely.”15
Certificates of Relief from Disability remove 27 specific bars to occupational licenses, while Certificates of Good Conduct provide a statement from the court that an individual is a law-abiding citizen and deserves to have employment bars removed. Essentially, both certificates are formal acknowledgements by the court that an individual should not be judged by his past mistakes.

There are two general arguments in favor of certificate legislation: recidivism and fairness. In other words, certificates are meant to keep people from sliding back into a life of crime by allowing access to stable employment. Certificates can also relieve the possible unfairness of continuous secondary punishments that can arise from a single criminal conviction.

In 2003, then State Senator Barack Obama introduced certificate legislation, which ultimately went into effect in 2004. Even though certificates have been allowed in Illinois for nearly ten years, however, they are still vastly underutilized compared to other states. In Belcore’s experience, while “certificates are somewhat known of in Chicago, very few know of this remedy in Cook County and even fewer know of it in the State.” There are 3.9 million people in Illinois with criminal records; yet only 24 certificates were issued in Illinois in 2012.

Efforts to Increase Awareness

Beth Johnson, Program Director at Cabrini Green Legal Aid, believes one way to increase awareness of certificates is through the private bar. She states, “Attorneys are the ones that provide options on legal relief and if attorneys aren’t aware, that advice is not being provided.” To that end, Cabrini Green Legal Aid, the Shriver Center, and the Safer Foundation are having Johnson, Belcore, and others spread the word to the private bar through pro bono training. Johnson is also making efforts to educate employers on the benefits of the legislation in order to open the door for other certificate holders down the road. These efforts may ultimately lead to more frequent use of certificates. In New York, for example, the average number of combined certificates issued
was only 261 per year from 1995 until 2005.29 Between 2007 and 2010 that average jumped to 2,040 per year.30

After obtaining Johnson’s help at Cabrini Green Legal Aid, Darrell Langdon received a Certificate of Good Conduct, which lifted the barrier that his prior drug arrest had created.31 Subsequently, CPS agreed to hire Langdon, and he is still currently employed there.32 With advocates like Belcore and Johnson, it is very likely that more individuals with criminal records, will use certificates to greatly improve their future.

NOTES

2 Id.
3 Id.
4 Id. (“The Illinois School Code prohibits a list of ex-offenders from working in public schools, including people with criminal records for sex offenses and other violent crimes. But the list also includes people convicted of lesser crimes, such as Langdon.”)
5 Id.
6 Id.
7 See, 730 ILCS § 5/5-5.5-15 and 730 ILCS 5/5-5.5-25.
8 Interview with Todd Belcore, Staff Attorney, Sargent Shriver National Center on Poverty Law, in Chicago, Ill. (Mar. 17, 2013).
9 Id.
11 Id. at 8.
12 Interview with Todd Belcore, supra note 10.
13 Id.
14 Id.
15 Id.
16 Interview with Todd Belcore, supra note 10; 730 ILCS § 5/5-5.5-15; 730 ILCS 5/5-5.5-25.
18 Id.
19 Interview with Todd Belcore, supra note 10.
Interview with Beth Johnson, supra note 8; Radice, supra note 18 at 776 (Only 24 certificates were issued in Illinois in 2012 compared to 1,621 in New York in 2010).

Interview with Todd Belcore, supra note 10.

Interview with Beth Johnson, supra note 8.

Id.

Id.

Id.

See, e.g., Illinois Legal Aid Online, *Certificates of Good Conduct and Relief from Disability*, (Jun. 6, 2012), http://www.illinoislegaladvocate.org/index.cfm?fuseaction=home.dsp_content&contentID=8406. This webinar on the Illinois Legal Advocate website is a training for private practice attorneys that wish to help people petition the court for a certificate. The in-person seminar was conducted by Beth Johnson of Cabrini Green Legal Aid, Todd Belcore of the Shriver Center, and Anthony Lowery of the Safer Foundation.

Interview with Beth Johnson, supra note 8.

Radice, supra note 18 at 776.

Id.


Id.; Interview with Beth Johnson, Program Director, Cabrini Green Legal Aid, in Chicago, IL (Mar. 28, 2013).
COUNTY CARE: A STEP FORWARD FOR ADEQUATE HEALTH INSURANCE FOR UNDOCUMENTED IMMIGRANTS?

by Alisha Howell

When the uninsured in Cook County receive medical care they cannot afford, the government ends up footing the bill. In 2011, this bill was nearly $150 million. County Care, a recently implemented Cook County health insurance program for low-income residents aims to tackle these health care costs. The program fails, however, to cover an estimated 500,000 uninsured county residents - ineligible because of their income or undocumented status. Despite this perceived shortcoming, County Care may serve to spark
legislative action regarding structured health care insurance options for undocumented immigrants – not only in Cook County, but also throughout the state of Illinois.

**Federal Legislation Prohibits Resident Enrollment**

Implemented in January 2013, County Care is a Medicaid expansion program provided under the Affordable Care Act (ACA) and estimated to insure an additional 250,000 Cook County residents. Cook County officials applied to the federal government to jump start the expansion process a year earlier than state eligibility under the ACA. The program is administered by the Cook County Health and Hospitals System (CCHHS), which anticipates generating $99 million in net revenue this year by providing coverage to the uninsured.

However, federal limitations on citizenship status, outlined in the ACA, prevent Cook County from enrolling undocumented immigrant residents into County Care. As it is currently structured, the Medicaid expansion program provides health insurance only to citizens or legally permanent residents. Likewise, undocumented immigrants may not participate in the state health insurance exchange program. The program, which Illinois may implement as soon as 2014, provides residents and small businesses the opportunity to shop around for an affordable private health insurance plan. For undocumented workers, this prohibition is a tough pill to swallow. “Insured undocumented workers allow taxpayers to save money when these individuals require emergency procedures they cannot afford,” said Esther Sciammarella, CEO of the Chicago Hispanic Health Coalition. “Undocumented workers need to be provided health insurance on the job.”

**Illinois Law Favoring Legislative Action**

Despite the federal limitation on County Care, several Illinois laws show the state legislature is willing to address issues affecting the undocumented population. A recent law provides undocumented immigrants with an identification card that permits them to legally drive in the state and purchase auto insurance. The law requires only that a person prove they have resided in Illinois for over one year. “If Illinois can figure out a system where undocumented
persons can obtain a valid driver’s license, [it] should be able to figure out a similar system where they can purchase health insurance,” said Sciammarella.16

Some undocumented individuals may qualify for reimbursement of their medical expenses under the Illinois Crime Victim’s Compensation Act.17 Immigration attorney, Elizabeth Rompf Bruen, frequently represents clients seeking U nonimmigrant status before the Department of Homeland Security—some of whom have sought reimbursements under the Illinois program.18 U nonimmigrant status is granted to non-citizens who are victims of certain crimes, suffer substantial harm as a result of the crime committed against them, assist law enforcement in the investigation and/or prosecution of the crime, and meet other requirements.19 According to immigration attorney Rompf Bruen, “Several of my clients suffered serious physical injuries as a result of the crimes committed against them, and treatment for these injuries resulted in substantial medical bills.”20 If granted U nonimmigrant status, applicants are permitted to remain in the United States and work temporarily.21

The passage of the DREAM Act also signified a legislative win for undocumented immigrants in Illinois.22 Now, undocumented students who graduate from Illinois high schools are eligible to receive scholarships, and enroll in college savings, and prepaid tuition programs.23

**TACKLING COUNTY CARE’S ECONOMIC IMPACT**

Opponents of County Care view its expansion as fiscally unwise and unnecessary as Illinois currently sits $8 billion behind in its Medicaid reimbursements to health care providers.24 “County Care already hurts [our] economy more than it helps,” said Kitty Deng, a Mt. Sinai Hospital pharmacist.25 “Taxpayers are paying for patients who cannot afford health care insurance which results in a tax hike for workers, diminishing the money that goes into their pockets and back into the economy.”26

Cook County physician Dr. Barbara Bellar agrees. “There are numerous clinics and charitable organizations that already provide medical services for the poor in Chicago,” she said.27 “We cannot afford to further expand the government health insurance program.”28 One of these clinics, CommunityHealth Chicago, is the largest free health clinic in Illinois and provides non-emergency medical services to over 10,000 patients a year.29
Although undocumented immigrants cannot enroll in County Care, they still stand to benefit from its implementation.\textsuperscript{30} Previously uninsured patients who enroll in County Care may now receive medical care from any CCHHS facility.\textsuperscript{31} “As more uninsured residents enroll in County Care, CommunityHealth will remain the ‘safety net under the safety net’ for those individuals who do not qualify for the program,” said Judith Haasis, Executive Director of CommunityHealth.\textsuperscript{32}

**LOOKING TO THE FUTURE**

For now, Cook County serves as a model to other counties – working within the federal limits to provide the majority of its low-income residents with government-based health care insurance. However, as time progresses, it is unlikely that County Care as currently implemented will be enough to curtail the rising cost of health care in the county and to fulfill the needs of the undocumented.

**NOTES**


2 *Id.*


5 *Id.*


11 Interview with Esther Sciammarella, Chicago Hispanic Health Coalition CEO (Feb. 27, 2013).

12 Id.

13 Id.


16 Sciammarella, supra note 11.


18 Interview with Elizabeth Rompf Bruen, Attorney at Scott D. Pollack & Associates (April 1, 2013).

19 Id. See also Alien Victims of Certain Qualifying Criminal Activity, 8 C.F.R. §214.14(b)(1) – (4) (2007).

20 Rompf Bruen, supra note 18.

21 Id. See also Alien Victims of Certain Qualifying Criminal Activity, 8 C.F.R. §214.14(c)(7) (2007).


24 Eaton, supra note 1.

25 Interview with Kitty Deng, Clinical Pharmacist at Mt. Sinai Hospital (March 2, 2013).

26 Id.

27 Interview with Dr. Barbara Bellar (March 29, 2013).

28 Id.

29 Interview with Judith Haasis, CommunityHealth Chicago Executive Director (April 7, 2013).
30 Id.
31 Cook County Health and Hospitals System, County Care: Medicaid Program for Uninsured Adults in Cook County (last accessed April 26, 2013), http://www.cookcountyhhs.org/patient-services/county-care/.
32 Haasis, supra note 29.
In his biography, Nobel Prize in Literature recipient Gabriel García Márquez wrote, “[E]veryone has three lives: a public life, a private life and a secret life.” Yet, in July 2012 alone, individuals within the United States spent 121 billion minutes sharing information on social media sites, blurring the apparent dichotomy between the discrete lives Mr. Márquez articulated.
To restore this progressively obscured contrast, Illinois recently amended its Right to Privacy in the Workplace Act (Privacy Act). As a result, Illinois employers cannot compel applicants or current employees to disclose their social media credentials. With this amendment, Illinois has ensured Mr. Márquez’s notion and the distinction between one’s public and private life endures.

**ILLINOIS’ AMENDED RIGHT TO PRIVACY IN THE WORKPLACE ACT**

Imagine an aspiring job candidate interviewing for his ideal position. He is donning a pressed suit, crisp white shirt and is confident in his proficiencies. However, just as the interview’s end draws near, the employer states, “Before I recommend you for the position, please provide your Facebook user name and password for company review.” Stunned, the candidate refuses to disclose this information and is not hired for the position. Essentially, Illinois’ Privacy Act amendment protects job seekers and current employees from this precise circumstance.

In fact, probing applicants and employees for their social media credentials has become a recurrent business practice, particularly in the law enforcement field where comprehensive background checks are advantageous. “Some compa-
nies and government agencies are going beyond merely glancing at a person’s social networking profiles and instead asking to log in as the user to have a look around.” In 2012, Congress introduced legislation to prevent employers from demanding social media credentials. However, inaction since the bill’s introduction has allowed states to take the issue under their own control.

Consequently, Illinois amended its Privacy Act, making it illegal for employers to gain access to applicants’ and current employees’ social media credentials. Illinois’ amended Privacy Act reads, in relevant part:

> It shall be unlawful for any employer to request or require any employee or prospective employee to provide any password or other related account information in order to gain access to the employee’s or prospective employee’s account or profile on a social networking website or to demand access in any manner to an employee’s or prospective employee’s account or profile on a social networking website.

Labeled the “Facebook Law,” Illinois’ Privacy Act now protects job seekers and employees while limiting restrictions on employer access to public domain information. One state legislator stated, “Any time you have high unemployment, we have barriers, and we have to do everything we can to help people get to work.” With the new legislation Illinois became the sixth state to ban employers from demanding social media credentials.

DEFINING SOCIAL NETWORKING

While social networking lacks a precise definition, the term generally refers to any electronic communication through which users create online communities to share information. Specifically, the Privacy Act defines social networking websites as any internet-based services allowing users to: (1) construct a public or semi-public profile; (2) create a list of users with whom they share a connection; and (3) view and navigate their list of connections and those made by others.

Consumers spend more time on social media networks than on any other category of sites. In fact, “[T]ime spent [on social networking websites] increased 24 percent over the same period [in 2011], suggesting that users are more deeply engaged.” In the United States, Facebook continues to be consumers’ most-visited social networking website, with roughly 152.2 million unique visi-
itors in 2012. Blogger and Twitter both trail Facebook in popularity, with 58.5 million and 37.0 million visitors during the same period respectively.

Advocates & Opponents of the New Act

Advocates of Illinois’ amended Privacy Act contend the law preserves current employees’ and job applicants’ privacy and prevents intentional discrimination in the workplace. Proponents argue the amended Privacy Act preserves applicant and employee security against social media privacy invasions. In enacting the amendment, Illinois Governor Pat Quinn affirmed this notion stating, “We’re dealing with 21st-century issues . . . privacy is a fundamental right.” In accordance, proponents assert that by demanding social media credentials, employers invade job seekers’ privacy interest. In fact, one proponent stated that demanding an individual’s social media credentials is “akin to requiring someone’s house keys.” Similarly, one of the amendment’s House sponsors noted, “Employers certainly aren’t allowed to ask for the keys to an employee’s home to nose around there, and I believe that same expectation of personal privacy and personal space should be extended to a social networking account.”

In response, adversaries argue that job seekers and current employees willingly add information to their social media sites. Thus, this voluntarily entered material should be made available to employers who seek it. Proponents counter that while individuals certainly share information with others via social media, the information shared is communicated voluntarily and often with a selective audience. Disclosure under duress, i.e., an employer probing an applicant or employee for his or her social media credentials, is distinct from voluntary disclosure and is off-limits to employers. Indeed, Facebook’s Chief Privacy Officer, Erin Egan, agrees with this notion. According to Egan, an employer demanding credentials “undermines the privacy expectations and the security of both the user and the user’s friends.”

In addition to preserving confidentiality, proponents maintain that the Privacy Act limits intentional discrimination in the workplace. Specifically, advocates assert that if employers were allowed access to social media credentials, it would essentially “open the door” to intentional discrimination. “Online
profiles can contain information about a person’s religious beliefs, political affiliations and sexual preferences.” If employers are granted access to such information, it may foster an environment where businesses hand-select certain candidates based on beliefs, political views, or sexual orientation. “[A]t the end of the day, you don’t want to create anything that hinders businesses but you want to ensure businesses are protected and employees are protected.”

Illinois’ amended Privacy Act opponents, on the other hand, argue that the law overregulates businesses and undermines employers’ ability to conduct comprehensive background investigations. Opponents contend the Privacy Act overregulates employers’ abilities to make business decisions. The Illinois General Assembly Labor Committee believed the amended Privacy Act is a quintessential illustration of government overregulation. Echoing this sentiment, another opponent suggested, “[T]his is a situation where a small number of employers you might count on one hand has single-handedly created more government regulation for the rest of the employers across America that do not solicit social media passwords.”

Rather than regulate hiring decisions, opponents maintain potential applicants should monitor their respective social media network posts. One opponent stated, “[I]f you have something that you don’t want anyone to know, maybe you shouldn’t be doing it in the first place.”

Moreover, adversaries claim the Privacy Act amendment undermines employers’ abilities to conduct thorough background investigations when needed for public safety. This is particularly important in the law enforcement field. Opponents believe law enforcement agencies across Illinois need social media credentials to get a “complete picture” of an applicant’s qualifications. However, critics argue alternative methods exist, such as monitoring public domains and company-provided email accounts.

CONCLUSION

“Never in the course of human interaction have so many shared so much about themselves with so many others.” Though Mr. Márquez believed individuals are entitled to a public and private life, the immense sharing between individuals on social networking sites has opened such notion up for debate.
Illinois’ recently amended Privacy Act reiterates Mr. Márquez’s notion and the distinction between one’s public and private lives endures. Yet, only time will tell whether such distinction will fall victim to social media’s increasing influence.

NOTES

5 MARTIN, supra note 1.
7 Id.
8 Id.
9 Id.


16 Right to Privacy in the Workplace Act, supra note 3; see Amend. to H.B. 1047, 98th Gen. Assemb., Reg. Sess. (Ill. 2013). As of April 2013, a new amendment to the Illinois Privacy Act, HB1047, passed the Illinois House of Representatives and was awaiting a vote in the Illinois Senate. Id. If the proposed amendment passes the Illinois Senate and is signed into law, Illinois’ Privacy Act would allow employers to request an employee’s user name and password for any accounts provided by the employer or accounts the employee uses for business purposes. Id.

17 Garcia, supra note 4; see Governor Quinn Signs Legislation to Protect Workers’ Right to Privacy, ILL. GOV’T. NEWS NETWORK, Aug. 1, 2012, available at http://www.illinois.gov/Press-Releases/ShowPressRelease.cfm?SubjectID. In other words, employers are still allowed to conduct background investigations on applicants and current employees through information available on public sites, including public social media sites. Id.

18 Samuelson, supra note 13.

19 Kerr, supra note 14.


21 Right to Privacy in the Workplace Act, supra note 3.

22 see Price, supra note 2.

23 Nielsen, supra note 2.

24 Id.

25 Id.


29 Valdes & McFarland, supra note 12.

30 Id.
Governor Quinn Signs Legislation to Protect Workers’ Right to Privacy, supra note 17; see Joe Erbentraut, Illinois Bill Would Outlaw Employers From asking for Applicants’ Social Media Passwords, HUFF. POST, Feb. 2, 2012, available at http://www.huffingtonpost.com/2012/02/05/illinois-bill-would-outla_n_1255881.html (quoting Illinois General Assembly House sponsor La Shawn Ford [D-Chicago], “If legislators had to give up their Twitter and Facebook account passwords how would they like that? They wouldn’t like it. They wouldn’t want to give their passwords to anyone because it’s their personal password.”).


Keyser, supra note 26.

Samuelson, supra note 13.

Samuelson, supra note 13.

Erbentraut, supra note 31.

Sheahan, supra note 4.

Troni, supra note 32.

Nielsen, supra note 2
In the summer and fall of 2012, the Chicago Teachers Union ("CTU") and the Chicago Public School Board went head-to-head over important educational issues, resulting in the first teachers union strike in 25 years.\(^1\) Although some of these disagreements have been settled, the strike’s overall effects are still far from clear.\(^2\)
THE STRIKE

In June 2012, the CTU’s contract with the city expired amidst quickly deteriorating renewal negotiations. The CTU announced that the union would strike on Sept. 9, 2012. During the strike, discussions continued to stalemate as the union’s House of Delegates rejected a tentative agreement on Sept. 16, 2012.

Condemned by the CTU as an act of vindictiveness and “bullying,” the city filed a complaint with a state circuit court asking it to end the strike. The complaint relied heavily on IL ST CH 115 §5/4.5, which prohibits striking for non-economic reasons, citing “class size, the length of the work and school year, the academic calendar, and class staffing and assignment” as illegal reasons to strike.

On Sept. 18, 2012, the CTU endorsed a proposed contract. This ended the strike, allowing 350,000 students to return to classes.

THE FINAL CONTRACT

With one of the shortest school days in the country, the central part of the city’s discussion was a 90-minute school day extension. The city also wanted “a teacher evaluation system that increased reliance on test scores and student feedback,” connecting teachers’ salaries to student achievement.

In CTU’s opinion, the longer school day would not benefit students because schools would still be “doing the same thing and only doing it longer.” Believing that a “longer school day is a distraction from” current structural and curricular problems found in schools, CTU’s discussions have instead centered upon evaluations, pay and benefits, recalling teachers, and working conditions.

Specifically, CTU sought a “raise in the first year of a new contract” and “a method of recalling teachers who have been laid off when there are new job openings.” The CTU also hoped “to downplay the weight of how well students perform in the outcome of their biennial evaluations.”
Attempting to compromise between CTU and CPS objectives, the new contract will last three years with a year four renewal option. It provides an annual salary increase of 4.4 percent over four years and will cost the district an aggregate of $295 million, which is, on average, $55 million less per year than the previous contract.

Other elements of the contract include a longer school day, maintained benefits and pensions, and a teacher-designed evaluation system that only partially relies on student test scores. In addition, teachers will be evaluated on standardized assessments and teacher-created performance tasks to create a “more comprehensive picture of a teacher’s impact.”

IMMEDIATE EFFECTS

Although the long-term effects of the strike “may not be apparent by June 2015, when the new contract expires,” some immediate effects are already evident.

The strike sparked discussion about education locally and nationally. Although the United States spends “more per student than any country in the world,” two-thirds of the nation’s children are not college or career ready.

According to CTU’s staff coordinator, Jackson Potter, the strike “created a good political problem that forces [politicians] to address concerns.” The increased public attention “gives educators and policymakers the chance to publicly grapple with the genuine qualitative issues that affect all schools.”

The strike, Potter explains, “was a powerful demonstration [to students] of why it is important for people to have voice and agency in their own lives and work.” The students benefitted from “having teachers who are not afraid to stand up for their professions and for them and for policies that have tremendous impact on their environment.”

A SEAT AT THE TABLE

For the CTU, one of the biggest effects of the strike has been the positive “shift in respect and willingness to listen.” According to Potter, the CTU now has a proverbial seat at the table, noting a significant “shift in how the district re-
sponds when [the union] has an opinion.\textsuperscript{30} CTU has recognized an increased respect from the city when it has opinions on issues involving day-to-day operations.\textsuperscript{31}

The new contract also incorporates “clear language around paperwork,” which definitively outlines rules for lesson plans and planning periods.\textsuperscript{32} Now, teachers can make their own lesson plans and are provided more planning time throughout the day,\textsuperscript{33} giving them greater time “to reflect on their work, improve lessons and make changes necessary for students to adapt in their course.”\textsuperscript{34}

\textbf{SCHOOL CLOSINGS}

As the strike came to an end, Chicago teachers feared the city would “go ahead with dozens of school closings because of falling enrollment and poor academic performance.”\textsuperscript{35} This would result in school consolidations and an increase in charter schools.\textsuperscript{36}

Currently, CPS has “403,000 students, with seats for more than 511,000, and close to 140 of its 681 schools are more than half empty.”\textsuperscript{37} The school district announced on March 21, 2013 that it plans to close 61 school buildings, including 53 underused schools.\textsuperscript{38}

The CTU has protested these school closings, believing this is not the proper way to achieve the desired results.\textsuperscript{39} By simply replacing failing schools with charter schools, the school board is “not actually changing the dynamics.”\textsuperscript{40} The cycle of poverty and marginalization will still exist, Potter noted.\textsuperscript{41} The CTU is calling instead for a moratorium on the closings and for better communication between the school board and the affected communities.\textsuperscript{42}

\textbf{THE FUTURE}

As the fight around school closings continues, negotiations for the 2015 contract renewal are looking grim.\textsuperscript{43} According to Potter, CTU’s bitter fight around school closings “is going to put a monkey wrench in the collegial relationship [CTU and the city] have built.”\textsuperscript{44}
However, the CTU hopes that, “CPS will continue to fulfill their word.”\(^4\)

Collective bargaining and negotiations are “give and take processes—they are ways to resolve conflict without coming to a screeching halt.”\(^5\)

Although neither side received everything it wanted, the new contract has been considered a good compromise between each party and has been instrumental in creating a local and national discussion around important educational issues.\(^6\)

NOTES

3 Chicago Teacher’s Strike Timeline, supra note 1.
4 Id.
5 Id.
7 Id. See generally IL ST CH 115 §5/4.5 and Board of Education of the City of Chicago, Plaintiff v. Chicago Teachers Union, Local No. 1, American Federation of Teachers, AFL-CIO, Defendant, 2012 WL 4054140 (Ill. Cir. Ct.).
8 Bd. of Educ. of the City of Chicago, Plaintiff v. Chicago Teachers Union, Local No. 1, American Federation of Teachers, AFL-CIO, Defendant, 2012 WL 4054140 (Ill. Cir. Ct.).
10 Id.
12 Ford, supra note 2.
13 Hood, supra note 11.
14 Hood, supra note 1.
15 Gray, Madison. Chicago Teachers Go on Strike: 5 Things They’re Fighting For, TIME (http://newsfeed.time.com/2012/09/10/chicago-teachers-go-on-strike-5-things-theyre-fighting-for/):
16 Id.
17 Id.
18 Davey, supra note 9.
20 Id.
22. Ford, supra note 2.
24. Id.
25. Telephone Interview with Jackson Potter, Staff Coordinator, Chicago Teachers Union (March 28, 2013).
27. Id.
28. Id.
29. Id.
30. Id.
31. Id.
32. Id.
34. Potter, supra note 25.
36. Id.
38. Id.
39. Id.
40. Potter, supra note 25.
41. Id.
43. Ford, supra note 2.
44. Potter, supra note 25.
45. Id.
46. Id.
47. See generally, supra note 25.
A LEGAL TEAM OF ONE: PRO SE DIVORCE IN COOK COUNTY

by MARGARET DAVIS

For many people, the first stop in the divorce process is an attorney’s office. A divorce attorney is trained to advise the client on how to proceed as well as drafting the appropriate documents and pleadings, negotiating on behalf of the client, and representing the client in front of a judge. However, some individuals decide not to hire an attorney, and instead represent themselves throughout the divorce process. These individuals are referred to as pro se litigants. In Latin, the term pro se means “for himself.”

Pro se litigants exist in many different areas of law, but their presence in divorce cases is increasingly an issue in the family law field. Overall, the number of pro se litigants is on the rise in the United States. Today, pro se representa-
tion is so common that the majority of divorce cases in the United States include at least one pro se party. In fact, some jurisdictions have as many as 90 percent of cases involving at least one pro se party.

**WHO ARE PRO SE LITIGANTS?**

People decide to get divorced without an attorney for a variety of reasons. Some major factors that influence this decision include income level of the litigants, the length of the marriage, amount of assets, and existence of minor children. Pro se litigants are primarily low income, and the high cost of an attorney is historically the number one reason individuals decide to represent themselves.

However, cost is not the only reason. Some affluent couples also choose to separate without an attorney simply because they believe that the process will more efficient if they do it on their own. These beliefs are not totally off the mark, since studies show that when even one lawyer is present, divorces take longer to resolve. That study acknowledged, however, that the decision to hire an attorney and length of time until resolution is impacted by the level of complication of a case, e.g. greater assets, children, a longer marriage, etc.

Those that decide to hire attorneys also do so for a variety of reasons. The general assumption is that hiring an attorney might make a person more likely to “win” their case. A few studies have attempted to determine if this assumption is correct, and if pro se litigants actually do fare worse than those with attorneys in divorce cases. In one study, people with lawyers were found to be 72% more likely to succeed in their divorce cases. However, the challenge to determining who “won” a divorce case can make the results of these studies a bit difficult to contextualize, since not all litigants will define victory in the same way.

**COOK COUNTY**

In Chicago, many divorce proceedings are handled at the Richard J. Daley Center, one of the courthouses for the Circuit Court of Cook County. In 1997, 2% of the divorce complaints filed at the Daley Center were filed by pro se litigants. By 2003, that number had jumped to 20%. Generally, the consensus in the legal community is that individuals getting divorced are better served with an attorney, but that is simply not realistic.
As such, there are a variety of programs in Cook County designed to accommodate the influx of pro se litigants. Each of these organizations has its own parameters for the type of cases it will take. For example, some organization will only help pro se litigants with uncontested divorces, and recommend that individuals with a contested divorce get an attorney. Others set an income cap and are only available to assist those who live below it.

Coordinated Advice & Referral Program for Legal Services (“CARPLS”) is a Chicago organization that provides legal assistance to low income individuals through a telephone hotline, and also through in-person counseling at various courthouses. At the Daley Center, CAPRLS runs a help desk for family law issues. Although CAPRLS also assists with other family law matters, the majority of the individuals who visit the family law desk are pro se litigants seeking help with their divorce cases.

CARPLS will only work on certain types of divorce cases, recognizing that some divorce cases are simply beyond the capabilities of a pro se litigant. Such cases may include: pension division, a marriage with a history of domestic violence, parents unable to reach an agreement regarding custody of minor children, or other serious and significant marital conflicts. In these situations, it is best for the litigants to seek an attorney, whether through a legal aid organization or through their own means.

The Legal Assistance Foundation of Metropolitan Chicago (“LAF”) also helps pro se divorce litigants. LAF differs from some of the other organizations in that it has attorneys that will actually take on cases, instead of simply issuing assistance and advice to pro se individuals. However, in cases where litigants want to continue pro se, LAF does offer minor assistance such as offering advice and instructions for drafting documents.

Chicago is Illinois Legal Aid Online (“ILAO”), another organization assisting pro se litigants, posts interactive legal forms and documents online for public use. ILAO also acts as a “nervous system” for legal resources by directing people to the organizations and lawyers that can help them. However, in order to use most of ILAO’s resources, an individual must be computer literate and have access to a computer, which makes it unattainable for some of the individuals seeking advice.
Although Chicago has a variety of organizations and clinics to assist pro se divorce litigants, the demand is often greater than the supply.\(^32\) The data shows a steady increase in the number of pro se litigants, so in order to meet their demands Cook County needs to continue to provide relevant and adequate services, while also finding ways to improve the resources available.\(^33\)

**Notes**

3. Id.
5. Wilgoren, supra note 2.
7. Id.
8. Interview with Susan Pulido-Craven, Supervising Attorney at CARPLS, in Chi., Ill. (March. 18, 2013).
9. McMullen & Oswald, supra note 6.
10. Id.
11. Id.
13. Id.
14. Id.
16. Id.
17. Id.
19. Id.
20. Id.
21. Id.
22. Id.
23. Id.
24. Id.
25. Id.
28 Id.
30 Id.
31 Pulido-Craven, supra note 8.
32 Id.
33 Id.
FEATURE

LET’S TALK: HOW MEDIATION PROGRAMS PROVIDE ACCESS TO JUSTICE FOR HOMEOWNERS GOING THROUGH FORECLOSURE

by Melina Rozzisi

The courts of this country should not be the places where the resolution of disputes begins. They should be the places where the disputes end after alternative methods of resolving disputes have been considered and tried.

- Justice Sandra Day O’Connor
One December morning in 2008, Zabrina Worthy started what seemed a typical day. She took her kids to school and headed to work driving her school bus route. But when Worthy came home, her house was no longer hers—the windows were boarded up and the locks had been changed.

The bank had sent Worthy only one notice of late payment, and she never received a court order for foreclosure or eviction. While the bank gave notice that a foreclosure was pending, it never reached Worthy’s hands; rather than sending it to Worthy herself, the bank had sent it to her sister’s boyfriend, who lived in a different suburb of Chicago.

When the bank seized Worthy’s family home, she could not access any of her belongings inside. “I completely lost everything I had,” she said, devastated.

A National Investigation and Settlement

Worthy is one of hundreds of thousands of individuals in the U.S. who fell victim to unfair mortgage foreclosure practices from 2008 to 2011. Jackie Lustig, President of the Center for Conflict Resolution in Chicago, Illinois, explains that “these are families who are now homeless and without a lot of resources. They are people with children in school and jobs to maintain.”
Worthy, individuals and families facing the loss of their homes are bewildered by what is happening to them, and experience an overwhelming struggle to find a solution to their crisis.

A growing concern about the high number of foreclosures prompted a joint state and federal investigation of the nation’s five largest mortgage servicers. Conducted by the federal government and 49 state attorneys general, the investigation uncovered the mortgage servicers’ many “questionable mortgage loan servicing and foreclosure practices,” including, most notably, the unlawful practice known as “robo-signing.” Robo-signing consists of “signing mortgage documents without verifying their accuracy,” as well as signing them outside the presence of a public notary.

Prompted by the results of this investigation, the 49 state attorneys general and the mortgage servicers reached a massive $25 billion settlement known as the National Mortgage Settlement. The settlement is divided into two main disbursements with most of the money – $20 billion – reaching homeowners indirectly through reform procedures, such as reductions on their mortgage principals as well as various options to refinance their mortgages.

The states and federal government will receive the remaining $5 billion in cash. Of that, $1.5 billion will establish the Borrower Payment Fund from which each state can draw money to provide cash payments directly to homeowners who lost their homes between 2008 and 2011.

The U.S. Department of Housing and Urban Development expects that about 750,000 former homeowners nationwide will seek relief through the program. The attorney general in each state will then determine how to use the remaining undispersed amounts in a way that will “repay public funds lost as a result of servicer misconduct, fund housing counselors, legal aid, and other similar purposes . . . .”

**CREATING FORECLOSURE MEDIATION PROGRAMS IN ILLINOIS**

Illinois will receive $105,806,405 from the settlement, one of the highest payouts in the nation. In late December 2012, Illinois Attorney General Lisa Madigan had already dedicated $20 million to various legal assistance programs that assist renters and homeowners. Additionally, she announced that
Illinois will commit $3 million to establishing foreclosure mediation programs in counties that do not yet have one.\(^1\)

Madigan’s use of the money to create foreclosure mediation programs is not novel. The concept of mortgage foreclosure mediation programs arose when the housing crisis began to flood the courts in 2008.\(^2\) Such programs offer free housing counseling, legal assistance, and mediation services to homeowners going through foreclosure, giving them an opportunity to resolve their mortgage issues in a “fair and effective manner.”\(^3\) In Illinois, Cook, Will, Peoria, Madison/Bond, and McLean counties currently have mortgage foreclosure mediation programs that work with the courts to provide services to individuals and families going through foreclosure.\(^4\)

**A Promising Opportunity for Homeowners**

Steven B. Bashaw, a member of Illinois State Bar Association’s Real Estate Law Section Council who currently defends homeowners in *pro bono* foreclosure cases, explains that, “most people who go through foreclosure can’t afford a lawyer and don’t understand the system. They come into the courtroom, they’re embarrassed and don’t know what’s happening to them.”\(^5\)

Mediation is an opportunity to remain outside of the intimidating adversarial system. It creates a forum where the parties involved in a dispute can work with a neutral party – a mediator – to create a solution for their conflict.\(^6\) “The mediator is neutral; she is not the judge,” explains Carlyon Amadon, Executive Director and the Center for Conflict Resolution in Chicago. “The mediator asks the right questions only to the extent that it facilitates the discussion. She asks what the solution should be and reality tests it for both sides.”\(^7\)

The mediation process presents a promising alternative to the adversarial court process in which a judge must elicit an order that results in one party winning and the other party losing; an imbalance that often results in eviction for the homeowner.\(^8\) Jack Block, a retired lawyer from the Legal Assistance Foundation and current Professor of Mediation Advocacy at Loyola University Chicago School of Law expands on the advantages of mediation, stating “a mediation session can benefit both sides by giving the parties an opportunity
to come up with constructive, forward-looking solutions, as opposed to litigation that looks backwards, trying to determine who is right and who is wrong.”

Amadon touches on the idea as well. “The really cool thing about mediation is the opportunity for a ‘win-win’ because first, both sides get to articulate what they want - and the mediator is trained to help them articulate that,” Amadon says. She continues to explain that, “what the parties want might not be something a judge could provide in a court of law.” As such, solutions reached through mediation can allow a homeowner to preserve her home while still pacifying the mortgage lender.

**IMPROVING ACCESS TO JUSTICE THROUGH MEDIATION**

By nature, mediation is not a social service program. However, the opportunity to engage in mediation in order to solve a dispute is a significant benefit to low-income individuals who cannot otherwise afford attorneys. Through mediation, homeowners maintain autonomy in a process that frequently disregards them. “At the end of the day, part of access to justice is that people feel like they have been heard; they want to tell their story,” Amadon says. “Mediation provides an opportunity to do that.”

Mediation corrects any imbalance that may exist between the parties. For example, it might be the homeowner’s first chance to talk face-to-face with a representative of mortgage-holder. In that situation, Amadon identifies how mediation “lets the homeowner more so know what is going on, causing them to have less fear.” She continues, “after, when the parties have sat down with a mediator and they have talked through things, the homeowner understands things more.”

That experience alone often improves the foreclosure experience for homeowners because, as Lustig emphasizes, homeowners are already in a stressful situation, “so just being able to talk to someone and tell them their side of the story has a significant impact on them.”

Additionally, mediation services improve access to justice by alleviating a huge burden on the courts. Illinois Supreme Court Justice Mary Jane Theis acknowledges how mediation services serve as “a diversion program, in a sense,
of cases to settlement so that not all 78,000 cases are going to be ending up in our courts.”

Judge Kathielean McGury of the Circuit Court of Cook County agrees. “I think mediation is a better, faster, quicker way to do things. And even if the case doesn’t settle, it sorts things out and moves it to trial quicker.” She explained how mediation can narrow down the issues so, if cases do end up back in court, “it has advanced a few steps; [the parties] don’t have to go back to square one because they’ve been moved from square one, so it saves them time and the court time.”

COOK COUNTY’S MORTGAGE FORECLOSURE MEDIATION PROGRAM

Cook County has seen success with its Mortgage Foreclosure Mediation Program, which was the first of its kind in Illinois. Managed by the Chicago Bar Foundation, the program is a collaboration between the Circuit Court of Cook County and various legal service providers in the community. By 2012, the program had mediated 2,754 cases with a 47% success rate; the program helped 1,304 people reach some sort of agreement with the bank and one out of every three borrowers left with a modification to their loan that would save their home.

The Center for Conflict Resolution (“CCR”) provides the mediation services for Cook County’s program. Founded in 1979, the CCR recognizes that litigation might not be an option or may not actually resolve problems for low-income individuals. As such, the CCR provides mediation services for landlord/tenant disputes and other various small claims, and has a specialized mediation program that provides services for the Cook County Mortgage Foreclosure Mediation Program.

Since the inception of the mediation program in July 2010, the CCR has mediated over 4,000 mortgage foreclosure cases. The program is undoubtedly a success, as those that have used the services report a 90-95% satisfaction rate. While these figures do not indicate that 90-95% of homeowners stay in their home, the clients who go through mediation are satisfied with their experience, even if they are unable to keep their home. “In other words,” says Amadon, “they are really happy to have been heard.”
AN OPPORTUNITY FOR LAW STUDENTS TO CONTRIBUTE

In the fall of 2013, students at the Loyola University Chicago School of Law will have an opportunity to contribute to mediation programs that improve access to justice for individuals involved in many different types of legal disputes, including mortgage foreclosure. Loyola will join several other schools in the Chicago area in offering a semester-long course where students can become certified mediators.50

The course, Mediation Certification and Courthouse Practicum taught by Professors Jack Block and Ceylan Eatherton, will train students in mediation, working to get them certified by the Center for Conflict Resolution.51 After reaching the level of certification, students will mediate disputes at the Cook County Circuit Court. Ultimately, students can take another training course at the CCR so that they can mediate foreclosure cases. The availability of student mediators will help alleviate the large caseload stemming from an increase in demand for mediation.52

In general, the positive impacts that foreclosure mediation programs can have on a homeowner’s experience during the devastating foreclosure process are clear. Therefore, Loyola’s course offering and Attorney General Madigan’s dedication of the National Settlement funds to creating more of these kinds of programs in Illinois are promising steps towards increasing access to the justice system.

NOTES

2 Id.
3 Id.
4 Id.
5 Id.
7 Telephone Interview with Jackie Lustig, President, Board of Directors at the Center for Conflict Resolution in Chicago (Mar. 17, 2013).
9 National Mortgage Settlement Summary, supra note 6.
10 National Mortgage Settlement Summary, supra note 6; About the Settlement, supra note 8. Oklahoma did not participate in the settlement; therefore its residents are not eligible for this particular relief: About the Settlement, supra note 8; $25B Mortgage Settlement with Banks is Official, supra note 8. However, the Oklahoma Attorney General reached an independent settlement agreement with the five service providers from which its residents will benefit. Oklahoma Mortgage Settlement Fact Sheet, Okla. Office of the Attorney Gen., http://www.oag.state.ok.us/oagweb.nsf/mortgageinfo.html (last visited Mar. 28, 2013).
11 About the Settlement, supra note 8; Christie, supra note 6.
13 Fact Sheet, supra note 13; $25B Mortgage Settlement with Banks is Official, supra note 8.
14 Fact Sheet, supra note 13; Joint State-Federal Mortgage Servicing Settlement FAQ, Nat’l Mortg. Settlement, http://www.nationalmortgagesettlement.com/faq (last visited Mar. 26, 2013) [hereinafter Joint State-Federal Mortgage Servicing Settlement FAQ]; National Mortgage Settlement Summary, supra note 6. To be eligible, borrowers must have lost their home between January 1, 2008 and December 31, 2011, had their loan serviced by one of the five providers that were parties to the settlement, and live in a state that signed the settlement. Joint State-Federal Mortgage Servicing Settlement FAQ.
15 Christie, supra note 8.
16 Fact Sheet, supra note 13. See National Mortgage Settlement Summary, supra note 6 for drafts of how each state plans to allocate the money. A large number of homeowners struggling with foreclosure issues will not directly benefit from this settlement because Fannie Mae and Freddie Mac, which control a great deal of the nation’s mortgage loans, are not eligible for the settlement. Joint State-Federal Mortgage Servicing Settlement FAQ, supra note 14; $25B Mortgage Settlement with Banks is Official, supra note 8. Consequently, how the state chooses to spend the remaining funds is a key concern for this group of homeowners.
17 National Mortgage Settlement Summary, supra note 6.
22 Kantzavelos, supra note 20.
23 Kantzavelos, supra note 20.
25 Telephone Interview with Carolyn Amadon, Executive Director at the Center for Conflict Resolution in Chicago (Mar. 22, 2013).
26 Interview with Jack Block, Professor of Mediation Advocacy at Loyola University Chicago School of Law (Mar. 17, 2013); About Mediation, supra note 24.
27 Telephone Interview with Carolyn Amadon, supra note 25.
28 Id.
29 Telephone Interview with Jackie Lustig, supra note 75.
30 Interview with Jack Block, supra note 26.
31 Telephone Interview with Carolyn Amadon, supra note 25.
32 Id.
33 Telephone Interview with Jackie Lustig, supra note 7.
34 Telephone Interview with Carolyn Amadon, supra note 25.
35 Id.
36 Telephone Interview with Jackie Lustig, supra note 7.
38 Kantzavelos, supra note 20; CCR Video About Services, supra note 37.
39 CCR Video About Services, supra note 37.
40 Id.
42 The Cook County Program is a collaboration between the Chicago Legal Clinic, providing the initial legal advice such as explaining to homeowners their legal rights and expectations and the explanations of the process, Chicago Volunteer Legal Services, providing legal representation, and The Center for Conflict Resolution, performing the mediations. Partners, CIRCUIT COURT OF COOK CNTY. MORTG. FORECLOSURE MEDIATION PROGRAM, http://cookcountyforeclosurehelp.org/partners/ (last visited Mar. 28, 2013).
43 Kantzavelos, supra note 20.
44 Mortgage Foreclosure Mediation Program, supra note 21.
45 Telephone Interview with Carolyn Amadon, supra note 25.
46 Id.
47 Id.
48 Telephone Interview with Carolyn Amadon, supra note 25.
49 Id.
50 Interview with Jack Block, supra note 26.
51 Id.
52 Telephone Interview with Jackie Lustig, supra note 7.
The Julia C. Lathrop Homes differ from other public housing developments in Chicago. A low-rise development bordering the Chicago River on Chicago’s North Side, Lathrop has provided affordable housing to working class families since 1938.¹ The community is also racially and economically diverse, unlike many of Chicago’s former public housing high-rises.² Yet despite this distinctive history, the future of Lathrop Homes is now uncertain, after the launch of the Plan for Transformation (the Plan) and the recently announced Plan Forward.³

The implementation of the Plan for Transformation began in 1999. The Plan intended to remedy continued segregation in the Chicago Housing Authority’s (CHA) public housing by creating racially and economically diverse housing communities.⁴ Plan Forward, the second phase of the Plan for Transformation,
focuses on developing vacant land owned by the CHA into more than just housing.  

**GAUTREAUX’S LEGACY AT LATHROP**

*Gautreaux et al. v. Chicago Housing Authority*, a landmark civil rights lawsuit ordering the racial desegregation of Chicago’s public housing, has played a seminal role in sparking the development of the Plan. According to the Plan, an ideal housing development encompasses one-third public housing, one-third affordable housing, and one-third market rate housing in order to eliminate so-called “islands of poverty.”

For Lathrop in particular, re-development plans have proposed a majority of market rate housing, with only 25 percent set aside for affordable housing and 25 percent for public housing. But Kelly Martin, a 20-year resident of Lathrop, expressed concern about the recent push for re-development, specifically with regard for the desire to increase market rate housing. “It’s not like there’s a shortage of market housing [in the neighborhood],” Martin explains.

Mary Thomas, a nine-year resident of Lathrop, calls Lathrop “a very diverse community where we all get along” and questions notions that Lathrop is an “island of poverty.” John McDermott, land use and housing director of the Logan Square Neighborhood Association, describes Lathrop as “a stepping stone for African Americans to get into North Side Communities.”

With 40,000 people on the CHA waiting list, and a surplus of market rate apartments in the surrounding community, some advocates question why the CHA would opt for major redevelopment of Lathrop. The Chicago Housing Initiative, a community group comprised of public housing advocates, wants to keep Lathrop affordable, with no market rate housing development at Lathrop.

The Central Advisory Council, a representative body of CHA residents from across the city, has recommended the CHA focus on preserving and rehabilitating existing units. Given the surplus of market-rate housing in the area, they call for keeping Lathrop affordable.
VACANT UNITS AND LAND AT LATHROP

The redevelopment of vacant land contemplated in Plan Forward poses some questions for Lathrop. In July 2012, an investigation by The Chicago Reporter revealed that the CHA continues to collect operating costs on thousands of vacant units, including 760 out of 945 units at Lathrop. The CHA claims these units are largely uninhabitable and that it would cost too much to repair them, especially when the long-term future of these units is unclear. But in 2011, many of these units passed the U.S. Department of Housing and Urban Development (“HUD”) inspection and were deemed inhabitable.

The CHA’s contract with HUD requires the CHA to maintain units even if it plans to eventually demolish them. But public housing advocates believe that the CHA allows housing to deteriorate to the point that it becomes too “obsolete” to rehabilitate. CHA CEO, Charles Woodyard, defends the vacancies, arguing that “it’s shortsighted to spend millions of dollars for a temporary solution to a very long-term problem.”

NEW HUD REGULATIONS COULD OFFER RELIEF FOR LATHROP RESIDENTS

HUD issued a notice in February 2012 requiring all public housing authorities must demonstrate that no repair is feasible before claiming that units are “obsolete”. The CHA must also pass environmental and civil rights reviews. The regulations note that “high vacancy rates alone do not justify obsolescence.”

Bill Wilen of the Sargent Shriver National Center on Poverty Law says this will correct HUD’s routine approval of CHA demolitions when they fail to meet statutory requirements. In fact there has already been a decrease in the number of approved demolitions. This regulation is expected to go into effect this year, but had not as of the date of publication.

THE CHA AND DEVELOPMENT PARTNER DEFEND THE REDEVELOPMENT

The Lathrop redevelopment must first create a proposal to bring to HUD for approval, and it is unclear what that might look like. Contrary to what many housing advocates support, the CHA and developers argue that no public
housing should exist on its own, but rather should be mixed with affordable and market rate housing.\textsuperscript{31} John Gerut, executive vice president of development for CHA defends the mix and notes that “concentrating poverty and low-income people doesn’t work.”\textsuperscript{32}

Kerry Dickson, senior vice president of Related Midwest and part of the development team at Lathrop, says that the Plan for Transformation requires that 400 units remain public housing.\textsuperscript{33} His experience shows that 50 percent market rate tends to be the magic number in order to create sustainable developments.\textsuperscript{34}

Conversely, Alderman Waguespack (32nd), Lathrop’s alderman, has remained supportive of Lathrop residents and neighborhood groups.\textsuperscript{35} He shares the concern of the local community about the developer’s plans – reducing public housing units\textsuperscript{36} and increasing the density of the site.\textsuperscript{37}

Paul Sajovek, Waguespack’s chief of staff, argues that in the absence of the CHA stepping up to the developers, Lathrop will be “thrown over for a single consideration: what’s going to generate the highest profit from the site” without balancing it with “what’s best for the surrounding neighborhood.”\textsuperscript{38} He calls it “a land grab” from a developer’s point of view, and “it’s all about taking profit from this publicly-owned historic site, even if it erases the site.”\textsuperscript{39}

\textbf{CONCLUSION}

Related Midwest is expected to release an amended development plan by late spring 2013 that will include at least 400 public housing units.\textsuperscript{40} The fate of the Lathrop Homes and its residents lies with HUD and the CHA’s new Plan Forward.\textsuperscript{41}

\textbf{NOTES}


2 \textit{Ibid.}

4 Afternoon Shift Interview with Natalie Moore “Rahm Emanuel tries to redefine public housing” WBEZ (Apr. 23, 2013) available at https://soundcloud.com/afternoonshiftwbez/rahm-emanuel-tries-to-redefine

5 Id.


12 Rogal, supra note 11.

13 Id.

14 Interview with Leah Levinger (Mar. 25, 2013).


16 Id. at 5. (C.A.C. rept)

17 The Plan Forward was announced shortly before publication. Woodyard has since announced that the new plan will focus on rehabbing existing apartment buildings. Public housing advocates, including Levinger, argue that Lathrop should therefore be preserved. It remains uncertain whether Lathrop will be preserved and, if so, how many units will become available for CHA tenants. See also, Mark Brown, “Are CHA Changes Common Sense or Attacks on the Poor?” Sun Times (May 23, 2013) available at http://www.suntimes.com/news/brown/20262344-452/brown-are-cha-changes-common-sense-or-attack-on-poor.html.


19 Id.

20 Id.


22 Id.

27. Black, supra note 21.
28. Id.
29. Id.
33. Id.
36. Id. Ambrosius, supra note 9.
37. Id.
39. Id.
40. Ambrosius, supra note 30.
41. Black, supra note 21.
Illinois is “home to approximately 250,000 immigrant motorists who are unable to get a driver’s license and insurance.”¹ Unlicensed, uninsured drivers are involved in almost “80,000 accidents in Illinois each year, resulting in $660 million in damage.”² In 2011, “42 percent of all fatal crashes in Illinois involved an unlicensed driver.”³

In Lake County Illinois, “28 percent of all motorists booked for traffic offenses in the last year were undocumented immigrants who could not get licenses, burdening [its] public safety system.”⁴ Often, uninsured drivers have very little means of covering vehicle damage they cause and commonly leave those bills for others cover.⁵

In January 2013, Illinois adopted legislation granting temporary driver’s licenses to undocumented immigrants. Illinois is the fourth state after New Mexico, Washington, and Utah to adopt such legislation. The law “requires undocumented immigrants to prove their identity, be tested and purchase in-
The law does not, however, “allow the license holder to use that license as identification to register to vote, to board an airplane or to purchase a firearm.” Temporary licenses are already available to “foreign students, spouses and children of temporary workers, long-term workers and others who are here legally but don’t have the Social Security numbers needed to obtain a regular driver’s license.”

Some opponents of the law claim that it “sends the wrong message to reward people who have broken immigration laws.” Other opponents doubt how successful and effective the legislation will be. However, the Illinois Coalition for Immigrant and Refugee Rights contend, “data from other states that have similar programs demonstrates that immigrant motorists, if allowed, do in fact apply for licenses and insurance.”

Still others oppose the law for different reasons, claiming the distinctive look of the driver’s license is discriminatory. The temporary driver’s licenses are “visually distinct and states on the license that it cannot be used for purposes other than driving.” In North Carolina, civil rights activists call these types of visual distinctions “discrimination” and contend that they may lead to “racial profiling and confusion.” Others say the distinction is purposefully designed to alert the limited and singular use of driving permission. In Illinois, the temporary licenses currently available to foreign students also have a similar visual distinction; the photo background is purple instead of red. Fred Tsao, policy director for the Illinois Coalition for Immigrant and Refugee Rights (“ICIRR”) and key drafter and advocate of the legislation, stated that the visual distinction is required by the Federal REAL ID Act of 2005. Although compliance with the federal law has been delayed, “it was more palatable to pass legislation that did not openly conflict with federal law.”

Proponents of the law claim it will benefit not only undocumented immigrants, but everyone driving within the state. The legislation “promote[s] safe driving” and eases the concerns of licensed motorists by requiring all temporary licensed drivers to maintain car insurance. The insurance requirement will ultimately lower vehicle insurance rates for Illinois motorists because, ideally, every motorist will have coverage to remedy any damage they cause to other vehicles on the road.

In addition, the use of uniform identification cards significantly eases the work of law enforcement and emergency personnel. Identifying undocumented
immigrants requires more attention than identifying licensed motorists and tending to their medical needs is challenging if the motorist is unconscious, which “increases the potential for error” in emergency situations.\textsuperscript{20} With legal authority to drive, undocumented immigrants with temporary licenses would have “less reason to leave the scene of an accident,” and make it feasible for emergency personnel to identify those in need of care.\textsuperscript{21}

Further, the law will preserve resources and generate income for the state. The legislation will “provide $3.75 million in new revenue, ease the burden on jails and courts, assist first responders and healthcare providers, and increase the pool of urgently needed organ donors.”\textsuperscript{22}

In terms of criminal deterrence, the legislation also seeks to prevent fraud. Between 2003–2008, the FBI investigated a Chinatown driver’s license fraud ring and brought charges against the ringleaders in 2009.\textsuperscript{23} Thirty-five Chicagoans were charged in the investigation.\textsuperscript{24} Among those charged were four Illinois Secretary of State employees, one of whom received a two-year prison sentence for accepting bribes.\textsuperscript{25} The scheme allowed participants with fake passports to bypass the driving portion of the driver’s license examination, as Secretary of State employees simply submitted false written examinations.\textsuperscript{26} The legislation is intended to eliminate the lucrative black market for fraudulent documents by ending corruption in the Secretary of State’s Office and “reduc[ing] the number of undocumented immigrants sharing our roads.”\textsuperscript{27}

Despite the differing perspectives, doubts and hopes, the legislation is now law in Illinois. According to Fred Tsao, the legislation was presented at the perfect time, during post-election season when many of the “departing legislators would be more likely to vote with their conscience.”\textsuperscript{28} Even Chicago’s Mayor, Rahm Emmanuel, supports the law, stating, “I strongly support state legislation that will allow every Chicagoan, regardless of legal status, to enjoy the rights and responsibilities that come with a driver’s license.”\textsuperscript{29} Now, the hope for the legislation is to encourage safety and provide assurances to drivers state-wide that every driver is “tested, licensed and insured.”\textsuperscript{30} Aside from safety, undocumented immigrants gain mobility, a new sense of freedom and equality. The temporary license not only supplies permission to drive, it is a license to thrive.
NOTES


2 Governor Quinn, Sen. President Cullerton, Mayor Emanuel Call for Driver’s Licenses for All IL Motorists, ILLINOIS COALITION FOR IMMIGRANT AND REFUGEE RIGHTS, Nov. 21, 2012, available at http://icirr.org/content/governor-quinn-sen-president-cullerton-mayor-emanuel-call-drivers-licenses-all-il-motorists [hereinafter Driver’s Licenses for All IL Motorists].


4 Id.

5 Id.

6 Id.

7 Id.


9 Id.

10 Immigrant Driver’s Licenses Legislation, supra note 1.

11 Immigrant Driver’s Licenses Legislation, supra note 1.


13 Id.

14 Chinatown driver’s license scam, supra note 8.

15 Fred Tsao’s Email Interview, supra note 10.

16 Id.

17 Licensing Undocumented Immigrants, supra note 3.

18 Id.

19 Driver’s Licenses for All IL Motorists, supra note 2.

20 Id.

21 Chinatown driver’s license scam, supra note 8.

22 Latino Community Leaders Thank Senate President John Cullerton, ILL. COALITION FOR IMM. AND REFUGEE RIGHTS, http://icirr.org/content/latino-community-leaders-thank-senate-president-john-cullerton.


24 Chinatown driver’s license scam, supra note 8.

25 Id.

26 Id.

27 Id.

28 Fred Tsao’s Email Interview, supra note 10.

29 Driver’s Licenses for All IL Motorists, supra note 2.

30 Fred Tsao’s Email Interview, supra note 10.
FEATURE

SILENT VICTIMS OF THE FINANCIAL DECLINE

by EMILY HARDY

The scene is set: a rich elderly gentleman and a younger woman enter a church. It sounds like the start to a romantic comedy, but no marriage takes place; instead, the woman defrauds the elderly man of somewhere between $10,000 and $100,000. The woman is Melissa Reilly, a 57 year-old resident of Wadsworth, Illinois. Reilly was accused of “borrowing” money, credit cards, and opening additional credit cards in the elderly man’s name. The two met at church and developed a relationship over the past six years—a relationship that has allowed her to take advantage of him financially.
Elder financial abuse has increased during the nation’s recent financial crisis. The law recognizes financial exploitation as a form of elder abuse. Specifically, the exploitation of an adult’s financial resources constitutes “abuse” under the Illinois Elder Abuse and Neglect Act. Further, “exploitation” is defined in the Financial Exploitation of an Elderly Person or a Person with a Disability Act as the illegal taking, misuse or concealment of funds, property, or assets of a senior, a process which disadvantages the elderly person for someone else’s benefit.

Over 50% of all cases of elder abuse reported in Illinois involve financial exploitation. A 2011 study by MetLife showed that financial abuse of the elderly had risen 12% in two years, from $2.6 billion in 2008 to $2.9 billion in 2010. In the next twenty years, the percentage of the whole population that is 65 or older is expected to rise by over 7%, thus exposing an even larger percentage of the population to financial exploitation.

**ATTRACTIVE VICTIMS**

Financial exploitation is most common among elderly victims who have diminished mental capacity, live in isolation, and still control great wealth.
Elderly individuals with diminished capacity often fail to comprehend the true nature of certain relationships – making them susceptible to exploitation. According to the Center for Retirement Research at Boston College, “between ages 71 and 79, one-fifth of individuals are impaired but that [percentage] rises to half of those between ages 80 and 89.”

Social isolation also leaves many elderly people prone to financial abuse, as they become either dependent on others or are left craving any social interaction. In Reilly’s case, she sought out and maintained a relationship with her victim from over a six-year period, becoming his friend after connecting with him at a social function.

In addition, with over 70% of all funds deposited in financial institutions controlled by persons 65 years or older, the elderly’s access to money makes them a particularly attractive victim. Slick Willie Sutton, a famous bank robber in the early 1900’s, is quoted as saying he robbed banks “because that’s where the money is,” and with so much of the nation’s wealth in the hands of the elderly, they have become the modern bank.

The abuser’s belief that he is not going to be caught or charged further enables elder abuse. Although it is unclear who ultimately reported Reilly’s crime, no one reported the continuous abuse for six years prior to her arrest. It is estimated that 4 to 5% of elderly people are subjected to some form of abuse, but only one in 13 of these cases is ever reported. This low percentage of reporting evidences the fact that this crime remains undocumented and unpunished more often than not.

**Personal Prevention Measures**

With cases of financial abuse on the rise, families can put several preventative measures into place in order to discourage financial abuse of their elderly relatives. First, families should avoid isolating the elderly individual, both socially and within the family. About one-third of financial abuse comes from a family member, and this family member usually has sole contact with the elder relative. Tom Wendt, Legal Director at the Chicago based Center for Disability and Elder Law (“CDEL”), said that the most common types of abuse seen in his office involve family members coercing seniors into signing over a title to the house, allowing access to bank accounts, or signing a Power of
Attorney that is later abused. Thus, when the whole family is more involved with the elder relative, the potential for abuse diminishes.

In addition, there are financial practices that can help protect the elder individual. For example, employing a “springing power of attorney” can help insure that the power of attorney does not come into effect until a person is judged to lose capacity. Unlike a durable power of attorney, the springing power of attorney can specify that two doctors must adjudge the individual as incapacitated before it goes into effect. This places the two doctors in a special position and creates assurance that the elderly person actually needs assistance.

Furthermore, creating third party consent on bank transactions puts a check on all financial changes, which may limit outside exploitation. If credit cards or spending is unusual, the family or individual with power of attorney will be alerted to these transactions.

While organizations like CDEL can provide free legal assistance at the investigative level and for litigation for elder abuse cases, Wendt said that CDEL’s main goal is to stop harm before it gets to a stage where litigation occurs. For many of their elderly clients, time is of the essence, and lengthy court cases do not provide the immediate relief that may be essential for the clients’ well-being. Rather, Wendt finds that the best way to prevent abuse is to increase awareness in the senior community and to empower seniors to make decisions that will protect them. This is part of the reason that CDEL started their Senior Center Initiative (“SCI”), offering over 100 outreach presentations per year in which CDEL attorneys speak about concerns relating to Powers of Attorney and financial abuse.

LEGISLATIVE MEASURES

In addition to personal prevention measures, state legislatures have the ability to curb elder abuse through new legislation. Stateline Midwest, a publication that deals with policy issues and decisions made in the Midwest, has outlined key strategies for policy makers in preventing elder financial abuse, including harsher criminal penalties, mandated financial reporting, statewide agencies (hotlines), and education to the community and seniors on how to recognize abuse and get help.
In Illinois, the B*SAFE program, organized by the Illinois Department of Aging, targets bank personnel as the first line of defense. The program specifically teaches bank personnel to recognize and report elder financial abuse. Originally only recommended, the B*SAFE became a mandatory program of instruction for financial institutions in 2010. The program allows institutions either to certify their own employees to conduct the training or to bring in staff from the Department of Aging or elder abuse agencies to conduct the training. Each institution is required to provide a 30-minute program for employees every three years on how to detect and prevent financial abuse. Prior to the update in the law, financial institutions reported only 2% of cases; by making the program mandatory, legislatures hope that they will be able to spot financial abuse at an early stage, thus increasing financial institution reporting.

While Illinois financial institutions are not mandatory reporters, they can serve as a great resource—as many elderly people physically go to the bank rather than using online banking resources. Although reporting is only mandatory in Illinois for specific professional groups, other groups, such as home health care providers, mental health providers, law enforcement officers, and anyone in Illinois who has a good faith basis for reporting abuse, has legal immunity under the Elder Abuse and Neglect Act. In fact, there is a 24-hour Elder Abuse Hotline set up in Illinois for reporting.

The Illinois Department of Aging also enacted the “Be a Savvy Senior” initiative, which is a series of publications designed to raise adults’ awareness of financial exploitation. They offer brochures, posters, and flyers that give information on what financial abuse is, how to prevent it, and what to do if abuse is suspected.

Moreover, the Illinois legislature has lowered the amount of money required to classify a financial abuse case as a Class I felony. The minimum was previously $100,000, but House Bill (“HB”) 1689/720 amended the Illinois Criminal Code and lowered the amount to $50,000. In addition, Illinois enacted HB 5653 in January 2013, which allows prosecutors to freeze the assets of a defendant charged with financial abuse or exploitation of a senior citizen or disabled person. Most of the laws that Illinois has enacted enhance the penalties for perpetrator of the abuse, which can provide additional relief to victims.
Like Illinois, Michigan has also proposed and passed numerous bills in the past several years to address growing financial abuse concerns. Specifically, the Senate proposed and passed Senate Bill 463; this bill would create a training program similar to Illinois’, requiring financial institutions to train employees to identify and report suspected financial exploitation of vulnerable adults.\textsuperscript{50} Michigan implemented the same types of immunities for reporters of suspected abuse as in Illinois.\textsuperscript{51}

New legislation in Michigan also requires institutions to alert joint account holders to the fact that the other account holder is an equal owner of the funds.\textsuperscript{52} The statute also mandates that the institution inform joint account holders that if one dies, the other would continue to have full access to the account.\textsuperscript{53} These recent bills strengthen banking institutions’ notification and awareness duties to their clients.\textsuperscript{54}

In addition to Illinois and Michigan, some of Minnesota’s recent initiatives also focus on tougher criminalization of elder abuse. Just as Illinois lowered its financial requirements for a Class I felony in order to promote harsher penalties for abusers, Minnesota enacted House File 818 in 2009, creating a new type of felony specific to elder abuse.\textsuperscript{55} This new felony covers financial exploitation of a vulnerable adult from $35,000 and up and carries a sentence of up to 20 years in jail.\textsuperscript{56} This bill also increased the statute of limitations for such crimes from three years to five years.\textsuperscript{57}

Minnesota’s previous elder abuse statute required that the reporter call the area with jurisdiction to report abuse.\textsuperscript{58} This led to confusion on whether to report the abuse where the abuser lived or where the victim lived.\textsuperscript{59} Now, Minnesota is implementing a hotline similar to the hotline in Illinois that will allow people to report abuse from anywhere, cutting down on bureaucratic pitfalls to the reporting process.\textsuperscript{60}

CONCLUSION

While some elderly individuals are particularly susceptible to financial exploitation, preventative measures and the recent legislation will help to curb this form of elder abuse. Making the community aware of the pervasiveness of elder financial exploitation and encouraging families to take precaution will
help to ensure that Illinois and Midwest residents can remain financially secure during their twilight years.

NOTES

2 Id.
3 Id.
5 Elder and Abuse Neglect Act, 320 ILL. COMP. STAT. 20/2(A) (2012).
7 5/17-56(a).
8 Email interview with Tom Wendt Legal Director at the Center for Disability and Elder Law ("CDEL"), April 4, 2012 (in the past two years alone, CDEL has opened approximately 24 files for financial abuse, and often these cases are interrelated with other cases that do not initially appear to be financial abuse).
9 Schlesinger, supra note 4.
12 Id.
13 Schlesinger, supra note 4.
14 Id.
15 Fuller, supra note 1.
16 Hafemeister, supra note 11, at 5.
18 Hafemeister, supra note 11, at 6.
19 Fuller, supra note 1.
21 Hafemeister, supra note 11, at 22.
22 Tourmey, supra note 10, at 1.
23 Hafemeister, supra note 11, at 22.
24 Wendt, supra note 8.
25 Id.
26 Id.
27 Id.
28 Id.
(In 2011, CDEL assisted with one elder abuse case that obtained a $160,000 judgment.)

(SCI workshops allow each senior to take action to protect himself/herself by executing a POA, and structuring the document as to best protect the senior.)

Tourmey, supra note 10, at 7.


Tourmey, supra note 10, at 6.

Preventing Financial Exploitation, supra note 35.

Tourmey, supra note 10, at 6.

Tourmey, supra note 10, at 6.

Preventing Financial Exploitation, supra note 35.


Financial Exploitation of an Elderly Person or a Person with a Disability, 720 ILL. COMP. STAT. 5/17-56 (b)(2012).

Wendt, supra note 8 (there are also several agencies that investigate allegations of abuse such as: City of Chicago Dep’t of Aging, Suburban Cook County Townships Dep’t of Aging and various other non-profit agencies).

Tourmey, supra note 10, at 6.
IS STRICTER GUN SENTENCING THE SOLUTION TO CHICAGO’S RISING MURDER RATE?

by Marjorie Kennedy

When 15-year-old Hadiya Pendelton was shot and killed on January 29, 2013, less than a week after she performed at President Obama’s second inauguration, Chicago’s murder rate and gun laws received national attention. On the day her suspected killers were arrested, Chicago Mayor Rahm Emanuel called for stricter sentencing of gun crimes in Illinois.¹

Pendelton’s story is one of many. Chicago’s murder rate rose 16% from 2011 to 2012.² In 2012, Chicago recorded more than 500 gang-related deaths and the seizure of over 800 guns in the first six weeks of 2013.³
CURRENT GUN SENTENCING IN CHICAGO

The current jail sentence for unlawful use of a weapon conviction is at minimum, one year. There is currently no limit on the days of “good time,” or days taken off a sentence for good behavior, available to a person incarcerated for unlawful use of a weapon can receive. According to State’s Attorney Anita Alvarez, who supports stricter sentences for gun crimes, “gun offenders in Chicago sometimes get one-year sentences and may serve only about half their sentences or maybe even less.” Mayor Emanuel described the Illinois prison system as a “revolving door” and that law enforcement personnel are “chasing the same people.”

PROPOSED CHANGES & REACTION TO THE BILL

On February 11th, 2013, Mayor Emanuel called on state lawmakers to pass legislation to combat gun violence in the city. He proposed a higher mandatory minimum sentence for gun crimes and a requirement that those convicted serve the majority of their prison sentences. Four days later, State Representative Michael Zalewski introduced HB2265, proposing those same legislative changes. This bill would require persons convicted either of unlawful use of a weapon or a second offense of possession of an unlicensed weapon to serve a sentence of no less than three years. The bill also limits the “good time” for these sentences to 4.5 days per month served, effectively requiring those sentenced to serve a minimum of 85% of the sentence. In addition, the bill restricts the availability of probation as an alternative sentence for certain gun crimes.

Supporters of the bill point to the reduction of gun violence in New York City in the early 2000’s. In 2006, New York raised the mandatory sentence for possession of an unlawful weapon from 1 year to 3.5 years. As a result, homicides fell. Chicago currently has approximately three times as many murders per capita as New York City.

One of the men suspected in Hadiya Pendelton’s shooting was convicted last year of unlawful possession of a weapon and received probation. Had he been sentenced to the proposed three years in jail, he would still have been incarcerated on January 29 when Pendelton was killed. Chicago Police Super-
intendant Garry McCarthy states that “[i]n 2013 alone there have been 47 shootings and murders that could’ve been prevented if the offenders were still incarcerated with longer sentences.”

Matthew Munoz, a Chicago gang member, was arrested in 2011 for possessing an illegal firearm and received probation. He too supports stricter sentencing for gun crimes, stating “[s]ome people need prison to learn their lesson. I wish I got sent to prison a long time ago. I kept getting probation for this and that . . . Chicago is getting out of control with the gang violence. They should send those guys to prison—even guys like me.”

Those in opposition argue that stricter sentencing is not the answer to Chicago’s gun violence problem. A Northwestern University research study noted that politicians favor tough penalties because they are inexpensive and psychologically reassuring. However, the study concluded that in practice, harsh penalties may make violence worse. Harsher penalties may cause criminals to “up the ante” because they know they will receive a harsh sentence anyway. In response to the argument that New York’s murder rate fell as a result of stricter gun sentences, critics contend that gun violence was already falling when the law took effect.

John Maki, Executive Director of the prison watchdog group the John Howard Association, states that the bill “embodies why Illinois—and the U.S.—has such a large prisoner population.” He states that the desire for harsher penalties is understandable, because there is a visceral gut reaction to violent crime, like the Pendleton shooting. Everyone wants to do something and “prison feels right.” According to Maki, however, this bill will clog jails, clog courts, and create a mess for the justice system.

Opponents also point to the stress this bill would put on the Illinois prison system. The Department of Corrections note attached to the bill states that “[t]he total impact of HB 2265 would result in an increase of 3,860 inmates, with additional operating costs of $701,712,300 and construction costs of $263,130,300 over ten years.” If new prisons must be opened to house these inmates, the cost of building and staffing new prisons may push the total over $1 billion.

Illinois has one of the most crowded prison systems in the country, with 49,000 inmates in a system designed to house 33,000. Opponents of the bill
argue that stricter sentencing may bring Illinois to the level of overcrowding that led the Supreme Court to rule California’s prison system unconstitutionally overcrowded in 2011.32

CONCLUSION

While the idea of stricter sentencing for gun violence is a seemingly rational reaction to violent crime, the concerns about its implementation may outweigh the proposed impact on gun violence. Overcrowding is a serious issue in Illinois prisons and the added stress on the prison system must be addressed before the legislation can be implemented. According to Maki, “if prison was the answer, mankind would have solved violence a long time ago.”33

NOTES


3 More Prison Time, supra note 1.

4 720 ILCS 5/24-1.6.

5 More Prison Time, supra note 1.


7 More Prison Time, supra note 1.

8 Id.


11 Id.

12 Id.


14 Id.
15 Id.
17 More Prison Time, supra note 1.
18 Revolving Door, supra note 6.
19 Main, supra note 16.
20 Id.
22 Id.
23 Byrne, supra note 13.
24 Telephone interview with John Maki, Director, John Howard Association (Apr. 4, 2013) [Hereinafter “Maki Interview”].
25 Id.
26 Id.
27 Id.
29 Bill Status, supra note 9.
30 Longer Prison Time, supra note 28.
31 Id.
33 Maki Interview, supra note 24.