

Clearinghouse REVIEW

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**END
HOUSING
BARRIERS
BASED ON
CRIMINAL
RECORDS**



**APPLY
DISPARATE
IMPACT THEORY**

Ensure Fair Wages for Workers with Disabilities
Reform H-2B Guest Worker Program
Consider Lump-Sum Settlements and Public Benefit Eligibility
Target Underlying Causes of Poverty
Protect Users of Electronic Benefit Cards
Offer Opportunities with Housing Choice Vouchers



Sargent Shriver National Center on Poverty Law



INFORMATION INTERACTION INTERCHANGE

Shriver Center to Cosponsor Affirmative Litigation Training with Center for Legal Aid Education

The Sargent Shriver National Center on Poverty Law will join the Center for Legal Aid Education in cosponsoring Affirmative Litigation Training this summer (<http://bit.ly/hDSaKk>). The training is aimed at advocates who have some litigation experience and are seeking to expand their practice to include advocacy designed to bring about fundamental changes in the conditions of poverty for their clients. With the Shriver Center's *Federal Practice Manual for Legal Aid Attorneys*, www.federalpracticemanual.org, as a core resource, advocates will learn skills essential to asserting the unique and coercive power of litigation in dealing with the underlying causes of poverty and inequality. Incorporating three weeks of Web-based activities and three days in-person, the training will introduce advocates to prosecuting a complex affirmative case in federal or state court.

National Health Law Program to Conduct Training on Patient Protection and Affordable Care Act

The National Legal Aid and Defender Association and the National Health Law Program (NHLP) are cosponsoring A New Era of Health Advocacy: National Health Law Training on July 11–12 in Baltimore, Maryland. An overview of the Patient Protection and Affordable Care Act and its impact on low-income people will be presented. New advocacy challenges posed by the Act and the serious impact that state fiscal crises have on implementation of the new law, as well as the variation in state approaches to implementation, will be covered. Faculty presenters will come from NHLP, the Center on Budget and Policy Priorities, and the Sargent Shriver National Center on Poverty Law among other national organizations. For more information, see <http://bit.ly/hhBaU3>.

New Guide to Help Advocates Fight Wage Theft

Employer failure to comply with minimum wage and overtime laws causes millions of employees to lose wages. Wage theft is a growing problem across the country and economic sectors. But what are the best solutions? The National Employment Law Project has come out with a new guide for advocates seeking strategic guidance in fighting wage theft. The guide, *Winning Wage Justice: An Advocate's Guide to State and City Policies to Fight Wage Theft* (<http://bit.ly/ezm576>), offers twenty-eight policy solutions that community groups, unions, and policymakers can use in crafting local solutions to wage injustice.

Use of Employee Criminal Background Checks Examined by National Employment Law Project

The National Employment Law Project's report, entitled *65 Million "Need Not Apply": The Case for Reforming Criminal Background Checks for Employment* (http://bit.ly/need_not_apply), details the increasing use of blanket hiring restrictions against those with criminal records in today's job market. One survey showed that more than 90 percent of companies use criminal background checks for hiring decisions. The report finds that large and small companies routinely deny people with criminal records the opportunity to establish their job qualifications for even entry-level positions. These blanket hiring restrictions particularly affect communities of color. To advance the employment rights of people with criminal records and to promote safety and security in the workplace the report recommends federal enforcement of civil rights and consumer laws, federal adoption of fair hiring policies to serve as a model for states, and leadership by the employer community in promoting best practices for fairer and more accurate background checks for employment.

Ways to Evaluate Foreclosure Diversion Programs Explained by National Consumer Law Center

Ways to evaluate and analyze the efficacy of foreclosure diversion programs across the nation were covered by the webinar *Methods for Studying Residential Foreclosure Diversion Processes—A Philadelphia Case Study* conducted by the National Consumer Law Center. Based on a February 2011 report, *Model Methods to Evaluate Foreclosure Diversion Programs* by Ira Goldstein and Colin Weidig of the Reinvestment Fund, the webinar discussed lessons from the Philadelphia Residential Mortgage Foreclosure Diversion Program and model methods to evaluate local foreclosure diversion programs. See the webinar presentation, recording, and report at http://bit.ly/nclc_webinar_fore.

Advocate's Guide to Medicaid Program Updated by National Health Law Program

The Advocate's Guide to the Medicaid Program, updated and published by the National Health Law Program, is available in hard copy and through online membership, which offers interactive Web features. The updated guide analyzes the impact of recent laws such as the Patient Protection and Affordable Care Act, the Children's Health Insurance Program Reauthorization Act, and the Deficit Reduction Act. The guide covers Medicaid administration, eligibility, and services and draws from a number of resources, such as the U.S. Constitution, laws, regulations, federal guidance documents, and case law. For more information, go to http://bit.ly/nhelp_medicaid.

Continued Food Hardship in 2010 Reported by Food Research and Action Center

Tens of millions of American households in 2010 continued to struggle to buy adequate food for their families. For many families, 2010 was the third year of unemployment and underemployment, contributing an annual food hardship rate of 18 percent. *Food Hardship in America—2010*, published by the Food Research and Action Center, analyzes data collected through a nationwide Gallup poll, breaking down the data by region, state, metropolitan statistical area, and congressional district.

Although food hardship is a national problem, the Southeast and Southwest had food hardship rates one-third higher than those in the Northwest and Mid-Atlantic regions, and in 85 of 100 metropolitan statistical districts 15 percent or more households had trouble obtaining adequate food for their families. The report, at http://bit.ly/frac_hardship, urges the creation of jobs with living wages, improved income supports, and strengthened federal nutritional programs.

2011 Edition of ADA-TANF Manual Released by National Center for Law and Economic Justice

To assist benefit program recipients who have disabilities, advocates must have working knowledge of disability and welfare laws. The National Center for Law and Economic Justice has come out with the 2011 edition of its manual *Using the Americans with Disabilities Act to Protect the Rights of Individuals with Disabilities in TANF Programs: A Manual for Non-Litigation Advocacy*. The manual gives basic information on how to use federal disability rights laws to improve the access of persons with disabilities to welfare benefits. The 2011 edition reflects two major legal developments: recent U.S. Department of Justice regulations implementing Title II of the Americans with Disabilities Act and March 2011 Equal Employment Opportunity Commission regulations on the definition of "disability." The updated manual, with additional chapters and two Office for Civil Rights (U.S. Department of Health and Human Services) compliance agreements, is at http://bit.ly/nclaj_tanf on the National Center for Law and Economic Justice's website, www.nclaj.org.

Shrinking TANF Safety Net

A new report from Legal Momentum contends that welfare benefits and enrollment have declined since the enactment of the Temporary Assistance for Needy Families (TANF) program in 1996. According to the April 2011 report, *Welfare Reform at Age 15: A Vanishing Safety Net for Women and Children*, enrollment in TANF has noticeably declined as has the number of children receiving benefits. Falling especially hard on single-mother households, TANF's restrictions leave many women trapped in poverty and low-wage jobs. The report urges Congress to reauthorize or extend TANF by September 30, raise benefit levels, and give beneficiaries an enforceable right to aid.

Updated *Federal Practice Manual for Legal Aid Attorneys*

The 2010–2011 update of the *Federal Practice Manual for Legal Aid Attorneys*, published by the Sargent Shriver National Center on Poverty Law, is available online, www.federalpracticemanual.org/. The *Manual* has been an essential reference for legal aid attorneys since the 1980s. It covers all stages of federal litigation, from drafting and filing a complaint to trial practice and limitations on relief; it also discusses state and administrative actions and non-litigation advocacy. Free of charge, the *Manual* has been updated to include relevant recent case law and legal developments such as pleading requirements after *Iqbal*, preemption, standing, implied causes of action, Section 1983, and Administrative Procedure Act actions. Jeffrey S. Gutman, professor of clinical law at George Washington University Law School, edited an earlier version of the manual and has now updated it again with the assistance of many experienced legal aid practitioners. Professor Gutman managed, analyzed, and reviewed the work of all contributing editors and has continued to add the most recent case law. The *Manual* has links to federal statutes, Supreme Court case citations, and relevant regulations and is searchable by keyword.

New Website for Veterans with Legal Problems

The first website geared toward helping veterans and their families navigate federal legal rights and resources was launched last fall by Pine Tree Legal Assistance with grants from the Legal Services Corporation (LSC). The website, StatesideLegal.org, helps veterans who have foreclosure and consumer debt and those who have such disabilities as traumatic brain injuries. With the help of the Legal Aid Society of Louisville, which also received an LSC grant, the website has automated benefit applications, thereby improving the quality of the applications. The site makes referrals and offers tools for veterans and their families to help themselves. An awareness and training campaign to create referrals between legal aid offices and the U.S. Department of Veterans Affairs Readjustment Counseling Service offices, known as Vet Centers, across the nation has been launched by LSC. See also *Legal Needs of Military Veterans, Servicemembers, and Their Families*, the CLEARINGHOUSE REVIEW September–October 2009 special issue, http://bit.ly/cr_2009 and www.povertylaw.org.

Improving LGBT Older Adult Lives in Long-Term Care Facilities

Many lesbian, gay, bisexual, and transgender (LGBT) older adults rely on nursing homes or other institutions for long-term care. *LGBT Older Adults in Long-Term Care Facilities: Stories from the Field*, a report released in February 2011 and based on online survey results, and the website www.lgbtlongtermcare.org/ were prepared by the National Senior Citizens Law Center in collaboration with Lambda Legal, National Center for Lesbian Rights, National Center for Transgender Equality, National Gay and Lesbian Task Force, and Services and Advocacy for GLBT Elders. Respondents to the online survey related instances of mistreatment ranging from harassment to withholding of care—a majority believed that staff members of long-term care facilities would discriminate against an LGBT elder who was open about one's sexual orientation, and more than half believed that staff members or other residents would abuse or neglect an LGBT elder. The report has policy recommendations to improve the lives of LGBT older adults in long-term care facilities. For survey results, comments, and personal videos from LGBT older adults, as well as profiles of the authors, go to www.lgbtlongtermcare.org.

Pervasive Discrimination Against Transgender People

Injustice at Every Turn: A Report of the National Transgender Discrimination Survey finds pervasive discrimination in the United States and concludes that much of the discrimination against transgender and gender nonconforming people is institutional. The cumulative discrimination takes its toll in the form of lost jobs, evictions, school bullying, and assaults. Survey participants were four times more likely to live in extreme poverty than other groups, and 41 percent had contemplated suicide. People of color were more likely to experience discrimination than white participants. Discrimination against transgender and gender-nonconforming people is too often left off the human rights agenda, the report, published by the National Center for Transgender Equality and the National Gay and Lesbian Task force, contends. See http://bit.ly/ncte_discrim.

Poverty Not Necessarily a Permanent Condition

A recent U.S. Census Bureau report says that poverty “is not necessarily a permanent condition.” The report, *Dynamics of Economic Well-Being: Poverty, 2004–2006*, published last March, finds that while 29 percent of the nation’s population was in poverty for at least two months between the beginning of 2004 and the end of 2006, only 3 percent were poor during the entire period. Based on a study sample, the report looks at how many U.S. residents fell into poverty, how many got out, and how many remained poor. According to the report, poverty can be a persistent condition: 23 percent of the thirty-three million people who were poor at the start of January and February 2004 remained poor throughout the next thirty-four months. However, many people did escape poverty: twelve million, or 42 percent of people who were poor in the 2004 calendar year, were not in poverty in 2006. See <http://1.usa.gov/h0QH2P>.

Uniform Use of Criminal Background Checks Recommended for Health Care Industry

Nursing facilities are required to investigate thoroughly the backgrounds of potential employees but are not required to do Federal Bureau of Investigation (FBI) criminal background checks. A March 2011 report by the Office of Inspector General in the U.S. Department of Health and Human Services (HHS) finds that almost all nursing facilities employed one or more individuals with at least one criminal conviction and that 5 percent of nursing facility employees had at least one conviction in FBI-maintained criminal history records. Under the Patient Protection and Affordable Care Act, HHS is required to develop a nationwide program for states to conduct criminal background checks of nursing facility employees. The HHS report, *Nursing Facilities’ Employment of Individuals with Criminal Convictions*, http://1.usa.gov/hhs_nhomes, recommends that the Centers for Medicaid and Medicare Services implement a nationwide criminal background check program defining disqualifying convictions and covered employees. Recommendations for developing a uniform policy are also contained in *Safe at Home? Developing Effective Criminal Background Checks and Other Screening Policies for Home Care Workers*, <http://aarp.us/fH555Z>. Published by the AARP Public Policy Institute, *Safe*

at Home explains the state of background checks in the home health care industry, the challenges in using background checks, the need for complementary screening strategies to avoid unnecessary disqualification, and the federal seven-state pilot program (since expanded under the Patient Protection and Affordable Care Act).

More Action to Meet Needs of Older Americans Recommended by GAO

The Older Americans Act was enacted to help older Americans remain in their homes and communities. The U.S. Government Accountability Office (GAO) finds that while the Administration on Aging is required to develop uniform procedures and definitions for measuring need and unmet need for elder services such as meal service and home-based care, Administration on Aging has not done so. The GAO February 2011 report, *Older Americans Act: More Should Be Done to Measure the Extent of Unmet Need for Services*, recommends that, given the expected increase of need for services by older Americans and significant fiscal restraints, Administration on Aging develop standards for measuring the needs and unmet needs of older Americans. The report suggests that cost sharing by clients be explored. See http://1.usa.gov/GAA_OAA.

GAO Advocating Coordinated Social Service Programs

Under a new statutory requirement that the U.S. Government Accountability Office (GAO) annually identify federal programs, agencies, offices, and initiatives that have duplicate goals or activities, GAO reported to Congress for the first time. GAO’s March 2011 report examines thirty-four areas for duplication, including food assistance, housing assistance and homelessness, and assistance to transportation-disadvantaged persons. GAO stresses the importance of these programs and the need to fulfill their mission while seeking cost savings by eliminating administrative duplication and conflicting regulations. For example, food and nutrition programs provide consistent, dependable access to enough food for an active, healthy life, but “assistance is delivered through a complex web of programs and agencies.” GAO recommends aligning eligibility requirements across programs as permitted by law. See *Opportunities to Reduce Potential Duplication in Government Programs, Save Tax Dollars, and Enhance Revenue*, http://1.usa.gov/gao_duplication.



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