

3 **A RESOLUTION**

4 Authorizing and directing the Director of Intergovernmental Relations to
5 convey Milwaukee County's official opposition to the rule currently under
6 consideration by the Wisconsin Supreme Court that will allow Circuit Court
7 judges to appoint publicly-funded legal counsel to indigent persons in civil
8 cases.

9 WHEREAS, Legal Action of Wisconsin has petitioned the Wisconsin State
10 Supreme Court to create a new rule to ensure that indigent persons have legal
11 counsel in certain civil matters; and

12 WHEREAS, the proposed rule, known as Supreme Court Rule Petition 10-
13 08, states in part:

14 Where a civil litigant is indigent (defined as below 200% of federal
15 poverty guidelines), the court shall provide counsel at public expense
16 where the assistance of counsel is needed to protect the litigant's right to
17 basic human needs, including sustenance, shelter, clothing, heat,
18 medical care, safety and child custody and placement (emphasis
19 added);

20 and;

21 WHEREAS, both the federal and state courts have stated repeatedly
22 that the constitutionally guaranteed right to counsel applies only to
23 circumstances where an individual's liberty is in jeopardy, namely criminal
24 cases and certain involuntary commitments, however, both federal and state
25 courts have declined to recognize that the right to counsel extends to civil
26 cases; and

27 WHEREAS, Legal Action of Wisconsin -- the petitioner advancing the
28 proposed rule -- has estimated that expanding the right to counsel to indigent
29 civil litigants will cost \$56 million statewide on an annual basis; and

30 WHEREAS, Milwaukee County Circuit Court Administrative staff
31 estimates that the Milwaukee County share of the annual statewide costs could
32 be 20 percent, or \$11.2 million; and

33 WHEREAS, because Milwaukee County taxpayers already fund the bulk
34 of circuit court costs, the track record of the state providing funding to cover
35 courts-related mandates is, at best, underwhelming, and a new, unfunded
36 mandate of this magnitude would likely force Milwaukee County policymakers
37 to discontinue other vital County services; and

38 WHEREAS, while it is a laudable goal to provide full access to civil
39 courts for indigent persons, there are alternate resources (e.g., Legal Aid
40 Society and Legal Action of Wisconsin) that currently serve that population and
41 transferring the obligation to fund that service to be borne by the taxpayers of
42 Milwaukee County represents an additional unfunded state mandate; now,
43 therefore,

44 BE IT RESOLVED, that the Director of the Division of Intergovernmental
45 Relations is hereby authorized and directed to convey Milwaukee County's
46 official opposition to Supreme Court Rule Petition 10-8 currently under
47 consideration by the Wisconsin Supreme Court that will allow Circuit Court
48 judges to appoint publicly-funded legal counsel to indigent persons in civil
49 cases unless the State pays all related costs.