

**CONFERENCE OF CHIEF JUSTICES
CONFERENCE OF STATE COURT ADMINISTRATORS**

Resolution 3

In Support of Process Simplification

WHEREAS, the process used to resolve legal disputes is an adversarial one, designed for parties represented by lawyers. However, since the turn of the century, the rise of self-representation in many civil case types is a widespread phenomenon that is likely to permanent. Self-represented individuals are more prevalent than represented individuals in many civil case types, yet the court processes they must follow are designed for lawyers; and

WHEREAS, there has been increasing recognition of the need to simplify legal processes and systems so that people can navigate the procedures, forms, and interactions with clerks and judges without legal assistance. Self-represented individuals should not be disadvantaged in resolving their legal issues because they do not understand procedures and forms that can be modified for easier use; and

WHEREAS, process simplification must be accomplished for the benefit of all court users. The experience of court users directly relates to public trust and confidence in courts. If court processes are clear to understand and follow, it is more likely that a user's experiences with the court system will leave them feeling more fairly treated than if they are required to navigate burdensome processes that are not easy to understand and do not clearly explain how they can resolve the legal dispute; and

WHEREAS, the COVID-19 pandemic demonstrated that courts can make large-scale meaningful changes to streamline and improve existing policies and procedures. Many courts implemented emergency changes to allow self-represented litigants to email or e-file documents, increased adoption of self-certification for documents and reduced notary requirements, and reduced requirements for wet signatures; and

WHEREAS, the Conferences' Civil Justice Initiative and the Cady Initiative for Family Justice Reform identified challenges to family and civil cases in state courts, including high caseloads, limited staffing, increased numbers of self-represented parties, and complicated procedures; and

WHEREAS, all court processes in a case, from filing to final disposition, should be mapped out and evaluated to ensure that each requirement is purposeful for the resolution of the dispute. Simplification may require modification of court rules, standardized forms, statutes, case management systems, and may require partnership between courts, the private bar, human services providers, and other branches of government; and

WHEREAS, at the 2020 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 4, which encouraged courts to simplify court processes to allow self-represented litigants to engage in the justice system and be treated fairly; and

WHEREAS, at the 2015 Annual Meeting, the Conference of Chief Justices and the Conference of State Court Administrators adopted Resolution 5, which set the aspirational goal of establishing 100 percent access to effective assistance for essential civil legal needs for all court users through a continuum of meaningful and appropriate services;

NOW, THEREFORE, BE IT RESOLVED, that the Conference of Chief Justices and the Conference of State Court Administrators urge their members to create or modify court rules and work with other branches of government to amend or create new statutory language as appropriate with a goal of creating simplified procedures and revamping existing procedures that are onerous, inefficient, or confusing for self-represented litigants, court staff, judges, or the private bar. These reforms should be made after consultation and collaboration with civil legal aid attorneys and others such as court users to ensure that proposed modifications address the right problem areas. This work may include authorizing informal trial processes that relax the rules of evidence for civil matters where self-representation is common so that litigants may admit evidence they deem relevant, judges ask questions of both parties, cross-examination is eliminated between the parties, and lawyers have a defined coaching role. Also, jurisdictions that require parties to file proposed orders may consider making such requirements permissive for self-represented litigants; and

BE IT FURTHER RESOLVED that the Conference of Chief Justices and the Conference of State Court Administrators support and urge the National Center for State Courts to develop a process simplification toolkit to identify lessons learned from process simplification reforms from across the country. The Conference of Chief Justice and the Conference of State Court Administrators likewise encourage all courts, the National Center for State Courts, and all justice system partners to engage in rigorous evaluation of innovative efforts, provide guidance, develop best practices, and share resources.

Adopted as proposed by the CCJ/COSCA Access and Fairness Committee and the CCJ/COSCA Public Engagement, Trust, and Confidence Committee at the CCJ/COSCA 2021 Annual Meeting on July 28, 2021.