



# Nebraska Self Represented Litigants Report

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This report was prepared under a State Justice Institute (SJI) grant award to the Nebraska Administrative Office of the Courts (grant number SJI-19-T-039). The National Center for State Courts (the Center, the National Center, or NCSC) is an independent, non-profit court improvement organization providing research, education, information, and consulting for advancements in the administration of courts. The NCSC conducted an assessment of current efforts to provide court users with meaningful, equal access to the judicial process in the State of Nebraska. The focus of the assessment was on the effectiveness of assistance provided to self-represented litigants (SRLs) in domestic relations cases, in Douglas County, Nebraska’s largest court. The purpose of this report is to document self-help practices and NCSC’s observations and findings, and to provide recommendations for access to justice services that align with proven best practices and protocols for assisting those litigants who are unrepresented. The opinions expressed in this report are those of the authors as employees of the NCSC and do not represent the official position of the NCSC, the Nebraska Administrative Office of the Courts, or any individuals who were interviewed during this project. The NCSC grants the Nebraska Judicial Branch/Supreme Court of Nebraska pursuant to any rules and regulations governing the local county or municipality, a royalty-free non-exclusive license to reproduce, publish, distribute, or otherwise use, and to authorize others to use, all or any part of this report for any governmental or public purpose.

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## Executive Summary

The National Center for State Courts (NCSC) was asked by the state of Nebraska and the Fourth Judicial District (hereinafter “Douglas County District Court”) to assess the effectiveness of assistance provided to self-represented litigants (SRLs) in domestic relations cases, which represent the highest percentage of SRLs in the state.

Douglas County, the state’s largest court system by volume, was selected for primary focus for fact-finding, with the goal to identify local and statewide recommendations for improving judicial efficiency and user experience for domestic relations cases involving SRLs. As such, NCSC arranged a site visit in Omaha that involved court observation, stakeholder interviews and review of existing rules and court procedures; all with the goal of producing this report detailing recommendations for implementation in Douglas County as a pilot site, with subsequent statewide adoption.

In 2018, there were 15,452 cases opened in the Douglas County District Court, the state’s largest court system by volume. In 2018 there were 12,424 parties identified as self-represented. The majority of the cases with SRLs in the District Court were domestic relations cases, including protection orders, divorce, paternity, custody, child support and modifications. In 2018, 8,188 domestic relations cases were opened; and, of that number, 4,264 had at least one SRL (52%).

The rise of SRLs has changed the way that judges, clerks, bailiffs and court staff must manage their courts. Nationally, there is an increasing understanding that both effective court operations and access to justice are greatly improved when courts provide self-help services for those who represent themselves. Nebraska should be applauded for past efforts in this area, including its Access to Justice Commission in general, and its Self Represented Litigation Committee in particular, and all the efforts of that committee to produce self-help resources on the judicial branch website.

This report offers several recommendations for ways to further improve court operations and the experience of SRLs for consideration in the Fourth Judicial District and statewide across Nebraska. These recommendations range from practical, immediate steps that can be taken in the short-term to longer-term systemic efforts that will require advance planning and political will. The longer-term recommendations focus on things like process simplification and explanation, the development of more robust self-help tools, better coordination of resources, increased staff and judicial training and improved data collection and analysis.

In full, our SRL family law recommendations for the Nebraska courts are:

- Reconsider the Proposed Scheduling Order (PSO) and Notice of Intent to Dismiss (NOID) letter in Douglas County, either by eliminating it entirely or modifying significantly;

- Expand oversight and increase reporting requirements from private parenting class providers;
- Create a prescription pad and/or SRL information packet to assist with consistent, current and easy referrals to court-based, court-annexed and community referrals;
- Create a Fourth Judicial District-specific and court-led SRL advisory committee to expand communication and collaboration between judicial branch stakeholders;
- Improve courthouse signage to assist court users;
- Better utilize existing technology to inform SRLs of available self-help information and court resources;
- Develop and offer additional training and resources for judges, bailiffs and clerks on interacting with self-represented litigants and limited scope representation;
- Collect and analyze data to understand and improve the SRL court experience;
- Increase the presiding judge's term from one year to two years;
- Explore opportunities for state court family law rule changes and opportunities for process simplification; and
- Explore potential AmeriCorps and/or non-legal navigator project to assist SRLs in Nebraska courthouses.

## Background on Self Represented Litigants

As a national maxim, state court rules and judicial procedures were designed by and for lawyers. While lawyer-represented parties had been the norm for many decades across Nebraska and nationally, the majority of civil cases now involve at least one unrepresented party.

Based on national research and our diverse experience, we have found three core findings about the needs and experiences of court users, especially true for self-represented litigants. To provide effective self-help which will improve judicial efficiency, all potential policies and programs must address these realities. These findings are as follows:

**1. SRLs face difficulties understanding the legal system, the court process and what they need to do next. These court patrons:**

- Have difficulty deciphering legal terms, especially if written in legalese.
- Do not know where to go within the court building and what they need to do where.
- Do not know what to do after each individual hearing and the final judgment.

**2. SRLs have differing backgrounds and needs, which will affect what kind of self-help services they will need. These court patrons:**

- May have different needs in multiple case types, including contract disputes, family law, guardianship, foreclosure, traffic and wage garnishments case, as well as multiple cases within a single case type (such as a parent with multiple child support cases).
- Differ in their degree of preparedness and understanding of their case.
- May have had previous encounters with the legal system.
- May have multiple cases ongoing, in different areas of the law and in different courts within the courthouse, district or state.
- Differ in their suggested approach/intended courses of action toward their case(s), including their aptitude for conflict.
- May have low or limited literacy or English proficiency.
- May have low digital literacy, and Internet access only available on a smart phone.

**3. The experience of a court self-help user is based on many factors, only some of which are case-specific:**

- To resolve a case, an SRL will interact with multiple stakeholders, including courthouse security, the bailiff, the clerk's office, opposing counsel, judicial officers, court-annexed mediators, the conciliation office, legal aid or volunteer attorneys (if available) and the law library (if available).
- The emotional stress of the litigants is often recognized, but not addressed. Coming to court—especially in a case with high personal stakes like a divorce—can often be stressful and trigger emotional reactions. In addition, SRLs may have trauma

that is not directly relevant to their court case, but which may affect their conduct or ability to make choices in the case.

In recent years, courts have also come to understand the need to be “trauma informed.” This refers to being aware of and responsive to litigant needs, and in particular, how litigants may approach the justice system. The Substance Abuse and Mental Health Services Administration has promulgated court practices that allow a court to be more mindful of the litigant perspectives based upon their perspectives of prior treatment, experiences, and interactions.<sup>1</sup> Among the actions a trauma informed court can take:

- Acknowledge the presence and impact of trauma;
- Treat litigants with dignity and respect;
- Use communication practices that engage; and
- Apply courtroom practices that promote physical and emotional safety.

These practices may also guide how courts provide access and self-help services.

### **Fourth Judicial District (Douglas County) and the Nebraska Judicial Branch**

The district courts are Nebraska’s general jurisdiction trial courts. With a few exceptions, civil and criminal cases of all types may be commenced in and tried by the district courts. The county courts are trial courts with specified limited jurisdiction. All small claims, probate, guardianship, conservatorship, adoption, and municipal ordinance violation cases are filed in the county courts. The county courts have concurrent jurisdiction with the district courts in divorce cases and other civil cases involving \$53,000 or less. Both county and district courts share responsibility for the processing of protection orders.

Nebraska also has three separate juvenile courts located in Douglas, Lancaster and Sarpy Counties.<sup>2</sup>

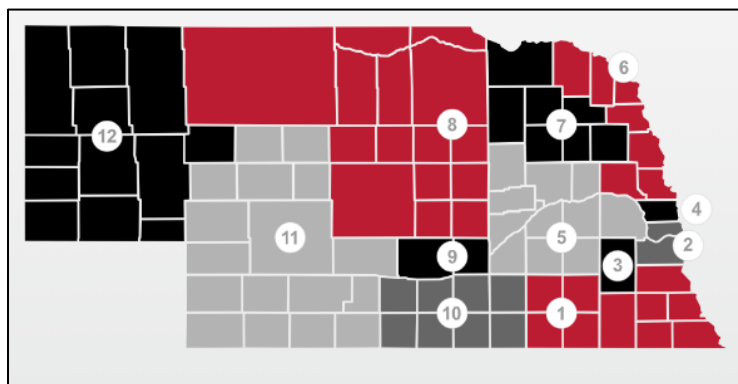


Figure 1- Nebraska District Court Map

<sup>1</sup> See Substance Abuse and Mental Health Services Administration, [https://www.nasmhpd.org/sites/default/files/JudgesEssential\\_5%201%202013finaldraft.pdf](https://www.nasmhpd.org/sites/default/files/JudgesEssential_5%201%202013finaldraft.pdf)

<sup>2</sup> The juvenile courts are courts of record and handle matters involving neglect, dependent, and delinquent children. The juvenile court also has jurisdiction in domestic relations cases where the care, support, or custody of minor children is an issue.



The Fourth Judicial District serves Douglas County, which includes the city of Omaha. With an estimated population of over 480,000 residents, the 16 Omaha judges, two child support referees (hearing officers) and five administrative staff serve the largest judicial district in Nebraska. In 2018, there were 15,452 cases opened in the Douglas County District Court alone, and 12,424 of the litigants in those cases were identified as self-represented. The majority of the cases with SRLs in the District Court were domestic relations cases, including protection orders, divorce, paternity, custody, and child support modifications. In 2018, 8,188 domestic relations cases were opened and, of that number, 4,264 had at least one SRL (52%). To put these statistics into broader focus, the District Court's domestic relations caseload represents 36% of all of Nebraska's domestic relations cases.

### Nebraska's Past Efforts to Assist SRLs

Nebraska's Judicial Branch established an SRL Committee in 2003 to study and address the challenges that SRLs pose for court staff, the judiciary, and the practicing bar. The SRL Committee is composed of judges, attorneys, judicial branch staff and representatives from the state bar association, state bar foundation, legal aid, law schools and libraries. The Committee's accomplishments include:

- Creation of a portion of the judicial branch website dedicated to self-help resources that includes forms and instructions;
- Development of a limited scope representation court rule;
- The establishment and support of self-help centers; and
- Productive partnerships with the state bar, legal aid, law schools and libraries.

Nebraska participates in the American Bar Association's Free Legal Answers program, where SRLs can submit an electronic question and a pro bono lawyer in Nebraska can email them the answer. Legal Aid of Nebraska operates two walk-in self-help centers, one in Lancaster County and one in Douglas County. The Nebraska State Bar Association also offers a pro bono lawyer staffed help desk in Douglas County. Creighton University School of Law operates a legal clinic for Douglas County residents and The Women's Center for Advancement provides legal aid to victims of domestic violence and sexual assault in divorce, child custody, protection and harassment order hearings and immigration. There are additional resources in areas of immigration, disability, military and civil rights.<sup>3</sup>

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<sup>3</sup> See Appendix 1 for an "Inventory of Resources for Self-Represented Litigants in Nebraska" compiled by the Nebraska Supreme Court Committee on Self-Represented Litigation in 2015.

## Scope of Report and Methodology

The National Center for State Courts (NCSC) was asked to assess the effectiveness of assistance provided to SRLs in domestic relations cases, which represent the highest percentage of SRLs in the state, and to make recommendations for areas for improvement for the courts to better serve SRLs and improve judicial efficiency. Given the large volume of domestic relations cases in Douglas County and interest by Fourth Judicial District Court leadership and the Administrative Office of the Courts and Probation (AOCP), NCSC focused its site visit and fact-finding in Douglas County alone. Consequently, all noted observations and suggested recommendations were made with a focus on Douglas County, with the sense that it could serve as a pilot site for the entire State.

To that end, NCSC endeavored to:

- Identify the strengths and challenges of the current self-help services;
- Evaluate the services, forms, and technologies in use;
- Identify opportunities for streamlining processes, creating efficiencies and expanding technology including the use of JUSTICE to track relevant case statistics and generate reports
- Prioritize self-represented litigant/customer needs in navigating the court system;
- Evaluate a range of potential self-help center services; and
- Provide a plan to include cost-effective, impactful and practical strategies.

The NCSC team consisted of Danielle Elyce Hirsch, Principal Court Management Consultant and Project Director, Chris Wu, Principal Court Management Consultant, Miguel Trujillo, Program Specialist, and Zach Zarnow, Consultant.

Consulting tasks were outlined in seven discrete steps. These steps formed the project methodology:

1. Conduct project initiation and kick off;
2. Perform review of background material;
3. Conduct an initial site visit with stakeholder interviews, observations, and focus groups;
4. Draft initial findings on effective SRL services;
5. Draft recommendations and strategies for improving SRL services;
6. Convene a conference call to discuss draft recommendations and strategies; and
7. Conduct a second site visit to present final recommendations and strategies and provide additional advice on implementation of the recommended strategies.

NCSC held a project initiation kick-off call with representatives from the Fourth Judicial District, the Nebraska Judicial Branch and the Nebraska Access to Justice Commission on August 19, 2019. Thereafter, background material was gathered and reviewed following the call.

## Site Visit

The site visit took place in the District Court of Nebraska's Fourth Judicial District at the Douglas County courthouse over three days, from November 19-21, 2019. The NCSC team met with the following people, primarily in a small group setting:

<b>Name</b>	<b>Title</b>
<b>Amanda Novotny</b>	Advocacy Director, Women's Center for Advancement
<b>Amy Holmes</b>	Program Director, Women's Center for Advancement
<b>Amy Prenda</b>	Deputy Administrator for Court Services
<b>Ann M. Borer</b>	Deputy Court Administrator
<b>Anna Eickholt</b>	AOC's Access to Justice Commission Coordinator
<b>Catherine Mahern</b>	Director, Abrahams Legal Clinic, Creighton University School of Law
<b>Dave Sommers</b>	Executive Director, Omaha Bar Association
<b>David Hubbard</b>	Director of Conciliation & Mediation
<b>Doug Johnson</b>	4 <sup>th</sup> District Court Administrator
<b>Hon. George Thompson</b>	District Court Judge, Sarpy County
<b>Jennifer Gaughan</b>	Director of Litigation and Advocacy, Legal Aid of Nebraska
<b>Jennifer Rasmussen</b>	Deputy Administrator for Information Technology Division
<b>Karisa Johnson</b>	Attorney/Self-Help Volunteer
<b>Kathyrn Welsh</b>	Director of Legal Services, Women's Center for Advancement
<b>Kelley Lanphier</b>	District Court Referee
<b>Kelly Riley</b>	Office of Dispute Resolution Director
<b>Laurel Heer Dale</b>	Director, Nebraska State Bar Association Volunteer Lawyers Project
<b>Leanne Srb</b>	Child Support Referee
<b>Mike Hansen</b>	Court Analyst
<b>Muirne Heaney</b>	Managing Attorney (Omaha), Legal Aid of Nebraska
<b>Paula Crouse</b>	IT Application Supervisor
<b>Rosa Rosas Soto</b>	Office Manager, Conciliation & Mediation
<b>Sheryl Connolly</b>	Trial Court Services Director

Figure 2 – List of Group Discussion Participants

The NCSC team also met separately with the following in a focus group setting:

- Bailiffs (approximately 13)
- District Court Clerks and Staff (approximately 15)
- District Court Judges (approximately 8)
- District Court Referees and Staff (approximately 5)

In addition, the team met one-on-one with several clerks and bailiffs for informal interviews and visited the law library, self-help center, and prisoner holding facilities at the courthouse. Lastly, the team was able to observe several court proceedings across many courtrooms and tried to focus on observation of domestic relations cases involving self-represented litigants.

## Observed Obstacles for SRLs

As noted above, Nebraska’s Judicial Branch established an SRL Committee in 2003. The Committee has done admirable work in pushing forward valuable self-help information, forms, and lists of resources, primarily on the Judicial Branch website. However, there is always room for improvement, and leadership should be commended for recognizing this and requesting NCSC’s assistance in this area. The recommendation section will go into more details, but below is a high level overview of some of the observed obstacles that SRLs must overcome at the Douglas County District Court:

### Self-help information and forms can be hard to find and use

Most of the available self-help information is either on the Douglas County District Court or the Nebraska Judicial Branch website. In both instances, self-help information and forms, while available, are often difficult to find. A user has to make many clicks and navigate deep within either court’s web architecture to find many of the useful resources.

Access to resources to calculate child support is difficult to navigate and use. In addition, despite a growing limited English proficient population, self-help resources are often unavailable in a language other than English (or, if translated, the title on the page is only available in English). When content can be found, it is often outdated or offers dead links.<sup>4</sup> There were few hard copies of self-help resources available across the courthouse, and these self-help offerings varied in their consistency and the types of resources listed.<sup>5</sup> Reading levels varied across forms, instructions, and information as well, but it seemed like an eighth-grade level had been the target, whereas a fifth-grade level would be better.<sup>6</sup>

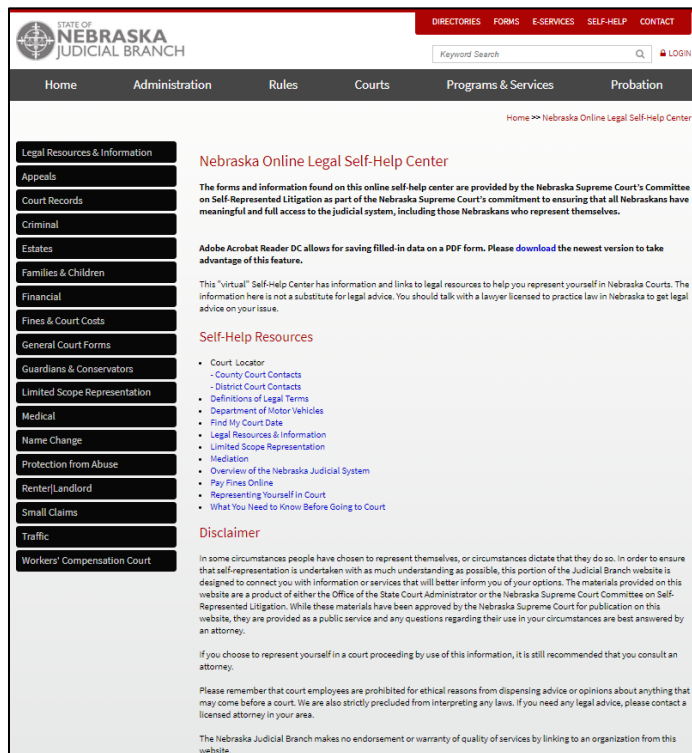


Figure 3 – State of Nebraska Online Self Help Web Page

<sup>4</sup> See, for example, Appendix 2 for an annotated version of a Pro Se Divorce with Children handout prepared by the Douglas County District Court with many broken links.

<sup>5</sup> See Appendix 3 for a “Guidelines for Creating Effective Self-Help Information” from the Institute for the Advancement of the American Legal System.

<sup>6</sup> See Appendix 4 for examples of some existing handouts.

### Judicial officers and court staff hold widely differing views of their roles in helping SRLs<sup>7</sup>

From small group discussions, focus groups, and one-on-one interviews, it became apparent that practices used when interacting and working with court patrons, and SRLs in particular, vary widely. Many court staff were trying to find ways to help SRLs, but many court staff across varied roles who interact frequently with SRL believe it is not their job or they are not allowed to provide the assistance requested because it is legal advice. Many expressed the understanding that the onus to navigate the system is on the SRL and rejected any expansion of the court's responsibilities vis-a-vis its users. The effect for a court patron is a feeling of mixed signals, unequal treatment or favoritism towards attorney represented litigants and the suspicion that they have to get lucky or keep asking to find the person who will be willing to help them.

### Judicial officers and court staff hold widely differing understandings of the resources available to SRLs

As mentioned above, it was clear that there is not a uniform understanding of the various roles and capabilities of self-help resources and offerings, including what resources have been developed internally, what services are available across the courthouse (including at the law library, self-help center, referees, clerks and bailiffs) and what offerings are available from legal aid, the state and local bar associations or law school clinics. There is widespread confusion and misunderstanding regarding who can do what, who is responsible for what, and where an SRL should be sent first. This includes a lack of a clear understanding and uniform guidance regarding what assistance they are allowed to provide pursuant to UPL guidelines.<sup>8</sup>

### Court rules and procedures are tripping up SRLs, particularly in the Family Law Division

A very common issue raised during the site visit pertained to the Proposed Scheduling Order/Notice of Intent to Dismiss letter (PSO)/(NOID). NCSC was told that this requirement was put into place to ensure that all litigants—including SRLs—were

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<sup>7</sup> The term “court staff” is to include court administrators, clerks and bailiffs; and the term “judicial officers” is meant to include both judges and referees.

<sup>8</sup> As a few examples, several court staff (including many bailiffs) said that they did not think the assistance available at the self-help desk was high quality due to lack of training for volunteers, but they also admitted that they do not know when the desk is open and what services it offers. Likewise, several staff were surprised to learn that court-annexed mediation is not free, while other staff were unaware that a sliding fee scale was available. Court staff (including the clerks' office) also expressed the desire to have a better understanding of what legal aid and the self-help desk can and can't do. They also weren't sure where to send SRLs who need help first, though they wanted to have an agreed upon first referral and were open to that being legal aid. When asked, bailiff, clerk and other court staff did not know whether the self-help desk offered free paper copies and/or what the cost of paper forms and photocopying would be at the library. The Referee's office reported that 75-80% of the people referred to their office by other court personnel were improper referrals.

proactive in moving their cases along, and to avoid unnecessary delay. However, in practice, many of those interviewed—including court staff, clerk staff, bailiffs, judges and civil legal aid and bar representatives all pointed out that the Notice of Intent to Dismiss letter and accompanying requirement of filing a Proposed Scheduling Order cause SRLs a lot of trouble.

Historically, a June 1, 2017 amendment of Rule 4-10 adjusted the case progression to 120 days from 240 for domestic relations cases, 330 for non-Civil Jury, and 510 for Civil Jury. The significant change in progression days has increased activity on NOIDS, particularly in cases involving self-represented litigants. On February 3, 2020, prior to the publication of this report, the NOID was revised to address some of the following identified issues. The Notice of Intent to Dismiss letter was drafted in dense legal jargon, and encourages users to contact trial court administrative staff, but did not offer clear and easy directions of how to get a copy of and how to submit the Proposed Scheduling Order. In addition, the Proposed Scheduling Order requirements were confusing and operated on a timeline that SRLs do not understand. Administratively, these Notice of Intent to Dismiss letters are time-consuming for staff to put together, cost money for the postage required, and often result in “bounce-backs” due to bad addresses, especially for SRL defendants. The NOID letter revision is being monitored by Court Administration to see if the changes are reducing SRL confusion.

In addition, the 2017 amendment to Rule 4-10 and the Notice of Intent to Dismiss process operate completely parallel to the court-annexed mediation timeline, and many stakeholders shared examples they knew where SRLs were in the middle of the mediation process when their cases were dismissed because of failure to file a Proposed Scheduling Order. This seems to undermine the very purpose of the process in the first place.

Most troubling, however, the Notice of Intent to Dismiss process has been automated such that dismissals are generated without any review by judicial officers. As a result, the goal of trying to encourage active litigant participation results in cases being dismissed after only a few months, which can be very discouraging and frustrating for court patrons (especially those who are dutifully engaging in court-annexed programs like parenting classes and mediation).

Moreover, there may be additional room for the court to consider process simplification for family law cases, especially for triaging and creating pathways for simpler or uncontroversial cases where there is party agreement. Generally, the process of getting divorced with children requires an SRL to physically come to the court around nine times, requires 16 separate steps to be completed, and can cost at least \$1,008 in mandatory fees without a waiver, and at least \$508 with one.<sup>9</sup>

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<sup>9</sup> See Appendix 5 for an explanation of the process required to complete a divorce with children case in Douglas County District Court. The NCSC team created this after several discussions with stakeholders and believe it will be useful in creating resources for SRLs and in better informing all court personnel about the steps litigants must take.

None of the stakeholders thought that an SRL could successfully navigate this process on their own without making mistakes and/or seeking assistance.

### Confusing building signage and wayfinding

Because there are multiple different entrances to the historic Douglas County courthouse, most visitors enter the building on the second floor (rather than the first floor). At the primary elevator bank, there are many different flyers and resources posted for both the courthouse and other available services. But there are not clear directories explaining what services are available on which floor. In addition, once a user is on the correct court level, it can be difficult to find the correct courtroom and maps of each floor could be really helpful.

Moreover, it is important to acknowledge that there can be some obvious confusion for SRLs because there are two separate court administrations within the same courthouses, both County Court and District Court. Even the currently available video dockets and kiosks in the lobby only provide cases for the County Court, which may also add to the confusion.

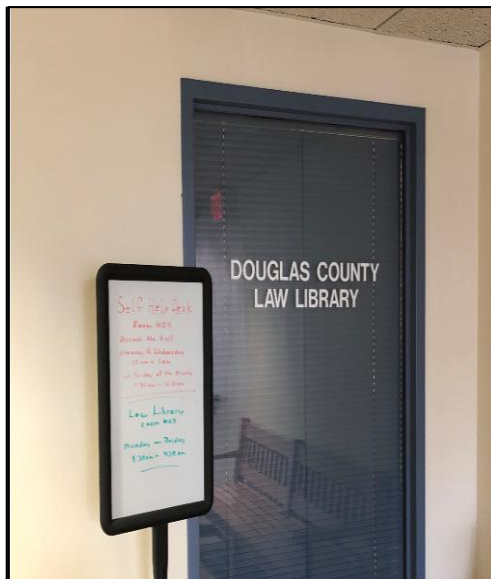


Figure 4 – Douglas County Law Library on the 1<sup>st</sup> Floor

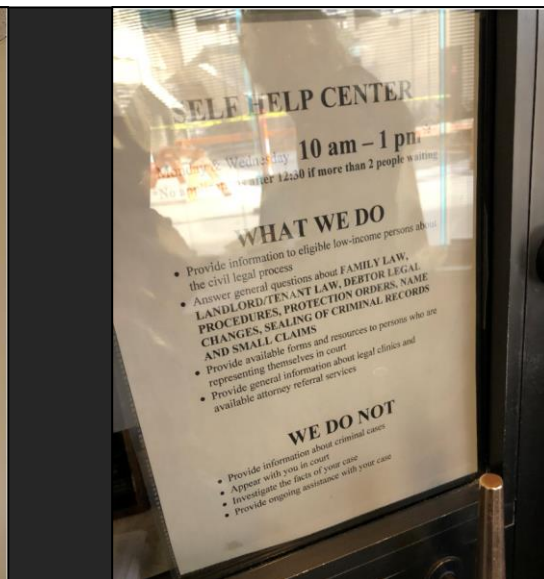


Figure 5 – Sign Outside of the Self Help Center on the 1<sup>st</sup> Floor

Navigational assistance should also alert court users to each courtroom's check-in procedures before entering the courthouse. For example, many bailiffs' offices are located in unmarked doors near the judicial bench and in addition, bailiffs varied in their practices of checking courtrooms to see whether patrons were waiting for court to begin or not. NCSC observed several court users waiting nervously in courtrooms unaware of how to notify the court of their presence. Likewise, it is local practice for attorneys to meet before a case in the judge's chambers. If one party is an SRL they probably will either not know



to go to the chambers or would not feel comfortable doing so without clear instructions and signage.

## Recommendations

To expand and improve upon current access to justice efforts and SRL services, NCSC offers a range of recommendations, which have been informed by several guiding and important bedrock principles:<sup>10</sup>

- A. Court users need help not only with finding courtrooms and bailiffs' offices, they also need access to standardized, easy-to-understand legal information, court forms and self-help visual aids<sup>11</sup> to understand the court processes and substantive areas of law. Self-help resources allow users to: understand the steps involved in obtaining a resolution in a given case; prepare for their specific cases; and articulate, through the use of standardized forms and other tools, what they want in the litigation process to court staff, opposing parties and judges.
- B. Coming to court can often be a stressful experience. Litigants' needs start before they enter the courthouse and extend beyond the final judgment in their cases. Users are often in great need of neutral procedural legal information and assistance identifying the relevant court and helpful community referrals. These connections can also offer support for users from the emotional toll of coming to court on one's own—especially in cases involving family law.
- C. There is a need to maintain a critical connection between the Access to Justice Commission, its Self-Represented Litigation Committee and local jurisdictions to offer streamlined, quality assistance. The SRL Committee has begun this and the work should continue. Ongoing work for access to justice likely requires additional dedicated staff to develop, manage and support additional self-help services statewide and locally.<sup>12</sup>
- D. Self-help services cannot be static; and there is always room for continuous improvement. In this spirit, Douglas County can act as a pilot and hub for innovation, where new self-help needs, resources, and tools can be identified, tested, deployed and replicated to serve the needs of all court users.
- E. Comprehensive and accurate data collection and reporting of information for family law and domestic relations cases is needed to improve services and efficiency. This data collection should include information for Child Support Referees, and Conciliation and Mediation to aid judicial staff and administrative staff in managing cases and adequately assisting SRL litigants in navigating the system in an efficient

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<sup>10</sup> Principles adapted from "Increasing Access to Justice for People without Lawyers," The Chicago Bar Foundation and ITT Institute of Design, May 2012

<sup>11</sup> See, Appendix 6 for an example process map from Illinois aimed at SRLs that explains how to get a divorce with children.

<sup>12</sup> See Appendix 7 for the SRL Committee's Strategic Plan, which touches on much of this work.

manner. The various offices of the District Court, representatives of the JUSTICE team and the AOCPC should meet and discuss how technology can help improve services and efficiency.

In light of those principles, and in recognition of the fact that the implementation of the recommendations will have to be prioritized given staff capacity, these recommendations are listed in order of suggested implementation, with those offering a great and relatively quick impact coming first.

### **Recommendation 1: Reconsider the Proposed Scheduling Order (PSO) and Notice of Intent to Dismiss (NOID) Letter**

Ideally, Douglas County will do away with this procedural hurdle altogether. As noted above, it creates confusion for SRLs (and some attorneys), it requires the District Court Administrator's office to spend time and money on mailings, and it results in frustrated court staff, who have to answer the same questions over and over. Currently, when a PSO is not timely filed, the case is dismissed and closed. The party is then allowed to file a motion to vacate the dismissal. If the judge grants the motion to vacate and enters an order, the clerk deletes the closed status, which reverts the case status back to open. Progression then runs from the original date filed. If the clerk would reopen the case on the filing of the motion to vacate, the progression clock would start over at the reopen date.

If abolition is too radical, SRLs should be exempted, at a minimum. If abolition or an exemption is too radical, then the timeframe should be adjusted outward so that SRLs do not find themselves confronting the NOID so early. The NOID letter has been revised, and additional monitoring to determine if the new language aids litigants in understanding the process is recommended to determine if additional changes are needed. A better use of postage may be the creation of a plain language postcard that could act as a nudge to SRLs and inform them of the process and the need to continue progressing their case. Even better would be the ability to nudge SRLs via email or text message that could be facilitated by making it standard practice for the clerk to collect these at filing. Lastly, should this procedure remain in place, it would be better if it were not fully automated, and instead the NOID were only sent after review from a bailiff or judge, who has determined that there truly has been no action on the case and the demands of progression require a reminder to the party. If this route is adopted, exploring options to notify the court of an impending notice and dismissal of a case is recommended.

### **Recommendation 2: Conduct Better Oversight of Private Parenting Class Providers**

Many SRLs currently choose to take the mandatory parenting class online from a private provider because it is more convenient than coming to the court. Site visit interviews suggest that this will become even more common, especially for litigants from rural areas. The Supreme Court Office of Dispute Resolution must certify a provider, but that office is not currently exercising much of its power in the ways of quality control/oversight of curriculum or sanctions for violations. More pressing is the fact that many SRLs who take

a class online either fail to realize that they need to get a certificate of completion to file with the court, or the provider itself fails to provide them with that certificate. This is despite the fact that to be certified, a provider must agree to comply with the requirement to issue a certificate to a party upon completion of the course.<sup>13</sup>

The Office of Dispute Resolution should more strictly enforce these requirements. In addition, that office could also mandate a format for such certificates or mandate that certificates contain certain information. This could include instructions to the SRL on how/where to file it with the court, a place to list a case number, and other information that would ease the filing process. Finally, to prevent SRLs from using a non-approved provider, the list of approved providers should be included with other helpful information at the time a party files a case that will require completion of a parenting class.<sup>14</sup>

Recognizing that the filing of a certificate in Douglas County is a unique procedure, a review of the instructions and information provided to SRLs is recommended.

### **Recommendation 3: Create a Prescription Pad and/or SRL Information Packet**

A best practice in disseminating legal information is to simply give it to SRLs – don’t make them go looking for it. Illinois and other jurisdictions have had success using referral/prescription pads.<sup>15</sup> The pad is an easy way to let an SRL know things like what form they need and where to get a copy. It can also track where they have been sent in the courthouse, who sent them there, and what kind of case or issue they are facing. In addition to things like a list of approved parenting plan providers, an SRL can also be given some simple process information early in their courthouse experience to ease their journey and the burden on court personnel. This could include things like a process checklist or map for a particular kind of case.<sup>16</sup> Douglas County has designed a four-page guide for SRLs who want to complete a divorce and who have children, but it needs to be significantly improved to fix dead or inaccurate links and to provide information in the context of the case lifecycle, as opposed to grouping forms and information at the bottom of the packet.<sup>17</sup>

Once created, forms and information should be easily accessible online and in a format that is readable by mobile devices as well as desktop computers. In addition, those resources should be available in multiple languages. Currently, resources online are buried in a non-intuitive way and are often available in a long list. It would be better if forms could be grouped thematically or available in packets with visual maps to explain which and when each form would be used. For example, for those seeking a divorce with children they would get a process map, instructions, sample parenting plans, information about parenting

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<sup>13</sup> See Appendix 8 for a copy of the application parenting class providers must complete to be certified.

<sup>14</sup> The list is available online, but it is difficult to find without a semi-sophisticated grasp of the website: <https://supremecourt.nebraska.gov/programs-services/mediation/parenting-act-mediation/parenting-education-classes>.

<sup>15</sup> See Appendix 9 for examples.

<sup>16</sup> See Appendix 10 for examples.

<sup>17</sup> See Appendix 2 for an annotated version of the packet.

class providers and filing the certificate of completion, a link to the child support calculator, and all the required forms.<sup>18</sup>

#### **Recommendation 4: Create a Court-Led SRL Advisory Committee**

It is great that the Access to Justice Commission has an SRL Committee, but to ensure leadership at the local level, the Douglas County District Court should create an SRL Advisory Committee with representatives from all local stakeholders (judges, clerks, bailiffs, administrators, legal aid, referees, conciliation/mediation, etc.). This advisory committee could take on some of the tasks related to implementing these recommendations. The advisory committee could also liaison with the Access to Justice Commission’s SRL Committee. This would position Douglas County to act as an incubator and source of information to inform statewide work. In addition, an advisory committee could help in ensuring that court personnel are all on the same page regarding the needs of SRLs and the court’s role in assisting with those needs.

#### **Recommendation 5: Improve Courthouse Signage to Assist Court Users**

It is important to remember that coming to court for the average person is a stressful, sometimes uncomfortable, and often confusing event. Signage, maps, and instructions should be clear and obvious. In Douglas County District Court, the bailiffs’ offices are somewhat hidden, depending on the courtroom, and it is not always obvious where an SRL should go to find the bailiff. In addition to signs on the outside doors and hallways, there should be signs inside the courtrooms that instruct patrons where to go to enter the bailiff’s office to check in for a case. It is also confusing to patrons that they enter the building on the second floor, so SRLs may not be aware that they need to go down a level to find legal aid and the law library. There are additional opportunities to provide patrons with way-finding information or other information in the elevators and lavatories. For example, in the appendix there are sample signs that inform patrons of what court staff can and cannot do.<sup>19</sup>

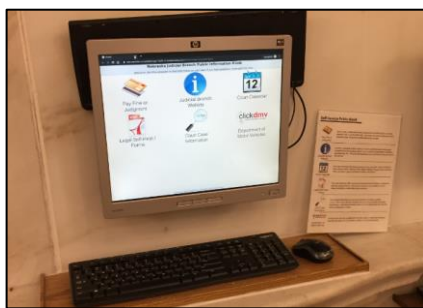


Figure 7 – Lawyer Referral Service Sign on the 1<sup>st</sup> Floor



Figure 6 – Self Help Desk on the 2<sup>nd</sup> Floor

<sup>18</sup> Not to say that efforts haven’t been made. There is simply a need to iterate and simplify to make these resources more accessible and user friendly: <https://supremecourt.nebraska.gov/self-help/families-children/filing-divorce-nebraska-children-no-custody-disputes-visitation-disputes-or-property-disputes>.

<sup>19</sup> Also see an example from Minnesota: <http://www.mncourts.gov/Help-Topics/What-Staff-Can-Do.aspx>; Texas: <https://www.txcourts.gov/media/1220087/legalinformationvslegaladviceguidelines.pdf> and Kansas: <http://www.kscourts.org/Programs/Self-Help/Court-Staff.asp>

## **Recommendation 6: Better Utilize Existing Technology to Inform SRLs**

District Court Clerk staff should do their best to collect email addresses and cell phone numbers and wireless service providers from SRLs. When an SRL does provide an email address, this is another way the court can provide them with legal information, nudges about next steps they need to take and reminders about hearings. Even if only some SRLs have or are willing to provide an email address, creating some email templates to use for that subset is an easy way to head off issues that take up court staff time later on, like SRLs showing up unprepared or missing hearings. Likewise, existing software allows court staff to send text messages to patrons who supply a cell phone number and wireless carrier. It should be made standard practice to ask people to supply the court with that information so that text message reminders similar to those sent via email can be utilized. The District Court Clerk could attempt this as a pilot with SRLs going through divorce cases with children to see if those who supply an email address or phone number have higher success rates of navigating the process. A variety of metrics could be used including: time to disposition, number of hearings missed, the number of processing steps taken by court personnel, whether or not the SRL was more likely or not to submit required documents such as a parenting plan or child support calculation.

Regarding child support calculations, currently SRLs are instructed to use an online child support calculator that was created by a private attorney and which requires SRLs to create an account that offers them limited time free access. SRLs can also access the calculator with the assistance of the conciliation office. Attorneys with a state bar membership have free access to the calculator.<sup>20</sup> Interview participants pointed out that SRLs struggle to complete the calculation within their five-day free trial period of the software and that the requirement to have an email address to sign up is an additional barrier. Concern was also expressed that the software might stop being supported or might stop interfacing with court software. The Nebraska Judicial Branch website has a link to child support guidelines case law, as well as six worksheets and an income share formula on its website, which is helpful, but not incredibly easy to find or use.<sup>21</sup> The Nebraska Judicial Branch should consider creating a more user-friendly online calculator over which it has ownership. If this isn't an option, the Nebraska Judicial Branch should consider collaborating with the private attorney who created the child support calculator and the Nebraska State Bar Association to make the existing calculator more user-friendly for an SRL. This may include expanding the free trial period, overcoming the barrier of having an email address, including a link to the calculator on the lobby computer kiosks, prominently displaying the link on the Nebraska Judicial Branch website, including information about the calculator in the SRL info packets and materials, and designing an app for SRLs to utilize.<sup>22</sup>

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<sup>20</sup> Advanced Legal Software makes the online calculator, which is available here: <https://supremecourt.nebraska.gov/self-help/families-children/child-support>.

<sup>21</sup> The guidelines and worksheets may be found here: <https://supremecourt.nebraska.gov/supreme-court-rules/chapter-4-children-families/article-2-child-support-guidelines>

<sup>22</sup> This is also a good potential project for a hack-a-thon, which have become popular lately in the Access to Justice tech space.

Lastly, there are opportunities to use existing technology to not only provide SRLs with information directly, but to also better pass information among court personnel so that an SRL's case is better tracked and it is easier to help SRLs understand where they are within the lifecycle of a case. JUSTICE programming that could capture comprehensive and accurate data that can be used to create reports regarding family law and domestic relations cases could improve SRL services and court efficiency. This data collection should include indicators identifying all cases with children who must comply with parenting plan and mediation procedures. This data should interface with programs used by judicial staff who track the parenting plan/mediation process. This tracking is important to aid judicial staff and administrative staff in managing cases and adequately assisting SRL litigants in navigating the system in an efficient manner. For example, during discussions with the Conciliation Office it became clear that they would like more information sooner about things like: whether a party is an SRL, whether there is a limited scope attorney involved, whether there are dependents involved, whether there are secondary parties. Clerks are collecting some of this information, as are bailiffs, but the front-end of Conciliation's computer system does not automatically display all of this without building in certain triggers or adding in fields/codes. Identifying cases referred to a referee and completed would assist judicial staff in scheduling final hearings. Identifying and collecting data that identifies when a Domestic Relations case can be fast tracked to completion would also improve judicial efficiency allowing cases to be scheduled for final hearing as soon as possible. These areas of data collection and dissemination may also be addressed using additional software, such as a Google product.

### **Recommendation 7: Engage Judges, Bailiffs, and Clerks with More Training on SRLs**

It is important to remind court personnel that the vast majority of court users are SRLs, and that SRL's needs and the court's role in meeting those needs is not a secondary concern or "extra" part of their job. There are a variety of resources and curriculum that the Court could adopt for stand-alone trainings or to include in existing training plans. In several interviews, bailiffs mentioned that they may receive some basic training when they start their jobs, but that most training is really on the job observation of their peers and instructions from their judge. Providing bailiffs and clerks regular training on SRLs could make the court as an institution more consistent in its treatment of SRLs. Just a few potential topics for judges, clerks, and bailiffs include: trauma informed methods for interacting with SRLs, poverty simulations, limited scope representation, limited English proficiency. Lastly, to address some of the confusion among court personnel regarding roles and resources, several interview subjects expressed a desire for an all staff meeting to hash out some of these issues, which they said is very needed, but has never been attempted.

One training opportunity worth mentioning in greater detail is the difference between legal information and advice. The confusion around this distinction came up in several contexts.

Fortunately, several jurisdictions have addressed this issue.<sup>23</sup> In brief, legal information is general, factual information about the law and the legal process that is both neutral and objective. Advice is guidance regarding an individual’s legal rights and obligations in light of their unique facts and circumstances. In other words, information is akin to the rules of the game, whereas advice is strategy for how to win. Court staff should want everyone to know the rules. Court staff should be trained how to turn requests for advice into answers that provide information. For example, “What should I do?” should elicit the response “I can’t tell you what you should do, but I can tell you about the options that are available.” In addition to the toolkit created by Illinois that is included in the appendix, Kansas has implemented a rule that offers guidance regarding permitted assistance,<sup>24</sup> as has Colorado’s judicial branch.<sup>25</sup>

### **Recommendation 8: Collect and Analyze Data to Understand and Improve the SRL Court Experience**

The AOCPC should use its case management system to track key metrics regarding SRLs so that it can identify where SRLs run into trouble and how the AOCPC might improve its processes to prevent those issues. For example, it would be helpful to know the number of cases filed by SRLs per case type, when those cases are dismissed and why, when those cases are re-opened and why, the number of court staff processing steps, the number of motions to modify filed within two years of disposition, and the utilization rates of standardized forms. Tracking this information will allow the AOCPC to take a high level view of its users in a way that will allow it spot trends and identify pain points that it should try to lessen. Improving data collection efforts also means training clerk staff correctly, so that clerks don’t delete the record when a PSO is not filed, so the AOCPC can observe the cases that get dismissed for lack of PSO. The AOCPC should also make sure that staff are fully utilizing their reporting system by marking cases as “Dismissed by the Court” or “Dismissed by the Parties” when appropriate. In addition to analyzing the data for trends that identify areas for improvement, the collection of this data could also be used to develop programming that uses the data to manage family law and domestic relations cases to improve SRL services and court efficiency on a case by case basis.

Specifically in the District Court, programming that adds indicators identifying all cases with children who must comply with parenting plan and mediation procedures and programming to identify cases with a Referee referral for child support determination could also be beneficial for court staff to see when a case is scheduled and completed. Additionally, identifying and collecting data that identifies when a Domestic Relations case can be fast tracked to completion would also improve judicial efficiency allowing cases to be scheduled for final hearing as soon as possible. This data should be integrated across

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<sup>23</sup> See, for example, the Illinois Supreme Court’s Access to Justice Commission’s Safe Harbor Policy Guide, available in Appendix 11. Also see IAALS’ *Ensuring the Right to Be Heard: Guidance for Trial Judges in Cases Involving Self-Represented Litigants* available in Appendix 12.

<sup>24</sup> See Kansas Rule 1402, available here: <https://www.kscourts.org/Rules-Orders/Rules/Providing-Assistance-to-the-Public>

<sup>25</sup> See Colorado Chief Justice Directive 13-01, available here: [https://www.courts.state.co.us/Courts/Supreme\\_Court/Directives/13-01.pdf](https://www.courts.state.co.us/Courts/Supreme_Court/Directives/13-01.pdf)

the various systems including Portal, and Neb.Gov used by judicial staff who manage cases.

### **Recommendation 9: Increase the Presiding Judge’s Term from One Year to Two Years**

District 4 Rule 4-1 sets the presiding judge’s term at one year.<sup>26</sup> This rule should be amended to a two-year term. This will allow for greater continuity and the better administration of justice, and will ensure that judicial leadership recognizes SRL issues in a more in-depth way. This will also provide stable leadership for the implementation of these recommendations and other potential reforms.

While not a direct focus of this Report, it was noted that District 4 Rule 4-3 re-assigns domestic relations cases after 12 months to a new judge. While this practice may be great for a judge who is having challenges with the case and to allow a new judge to approach with fresh eyes, it may not always be a best practice to ensure end user consistency, and so NCSC merely wishes to flag this local practice as something for the AOC and District Court to discuss further.

### **Recommendation 10: Dream Big and Lay the Groundwork for Larger Scale Efforts**

There are, of course, many ways to assist SRLs if money and time was no object. Thankfully, many jurisdictions have taken on some of these larger efforts, and there are models and experts to lean on. Douglas County should endeavor to do some long-range planning that includes several SRL focused innovations:

- A court-coordinated and located pro se clinic. This would require partnerships with legal aid, the local bar, and law schools, but could offer a more robust in-court resource with more capacity and availability than existing resources.
- A non-lawyer navigator program that provides legal information and directions to court users. Successful models have used retirees, college students and volunteers.<sup>27</sup>
- A streamlined e-filing procedure for SRLs that includes the ability to apply for a fee waiver without having to come to court.
- An SRL docket for family law cases with a problem solving approach. Such a docket would also feature a single judge “owning” a particular case until completion.<sup>28</sup>

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<sup>26</sup> See <https://supremecourt.nebraska.gov/external-court-rules/district-court-local-rules/district-4/rule-4-1-organization-court>.

<sup>27</sup> See, for example, Colorado’s Sherlock program: [https://www.courts.state.co.us/Self\\_Help/information.cfm](https://www.courts.state.co.us/Self_Help/information.cfm) and Illinois’ Justice Corps: <https://www.illinoisbarfoundation.org/illinois-justicecorps>. Also see Appendix 13 for Mary E. McClymont, *Nonlawyer Navigators in State Courts: An Emerging Consensus* (2019).

<sup>28</sup> Anchorage, Alaska implemented a problem solving, early intervention triage docket for SRLs in family law cases and a review after three years in use shows very promising results. This is only one such model,



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but may be one Douglas County wishes to investigate. See Stacey Marz, *Faster and As Satisfying: An Evaluation of Alaska's Early Resolution Triage Program*, 57 Family Court Review (2019) available in Appendix 14.

## Appendices

**Appendix 1** – Inventory of Resources for Self-represented Litigants in Nebraska, (February 2015)

**Appendix 2** – Pro Se Divorce - With Children: Douglas County District Court Only (Annotated)

**Appendix 3** – IAALS, Guidelines for Creating Effective Self-Help Information, (November 2019)

**Appendix 4** – Current SRL Handouts: Legal Resources flyer, June 2019; Nebraska Free Legal Answers flyer; Omaha Bar Association Lawyer Referral Service brochure

**Appendix 5** – Douglas County Divorce with Kids Process

**Appendix 6** – Divorce with Children Overview, Illinois

**Appendix 7** – Nebraska Supreme Court Committee on Self-Represented Litigation Strategic Plan 2015-2020

**Appendix 8** – Application: Nebraska Parenting Act Divorce and Separation Parenting Education Provider Information

**Appendix 9** – Illinois Prescription Pad (English and Spanish)

**Appendix 10** – Kane County Law Library and Self Help Legal Center Prescription Pad

**Appendix 12** – IAALS, Ensuring the Right to Be Heard: Guidance for Trial Judges in Cases Involving Self-Represented Litigants, (November 2019)

**Appendix 13** – Mary E. McClymont, Nonlawyer Navigators in State Courts: An Emerging Consensus, (June 2019)

**Appendix 14** – Stacey Marz, Faster and As Satisfying: An Evaluation of Alaska’s Early Resolution Triage Program, 57 Family Court Review (2019)

**Appendix 15** – Additional photos of signage at the Douglas County courthouse

**Appendix 16** – Center for Court Innovation, If Walls Could Talk: Can Better Court Signs Help Build Public Trust? (2019)

**Appendix 17** – Resources for Free Legal Help in Fulton County State Court

**Appendix 18** – Nebraska Dispute Resolution Office, Nebraska Mediation and ADR Handbook for Judges and Court Staff, (February 2006)

**Appendix 19** – Douglas County District Court Notice of Intent to Dismiss

**Appendix 20** – Douglas County District Court Notice of Intent to Dismiss (Revised)

**Appendix 1 – Inventory of Resources for Self-represented Litigants in  
Nebraska, (February 2015)**



## Supplemental Materials

Nebraska Research Materials:

**Inventory of Resources for Self-Represented Litigants in Nebraska**  
(Legal Aid 2015)

**The Nebraska Supreme Court Committee  
on Self-Represented Litigation**

**Inventory of Resources for  
Self-Represented Litigants in Nebraska**

**February 24, 2015**

**DISCLAIMER:** This inventory is limited. It was amassed within narrow time constraints and without the aid of comprehensive records. There is information we simply did not have or did not know how to obtain. Given the concentration of resources in urban areas, information about rural resources and regional gaps may be particularly incomplete. Any errors, omissions or misrepresentations are best attributed to the time and resource limitations of the Committee.

If you would like to submit corrections or additions, please contact Katelyn Cherney, Legal Aid of Nebraska (Rural Access to Justice Project), 402-933-5178, [kcherney@legalaidofnebraska.com](mailto:kcherney@legalaidofnebraska.com).

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## **The Nebraska Supreme Court Committee on Self-Represented Litigation**

The purpose of the Nebraska Supreme Court Committee on Self-Represented Litigation is to engage in continuing analysis and study of the challenges which self-represented litigation poses for court staff, the judiciary, and the practicing bar; to continue assessment of the challenges to the right of self-representation; to propose solutions or improvements in response to such challenges; and to implement the recommendations of the Self-Represented Litigation Committee which the Nebraska Supreme Court approves.

**Chairperson:** Hon. Frankie J. Moore, Chief Judge of the Court of Appeals

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### **Formal Subcommittees:**

- Forms & Instructions
- Library Partners
- Self-Help Desks
- Limited Scope Representation

**Source:** <https://supremecourt.nebraska.gov/12568/pro-se-committee-programs-and-projects>

### **Limited Scope Representation**

Both the Nebraska Court Rules of Pleading in Civil Cases and Nebraska Rules of Professional Conduct allow lawyers to provide limited scope services to clients (unbundled legal services).

- **Neb. Ct. R. of Prof. Cond. § 3-501.2** – Scope of representation and allocation of authority between client and lawyer.
- **Neb. Ct. R. Pldg. § 6-1109** – Pleading special matters.
- The Limited Scope Subcommittee works to increase awareness of limited scope opportunities within the legal community and to communicate the benefits of limited representation to the public. The committee's initial efforts revolved around amending Supreme Court Rules to authorize Nebraska attorneys to enter a "Limited Appearance" on behalf of an otherwise unrepresented party for a limited and defined purpose. Nebraska's rules have been replicated by a number of other states, particularly Nebraska's concept of automated withdrawal of counsel upon filing of a Certificate of Completion.
- Other efforts include education seminars at joint meetings of judges and lawyers along with written materials in legal publications and on the Judicial Branch Website. 'Frequently Asked Questions' flyers for both litigants and lawyers are available on the Limited Scope Representation page: <https://supremecourt.nebraska.gov/self-help/7896/limited-scope-representation>.

## Nebraska Supreme Court Online Legal Self-Help Center

**Location:** <https://supremecourt.nebraska.gov/self-help/welcome>

1. Brief description of services.  
This “virtual” Self-Help Center has information and links to legal resources to help you represent yourself in Nebraska Courts. The forms and information found on this online self-help center are provided by the Nebraska Supreme Court Committee on Self-Represented Litigation.
2. What substantive legal areas are the focus of your program?  
Substantive
  - Estates
  - Families and Children
  - Financial / Medical
  - Guardians & Conservators
  - Name Change
  - Protection from Abuse
  - Small Claims
  - Workers’ CompensationProcedural
  - Appeals
  - Court Records
  - General Trial Courts
  - Where to Go for Help if You Cannot Afford a Lawyer
3. What kind of self-help services do you provide?
  - A. Substantive court forms and instructions for completing the forms; link to Legal Aid of Nebraska’s Access to Justice Interactive Forms for Simple Divorce; court procedures and instructions for how to testify in court; procedures for filing certain appeals and forms that effect those appeals; resources for additional assistance.
  - B. Online specialists – see next section Website.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
The Online Self-Help Center provides resources only.
5. Does your program measure outcomes for self-represented litigants?  
Not applicable.
6. What are your eligibility criteria?  
No eligibility criteria.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?



During the one year period of January 29, 2014, to January 30, 2015, there were 248,040 hits to all Self-Help pages, which is 5.99% of total hits on the Supreme Court website during the year.

8. How many people were turned away during the same time?

Unknown.

9. What are your funding sources?

No specific Judicial Branch budget line item for the Online Self-Help Center. It is supported by staff of the Administrative Office of the Courts.

- a. Do you have separate funding to serve SRLs?

No

- b. Do you use volunteers to serve SRLs?

Yes; volunteer Committee members helped to draft online forms, instructions, webpages.

10. What is the geographical range of your service area?

Statewide.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

There are forms translated into Spanish and Vietnamese.

## Nebraska Supreme Court Website and Forms

**Location:** <https://supremecourt.nebraska.gov/forms>

1. Brief description of services.

The Judicial Branch's website has several sets of resource for Self-Represented Litigants, including the Forms page, <https://supremecourt.nebraska.gov/forms>, and specific Programs and Services for the Public.

The Forms page provides access to legal forms currently available to the legal community and the public through the Administrative Office of the Courts. These forms are from Supreme Court rules, the Administrative Office of the Courts, the Nebraska Supreme Court Committee on Self-Represented Litigation and other organizations.

2. A. What substantive legal areas are the focus of your program? FORMS PAGE:

Substantive

- Juvenile Court
- Guardianships / Conservatorships
- Probate / Estates
- Small Claims
- Fence Dispute
- Traffic
- Enforcement – Child Support Orders
- Divorce
- Name Change: Adult or Minor Child
- Protection Orders
- Power of Attorney
- Child Support

Procedural

- Motions / Stipulations
- Bonds
- Criminal Procedure
- Praecipe for Execution
- Financial Affidavit
- In Forma Pauperis
- Personal Service; Service by Publication
- Lien
- Dismissal
- Continuances

B. What substantive legal areas on the focus of your program: PROGRAMS / SERVICES FOR THE PUBLIC section of the website:

- Children in the Courts, including: Court Improvement Project, Through the Eyes of the Child, Parenting Plans and education.
  - Resources and program development designed for the protection/care of children who become involved in the court system.

- Community Outreach and Public Education
  - Special events planning and community outreach programming for citizens of all ages.
- Dispute Resolution and Mediation
  - Manages and assists the statewide organization of non-profit mediation centers.
- Domestic Violence/ Sex Offender
  - Serve as the single point of contact for the Judicial Branch on domestic violence, sexual assault, and victim specific issues.
- Jury Service
  - Provides materials and information designed to enhance the understanding of the Petit and Grand Jury systems throughout the state.
- Problem-Solving Courts
  - Development and coordination of drug and other specialized Problem-Solving courts.
- Public Guardian
  - Serves as a means of last resort as guardian or conservator where no family member or suitable individual is available.
- Self-Represented Litigants/Pro Se Resources
  - Provides access to the courts for those unable to afford legal counsel.

3. What kind of self-help services do you provide?

Substantive and procedural court forms.

Court specialists:

- Guardian/Conservator Specialists: [nsc.guardianconservator@nebraska.gov](mailto:nsc.guardianconservator@nebraska.gov). An email-based contact for SRLs.
- Court Information Specialists: <https://supremecourt.nebraska.gov/contact>. A phone and email-based contact person for SRLs.
- Link to Nebraska.gov chat and email for online payments, citations (<https://www.nebraska.gov/courts/epayments/>) and the trial court calendar (<http://www.nebraska.gov/courts/calendar/>).

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

The Judicial Branch forms page provides forms only.

5. Does your program measure outcomes for self-represented litigants?

Not applicable.

6. What are your eligibility criteria?

No eligibility criteria.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

Unable to determine SRL usage from attorney or court personnel usage.

8. How many people were turned away during the same time?

Unknown.

9. What are your funding sources?

No specific Judicial Branch budget line item for the Forms page. It is supported by staff of the Administrative Office of the Courts.

a. Do you have separate funding to serve SRLs?

No

b. Do you use volunteers to serve SRLs?

Not for this purpose.

10. What is the geographical range of your service area?

Statewide.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

There are forms translated into Spanish and Vietnamese.

## Nebraska Supreme Court County Court Information Specialists

**Location:** <https://supremecourt.nebraska.gov/contact>

1. Brief description of services.

Nebraska's County Court Information Specialists provide telephonic and email assistance to SRLs regarding questions about court schedules, locations, individual case status, and other legal information to assist parties to better access the Nebraska county courts.

As of January 2015, the court provides toll free access during normal business hours at 844-704-0328 and email access 24/7 with responses during normal business hours at [nsc.courtinformation@nebraska.gov](mailto:nsc.courtinformation@nebraska.gov). Live chat is planned soon.

2. What substantive legal areas are the focus of your program?

This program focuses upon substantive issues in county courts primarily; with some assistance in district court issues. No legal advice is given. Information on court procedure, case status, hearings, court location is typical of the resources.

3. What kind of self-help services do you provide?

Telephonic and email assistance to SRLs. Live chat during business hours is planned.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

The information specialists respond to SRLs contacts.

5. Does your program measure outcomes for self-represented litigants?

No.

6. What are your eligibility criteria?

None.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

This is newly launched. Data is not yet available.

8. How many people were turned away during the same time?

This is newly launched. Data is not yet available.

9. What are your funding sources?

- a. Do you have separate funding to serve SRLs? No.
- b. Do you use volunteers to serve SRLs? No.

10. What is the geographical range of your service area?

Statewide.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Need to ascertain.

## Nebraska Supreme Court Public Access Screens

**Location:** County courthouses

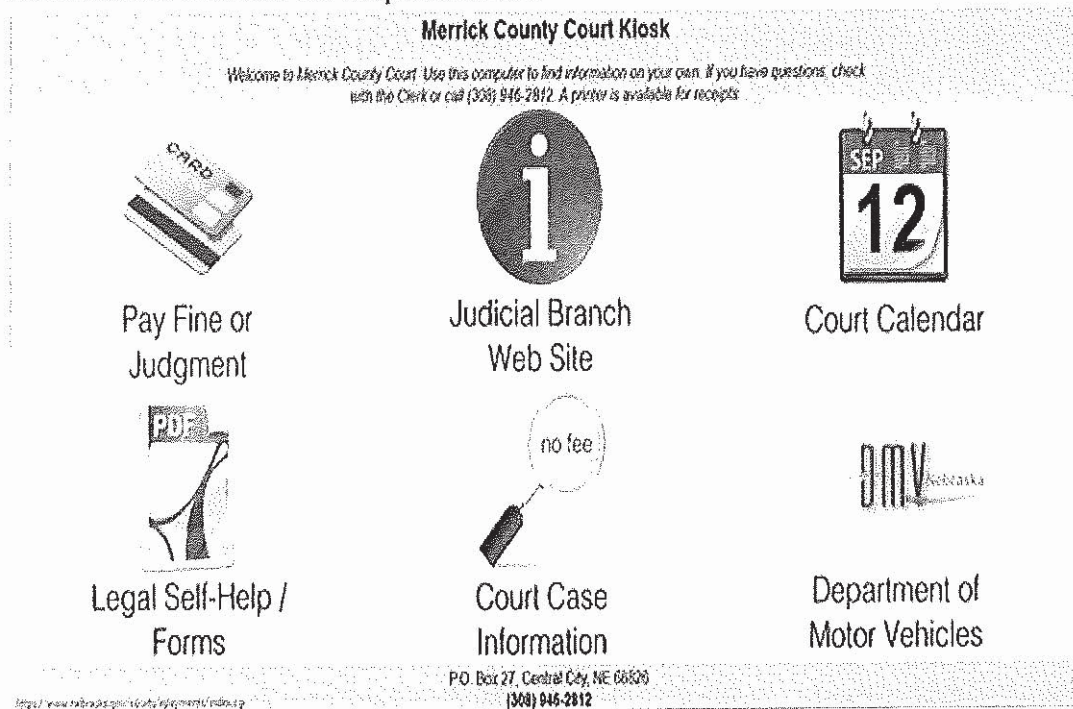
1. Brief description of services.

The Supreme Court IT Division initiated a project to provide easy-to-use public computer screens in each county court house across the state. These computers are provide general internet access, with specific icons linking users to:

- Payment of fines or judgments
- Judicial Branch website
- Court calendar
- Legal Self-Help forms
- Court case information
- Department of Motor Vehicles.

Not all, but many of these computers have access to a printer.

These screens look like the snapshot below:



2. What substantive legal areas are the focus of your program?

Not applicable.

3. What kind of self-help services do you provide?

Courthouse site-specific computer access to relevant court-connected and legal information.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

Not applicable.

5. Does your program measure outcomes for self-represented litigants?  
Not applicable.
6. What are your eligibility criteria?  
None.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
This is newly launched. Data is not yet available.
8. How many people were turned away during the same time?  
Not applicable.
9. What are your funding sources?
  - a. Do you have separate funding to serve SRLs? No. Funding for these computers came from the Nebraska Supreme Court budget.
  - b. Do you use volunteers to serve SRLs? No. However, court staff can and do assist users.
10. What is the geographical range of your service area?  
Statewide.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
Need to ascertain. There are non-English court forms available on the court website.

## Nebraska State Bar Association's Volunteer Lawyers Project

The Nebraska State Bar Association's Volunteer Lawyers Project (VLP) was created to provide legal assistance to persons who cannot afford to hire an attorney, nor can they receive assistance through the federally-funded legal services program in the state (Legal Aid of Nebraska).

To apply for services, you will first need to contact Legal Aid of Nebraska at 1-877-250-2016 or make an application on their website, [www.legalaidofnebraska.com](http://www.legalaidofnebraska.com). If your case is not accepted by Legal Aid of Nebraska, you may be eligible to receive assistance from the Volunteer Lawyers Project.

### **Contact**

Jean McNeil  
Director of Legal Services  
635 S 14th St. #200  
Lincoln NE 68508  
(402) 475-7091  
[jmneil@nebar.com](mailto:jmneil@nebar.com)



## The Volunteer Lawyers Project (VLP) Self-Help Centers

The Self-Help Centers can provide guidance to you if you would like to represent yourself. Self-Help Centers are located at the following courthouses on the following days:

- Buffalo County – The first Friday of the month, 10:00AM – 2:00PM.
- Douglas County – Mondays, Wednesdays, Fridays, 10:00AM – 2:00PM.
- Hall County – Fridays, 10:00AM – 2:00PM.
- Lancaster County – Mondays, 10:00AM – 2:00PM, and Thursdays, 9:00AM – 1:00PM.
- Madison County – The third Friday of the month, 10:00AM – 2:00PM.
- Scotts Bluff County – The first and third Thursday of the month, 11:00AM – 1:00PM.
- \*Phelps County – The first and third Friday of the month, 10:00AM – 12:00PM.

If the staff at the Self-Help Center determines that it is not advisable that you represent yourself, the staff may provide you with an application to request that your case be placed with a volunteer attorney. Or, if you do not reside in one of these counties or cannot get to them easily, you can ask a local attorney to refer you to VLP. They can do this by contacting Jean McNeil at [jmneil@nebar.com](mailto:jmneil@nebar.com).

**Source:** <http://www.nebar.com/?page=VLPPublic>

\* **The Phelps County Bar Association** runs its own self-help desk. The VLP provided initial support to the bar association but does not coordinate the Phelps County desk.

- Phelps Co. Self-Help is available the first and third Friday of the month, 10:00AM – 12:00PM.
- It is on a first come, first serve basis. Individuals needing assistance check in at the District Court office.

▪ Phelps County Courthouse

715 5th Avenue

P.O. Box 255

Holdrege, NE 68949

(308) 995-6561

**Contact:** Phelps County Bar Association

Natalie G. Nelsen, President

(308) 995-8621

[nnelsen@qwestoffice.net](mailto:nnelsen@qwestoffice.net)

1. Brief description of services.

The VLP was created to provide legal assistance to persons who cannot afford to hire an attorney, nor can they receive assistance through LAN. VLP works to ensure that all citizens have access to the legal system. VLP can only succeed with the willingness of volunteers to donate their time and their money.

VLP provides services through the following:

- a. Self Help Centers (listed above)
- b. Direct Case Placement

The core of the VLP has been matching volunteer attorneys with individuals who need legal assistance on a pro bono or reduced fee basis. VLP will continue to offer direct case placement through its network of pro bono attorneys, but the intake process and referral source has changed. VLP no longer has the staff to operate a separate intake hotline/process. Referrals and intakes will now be received in the following ways:

- Referrals from Self Help Centers: Some clients who visit the Self-Help Center have legal issues/situations where staff would advise them to seek legal counsel rather than proceeding as a pro se litigant. In these situations, VLP staff will conduct a client intake, check conflicts, and work to place the case through VLP's volunteer network.
- Referrals from Domestic Violence Shelters: VLP has had a long standing commitment to serving victims of domestic violence. When the need for legal services arises, domestic violence shelters will contact VLP directly to complete the intake process. In these situations, VLP staff will check for conflicts, and work to place the case through VLP's volunteer network.
- Referrals from Legal Aid of Nebraska (LAN): VLP will accept 40 referrals a month from LAN. To be accepted by VLP, the referrals must be sent with a completed LAN intake and fall within the VLP priorities.
- Referrals from private attorneys where there is not a self-help desk located in their community.

VLP will pay litigation costs for the pro bono cases.

2. What substantive legal areas are the focus of your program?  
VLP priorities include (not in order):

Wills/Probate, Guardianship of Children, Guardianship of Incapacitated Adults, Domestic Relations Cases with Domestic Violence, Divorces with or without children that involve domestic violence, Establishment of Custody (cases where the individual who has had physical custody of the child needs to establish custody due to threat of other parent taking the child, or other cases to assist in situations where there is a credible danger to the child), Parenting Time (cases where the person who does not have physical possession of the child/children cannot access the child), Bankruptcy (when the individual is not judgment proof), and Disability Cases.

3. What kind of self-help services do you provide?

The Self-Help Centers provide advice, forms, brief service and other guidance regarding their legal problems by volunteer attorneys.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

Our self-help desks do not follow up with the SRLs.

5. Does your program measure outcomes for self-represented litigants?

In the past VLP has not measured outcomes. Going forward, VLP is tracking what cases have been filed, and if the cases have obtained an order.

6. What are your eligibility criteria?

Under the Legal Aid and Services Grant, VLP can only provide services to individuals whose household income is at or below 125% of the federal poverty rate. There are deductions that can

apply. The Self-Help Centers provide services to individuals that are over income; however, we do not count these individuals in our reports to the Commission on Public Advocacy.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

In 2014, the Self-Help Centers assisted 4,018 individuals. VLP assisted an additional 843 individuals who did not qualify financially.

VLP received 1,945 calls. These calls received advice and referral. VLP took applications in 232 of these calls, and 81 of these cases were placed.

8. How many people were turned away during the same time?

VLP was not able to place 151 cases with volunteer attorneys. However some of these individuals did receive some level of advice.

9. What are your funding sources?

VLP receives a grant from the Commission on Public Advocacy. In addition, VLP is one of the charitable projects of the NLF (Nebraska Lawyers Foundation) and receives funding from their fundraising events, including Barristers Ball and the NLF Golf Tournament.

a. Do you have separate funding to serve SRLs? No.

b. Do you use volunteers to serve SRLs? Yes, volunteers staff our Self Help Desks.

10. What is the geographical range of your service area?

VLP serves the state of Nebraska and coordinates Self-Help Desks in Buffalo, Douglas, Hall, Lancaster, Madison, and Scotts Bluff Counties.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Arrangements have been made for a Spanish interpreter at the Douglas County Self-Help Desk on Friday, 1-2 pm, and at Lancaster County on Thursdays.

In addition, our volunteers will be able to use the interpreter pilot project that is currently being established through the Minority Justice Project/Certified Court Interpreters.

**NSBA Pilot Project: Provide on-call interpreter services for attorneys.**

The Nebraska State Bar Association has received a \$25,000 grant from Woods Charitable Fund to pilot an on-call interpreter service for attorneys. With the exception of public defenders and prosecutors, certified language interpreters report that they are rarely retained by attorneys.

Through this pilot project, the NSBA hopes to create a demand for certified court interpreters by showing attorneys the impact and quality of improved communication with their clients. The NSBA will make the services of court interpreters easy to access and, at least during the pilot project, make these services free of charge.

The NSBA hopes to have the project operational in February of 2015.

## LEGAL AID OF NEBRASKA

### Legal Aid of Nebraska's Virtual Access to Justice Self Help Center

Legal Aid of Nebraska has gathered the most common types of legal issues facing low-income Nebraskans and developed a virtual self-help center. In the Center, you will find automated court forms, handbooks and links to other resources. This Center is provided as a service to low-income Nebraskans to help them protect their legal rights and to understand their legal responsibilities.

**Location:** <http://www.legalaidofnebraska.com/node/415/represent-yourself>

### Legal Aid of Nebraska Access to Justice (A2J) Centers

A2J was created to help people who are trying to handle legal problems on their own and need guidance, advice or forms not otherwise available to the public. A person must be eligible for Legal Aid services to get legal assistance through the walk-in center.

The attorneys can explain a particular process, what a client should expect as part of that process, answer simple legal questions or help a client complete legal forms. A client can return to A2J for advice or assistance at each stage of the process.

Intakes for full representation may be conducted through the A2J Centers, or potential clients may be directed to LAN's AccessLine® for intake.

- **A2J-Omaha** is open Mondays-Thursdays from 1:00PM – 4:00PM. It is located on the 2nd floor of the Douglas Building at 209 S. 19th Street, Omaha, NE 68102.
- **A2J-Lincoln** is open on Mondays and Wednesdays, 1:00PM – 4:00PM, and Fridays, 9:00AM – 12:00PM. It is located on the 8th floor of the Terminal Building, 941 "O" Street, Lincoln, NE 68508.

### Legal Aid of Nebraska A2J Clinics

- **Child Support Modification and Visitation Clinics** – LAN conducts two-session, “assisted” clinics to help individuals representing themselves in contested cases. The separate clinics are designed for:
  - Changing the amount of a child support order, if the legal requirements for making that change have been met;
  - Helping non-custodial parents get court-ordered visitation with their children; and
  - Helping people establish paternity, custody, child support and parenting time.

Clinic intake is conducted through the AccessLine®. We also receive direct referrals from the Fathers for a Lifetime Program, public defenders, federal probation, clerks of court and referees. Individuals in Lincoln and Omaha can apply through an A2J Center.

These clinics are currently available in Omaha, Lincoln, and Grand Island.

- **Pro Se Bankruptcy Clinic** – LAN conducts two-session, “assisted” clinics to help self-represented bankruptcy litigants with paperwork and preparing for their hearing.

- 1st clinic sessions are Wednesdays at 9:30AM, scheduled as-needed. 2nd sessions are scheduled at the client's convenience as they are much shorter.

Clinic intake is conducted through the AccessLine®. Individuals in Lincoln and Omaha can apply through an A2J Center.

These clinics are currently available in Omaha and Lincoln.

- **North Platte Pro Se Divorce Clinic** – A class for self-represented divorce litigants to fill out paperwork, schedule hearings, and ask questions. The two-hour class helps litigants understand the necessary paperwork required for their case.
  - The session is run by Jeff Eastman, Managing Attorney of LAN's North Platte Office. Bailiff Patty Wonch attends the sessions to review paperwork and schedule court dates.
  - Held monthly at North Platte Public Library  
120 West 4th Street, North Platte, NE 69101  
The third Wednesday of every month, 1:00 – 3:00 pm.  
Free to attend, and no pre-registration required.
  - <https://supremecourt.nebraska.gov/12206/lincoln-county-court-partners-legal-aid-and-public-library-serve-needs-pro-se-court-clients>

## Legal Aid of Nebraska AccessLines®/Hotlines

Our AccessLines® also provide self-help forms and assistance to SRLs.

Most of our legal services begin with the statewide toll-free Accessline®, where attorneys and paralegals offer advice, brief service, and referrals. Applicants may also apply online at <https://www.formrouter.net/forms@LAON/start.html>.

### AccessLine®

Toll Free: 877-250-2016

Local: 402-348-1060 (Douglas County)

#### Hours:

Monday & Wednesday 9 am – 11 am CST

Tuesday & Thursday 1:30 pm – 3:30 pm CST

### Elder AccessLine®

**For applicants who are 60 years of age or older**

Toll Free: 800-527-7249

Local: 402-827-5656 (Douglas County)

#### Hours:

Monday – Thursday 9 am – 12 pm CST

Monday – Thursday 1 pm – 3 pm CST

Friday 9 am – 12 pm CST

### Native American AccessLine®

**For applicants who are Native American and/or have cases in Tribal court**

Toll Free: 800-729-9908

Hours: Monday—Friday 9 am – 12 pm CST

**Farm Ranch Hotline**

**For farmers and ranchers**

Toll Free: 800-464-0258

Local: 402-648-3457 (Cuming County)

Hours: Monday—Friday 8 am – 5 pm CST

Hours may vary for holidays, staff trainings or other purposes.

**Breast Cancer Legal Hotline**

**For applicants who have been diagnosed with breast cancer.**

Toll Free: 855-916-4540

Local: 402-916-4540 (Douglas County)

Hours:

Monday – Thursday 9 am – 12 pm CST

Monday – Thursday 1 pm – 3 pm CST

Friday 9 am – 12 pm CST

1. Brief description of services.

Legal Aid of Nebraska (LAN) is the only nonprofit law firm in the state. LAN is a statewide civil legal services organization that provides free legal representation to underprivileged citizens.

2. What substantive legal areas are the focus of your program?

While this is not an exhaustive list (there may be other cases we help with), LAN routinely takes cases in the following areas:

- Family, including domestic violence: Divorce, Custody, Child Support, Protection Order, Guardianship, Juvenile, Indian Child Welfare Act (ICWA)
- Consumer: Bankruptcy, Collections/Garnishments
- Housing: Landlord/Tenant, Foreclosure, Homeownership
- Disability Benefits: Social Security Disability Insurance (SSDI), Supplemental Security Income (SSI)
- Public Benefits: Food Stamps/SNAP, Temporary Aid for Needy Families/TANF, Kids Connect, General Assistance
- Employment: Unemployment Benefits
- Clearing a criminal record
- Health: Medicaid, Medicare
- Wills, Durable Power of Attorney (finances), Health Care Power of Attorney/Living Will (medical)

Legal Aid of Nebraska does not handle criminal matters in state or federal court, personal injury or workers' compensation cases.

3. What kind of self-help services do you provide?

- A. Legal Aid of Nebraska’s Virtual Access to Justice Self Help Center
  - B. Legal Aid of Nebraska Access to Justice (A2J) Centers
  - C. Legal Aid of Nebraska A2J Clinics
    - Child Support Modification and Visitation Clinics
    - Pro Se Bankruptcy Clinic
    - North Platte Pro Se Divorce Clinic
  - D. Legal Aid of Nebraska AccessLines®/Hotlines
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

A2J Clinics: With respect to our “assisted” pro se clinics for modification of child support, visitation and establishment of paternity, LAN offers an extraordinary amount of collateral support. We track:

- Filing;
- Addition of third parties;
- Service, including publication;
- Completion of parenting seminar requirements;
- Status of mediation;
- Progression orders;
- Temporary orders; and outcomes.

If a client we have accepted for services has failed to comply with any step, we are in contact.

A2J Bankruptcy Clinic – Omaha: Cases are tracked through the Court’s electronic docket to make sure they are progressing as they should be and that all discharge requirements are met.

5. Does your program measure outcomes for self-represented litigants?

AccessLines®: LAN has no formal method for tracking or measuring outcomes in the PIKA case management system. Thus, we do not technically measure outcomes at the hotline level. However, if a client calls us back to report the outcome, we make a note of it in the Notes tab of the PIKA case.

Although we do not measure or track outcomes, the hotline tracks SRL who receive forms from us. Three or 4 years ago, after tracking that data, we compiled data from JUSTICE and surveyed all clients who received the forms. Pursuant to that survey, we learned few clients followed through with the forms; and, the main reason was they were skeptical or fearful of the court system or felt they weren’t capable of proceeding pro se.

A2J Child Support Clinic - Omaha: Yes. In preparation for all clinics we obtain court file information. When we close a case, we also know when the final hearing has been scheduled. As a result, part of the closing protocol includes scheduling a tickler to follow-up on the outcome. The outcome is then added to our electronic case file along with a pdf of the order. We calculate the benefit in our case management system.

A2J Bankruptcy Clinic – Omaha: Yes. Success is defined as either obtaining a chapter 7

discharge, or, obtaining advice which makes the client decide they don't want to file (for a variety of reasons, but deemed successful because they are making their own choice rather than failing due to inability to get through court system.)

We also measure outcomes by sending out 6 month and 1 year post-discharge surveys to see if the clients' financial health has improved.

A2J Clinic – Lincoln: Yes. We provide ongoing collateral support to clients in child support or bankruptcy clinics.

A2J Center – Lincoln: We do track outcomes. A clerk looks up the A2J cases on Justice to determine whether the client filed the case for which they left the A2J Center with paperwork. We count that as successful.

6. What are your eligibility criteria?

In general, you are financially eligible for LAN's assistance if your household income is no greater than 125% of the federal poverty level and you have limited assets. Income eligibility is based upon household size and the household's gross annual income. Some exceptions may apply to these guidelines.

If an applicant is age 60 or older, these financial eligibility guidelines may not apply.

LAN may determine an applicant whose income exceeds the maximum income standard of 125% of the current official Federal Poverty Guidelines amount to be financially eligible if the applicant's income does not exceed 200% of the official poverty guidelines. The applicant may qualify for services by "spending down" their income to 125% FPL.

With respect to the A2J Clinics, in addition to financial eligibility criteria, an applicant is eligible only under these circumstances:

- **Pro se modification:** the standard for legal eligibility is met;
- **Pro se visitation:** there are no recent protection orders against the applicant, there are no criminal convictions for 3<sup>rd</sup> degree assault, and there are no recent convictions for any child abuse or neglect; the applicant completes the Fathers for a Lifetime Program; the applicant is not seeking custody (not a hard and fast requirement);
- **Establishment of Paternity:** if a putative father, same requirements as for pro se visitation.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

In total, LAN handled 11,545 cases in 2014, serving 9831 clients.

A2J-Omaha opened approximately 1340 cases and closed approximately 1279 cases in 2014.

A2J-Lincoln opened approximately 636 cases and closed approximately 640 cases in 2014.



8. How many people were turned away during the same time?  
5256 people were turned away in 2014.
9. What are your funding sources?  
LAN is funded by a variety of sources, including federal, state and county funding. The federal Legal Services Corporation and the Nebraska Commission on Public Advocacy are LAN's largest revenue sources.

a. Do you have separate funding to serve SRLs?      Yes, for the A2J Centers.

A2J-Omaha

Gendler Foundation  
Mutual of Omaha Foundation  
Private donor  
Scott Foundation  
Weitz Family Foundation

A2J-Lincoln

Wells Fargo  
Woods Charitable Fund A2J Lincoln

b. Do you use volunteers to serve SRLs?

Yes. LAN uses volunteer law students and volunteer attorneys in our A2J Centers. LAN hopes to utilize volunteer attorneys in our Rural Access to Justice self-help pilot clinics.

10. What is the geographical range of your service area?

LAN serves all 93 counties. We have eight office locations: Omaha, Bancroft, Lincoln, Norfolk, Grand Island, North Platte, Scottsbluff and Lexington.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Yes. Services are available for clients for whom English is a second language. Spanish speaking attorneys and paralegals are available at all times. In addition, we have a contract with an interpretation service.

## Law School Legal Clinics

### **The Milton R. Abrahams Legal Clinic (Creighton University School of Law)**

- Applying for Legal Services – If you're a Douglas County resident who falls within the Federal Poverty Guidelines and are involved with a civil matter (non-criminal), you are eligible for free legal services through the Abrahams Legal Clinic.
- Applications are taken over the phone. Please call 402-280-3068 between 9:00AM – 4:00PM, Monday–Thursday.

#### **Contacts**

Catherine Mahern, Clinic Director (Spring 2015 sabbatical)  
[katemahern@creighton.edu](mailto:katemahern@creighton.edu)

Martha Lemar, Domestic Violence Project Director  
[MarthaLemar@creighton.edu](mailto:MarthaLemar@creighton.edu)

1. Brief description of services.  
The Civil Clinic of the Milton R. Abrahams Legal Clinic provides free legal services in civil matters to low-income residents of Douglas County.
2. What substantive legal areas are the focus of your program?  
Our main areas of focus are Landlord-Tenant, Family, and Probate law, including our Domestic Violence Project, which provides comprehensive legal representation to survivors of domestic violence.
3. What kind of self-help services do you provide?  
None.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
N/A
5. Does your program measure outcomes for self-represented litigants?  
N/A
6. What are your eligibility criteria?  
All clients must be residents of Douglas County. In our general civil clinic, clients' income must be at or below 125% of the federal poverty guidelines. In the Domestic Violence Project, clients' income must be at or below 200% of the federal poverty guidelines.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
247
8. How many people were turned away during the same time?  
928

9. What are your funding sources?  
Private donors, publically-funded grants, and Creighton University School of Law.
- a. Do you have separate funding to serve SRLs? No.  
b. Do you use volunteers to serve SRLs? No.
10. What is the geographical range of your service area?  
Douglas County, Nebraska
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
We are only able to provide very limited services to Spanish-speaking clients.

## Law School Legal Clinics

### University of Nebraska College of Law Civil Clinic

A limited number of cases are accepted by the UNL Civil Clinical Law Program. Clients are represented by students under the supervision of College of Law faculty. Call 402-472-3271 to conduct an intake.

#### Contact

Kevin Ruser, Director of Clinical Programs  
[kruser1@unl.edu](mailto:kruser1@unl.edu)

1. Brief description of services.  
The primary focus of the Civil Clinical Law Program (CCLP) is to help students develop litigation skills in a closely supervised setting by representing clients who have legal problems of a civil nature. An important by-product of this primary focus is the CCLP's provision of legal services to low-income clients.
2. What substantive legal areas are the focus of your program?  
The CCLP handles a variety of civil cases including divorces, bankruptcies, adoptions, immigration, landlord/tenant, guardianships, conservatorships, probate, torts, etc. Given its litigation focus, the CCLP seeks to accept cases that will result in a significant litigation experience for the students. Thus, preference is given to representation of individual clients whose cases might lead to court proceedings, or, at the very least, give the students the opportunity to file or defend cases, conduct discovery, and be involved in the pretrial development of cases.
3. What kind of self-help services do you provide?  
Referrals to pro bono attorneys and attorneys providing unbundled services.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
None
5. Does your program measure outcomes for self-represented litigants?  
No
6. What are your eligibility criteria?  
The CCLP does not adhere to strict financial eligibility guidelines; however, accepts cases based upon the type of case and makes an effort to not accept cases in which the private bar would have an interest.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
Approximately 210

8. How many people were turned away during the same time?  
Unknown
  
9. What are your funding sources?  
University of Nebraska and grants
  - a. Do you have separate funding to serve SRLs?      No.
  - b. Do you use volunteers to serve SRLs?              No.
  
10. What is the geographical range of your service area?  
Lancaster, Seward, Saunders, Butler, Polk, York, Fillmore and Saline Counties
  
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
Yes.

## Law Libraries

### **Nebraska State Library**

325 State Capitol

1445 K Street

Lincoln, NE 68509

(402) 471-3189

[nsc.lawlibrary@nebraska.gov](mailto:nsc.lawlibrary@nebraska.gov)

<http://supremecourt.ne.gov/1082/state-library>

- The Nebraska State Library serves the needs of the Nebraska Supreme Court, the Nebraska Court of Appeals, attorneys within the State of Nebraska, members of the Nebraska Legislature and their respective staffs, members of other state agencies, self-represented litigants, and interested members of the general public. The Nebraska State Library is primarily a reference/research library as opposed to a circulating library.
- Offers access to legal resources including access to the internet to do legal research. Located in room 325 of the State Capitol Building in Lincoln.

### Contact

Marie Wiechman, Deputy Librarian

[Marie.Wiechman@nebraska.gov](mailto:Marie.Wiechman@nebraska.gov)

1. Brief description of services.

We provide service to anyone who e-mails, mails a request, phones a request or walks into the Nebraska State Library. We help them find information, cases or forms that will help them. If we cannot help them, we try and send them to other resources that can provide them with the help needed.

2. What substantive legal areas are the focus of your program?

We focus on all legal areas.

3. What kind of self-help services do you provide?

We direct people to the information they need through the Supreme Court web site, Westlaw and other materials we have in the library. We send forms and cases when asked for specific ones. When we cannot help them, we try to direct them to places that might be of help.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

We do not follow up after providing information requested.

5. Does your program measure outcomes for self-represented litigants?

No.

6. What are your eligibility criteria?

We do not have an eligibility criteria for our services.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
We do not keep statistics on this service. As a library we help everyone who comes in or calls or e-mails us the best we can or we try to find them the help they need.
8. How many people were turned away during the same time?  
We try not to turn anyone away. If we cannot help them find the information requested, we suggest other places where they may get help if we cannot provide.
9. What are your funding sources?  
We do not have separate funding and we do not use volunteers for SRLs.
  - a. Do you have separate funding to serve SRLs?      No.
  - b. Do you use volunteers to serve SRLs?              No.
10. What is the geographical range of your service area?  
Primarily we service state wide, but we do receive calls from across the country.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
No.

## Law Libraries

### **Schmid Law Library (University of Nebraska College of Law)**

1875 N. 42nd Street

Lincoln, NE 68503

402-472-3548

lawref@unl.edu

<http://law.unl.edu/library/>

- The Law library has one public access computer for members of the public to conduct legal research. The library is open to the public and reference librarians are available 8:00AM-5:00PM.
- As part of a 2012-2013 library-outreach program, Professor of Law Library & Reference Librarian, Stefanie Pearlman, volunteered to provide direct assistance to clerks who find themselves in uncomfortable positions with a self-represented litigant. Clerks should feel free to call Pearlman if they are unsure of how much “assistance” they can or should give. Pearlman will be happy to discuss ways to deal with repeat visitors and individuals who simply can’t be helped with the resources currently available.

### Contact

Stefanie Pearlman, Reference Librarian

402-472-3548

[spearlman2@unl.edu](mailto:spearlman2@unl.edu)

Richard A. Leiter, Director

402-472-5737

[rich.leiter@unl.edu](mailto:rich.leiter@unl.edu)

1. Brief description of services.

The mission of the Schmid Law Library is to support the research and teaching activities of the law college. As such, the library endeavors to support the law college in every way available including collecting, organizing and circulating appropriate library materials to faculty, students and members of the public who use our library.

2. What substantive legal areas are the focus of your program?

We collect resources in a wide variety of substantive legal areas. Our catalog is freely accessible online at <http://law.unl.edu/library/>.

3. What kind of self-help services do you provide?

Our collection is available for public use in the library. Most of our print collection does not circulate. We offer reference assistance (but not legal advice) in person, over the phone, and via email ([lawref@unl.edu](mailto:lawref@unl.edu)). We also offer document delivery and interlibrary loan services (see our policy for possible fees and other relevant information at: <http://law.unl.edu/library/info/>).

We are members of the Federal Depository Library Program (FDLP) as a selective depository library.



A summary of our policies and available resources can be found here: <http://schmidguides.unl.edu/SchmidLawLibraryNutshell>. There is a tab labeled “for the public” that might be particularly useful.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
N/A
5. Does your program measure outcomes for self-represented litigants?  
No.
6. What are your eligibility criteria?  
N/A
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
We do not keep this statistic, but we do keep the number of reference questions asked by category. The “other patron” category consists of non-attorneys, non-librarians, non-students, & non-faculty members. We had 321 questions by other patrons. We had 2743 total reference questions (including attorney, librarian, student, faculty, and other patron questions).
8. How many people were turned away during the same time?  
N/A
9. What are your funding sources?  
We are funded similarly to other departments at UNL (a combination of state and private funds). We also receive some federal materials as a part of the FDLP.
  - a. Do you have separate funding to serve SRLs? No.
  - b. Do you use volunteers to serve SRLs? No.
10. What is the geographical range of your service area?  
Most patrons must use our print and electronic resources in our library in Lincoln. Our document delivery and interlibrary loan services are able to provide some resources to libraries in other locations. Patrons can call or email reference questions from any location.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
No, but we do comply with laws supporting individuals with disabilities.

## Law Libraries

### **Klutznick Law Library (Creighton University Law School)**

2500 California Plaza

Omaha, NE 68178

402-280-2242

lawref@lists.creighton.edu

<http://www.creighton.edu/law/library/>

- The Creighton Law School Library has public access computers available for legal research. Reference assistance is also available.
- It is located in Omaha on the corner of 21st and Cass Streets on the second floor of the Ahmanson Law Center.

### Contact

Kay L. Andrus, Law Library Director

402-280-2251

[andrus@creighton.edu](mailto:andrus@creighton.edu)

1. Brief description of services.

The Creighton University Law Library is open to the public Monday through Friday from 7:00 AM to 7:00 PM while school is in session. The collection, which includes electronic resources that can be accessed through the library's public computers, can be used for legal research during those hours. Our operating hours vary during break periods and holidays; see our law library website for the most current information (<http://law.creighton.edu/current-students/law-library>).

2. What substantive legal areas are the focus of your program?

The Creighton University Law Library collection covers a wide spectrum of legal areas. In addition to topical areas such as torts, civil procedure, contracts, constitutional law, criminal law, property, taxation, trusts and estates, etc., the library has an extensive collection of materials on Nebraska law and carries the state statutes in print for all fifty states. There is also a collection of do-it-yourself legal guides published by Nolo Press.

3. What kind of self-help services do you provide?

Although they will not offer or provide legal advice, the Creighton Law Library reference librarians are available to assist SRL's with their legal research needs, to the degree possible, Monday through Friday from 9:00 AM to 4:30 PM. They are available during that time in person, via phone, or via e-mail. We can also provide phone numbers to low-cost legal services such as the Nebraska Volunteer Lawyers Project. Online guides on topics such as "Pro Se Assistance in Simple Divorce," "Nebraska Legislative History," "Updating the Code of Federal Regulations," and other legal areas are available through the Library Guides at the library's website (<http://law.creighton.edu/library>).

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
Creighton reference librarians offer legal research assistance services to SRLs as a public service, but are not in a position to follow-up, or monitor, the progress of any SRL case as it progresses through the judicial system.
5. Does your program measure outcomes for self-represented litigants?  
No.
6. What are your eligibility criteria?  
Any SRL, with a legal research need, is welcome to visit and use Creighton's Law Library during the hours we are open to the public. However, the Law Library reserves the right to deny access to any person whose behavior disrupts or hinders library use by Creighton university students, faculty or staff.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
Unknown.
8. How many people were turned away during the same time?  
Unknown.
9. What are your funding sources?  
Creighton University is a private school. Nearly all of the Law Library budget is allocated from the general operating funds of the university.
  - a. Do you have separate funding to serve SRLs?      No.
  - b. Do you use volunteers to serve SRLs?              No.
10. What is the geographical range of your service area?  
We estimate the SRL's who visit Creighton's Law Library live within 40 miles of the law school, typically referred to as the Greater Omaha Metropolitan Area.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
No.

## Law Libraries

### **Honorable Michael W. Amdor Memorial Law Library (Douglas County Law Library)**

Room H07 Civic Center, Harney Street Level  
1819 Farnam Street  
Omaha, NE 68183  
Phone 402-444-7174  
Open 8:30AM - 4:30PM, Monday–Friday  
<http://dc4dc.com/law-library>

- The Library is open to attorneys and the public for limited use.
- The materials in the Library are available for use on the premises only, no materials may be checked out. There are copy machines available for self-service copying and scanning to a USB device. The library staff is available to assist you in using the library.

#### Contact

Ann Borer, Director  
[ann.borer@dc4dc.com](mailto:ann.borer@dc4dc.com)

1. Brief description of services.  
Law Library in Douglas County Courthouse, open to public, direct research for district court judges & law clerks, support research for judges located in the complex as well as judges from other jurisdictions via phone or email, research for county offices, research for local bar, provide public patrons with resources, referrals, forms or sample documents and access to print and computer resources, answer questions via phone, provide referrals to other services via phone, provide information about law, procedure and resources.
2. What substantive legal areas are the focus of your program?  
All areas of law.
3. What kind of self-help services do you provide?  
Patrons are provided access to forms, online materials, print materials, and the Library provides referral contact information. Public Access Computers are available.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
No follow-up
5. Does your program measure outcomes for self-represented litigants?  
No measured outcomes, informal polling of judiciary.
6. What are your eligibility criteria?  
No eligibility, the library is open to the public.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
N/A
8. How many people were turned away during the same time?  
N/A
9. What are your funding sources?  
Douglas County/District Court Budget; Omaha Douglas County Law Library Foundation;  
Creighton Law School.
  - a. Do you have separate funding to serve SRLs?  
No, but Legal Aid provides print resources for 2 public access computers.
  - b. Do you use volunteers to serve SRLs?                      No.
10. What is the geographical range of your service area?  
Omaha Metro
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
No.

**NOTE:** For more information on access to research materials and resources, check out the website <http://www.aallnet.org/sections/lisp/Public-Library-Toolkit>. This link will take you to the Public Library Toolkit page. Click on Nebraska to find information available in our state.

## Free Legal Services Providers

### Nebraska Appleseed

941 "O" St, Ste 920  
Lincoln, NE 68508  
402-438-8853  
<https://neapplebase.org/>

#### Contact

Sarah Helvey, Legal Director  
402-438-8853, ex. 106  
[shelvey@neappleseed.org](mailto:shelvey@neappleseed.org)

Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. The organization focuses on legal issues related to Child Welfare, Access to Health Care, Economic Justice and Immigration.

- Our services most often include referrals, legal information, and supportive advice. Because our litigation is focused on systemic issues, Nebraska Appleseed does **not** typically handle individual representation cases.
- Online application form available at: <https://neappleseed.org/gethelp>.

1. Brief description of services.

Nebraska Appleseed is a nonprofit organization that fights for justice and opportunity for all Nebraskans. Appleseed has an Intake and Information Line, which is a free service that helps community members find solutions to their problems while keeping Appleseed informed about important issues facing Nebraskans.

2. What substantive legal areas are the focus of your program?

Economic Justice, Health Care Access, Child Welfare, Immigration

3. What kind of self-help services do you provide?

- Legal Information
- Know your rights materials & trainings
- Referrals to free and low-cost legal services
- Referrals to community agencies for non-legal needs
- Supportive advice for non-legal needs, such as how to apply for public benefits

Note: Our services are generally provided by phone, email, and regular mail. In-person services are offered under rare circumstances in which those methods are inappropriate for the person seeking help.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

We do not typically follow up with intake calls after the intake process is complete, but we may advise some individuals to contact us again if they cannot resolve the issue in a timely manner using the information we have provided.

5. Does your program measure outcomes for self-represented litigants?  
We measure outcomes during our annual (and possibly quarterly) customer service evaluation whether the information and referrals helped them solve their problem.
6. What are your eligibility criteria?  
Yes, we serve low-income individuals. While our formal cutoff is 125% FPL, that applies to disposable income and not gross income, as we apply numerous generous deductions for basic expenses. We typically do not run a formal income calculation unless we are planning to formally investigate on behalf of an intake caller or represent them in court. We provide referrals to persons regardless of their income, and we also provide assistance to organizations or advocates who serve low-income clients. Additionally, we assist people regardless of their immigration status.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
We served 462 individuals and/or households in 2014.
8. How many people were turned away during the same time?  
Two individuals were turned away in 2014 due to a conflict of interest.
9. What are your funding sources?  
Our intake and information line is funded by the Legal Aid and Services Fund and a grant from the Omaha Community Foundation.
  - a. Do you have separate funding to serve SRLs? No.
  - b. Do you use volunteers to serve SRLs? No. Our Intake Line is staffed by one paid employee.
10. What is the geographical range of your service area?  
Statewide.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
Yes. At this time, we can assist English and Spanish speaking persons.

## Free Legal Services Providers

### **ACLU of Nebraska**

941 O St. #706

Lincoln, NE 68508

<http://www.aclunebraska.org/>

#### Contact

Amy Miller, Legal Director

402-476-8091, ext. 106

[amiller@aclunebraska.org](mailto:amiller@aclunebraska.org)

1. Brief description of services.

We represent people whose constitutional rights and/or civil liberties have been violated. That means it must be a government agency or employee who has violated your rights, and it must be one of the limited rights protected by the Constitution.

2. What substantive legal areas are the focus of your program?

Our biggest areas of work tend to be police misconduct (racial profiling, excessive force), free speech rights for students or protestors, the rights of new immigrants, the rights of prisoners, and the rights of LGBT people.

3. What kind of self-help services do you provide?

We provide “know your rights with police” trainings in person and materials online. Otherwise, we do not provide any self-help services.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

N/A

5. Does your program measure outcomes for self-represented litigants?

N/A

6. What are your eligibility criteria?

No income criteria; just must meet our mission guidelines. We do have a limited budget and select constitutional cases with an eye towards what we currently can take on.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

Too difficult to quantify: we have approximately 18 cases in court, but successfully negotiated resolutions for dozens of people outside of court—and most of our advocacy might be for one



person but have a larger impact on hundreds or thousands more. We've also presented trainings to thousands of people in 2014.

8. How many people were turned away during the same time?

We turn away 90% of the requests for assistance we get.

9. What are your funding sources?

Nearly all private donations, occasionally a private grant from a foundation.

a. Do you have separate funding to serve SRLs? No.

b. Do you use volunteers to serve SRLs? N/A

10. What is the geographical range of your service area?

State of Nebraska

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

We have a full time native Spanish speaker on staff.

## Free Legal Service Providers

### **Nebraska Area Agencies on Aging**

The eight area agencies on aging plan and promote the development, enhancement and promotion of community services and activities for older persons. Special emphasis is given to supporting and prolonging independent living through ensuring the right care is provided at the right time.

Legal Services available at some locations.

**Source:** <http://www.nebaaaa.org/default.html>

### Contact

Madhavi Bhadbhade, Legal Program Specialist

[Madhavi.Bhadbhade@nebraska.gov](mailto:Madhavi.Bhadbhade@nebraska.gov)

1. Brief description of services.

The Nebraska Association of Area Agencies on Aging contracts with Legal Aid of Nebraska for legal education and legal assistance through the Elder AccessLine®. In addition, the following Area Agencies on Aging (AAAs) contract with a private attorney to provide legal assistance in their respective Planning and Service Area (PSA): Aging Partners, South Central Nebraska AAA and Midland AAA. Northeast Nebraska AAA has two contracts with Legal Aid of Nebraska. One is for elderly Native Americans. The other NENAAA contract provides an annual legal education program to each of the identified senior centers and individual legal assistance to seniors.

2. What substantive legal areas are the focus of your program?

Substantive legal areas vary by individual contracts but include the following broad priority areas: Protective Services, Public Benefits, Housing, Healthcare, Debt Collection, Consumer Fraud, Spousal Impoverishment, Dissolution of Marriage and Advance Directives.

3. What kind of self-help services do you provide?

In the past AAAs have made referrals to the Nebraska State Bar Association's pro bono project (Volunteer Lawyer Project) and to other attorneys in the local area. Currently, referrals to the Volunteer Lawyer Project are made through Legal Aid of Nebraska.

Potential clients are provided printed information and educational presentations are made in the community by contracting attorneys. The Surrogate Decision Making booklet that includes information and forms on advance directives is given to people upon request and during presentations.

The television program produced by the State Unit on Aging (SUA) on legal services was aired on NET and is posted on NET, AAAs' and SUA websites. Some AAAs refer seniors to the Access2Justice/self-help centers if available in the local area. Annual Statewide training on legal topics has been made available in the past to seniors in the state. Free Law School Clinics are

held strategically in areas that do not have access to a contracting attorney through the AAA. There are no other self-help services provided directly by the AAAs.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
Not applicable as no self-help resources are provided directly with the AAAs.
5. Does your program measure outcomes for self-represented litigants?  
No. self-represented litigants are referred to Legal Aid's A2J Walk-in Centers.
6. What are your eligibility criteria?  
Consistent with the Older Americans Act, the only criteria is that the client be at least 60 years of age and reside in the service area. Caseloads are limited by not accepting fee-generating cases and setting service priorities.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
In fiscal year 2014 (July 1, 2013 to June 30, 2014), 2,627 clients were served statewide.
8. How many people were turned away during the same time?  
The Legal Assistance Program in Nebraska does not track unmet need or number of people turned away for legal assistance.
9. What are your funding sources?  
Funding sources include Older Americans Act Title IIIB funds, Model Approaches to Statewide Legal Assistance grants and state and local funds that vary by AAA.
  - a. Do you have separate funding to serve SRLs?      No.
  - b. Do you use volunteers to serve SRLs?              No.
10. What is the geographical range of your service area?  
Geographical locations vary by AAA but legal services are provided statewide.
11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?  
Yes. AAAs have the capability to provide interpreters or use the language line to accommodate non-English speakers.

## Free Legal Service Providers

### **Disability Rights Nebraska**

134 South 13th Street, Suite 600  
Lincoln, NE 68508  
(402) 474-3183

Disability Rights Nebraska provides information and referral services to all persons free of charge. We provide direct advocacy services only to individuals with disabilities.

In order to receive representation, the individual must meet certain basic eligibility requirements set by our funding sources and have a legal problem that is associated with the disability and that falls within priorities set by the Disability Rights Nebraska Board of Directors. A fee may be charged for legal representation based on the client's ability to pay.

In order to determine whether an individual qualifies for services, an intake needs to be conducted. Individuals may contact DRN by mail or in person:

Main Office	Western Nebraska Office
134 S. 13th St., Suite 600	1425 1st Avenue
Lincoln, Nebraska 68508	Scottsbluff, NE 69361
Phone: (402) 474-3183 (TTY available)	Phone: 308-633-1352
(800) 422-6691	Cell: 308-631-5367

You can complete a Request for Assistance form in the on-line forms section of our website at: [www.disabilityrightsnebraska.org](http://www.disabilityrightsnebraska.org), or by e-mail at [info@disabilityrightsnebraska.org](mailto:info@disabilityrightsnebraska.org).

### Contact

Tania Diaz, Legal Services Director  
[tania@drne.org](mailto:tania@drne.org)

1. Brief description of services.

Disability Rights Nebraska (DRN) is a private, not-for-profit organization established to assist people with disabilities and their families in protecting and advocating for their rights. Disability Rights Nebraska, the protection and advocacy system in Nebraska, serves people throughout the State.

We handle a very limited amount of cases. All other requests we handle as information and referral which is also limited. We do not assist people to fill out paperwork, etc.

2. What substantive legal areas are the focus of your program?

Our Legal Advocacy Team is staffed with attorneys and case advocates and offers:

- Individual advocacy including investigation of abuse and neglect allegations or direct legal representation, within selected priority areas to ensure that the rights of citizens with disabilities are not being violated;
- Advice on legal rights and remedies;

- Information about disability rights and services; and,
- Referrals to other agencies serving people with disabilities.

Regardless of the individual's disability or their initial eligibility, Disability Rights Nebraska will not accept cases, but will only provide information and referral services, when the following issues are presented:

- divorce, child custody, and adoption;
- estate planning (wills and trusts);
- criminal defense;
- mental health board commitment;
- tax law, corporate or business law, consumer law, debtor-creditor law;
- personal injury (other than injuries arising from abuse and neglect);
- initiation of guardianship or conservatorship of a person.

3. What kind of self-help services do you provide?

The Law-in-Brief Information Series was created to assist individuals with understanding different aspects of the law. The series is on our website and explains different areas of the law that may affect people with disabilities:

[http://www.disabilityrightsnebraska.org/resources/legal\\_resources.html](http://www.disabilityrightsnebraska.org/resources/legal_resources.html)

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

N/A

5. Does your program measure outcomes for self-represented litigants?

N/A

6. What are your eligibility criteria?

We only handle cases involving people with disabilities.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

We handled 176 cases and 635 I&Rs last year.

8. How many people were turned away during the same time?

Unknown.

9. What are your funding sources?

Disability Rights Nebraska receives financial support from a variety of funding sources, including state and federal funds, contributions, and community-based grants.

- a. Do you have separate funding to serve SRLs?      No.

b. Do you use volunteers to serve SRLs? No.

10. What is the geographical range of your service area?

Statewide, with offices in Lincoln and Scottsbluff.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Yes, we have an intake specialist who speaks Spanish.

## Free Legal Service Providers

### Justice for Our Neighbors-Nebraska

2414 E Street  
Omaha, NE 68107  
(402) 898-1349  
<http://www.jfon-ne.org/index.html>

Justice For Our Neighbors (JFON-NE) provides immigrants with free legal services, education, and advocacy for a variety of immigration issues.

- JFON uses a variety of options to access our services, including advice-only consultations and extended representation with officials. All consultations and monthly clinics are made by appointment only.
- If you need assistance, call our Legal Assistant/Client Advocate at 402-898-1349 for help to know what option is best for you.
- Weekly Consultations, Monthly Legal Clinics and Educational Workshops.

#### Contacts

Charles Shane Ellison, Legal Director  
[charles@jfon-ne.org](mailto:charles@jfon-ne.org)

Mindy Rush Chipman, Rural Capacity Building Attorney  
[mindy@jfon-ne.org](mailto:mindy@jfon-ne.org)

1. Brief description of services.  
Our mission at JFON-NE is to “welcome immigrants into our communities by providing high-quality immigration legal services, education and advocacy.” We provide legal representation to low-income immigrant individuals and families who have a possible form of immigration relief available to them.
2. What substantive legal areas are the focus of your program?  
We provide legal services primarily in area of immigration law; however, we also assist our immigrant clients with other civil legal matters in state court when necessary to achieve a form of immigration relief. JFON-NE specializes in family-based immigration cases, Special Immigrant Juvenile Status (SIJ) cases, Refugee/Asylee cases, Violence Against Women (VAWA) cases, U Visa cases, removal relief and detained cases.
3. What kind of self-help services do you provide?  
We offer free legal consultations, both in-person as well as from a distance utilizing technology, to provide limited legal advice to immigrants regarding their rights and any particular forms of relief they may be eligible for. We also provide educational outreach, including community presentations, regarding immigrant rights as well as detailing particular forms of immigration relief.
  - JFON-NE also serves as one of the leaders of the **Immigration Legal Services Visioning Task Force**, which continues work to ensure that the Nebraska Immigration Legal Assistance

Hotline (NILAH), housed at Legal Aid of Nebraska, provides unrepresented, low-income immigrants better access to quality immigration legal services through referrals to participating non-profit immigration legal service providers (ILSPs). In addition to JFON, the NILAH participating ILSPs include: Catholic Charities, Lutheran Family Services, the Center for Legal Immigration Assistance, and Women's Center for Advancement.

- JFON-NE has also been instrumental in the implementation of the **Pro Bono Detainee Project**, which aims to reduce the number of unrepresented immigrants who are detained while in immigration removal proceedings. JFON-NE solicits and provides training for private attorneys interested in volunteering to represent a detained immigrant in removal proceedings, organizes outreach / presentations to individuals currently detained, screens applications for assistance from detained individuals, and ultimately refers detained individual's cases to a volunteer attorney.
  - Similarly, JFON-NE has also played a major role and is currently facilitating the **Juvenile Attorney of the Day Project** in the Omaha Immigration Court to provide pro bono limited representation for unaccompanied juveniles currently placed in immigration removal proceedings. The Juvenile Attorney of the Day Project allows a volunteer attorney to enter their appearance for all unrepresented juveniles appearing in Omaha Immigration Court on a given day, provide an assessment of the juveniles cases and legal advice on possible forms of immigration relief available to the particular juveniles, and ultimately represent the juveniles at their immigration hearings that day and provide advice on how to proceed with their cases. The volunteer attorneys are encouraged to continue pro bono representation of juvenile cases if possible; however, at the end of the day, the volunteer attorney is allowed to withdraw from representation by the Immigration Judge. The ability to provide limited scope representation has increased willingness and ability of many private attorneys to participate in the Juvenile Attorney of the Day project. In addition to organizing the project, JFON-NE is continually recruiting attorneys to volunteer at the Juvenile Attorney of the Day and recently conducted a CLE train 21 members of the private bar on issues relating to representing unaccompanied juveniles.
  - JFON-NE is also working with community leaders in South Sioux City, Crete, Lexington, and Grand Island to assess the needs for immigration legal services in these rural communities. JFON-NE is currently participating in an innovative collaboration that promotes manageable, responsible and community-led growth in immigration legal services throughout rural Nebraska. The "Rural Inclusion: Fostering Engaged and Welcoming Communities," is a collaborative effort to build capacity in rural communities for inclusiveness of under-represented community members in decision-making in community-based organizations. Collaborators include Nebraska Appleseed, Heartland Workers Center, Center for Rural Affairs, and Centro Hispano of Columbus. JFON-NE is working with existing community-based organizations (whenever available) or with local community members, establishing local connections and identifying resources to build more capacity for immigration legal services where there are few or none available.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
JFON-NE does not currently measure outcomes for SRLs formally; however, through the Juvenile Attorney of the Day program in the Omaha Immigration Court, we have been able to



monitor how the minor SRLs are progressing in their immigration case by continued presence at their hearings.

In addition to exploring possible forms of relief with the juvenile SRLs, the volunteer attorneys are also able to explain what is happening procedurally in their cases, what they can expect at the next hearings, and help their case progress properly (helping the juvenile SRLs enter proper pleadings, ask for continuance, ask for change of venue, etc.)

5. Does your program measure outcomes for self-represented litigants?  
See above.

6. What are your eligibility criteria?  
All JFON-NE clients are at or below 150% of the Federal Poverty Guidelines.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?  
In 2014, JFON-NE served 797 individuals by providing extended representation to 547 clients, legal consultations to 197 individuals, and case analysis for 53 detained individuals.

JFON-NE hosted 10 legal clinics in Omaha, 10 in Lexington, and 10 in Grand Island. We also provided weekly consultations at 5 community partnership sites. It is important to note, a majority of JFON-NE's clients have multiple immigration cases that we assist with. As such, the number of cases JFON-NE handled in 2014 totals 1,664 cases.

8. How many people were turned away during the same time?  
While JFON-NE does not currently track number of people "turned away," it is evident the need for low income immigration legal services is greater than the capacity of JFON-NE and other Nebraska non-profit immigration legal service providers combined. For example, on September 20, 2014, NILAH reported that 109 applicants were on the "waitlist" awaiting placement with a participating ILSP. As of today's date, January 20, 2015, there are currently 165 applicants on the NILAH waitlist.

NILAH applicants are only placed on the waitlist if: 1) the applicant completes a NILAH application, 2) the applicant appears to be eligible for at least one form of immigration relief, but 3) the participating ILSPs do not have capacity to help the applicant. It is also important to note that the NILAH waitlist only captures the unmet need of people who are familiar with NILAH or one of the participating non-profit ILSPs as the hotline itself has not been significantly advertised or marketed independently as of date.

9. What are your funding sources?  
JFON-NE is funded by private foundations, individual donors, the United Methodist Committee on Relief and the Great Plains United Methodist Conference.

a. Do you have separate funding to serve SRLs? No.

b. Do you use volunteers to serve SRLs?

Yes, volunteer attorneys assist/provide limited representation to juvenile SRLs at the Omaha Immigration Court through the Juvenile Attorney of the Day Project. Additionally, our immigration legal clinics are facilitated by volunteers in the community in which the clinic is conducted.

10. What is the geographical range of your service area?

We accept cases from the entire state of Nebraska and Western Iowa.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Nearly all of JFON-NE's legal service providers are Spanish/English bilingual.

## Free Legal Service Providers

### Catholic Charities Immigration Legal Assistance

- We may be reached by calling 402-939-4615. Our office is located in the first floor of the Juan Diego Center at 5211 S. 31st ST, Omaha, NE 68107.
- We only take consultations by appointment. To make an appointment, please call the Nebraska Immigration Legal Assistance Hotline (NILAH) at 855-307-6730. NILAH is a centralized intake system of the area non-profit immigration legal service providers. If you would specifically like an appointment with Catholic Charities, please inform the NILAH representative when calling.
- The hotline is available during the following hours, excluding federal holidays:

Monday & Wednesday: 9:00-11:00, 12:30-3:30

Tuesday & Thursday: 9:00-12:00, 1:30-3:30

Friday: 9:00-12:00

### Contact

Josy Rogers, Program Director

[JosyR@ccomaha.org](mailto:JosyR@ccomaha.org).

1. Brief description of services.

Our program provides high quality, accessible and affordable legal immigration assistance and services focused on unifying immigrant families in a safe, welcoming and confidential environment. Our program was recognized by the Board of Immigration Appeals in 2002.

2. What substantive legal areas are the focus of your program?

Our program specializes in assisting clients to become United States Citizens, helping refugees apply for their permanent residency after being in the U.S. for one year, renewing lost, stolen, or expiring residency cards, helping family members petition their relatives to immigrate to the U.S., and also assisting victims of domestic violence and other crimes through VAWA and U visa. Our program offers a variety of outreach services to help people understand our complicated immigration system and to educate people on the struggles immigrants face before and after immigrating to the United States.

3. What kind of self-help services do you provide?

We are members of the Detainee Pro Bono Project (DPBP) which provides referrals to pro bono attorneys to detained immigrants. This is a partnership between Catholic Charities, Justice For Our Neighbors, Omaha Immigration Court, and the private bar. Detainees access services through intakes available at Douglas County Corrections.

To all clients expressing needs in non-immigration areas, we provide referrals to the pro bono service providers such as Legal Aid of Nebraska and Nebraska and Creighton legal clinics.

4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?

Follow-up made by Justice For Our Neighbors for the DPBP.

5. Does your program measure outcomes for self-represented litigants?

Numbers placed are noted.

6. What are your eligibility criteria?

We provide free services to those who are under 100% of the federal poverty guidelines. We offer services to those whose income is less than 200% of the Federal Poverty Guidelines. Those whose income is above 100% of the poverty guidelines are assessed nominal fees though no one is denied services for inability to pay.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

We served 450 individuals with immigration legal consultation and representation.

8. How many people were turned away during the same time?

Client referrals are received through the Nebraska Immigration Legal Assistance Hotline (NILAH), operated by Legal Aid of Nebraska, which maintains records of those who remain unserved.

9. What are your funding sources?

State and private funding sources.

a. Do you have separate funding to serve SRLs? No.

b. Do you use volunteers to serve SRLs? No.

10. What is the geographical range of your service area?

Our clients primarily reside in the Omaha metro area and rural northeast Nebraska, but we serve clients from all over Nebraska.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Our staff is English/Spanish bilingual; we provide interpretation and translation services for those we represent.

## Free Legal Service Providers

### Military Legal Assistance Offices

<b>Offutt AFB</b> (Air Force)	55 WG/JA 711 Nelson Drive [Bldg 310] Omaha, NE 68113 Phone: 402-294-3732 <a href="http://www.offutt.af.mil/units/55thwinglawcenter/index.asp">http://www.offutt.af.mil/units/55thwinglawcenter/index.asp</a>
<b>(ANG) Lincoln, NE</b> (Air Force)	155th ARW 2420 West Butler Lincoln, NE 68524 Phone: 402-309-1114

**Source:** <http://legalassistance.law.af.mil/content/locator.php>

- This listing includes the JAG officers and legal assistance officers for all branches of the service anywhere in the continental U.S. These lawyers specialize in deployment-related issues. They also help activated Reserve and National Guard members. However, they can help with only certain legal issues and only people in certain categories of current military service.

### Online Resource

#### **Air Force Legal Assistance Web Site**

The Air Force Legal Assistance Website was developed to provide a means to expedite the process of obtaining various legal documents by active duty, reserve component, and retired military members, their family members, and others eligible for legal assistance through the military.

Visit <https://aflegalassistance.law.af.mil/lass/lass.html> and select either:

*(1) Legal Assistance Topics*

Review basic information on legal assistance topics that commonly affect military members such as consumer affairs, family law, wills, or powers of attorney. The information provided is for educational and general information purposes only. It is not legal advice.

*(2) Legal Worksheets*

You may fill out an online legal worksheet prior to your visit to the legal office for expedited service, although this is not required prior to your visit. Worksheet topics include wills, advance medical directives, and powers of attorney. Please note that no legal documents can be printed from this website - you are required to visit the nearest Air Force legal office to obtain your legal document. Only Air Force legal offices have access to the data you enter here, and data you enter is deleted after 90 days.

## Nebraska Military Legal Assistance Offices

### **155th Air Refueling Wing**

(ANG) Lincoln, NE  
155th ARW  
2420 West Butler  
Lincoln, NE 68524  
Phone: 402-309-1114

- The 155th Air Refueling Wing typically provides legal assistance only for National Guard members and their dependents.

### **Offutt AFB Law Center**

55 WG/JA  
711 Nelson Drive, Bldg 310  
Omaha, NE 68113  
Phone: 402-294-3732

### **Contact**

Capt. Collin S. Allan, USAF  
Assistant Staff Judge Advocate  
(402) 294-3732  
[collin.allan.1@us.af.mil](mailto:collin.allan.1@us.af.mil)

1. Brief description of services.  
The Offutt AFB Law Center provides basic legal assistance to active duty members, their dependents, and retired personnel. We do not provide court representation, document preparation, or information regarding business decisions.
2. What substantive legal areas are the focus of your program?  
We focus on providing wills and answering basic legal assistance questions, i.e., family law, Service Members Civil Relief Act, landlord tenant (for active duty), etc.
3. What kind of self-help services do you provide?  
We provide a number of handouts that are available in the legal office.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
We do not have the staff availability to follow up.
5. Does your program measure outcomes for self-represented litigants?  
No.
6. What are your eligibility criteria?

Our services are restricted to active duty members, their dependents, and retired personnel.

7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?

I don't have a number.

8. How many people were turned away during the same time?

I don't have a number.

9. What are your funding sources?

N/A

a. Do you have separate funding to serve SRLs?      No.

b. Do you use volunteers to serve SRLs?              No.

10. What is the geographical range of your service area?

The local area.

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

No.

## Mediation Centers

### Office of Dispute Resolution (ODR)

Nebraska State Capitol, 12<sup>th</sup> Floor

1445 "K" Street

P.O. Box 98910

Lincoln, NE 68509

<https://supremecourt.nebraska.gov/5942/office-dispute-resolution>

#### Contact

Debora Denny

Dispute Resolution & Special Court Programs

Nebraska State Court Administrator's Office

402-471-2766

[Debora.Denny@nebraska.gov](mailto:Debora.Denny@nebraska.gov)

1. Brief description of services.  
The Office of Dispute Resolution (ODR) partners with Nebraska's nonprofit mediation centers and the Douglas County District Court Conciliation and Mediation Office to provide mediation and dispute resolution to Nebraska's courts and citizens.
2. What substantive legal areas are the focus of your program?  
Parenting plan mediation; child welfare conferencing, including family group conferencing; juvenile justice conferencing, including victim offender mediation; small claims mediation; special education mediation.
3. What kind of self-help services do you provide?  
Referral lists to Limited Scope Representation attorneys; mediation of court-connected legal matters; referrals to Self-Help Desks and Volunteer Lawyer programs.
4. To what extent does the program follow-up with SRLs to make sure that their cases are moving through the system?  
Not applicable.
5. Does your program measure outcomes for self-represented litigants?  
Not applicable.
6. What are your eligibility criteria?  
Mediation fees can be reduced or waived based upon a sliding fee schedule.
7. How many people did your organization serve in 2014 (or the most recent point for which data is available)?



Total new mediation cases opened statewide by the six mediation centers during FY2013-2014 were 3,672. Using the assumption of at least two persons per case, the minimum number of persons served statewide would be 7,344.

8. How many people were turned away during the same time?

Not applicable.

9. What are your funding sources?

a. Do you have separate funding to serve SRLs? No.

b. Do you use volunteers to serve SRLs? No.

10. What is the geographical range of your service area?

Mediation is available in all 93 counties of Nebraska. Contact information including staff for the nonprofit mediation centers can be found at:

<https://supremecourt.nebraska.gov/sites/supremecourt.ne.gov/files/mediation/Roster%20-%20ODR%20and%20Mediation%20Center.pdf>

11. Is your program able to provide interpreters or multilingual staff to accommodate non-English speakers?

Yes, primarily Spanish speakers and the Hearing-Impaired on a case-by-case basis.

## **Other Web Resources**

### **Working with Pro Se Litigants: A Manual for Nebraska Court Employees (April 2008)**

[nlcs1.nlc.state.ne.us/epubs/S3000/H008-2008.pdf](http://nlcs1.nlc.state.ne.us/epubs/S3000/H008-2008.pdf) (enter link directly into web browser)

### **Pro Se Education for Court Staff and New Judges**

Judicial Branch Education has developed a 10-hour course module for court clerks on dealing with self-represented litigants. The course, hosted on Judicial Education's 'blackboard' system, is offered through Nebraska's court certification program. The curriculum is based on the court employee pro se manual, "Working with Pro Se Litigants" (above) developed by the original members of the Self-Represented Litigation Committee.

Education sessions on self-represented litigants are regularly offered during new judge and new employee orientation programs; and taught throughout the regular, ongoing Judicial Branch education curriculum.

### **Nebraska's Domestic Violence Protection Order Bench Guide (May 2010)**

<http://ndvsac.org/wp-content/uploads/Legal/Bench%20Guide%20PDF%20%28June%202010%29.pdf>

**Appendix 2 – Pro Se Divorce - With Children: Douglas County District Court  
Only (Annotated)**

## Pro Se Divorce - With Children

### Douglas County District Court Only

- You must complete the steps below, in the order they are listed, before your court date.
- These steps only work if you and your spouse agree on: **(1) the division of your property, (2) the division of your debt, (3) custody and parenting time of your children, and (4) child support, using the Nebraska Child Support Guidelines.**
- If you and your spouse do not agree, these steps will not work and the Court strongly recommends that you talk to an attorney. If you own real estate, or you or your spouse has a retirement plan with a current or former employer, the Court strongly recommends that you talk to an attorney.
- Do not call the Clerk of the Court or the Bailiff for help in completing this process. They are unable to provide legal advice.
- All forms (*italicized* below), and the instructions you will need to complete them, are available from the resources listed on Page 2 of this packet.
- These steps are general in nature; depending on the specifics of your particular case, you may have different or additional requirements.**

Step 1. With the Clerk of the District Court, file the following forms:

- *Complaint for Dissolution of Marriage*
- *Confidential Party Information*
- *Vital Statistics Certificate*
- *Social Security Information*

Step 2. Obtain Service on your spouse by either:

*Voluntary Appearance*, OR *Personal Service* (*Praecipe for Summons*), OR *Publication*.  
Proof of Service must be filed with the Clerk of the District Court.

Step 3. Contact Conciliation and Mediation Services to complete:

1. A Parenting Class: <https://www.dc4dc.com/conciliation-a-mediation/parenting-program-sign-up>
2. A *Parenting Plan* (if agreement cannot be reached, mediation is required)  
Sample Parenting Plan: ([link](#))

Step 4. A *Child Support Calculation*. **AND Exhibit 1** (page 4 of this sheet). A free child support calculator is available here: [https://ne.childsupportcalculator.com/?\\_p=subscribeForm](https://ne.childsupportcalculator.com/?_p=subscribeForm)

Step 5. Obtain a **Final** hearing date from the bailiff of the judge assigned your case (the name of your judge and bailiff is available at the Clerk's Office). **Do not contact the bailiff until you have registered with Conciliation and Mediation Services.** The bailiff will require proof of service and proof of registration with Conciliation and Mediation Services. Also note that the **Final** hearing can be set *no earlier* than 60 days after you have obtained service on your spouse.

Case #: \_\_\_\_\_ Bailiff: \_\_\_\_\_

Your Judge: \_\_\_\_\_ Bailiff's Phone Number: 444-\_\_\_\_\_

Step 6. When you have received a hearing date from the bailiff, file a *Notice of Hearing and Certificate of Service* with the Clerk. Provide a copy of the Notice to your spouse (Recommended to be sent via Certified Mail).

**Commented [ZZ1]:** Add link to Law Help Nebraska? <https://lawhelpne.legalaidofnebraska.org>  
Or NE Free Legal Answers: <https://ne.freelegalanswers.org>  
Or NE Volunteer Lawyers Project Divorce brochure: <http://nevlp.org/wp-content/uploads/sites/1215/2018/10/Divorce.pdf> ?

Consider using perma.cc throughout to prevent link rot. Also allows for customized shortened URLs, which are good for those with a paper copy of this document who have to manually type in the URLs.

**Commented [ZZ2]:** Include link to form and instructions? <https://supremecourt.nebraska.gov/praecepe-summons>

**Commented [ZZ3]:** These links (sorta) exist below, but these are more specific and it doesn't hurt to place them in the context of the steps instead of putting them in a list down below. Repetition and reinforcing what goes with what.

Sample Parenting Plan link:  
<https://www.dc4dc.com/images/stories/forms/conciliation/paernt/Pro%20Se%20Plan%20on%20website%20update.pdf>  
(needs to be shortened to fit). The link to the parenting classes would also be better if shortened.

**Commented [ZZ4]:** Again, shorten link. This comes from the NE Supreme Court site:  
<https://supremecourt.nebraska.gov/self-help/families-children/filing-divorce-nebraska-children-no-custody-disputes-visitation-disputes-or-property-disputes>

**Commented [ZZ5]:** Include link to fillable online form and instructions? <https://supremecourt.nebraska.gov/notice-hearing-certificate-service>

- Step 7. **Arrive on time** at court on your scheduled hearing date *with the following documents completed:*
- Divorce Decree (Including Property Division) for the judge to sign
  - **Completed** Child Support Worksheet
  - The Script to be ready to read in court
  - **Completed** Parenting Plan

### Resources:

The district court does not represent that these instructions and forms will be appropriate in your case.

The clerk of the court or district court staff **cannot** provide any legal assistance. Any questions you may have regarding the use of the instructions and forms should be directed to a lawyer.

#### For personal assistance:

- Go to the Self-Help Desk, located at 1801 Farnam St., Room H07  
Hours (walk-in only): Mondays & Wednesdays 10 - 2 (hours subject to change)
- Go to the Michael W. Amdor Memorial Law Library, located at 1801 Farnam St., Room H04
- Go to Legal Aid of Nebraska, located at 209 S. 19<sup>th</sup> Street, 2<sup>nd</sup> Floor, Omaha, NE

#### For instructions on how to **complete the steps** on page 1 of this sheet, see the following website:

<http://court.nol.org/self-help/divorcewithchildren.html>

#### To **find the forms**, see the following websites:

- Parenting Class Sign up: <http://www.dc4dc.com/conciliation-a-mediation/parenting-program-sign-up>
- Parenting Plan Information: <http://www.dc4dc.com/conciliation-a-mediation>
- For child support guidelines, and to calculate child support: <http://court.nol.org/self-help/#families>
- All other forms: <http://court.nol.org/self-help/divorcewithchildren.html> ○ Note: the script that you will read at your final hearing can be found by clicking on the “Instructions for your Divorce Hearing” link on this webpage

#### For instructions on how to **complete most forms**, see the following website:

<http://court.nol.org/self-help/divorcewithchildren.html>

#### Parenting Act Information

<http://court.nol.org/self-help/parentingact.html>

#### Additional Websites

- Douglas County Clerk of the District Court: <http://clerk.dc4dc.com>
- Nebraska Legislature - Statutes and Constitution: [www.nebraskalegislature.gov/laws/laws.php](http://www.nebraskalegislature.gov/laws/laws.php)
- Fourth District Court Local Court Rules, Rule 4-3, *Domestic Relations Cases*:  
<http://supremecourt.ne.gov/external-court-rules/4172/rule-4-3-domestic-relations-cases>
- More Self Help Information: <http://court.nol.org/self-help/index.html>
- Nebraska Bar Association: [www.nebar.com](http://www.nebar.com), and use the “For the Public” link
- Nebraska Child Support Payment Center: [www.nebraskachildsupport.com](http://www.nebraskachildsupport.com)
- Access to Justice (Legal Aid Division): <http://www.legalaidofnebraska.com/node/418>

**Commented [ZZ6]:** Again, for my money, I would get rid of most of the links to forms below and embed them here with each bulleted item.

Divorce Decree Form:  
<https://supremecourt.nebraska.gov/sites/default/files/DC-6-5-3.pdf>

Divorce Decree Instructions:  
<https://supremecourt.nebraska.gov/sites/default/files/DC-6-5-3a.pdf>

Hearing instructions and sample script:  
<https://supremecourt.nebraska.gov/sites/default/files/DC-6-5.pdf>

**Commented [ZZ7]:** They have. “Mondays, Wednesdays, 10:00 a.m. to 1:00 p.m.; first Friday of the month, 9:30 a.m. to 12:30 p.m. Douglas County Courthouse at 17th & Farnam Street”

**Commented [ZZ8]:** Include phone # for Douglas Co: (402) 348-1060 AccessLine @ if you live in the Douglas Co. area

**Commented [ZZ9]:** If space becomes an issue this could be moved up as I suggested and deleted here.

**Commented [ZZ10]:** This goes to this: <https://supremecourt.nebraska.gov/self-help#families> but it should go to this: <https://supremecourt.nebraska.gov/self-help/families-children>

**Commented [ZZ11]:** This goes to the same legal self help center landing page. I think it should go to this instead: <https://supremecourt.nebraska.gov/divorce-forms-children>

**Commented [ZZ12]:** This is wrong. I would delete and use the link I suggested at Step 7. Ideally as part of Step 7, but if not, as another bullet here.

**Commented [ZZ13]:** This link is to a generic self help landing page again. I would go to here (again): <https://supremecourt.nebraska.gov/self-help/families-children/filing-divorce-nebraska-children-no-custody->

**Commented [ZZ14]:** Bad link. I would go here: [https://supremecourt.nebraska.gov/sites/default/files/Programs/mediation/Parenting\\_Act\\_Brochure\\_10-31-17.pdf](https://supremecourt.nebraska.gov/sites/default/files/Programs/mediation/Parenting_Act_Brochure_10-31-17.pdf)

**Commented [ZZ15]:** Bad link. Perhaps: <https://supremecourt.nebraska.gov/supreme-court-rules/chapter-4-children-and-families> or <https://supremecourt.nebraska.gov/external-court->

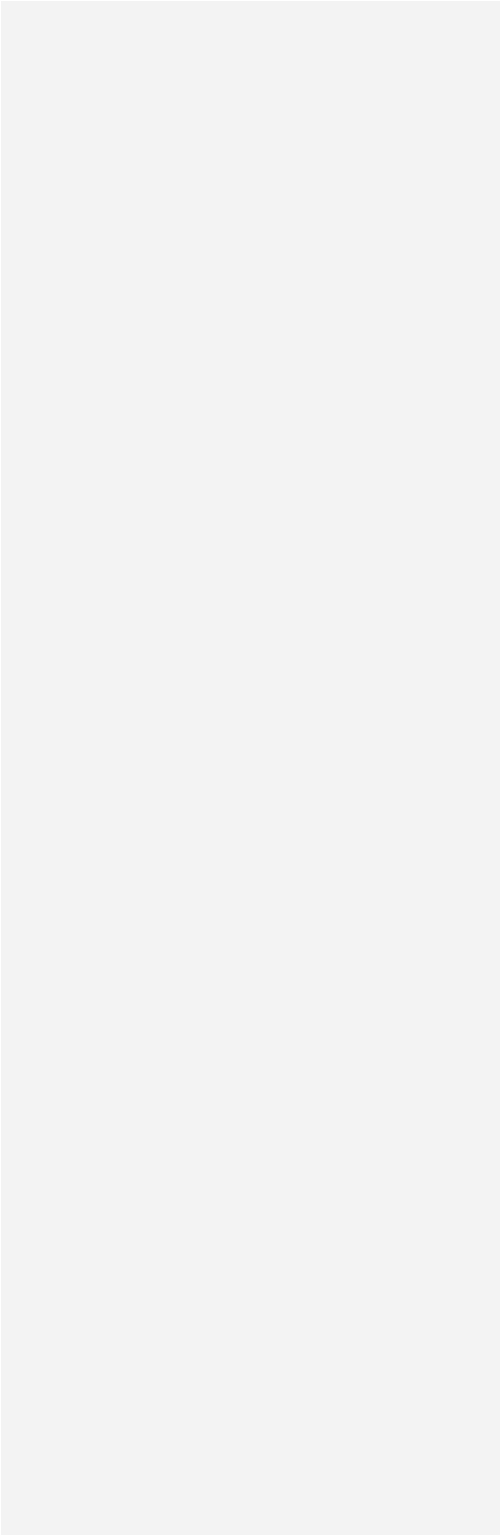
**Commented [ZZ16]:** Should go to: <https://supremecourt.nebraska.gov/self-help>

**Commented [ZZ17]:** Would just change to: <https://www.nebar.com/page/ForthePublic> and cut the rest of the bullet

**Commented [ZZ18]:** I’m not sure this a reputable resource. The site is really word and reads like it was written by a machine or non-native English speaker. I tried the

**Commented [ZZ19]:** This link is dead. I would also change this from Access to Justice (Legal Aid Division) to Legal Aid with this link: <https://www.legalaidofnebraska.org> unless this was supposed to be something else. This node link als

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**EXHIBIT NO. 1**

(NOTE: If child support is involved, the appropriate worksheet(s) from the Nebraska Child Support Guidelines must be completed and attached to the proposed decree.)

Print legibly, and include city and zip code for all addresses.

Case Number: \_\_\_\_\_

Name of Wife: \_\_\_\_\_

Wife's Current Address: \_\_\_\_\_

Wife's Telephone No. \_\_\_\_\_

Wife's Employer: \_\_\_\_\_

Wife's Employer's Address: \_\_\_\_\_

Name of Husband: \_\_\_\_\_

Husband's Current Address: \_\_\_\_\_

Husband's Telephone No.: \_\_\_\_\_

Husband's Employer: \_\_\_\_\_

Husband's Employer's Address: \_\_\_\_\_ Where Married: \_\_\_ Date of Marriage: \_\_\_\_\_

Name(s) of Child(ren) of Marriage

Year of Birth:

1. \_\_\_\_\_

2. \_\_\_\_\_

3. \_\_\_\_\_

4. \_\_\_\_\_

Is the wife pregnant at this time? \_\_\_\_\_

Length of wife's residency in Nebraska at time of filing of complaint: \_\_\_\_\_

County of residency of wife when complaint filed: \_\_\_\_\_

Length of husband's residency in Nebraska at time of filing of complaint: \_\_\_\_\_

County of residency of husband when complaint filed: \_\_\_\_\_

Is any other divorce or separate maintenance action pending in any court? \_\_\_\_\_

Is either party a member of the military service of the U.S.A. or any of its allies? \_\_\_\_\_

Is either party receiving ADC, SNAP, Medicaid, or are payments being collected by Child Support Services? \_\_\_\_\_

Is either party receiving Disability or Veteran Benefits? \_\_\_\_\_

**Appendix 3 – IAALS, Guidelines for Creating Effective Self-Help Information, (November 2019)**





# GUIDELINES FOR CREATING EFFECTIVE SELF-HELP INFORMATION



***These implementation tools were developed by IAALS to support real change on the ground. Each guide is designed to provide the information necessary to help judges, lawyers, court administrators, and others to understand the problems facing our system and the people who use it—and to make improvements that will increase access and bolster public trust and confidence.***

This guide stems from IAALS' work alongside the Conference of Chief Justices (CCJ), the Conference of State Court Administrators, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges on the Civil Justice Initiative and the Family Justice Initiative. In recent years, CCJ launched both initiatives—and developed recommendations and principles—to guide state courts and family courts in better meeting the needs of those who need access to the courts, decreasing cost and delay, and improving case processing. IAALS has been a proud and long-time partner in these national civil and family justice reform projects.

As these sister efforts gain momentum, IAALS is working to support courts implementing these reforms by developing a variety of resource guides like this one, in partnership with national experts.

# GUIDELINES FOR CREATING EFFECTIVE SELF-HELP INFORMATION

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LOIS R. LUPICA<sup>1</sup>

**Consultant, IAALS**

Maine Law Foundation Professor of Law,  
University of Maine School of Law

November 2019

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INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM



## **IAALS—Institute for the Advancement of the American Legal System**

John Moye Hall, 2060 South Gaylord Way, Denver, CO 80208

Phone: 303-871-6600

<http://iaals.du.edu>

IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

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Rebecca Love Kourlis	Founding Executive Director
Brittany K.T. Kauffman	Senior Director
Natalie Anne Knowlton	Director of Special Projects
Lois R. Lupica	Consultant
Michael Houlberg	Manager
Janet Drobinske	Senior Legal Assistant

# INTRODUCTION

The American legal system is designed for use by highly trained professionals. Most frequently, however, it is used by individuals without formal legal training. A first-of-its-kind national study into family case processing found that in 72 percent of cases the petitioner and/or respondent was self-represented.<sup>2</sup> A similar national study of civil dockets published a few years earlier found that at least one party was self-represented, usually the defendant, in 76 percent of cases.<sup>3</sup>

Self-represented litigants face a variety of challenges navigating the process without legal help, and research shows that outcomes can be impacted when parties are unrepresented. There are widespread efforts by courts around the country to assist self-represented parties: self-help materials, online resources, self-help centers and other in-person assistance, etc. In 2018, the Conference of Chief Justices (CCJ) and Conference of State Court Administrators (COSCA) adopted Resolution 3, Expanding Meaningful Access to Justice for All, setting “the aspirational goal of establishing 100 percent access to effective assistance for essential civil legal needs through a continuum of meaningful and appropriate services.”<sup>4</sup>

New recommendations from CCJ and COSCA with respect to civil case processing<sup>5</sup> and family case processing<sup>6</sup> acknowledge the essential need for courts to provide litigants with access to justice. The recently released Family Justice Initiative (FJI) *Principles for Family Justice Reform*<sup>7</sup> sets forth in Principle 4: “Courts should provide clear, straightforward information to parties about the court process. Courts should provide assistance to self-represented parties including procedural information and available resources to assist the family.”<sup>8</sup>

The FJI Principles acknowledge, however, that not all self-help materials are created equal. The materials that facilitate meaningful access are those that “help parties translate the information into action, to move their case forward, or achieve another goal within the court process.”<sup>9</sup> This assertion addresses the current reality in many jurisdictions that while there is widespread *access* to legal self-help information and materials, individuals who need to interact with the legal system without professional legal assistance have difficulty *deploying* such information.<sup>10</sup>

In order to be effectively used by those who need them, self-help materials must acknowledge and address the barriers to deployment. Self-help materials must be written in a way that users can process. Moreover, self-help materials must recognize that individuals involved in unfamiliar and intimidating legal proceedings may have difficulty navigating these proceedings because they suffer from a lack of self-agency. The following guidelines are intended to help courts increase the efficacy of existing self-help materials and assist in the development of new materials that empower parties with information and an understanding of what to do with that information. The concepts presented here are not specific to family cases and can be applied to any issue or case type.

## GUIDELINES SUMMARY

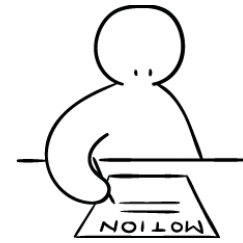
1. Self-help materials should include line-drawn illustrations and visual depictions of concepts.<sup>11</sup> Both have been shown to improve learning.
2. Self-help materials must provide the seemingly mundane details of how the legal system works, including specific logistical information about how to interact with the formal legal system.
3. Self-help materials should, to the extent feasible, include procedural, not conceptual, information.
4. Deployable self-help materials must include clear and specific direction as to how to respond to actions taken in a legal proceeding.
5. Self-help materials must help users overcome the challenge of necessary plan making and plan execution.
6. Checklists and advanced organizers can provide the user with useful tools to keep organized and help them see the process as a whole.
7. Legal jargon and complicated processes should be simply defined and clearly explained. The goal is to direct users, not educate them.
8. Self-help materials must be written at a fifth-grade reading level and in a conversational style.
9. Self-help materials should draw on and reflect communication theory at the level of the page, the sentence, and the word.
10. Self-help materials should draw on presentation and graphic design theory developed in other contexts.



# 1.

**SELF-HELP MATERIALS SHOULD INCLUDE LINE-DRAWN ILLUSTRATIONS AND VISUAL DEPICTIONS OF CONCEPTS. BOTH HAVE BEEN SHOWN TO IMPROVE LEARNING AND A USER'S ABILITY TO DEPLOY INFORMATION.**

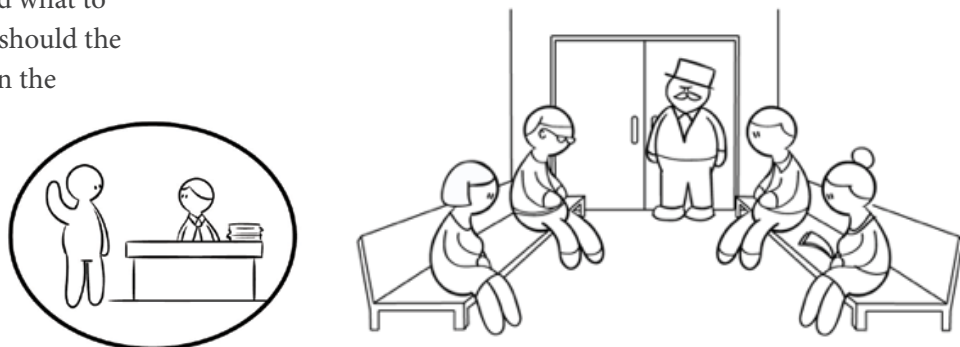
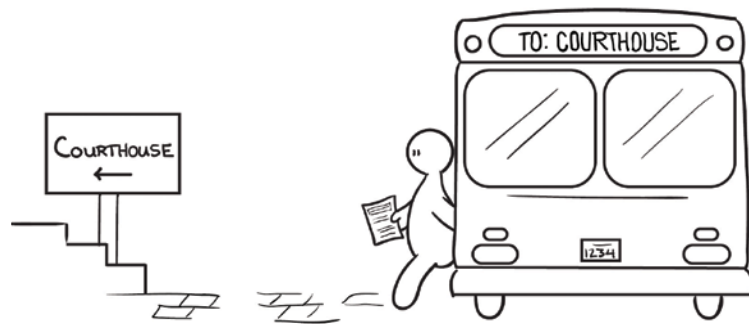
- Visual depictions of ideas and actions can improve learning.<sup>12</sup>
  - Visual imagery can also ease anxiety, entertain so as to motivate, and facilitate an understanding of complex concepts.
  - Stick figure drawings and cartoons are superior to photographs or highly detailed drawings.
  - Learners generally lack the ability to distinguish important features in photographs or complex drawings from irrelevant details.



# 2.

**SELF-HELP MATERIALS MUST PROVIDE THE SEEMINGLY MUNDANE DETAILS OF HOW THE LEGAL SYSTEM WORKS, INCLUDING SPECIFIC LOGISTICAL INFORMATION ABOUT HOW TO INTERACT WITH THE FORMAL LEGAL SYSTEM.**

- No detail is too mundane to include in self-help materials, from how to get to the courthouse, to what it will look like when they are waiting for a proceeding.<sup>13</sup>
- From the perspective of the user, if self-help materials "designed" to be helpful fail on the small things, such as where to sit and what to expect next, why should the user trust them on the big things?



## STEP 1. FILL OUT THE COURT FORMS

There are three forms you need to fill out.

You can get these forms by asking the clerk at the courthouse.  
The clerk will tell you which forms are right for you.

The court's address is \_\_\_\_\_. There is parking on the street next to the court with meters. Or you can take the \_\_\_\_\_ bus.

When you walk through the front door of the courthouse, you will have to go through a metal detector. Make sure you don't have anything with you that the guards will take, like a pen-knife.

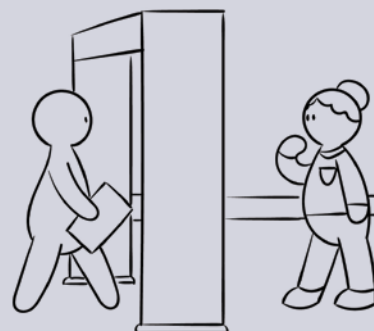


Ask the guard where the Family Law Clerk's Office is. They will tell you where to go.

You may have to stand in line at a window to ask for the court forms. Or they may be on a shelf or table.

If you don't have kids, find the form that says "Divorce without Children" on top.

Find the **GREEN** page in this packet. The **GREEN** page will help you fill out the **Divorce without Children** form.



If you have kids, find the form that says "Divorce with Children" on top.

Find the **ORANGE** page in this packet. The **ORANGE** page will help you fill out the **Divorce with Children** form.

Ask someone if you can't find it.



### 3.

## SELF-HELP MATERIALS SHOULD, TO THE EXTENT FEASIBLE, INCLUDE PROCEDURAL, NOT CONCEPTUAL, INFORMATION.

- It may not be necessary for a user of legal self-help materials to gain a *conceptual* understanding of the problem-solving process (such as learning WHY one has to do something) but rather simply learn about how the process works (such as WHAT to do first).<sup>14</sup>
- Procedural information provides a user with instructions for following a set of sequential steps, but the user is not taught the reasons for the steps or how to apply those steps to markedly new situations.
- Self-help materials should include an overview of the process, broken down into discrete tasks. Step 1, Step 2, Step 3, *etc.*

## OVERVIEW OF THE DIVORCE PROCESS

**Step one:** Gather all of your pay stubs, bank statements, and every other paper that has to do with the money you get or have. Then make a list of everything you own.

**Step two:** Fill out the court forms.  
You can get the forms online at [www.court.xxx](http://www.court.xxx) or you can go to the court and get the forms.

**Step three:** Send the forms to the court. Here is the address:  
100 Main Street  
Anytown, STATE 12345



**Step four:** Send a copy of your forms to your spouse. You can do this by mail. If you go to the post office, you can get a receipt and tracking number.

- Self-help materials should clearly identify the documents needed to fill out forms.



## DOCUMENTS NEEDED

1. TWO PAY STUBS
2. TWO MONTHS OF BANK STATEMENTS
3. MARRIAGE LICENSE
4. DRIVERS' LICENSE
5. SOCIAL SECURITY CARD

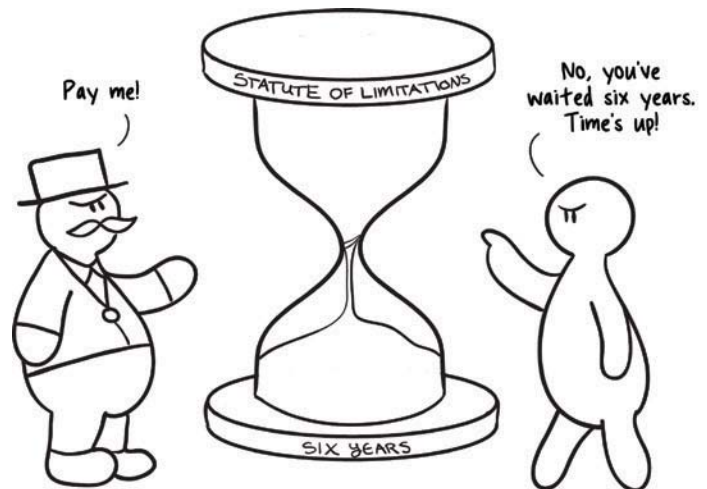
- Self-help materials should offer specific instructions about how to fill out court forms.

**IF YOU ARE FILING A LAWSUIT, WRITE YOUR NAME HERE. WRITE THE NAME OF WHO YOU ARE SUING WHERE IT SAYS "DEFENDANT."**

SMALL CLAIMS WRIT AND NOTICE OF SUIT		CONNECTICUT SUPERIOR COURT SMALL CLAIMS SESSION	
PLTF # 1	_____	PLTF # 2	_____
_____	_____	_____	_____
_____	_____	_____	_____
DEF # 1	_____	DEF # 2	_____
_____	_____	_____	_____
_____	_____	_____	_____

- Conceptual knowledge may be needed, however, when a user of self-help materials has to respond to a query outside the scope of a script.

- Research shows that when conceptual understanding is a must, analogies and pictures are useful to explain complex concepts.<sup>15</sup>



## **YOU MIGHT HEAR THE WORD “HEARSAY” (PRONOUNCED “HEER-SAY”) WHEN YOU TELL YOUR STORY TO THE JUDGE**

When you are telling your story to a judge, you might hear someone say the word “hearsay.”

Hearsay is a story that a person heard from another person. That kind of story is harder for a judge to believe.

It’s like the game “telephone” – when one person whispers a sentence to a second person, and the second person repeats it to a third person, and so on. After a while, the sentence changes because people mishear or misunderstand the sentence.

For example, after a few rounds of whispers, the sentence, “I was waiting for two hours,” could sound like, “I was skating with blue flowers.”

If the judge agrees that all or part of your story is hearsay, they won’t be able to use it when they decide your case.

## 4.

**SELF-HELP MATERIALS SHOULD INCLUDE CLEAR DIRECTION ABOUT WHAT TO DO IN RESPONSE TO ACTIONS TAKEN BY THE COURT OR BY THE OTHER PARTY.**

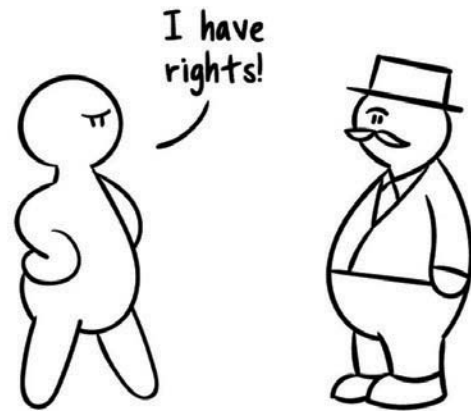
**YOU MAY BE ASKED TO AGREE TO A SETTLEMENT. DON'T AGREE TO A SETTLEMENT IF YOU THINK IT'S UNFAIR.**

**DON'T AGREE TO A SETTLEMENT IF YOU CAN'T DO WHAT THE SETTLEMENT SAYS.**

**IF YOU AGREE TO A SETTLEMENT, YOU CAN'T GO BACK. IT'S A PROMISE YOU HAVE TO KEEP.**

**STOP TALKING TO THE LAWYER IF THEY WANT YOU TO AGREE TO A BAD SETTLEMENT.**

**YOU ALWAYS HAVE THE RIGHT TO SEE THE JUDGE.**



## 5.

**SELF-HELP MATERIALS MUST HELP USERS OVERCOME THE CHALLENGE OF NECESSARY PLAN MAKING AND PLAN EXECUTION.<sup>16</sup>**

- Users of self-help materials need to plan and execute a number of complex tasks.
  - These may include responding to a lawsuit within a short time period, keeping track of notices to know when to come to court, and arranging for a child sitter to attend a court hearing.
  - Research has shown that if goals are specific, proximate, and characterized as learning exercises rather than as performance, they are most likely to be met.<sup>17</sup>
- The framing of the goals also matters; goal attainment is more likely if the goal is framed positively.<sup>18</sup>

**I WILL BUY THREE FOLDERS TOMORROW AFTER WORK.**

**I WILL KEEP ALL MY COURT PAPERS IN A FOLDER.**



- Similarly, simple prompts increase follow-through on achieving goals.
  - The inclusion of a post-it note with the language “Don’t forget! Colonoscopy appointment” attached to a reminder to undergo a colonoscopy significantly increased patient compliance.<sup>19</sup>
- This prompt worked by addressing three different barriers to intention implementation.
  - Cognitive, by associating a future cue (the date) with a plan of action (the appointment);
  - Logistical, by providing a solution to the practical challenge of remembering the date and time of the appointment; and
  - Material, by offering a visual reminder of the appointment.<sup>20</sup>



## 6.

### CHECKLISTS AND ADVANCED ORGANIZERS PROVIDE THE USER WITH USEFUL TOOLS TO KEEP ORGANIZED AND HELP THEM SEE THE PROCESS AS A WHOLE.

- Checklists can help the user understand the broad process and keep the user organized.<sup>21</sup>

## CHECKLIST

**Step one:** Gather your papers. Turn to page \_\_\_ to see what papers you need to find.

**Step two:** Fill out the court forms. Turn to page \_\_\_ to see how to get them and how to fill them out.

**Step three:** Once you have filled out all the forms, you need to make copies of all the forms. Turn to page \_\_\_ to see where you can make copies.

**Step four:** Give one copy to the court with a filing fee or a waiver form. Turn to page \_\_\_ to learn exactly how to do this.

**Step five:** Send one copy of all the forms to your spouse. Turn to page \_\_\_ to learn exactly how to do this.

- Self-help materials should include easy-to-read and easy-to-understand advance organizers.<sup>22</sup>
  - Advance organizers provide context and relate each subsequent topic to what the user already knows. Users demonstrate better learning outcomes and are less likely to be discouraged and walk away from a task.<sup>23</sup>

## YOU CAN TAKE CARE OF YOUR COURT CASE WITHOUT A LAWYER

THIS PACKET WILL SHOW YOU HOW. IT HAS FOUR PARTS:



Part One is called, “**You Should Go To Court.**” It explains why you should go to court.



Part Two is called, “**Know Your Rights.**” It tells you why you might not have to pay any money, or as much money as the company suing you says you owe.



Part Three is called, “**What to Do.**” It tells you what to do in court.

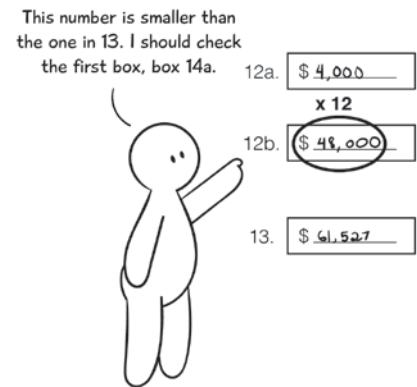


Part Four is called, “**Take This To Court.**” You should take this packet to court with you. It suggests what to say in court.

# 7.

## LEGAL JARGON AND COMPLICATED PROCESSES SHOULD BE SIMPLY DEFINED AND CLEARLY EXPLAINED. THE GOAL IS TO DIRECT USERS, NOT EDUCATE THEM.

- Self-help materials must also present information so that it can be easily understood and thus deployed by its user.<sup>24</sup>
- The goal should be to *direct* the user, rather than to educate him or her.
- There are many examples of resources that result in self-represented parties' confusion and cognitive overload, rather than the provision of needed direction.
  - For example, a person seeking a divorce has to understand what the law defines as marital property, how to divide it up, whether or not the parties can come to an agreement, or whether the court needs to get involved.<sup>25</sup>
- Users of self-help materials need just enough information about the process so that they know what issues are at stake, and how to deal with them. They do not need statutory cites, history, or jargon.<sup>26</sup>
- When forms require simple calculations, illustrations can be used to provide an example.
- Clear direction can be accompanied by graphic representations of concepts.



Part of the divorce process involves splitting the things you and your spouse bought or got while you were married. If you bought or got furniture, cars, a house, the money in a bank account or anything else while you were married, it is marital property. Marital property must be split between you and your spouse.

Make a list of everything you and your spouse own. For each thing, ask yourself, did I buy or get this while I was married?  YES  NO

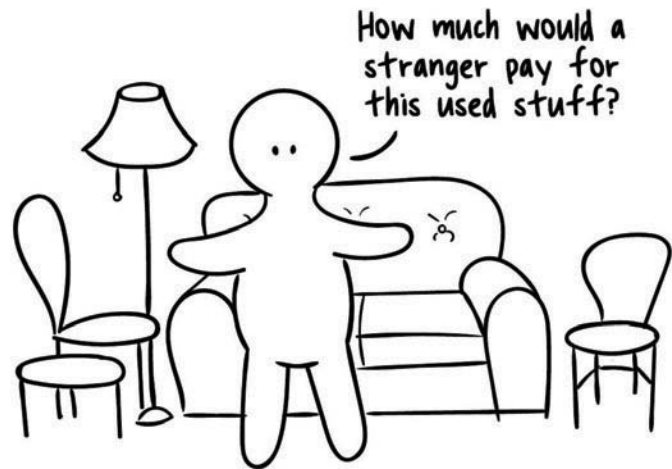
If YES, you have to figure out how to split it with your spouse. Either by selling it and splitting the money, or by trading it for some other item of marital property. If NO, that means that you or your spouse got that item before you were married and it doesn't have to be split. It is not marital property.



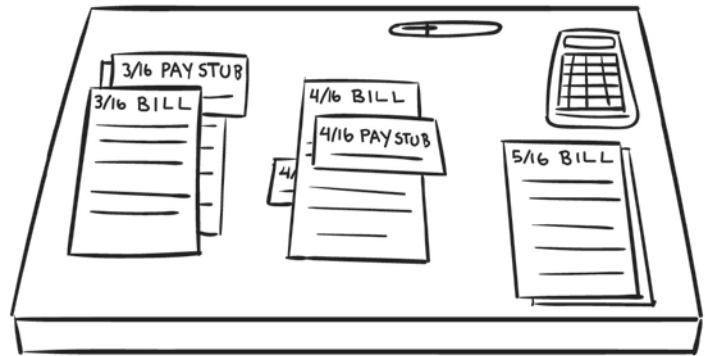
**Which of the following sentences seems right to you? Check one of these boxes.**

- My spouse and I have agreed how to divide the property we bought or got while we were married. We don't need the court's help.
- My spouse and I can't agree on how to divide the property we bought or got during our marriage. We need the court's help.

THIS VISUAL EXPLAINS HOW MARITAL PROPERTY, SUCH AS FURNITURE, SHOULD BE VALUED.



THIS ILLUSTRATION CAN ACCOMPANY AN EXPLANATION ABOUT THE NEED TO GATHER AND ORGANIZE DOCUMENTS IN ORDER TO FILL OUT FINANCIAL DISCLOSURE FORMS.



THIS ILLUSTRATION CAN ACCOMPANY AN EXPLANATION OF THE NEED FOR "BEST EVIDENCE" IN A COURT PROCEEDING.





# 8.

## SELF-HELP MATERIALS MUST BE WRITTEN AT A FIFTH-GRADE READING LEVEL AND IN A CONVERSATIONAL STYLE.

- Self-help materials should be written the way people speak.
- The language doesn't necessarily have to be grammatical or follow language conventions.
  - The Flesch-Kincaid Reading Level Test can be used to test the reading level of self-help materials.<sup>27</sup>

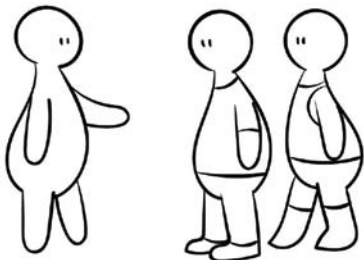
<http://www.readabilityformulas.com/flesch-grade-level-readability-formula.php>



**YOU CAN ALWAYS TELL YOUR SIDE OF THE STORY TO THE JUDGE – EVEN IF THE JUDGE SAYS THAT IT WILL TAKE A LONG TIME TO FINISH THE CASE IF YOU DON'T SETTLE.**

**IF YOU WANT THE JUDGE TO HEAR YOUR STORY, THE JUDGE HAS TO LISTEN.**

- Words should be used consistently throughout the text. Repetition of word choice is okay and should be encouraged.<sup>28</sup>



**REMEMBER YOU SHOULD ASK FOR THE ALIMONY YOU NEED.**

**YOU NEED A PLACE TO LIVE.  
YOU NEED TO EAT.  
AND YOU NEED TO TAKE CARE OF YOUR KIDS.  
YOU SHOULD ASK FOR THE ALIMONY YOU NEED.**

## SELF-HELP MATERIALS SHOULD DRAW ON AND REFLECT COMMUNICATION THEORY AT THE LEVEL OF THE PAGE, THE SENTENCE, AND THE WORD.

- Uncontextualized legal terms should be avoided.<sup>29</sup>

For example:

**Send your “Certificate of Service Form” to the Court with a copy of the forms you sent your spouse.**

rather than

**You must file a Certificate of Service with your Answer or Counterclaim.**

- Legal terms the user will encounter should be defined using everyday language.

**When you go to court, you or someone else will give information to a judge. This is called “evidence.”**

**This evidence may include a story that you or someone else tells the judge. This is called “testimony.”**

**Emails and text messages, documents, photos, and objects that help you tell your story can also be evidence.**

- Broad statements of general principles should similarly be avoided in favor of clear and specific information and direction.<sup>30</sup>

## HOW TO BEGIN YOUR DIVORCE

**Read this whole page so you know where to start and what to do next.**

**Step one:** Ask yourself, who will start the divorce, you or your spouse?

- If you will be starting the divorce, turn to page \_\_\_\_ (the **BLUE** page).
- If your spouse has started the divorce, or will start it, turn to page \_\_\_\_ (the **PURPLE** page).

**Step two:** No matter who starts the divorce, you are going to have to file some forms with the court.

- If **YOU** start the divorce, you have to send your spouse a form that tells them that you started the divorce.

**FIRST, CHECK THE PAPERS YOU GOT FROM THE COURT.**

**IS YOUR ADDRESS RIGHT? IF IT ISN'T RIGHT, CALL THE COURT AND LET THEM KNOW.**

**IF YOU HAVE TROUBLE FINDING THE COURT'S NUMBER, ASK A LIBRARIAN AT A PUBLIC LIBRARY TO HELP YOU.**

**THIS IS IMPORTANT. THE COURT NEEDS TO KNOW WHERE TO SEND YOU THINGS.**



- Express one idea per sentence. And keep sentences short.<sup>31</sup>

**If you don't want to agree to a deal, you don't have to.**

**Tell the lawyer that you want the judge to decide. Then go back into the courtroom.**

**You might have to wait for a while before it is your turn. That's OK.**

**You have the right to see the judge.**



- Use the active voice and the present tense.<sup>32</sup>

**If your spouse has a lawyer, they are working for your spouse and not for you. That lawyer is not thinking about what's best for you. That lawyer is thinking about what's best for your spouse.**

- **Don't** hesitate to use contractions. They enhance readability.
- Place the main idea of a concept or a direction before the exceptions.

## **PROPERTY TRANSFERS**

After you have filed for divorce, you should not transfer any property to your spouse, unless the judge says it is OK.

The exception to this rule is if you owe your spouse money, you can repay them even after you file for divorce.

- Familiar words should be used, rather than the obscure.<sup>33</sup>

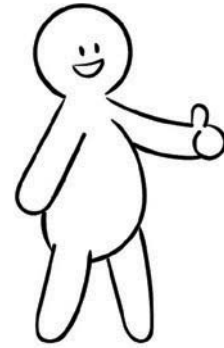
HOME	<i>rather than</i>	DOMICILE
PAPERS OR FORMS	<i>rather than</i>	DOCUMENTS
CHANGE	<i>rather than</i>	MODIFY
GET	<i>rather than</i>	ACQUIRE
RULE OR LAW	<i>rather than</i>	STATUTE
NEXT TO	<i>rather than</i>	ABUTTING

## 10.

### SELF-HELP MATERIALS SHOULD DRAW ON PRESENTATION AND GRAPHIC DESIGN THEORY DEVELOPED IN OTHER CONTEXTS.

Self-help materials should be designed for easy reading.

- The information presented needs to be organized in a way that makes it easy for the user to sequentially walk through the steps in the process.



**USE HEADERS ON EACH PAGE SO THAT THE USER IS REMINDED OF THE SELF-HELP MATERIAL'S SPECIFIC THEME.<sup>34</sup>**



You Can Stand Up For Yourself in Court!  
**PART 3: WHAT TO DO IN COURT**



- Headings should be used to help the user skim the page.
  - Use uppercase and lowercase.
  - Use consistent graphics as navigators.
  - Headings should be bold and justified to the left margin.
  - Triple-space before headings and double-space after (for example, 19.2 points before, 8.4 points after).

- Lists should be used (judiciously) to break up text and outline steps in a process. Standard bullets should be used consistently.<sup>35</sup>

## BEFORE YOU START, HERE ARE A FEW TIPS

Read all of these steps before you start. You'll want to know what's coming.

- Turn off the TV and find a quiet place.
- Complete this form all at once. If you take a break before you finish, you might have to start over.
- Be ready to answer questions about all the places where you lived. And about bank accounts you have and used to have.

- Use shading and borders only to accent graphs and charts.

My things	I got while I was married	I got before I was married
Car – Honda Civic	<input type="checkbox"/>	<input type="checkbox"/>
Living room furniture	<input type="checkbox"/>	<input type="checkbox"/>
Snowmobile	<input type="checkbox"/>	<input type="checkbox"/>
Credit Union Account	<input type="checkbox"/>	<input type="checkbox"/>

- Use ragged right margins rather than centering or justifying text.

## WHAT TO DO IF YOUR SPOUSE FILES FOR DIVORCE

If your spouse filed for divorce, they are called the Plaintiff.

And you are called the Defendant.

But don't worry, being a Defendant in a divorce case isn't like being a Defendant in a criminal case. You didn't do anything wrong! It's just what you will be called in the case.

You can still make decisions about your divorce. You still have rights. As many rights as your spouse.

- Clear, easy-to-read fonts should be used.<sup>36</sup>
  - Select 11- to 12-point serif font for the body text (such as **Times New Roman**) (11- or 12-point).
  - Select 12- to 14-point sans serif font for the headings (such as **Helvetica** or **Helvetica Neue**).
  - Don't mix fonts within the body.
  - Don't use more than one or two typefaces.
  - Use **bold** for emphasis (not underlining).
  - Color should be used consistently throughout the text.

## HOW TO FIND OUT ABOUT YOUR DEBT

You may not know how much debt you have.

That's OK.

There are easy ways of finding out.

If you know you have a Federal student loan, you can call 800-xxx-xxxx and ask what loans you have.



- Use *italics* to distinguish between information that is meant for the user, and information that should be presented to or read to the court.

## ANSWER

*I believe I have the following defenses that support my argument that this debt was incurred without my knowledge and therefore should be set-aside to the Plaintiff.*



Check **each** box that applies to you.  
Don't worry about the italics. They're for the Judge.

- I do not know about this credit card bill. I've never seen it before.  
*Therefore, this debt should be set-aside to the Plaintiff.*
- I never charged anything on this credit card. *Therefore this debt should be set-aside to the Plaintiff.*

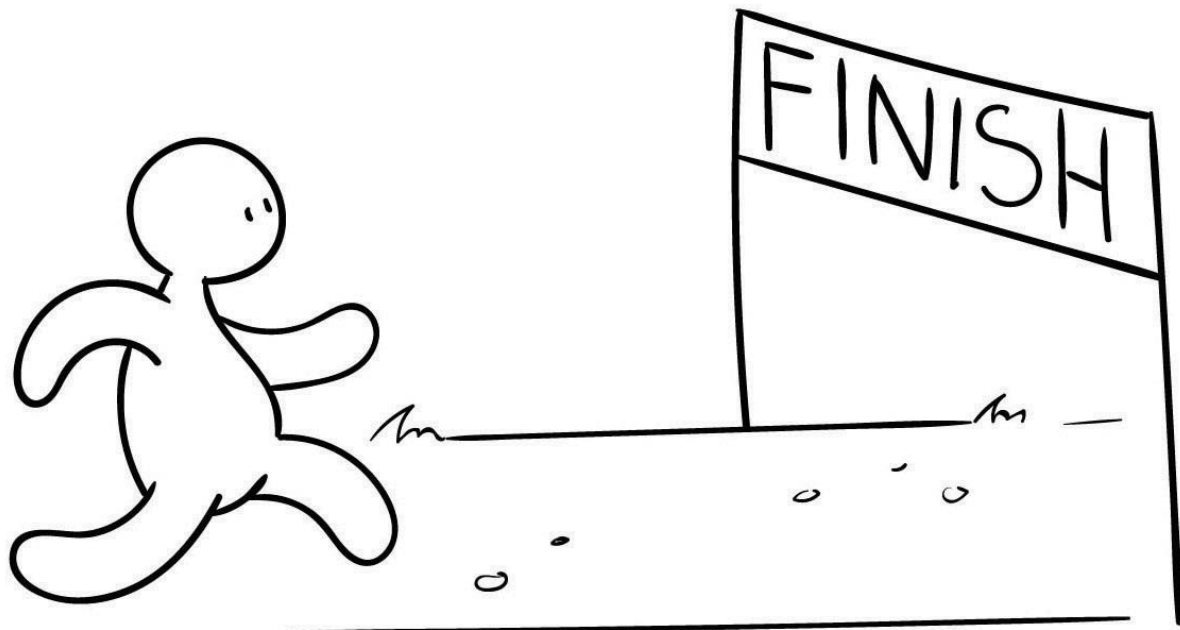
- The less crowded each page, the less overwhelming to someone with low literacy skills.
- There should be plenty of white space in the margins, and there should be double spacing between paragraphs.<sup>37</sup>

READ THESE PAPERS CAREFULLY.

THEY WILL HELP YOU GET THROUGH THIS PROCESS.

FIND A QUIET PLACE TO SIT DOWN. TRY TO FIND A  
TIME WHEN NO ONE ELSE IS HOME.

YOU CAN DO THIS!





# ENDNOTES

- 1 The ideas behind *Guidelines for Creating Effective Self-Help Information* grew out of the Harvard A2J Lab's Financial Distress Research Project. D. James Greiner, Dalié Jiménez & Lois R. Lupica, *Self-Help, Reimagined*, 92 Ind. L.J. 1119 (2017), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2633032](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2633032).
- 2 NAT'L CTR. FOR STATE COURTS, THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018), <https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Children%20Families/FJI/FJI%20Landscape%20Report%20mb.ashx>.
- 3 NAT'L CTR. FOR STATE COURTS, THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS iv (2015), <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>.
- 4 CONF. OF CHIEF JUSTICES, RESOLUTION 3: EXPANDING MEANINGFUL ACCESS TO JUSTICE FOR ALL (Jan. 31, 2018), <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/01312018-Expanding-Meaningful-Access-to-Justice-for-All.ashx>.
- 5 CONF. OF CHIEF JUSTICES & CONF. OF STATE CT. ADM'RS, RESOLUTION 8: IN SUPPORT OF THE CALL TO ACTION AND RECOMMENDATIONS OF THE CIVIL JUSTICE IMPROVEMENTS COMMITTEE TO IMPROVE CIVIL JUSTICE IN STATE COURTS (July 27, 2016), <https://ccj.ncsc.org/~media/microsites/files/ccj/resolutions/07272016-support-call-action-recommendations-cji.ashx>.
- 6 CONF. OF CHIEF JUSTICES, RESOLUTION 3: IN SUPPORT OF THE FAMILY JUSTICE INITIATIVE PRINCIPLES (Feb. 13, 2019), <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/02132019-Family-Justice-Initiative-Principals.ashx>.
- 7 NAT'L CTR. FOR STATE COURTS, FAMILY JUSTICE INITIATIVE: PRINCIPLES FOR FAMILY JUSTICE REFORM (2019), [https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Children%20Families/FJI/Family\\_Justice\\_Initiative\\_Principles\\_Final.ashx](https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Children%20Families/FJI/Family_Justice_Initiative_Principles_Final.ashx).
- 8 *Id.* at 7.
- 9 *Id.* at 8.
- 10 Greiner et al., *supra* note 1.
- 11 All illustrations used with permission from the Graphic Advocacy Project and the Access to Justice Lab. Thanks to Hallie Jay Pope.
- 12 See W. Howard Levie & Richard Lentz, *Effects of Text Illustrations: A Review of Research*, 30 EDU. TECH. RES. & DEV. 195, 213 (1986), <https://link.springer.com/content/pdf/10.1007%2FBF02765184.pdf>; Chris Delp & Jeffrey Jones, *Communicating Information To Patients: The Use of Cartoon Illustrations to Improve Comprehension of Instructions*, 3 ACAD. EMERGENCY MED. 264, 268 (1996), <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1553-2712.1996.tb03431.x>; Prabu David, *News Concreteness and Visual-Verbal Association: Do News Pictures Narrow the Recall Gap Between Concrete and Abstract News?*, 25 HUMAN COMM. RES. 180, 199-200 (1998), <https://onlinelibrary.wiley.com/doi/epdf/10.1111/j.1468-2958.1998.tb00442.x>; Russell N. Carney & Joel R. Levin, *Pictorial Illustrations Still Improve Students' Learning from Text*, 14 EDU. PSYCHOL. REV. 5, 16 (2002), <https://link.springer.com/content/pdf/10.1023%2FA%3A1013176309260.pdf>.
- 13 Greiner et al., *supra* note 1, at 1130 (“[W]e hypothesize that the lay litigant’s problem is not so much (say) sitting in the wrong seat, a mistake that can be remedied by a polite tap on the shoulder and a point in the right direction. Rather, the problem is the embarrassment and confidence-shattering effect such a tap and point might have, coupled with the increased cognitive load as she attempts to concentrate simultaneously on finding the right seat and on remembering how to deploy unfamiliar legal arguments.”).
- 14 HERBERT A. SIMON & ALLEN NEWELL, HUMAN PROBLEM SOLVING: THE STATE OF THE THEORY IN 1970 (1972) (pioneering these concepts in the artificial intelligence literature, which has been adopted more broadly in the cognitive psychology field); See JOHN R. ANDERSON, THE ARCHITECTURE OF COGNITION (1983).
- 15 Dan Hunter, *Teaching and Using Analogy in Law*, 2 J. OF THE ASS'N OF LEGAL WRITING DIR. 151, 160 (2004), [https://pdfs.semanticscholar.org/faf2/e60ea74e36d6313180c68d1ec99fcfb4c14.pdf?\\_ga=2.266857998.184628608.1562610081-2048026441.1562610081](https://pdfs.semanticscholar.org/faf2/e60ea74e36d6313180c68d1ec99fcfb4c14.pdf?_ga=2.266857998.184628608.1562610081-2048026441.1562610081).
- 16 Greiner et al., *supra* note 1, at 1150. For a review of implementation intentions that work, see Todd Rogers et al., *Making the Best Laid Plans Better: How Plan-Making Prompts Increase Follow-Through*, 1 BEHAV. SCI. & POL'Y 1, 16, [http://scholar.harvard.edu/files/todd\\_rogers/files/making\\_0.pdf](http://scholar.harvard.edu/files/todd_rogers/files/making_0.pdf).

- 17 EDWIN A. LOCKE & GARY P. LATHAM, A THEORY OF GOAL SETTING & TASK PERFORMANCE 29 (1990); Albert Bandura & Dale H. Schunk, *Cultivating Competence, Self-Efficacy, and Intrinsic Interest Through Proximal Self-Motivation*, 41 J. PERSONALITY & SOC. PSYCHOL. 586, 595 (1981).
- 18 Bandura & Schunk, *supra* note 17, at 595 (for example, losing weight will give me more energy, rather than, being obese will lead to heart disease).
- 19 Katherine L. Milkman et al., *Following Through on Good Intentions: The Power of Planning Prompts* 1, 2 (NAT'L BUREAU OF ECON. RES., Working Paper No. 17995, 2012), <https://www.nber.org/papers/w17995.pdf>.
- 20 *Id.* at 4.
- 21 Daniel Morrow, Von Leirer & Patsy Altieri, *List Formats Improve Medication Instructions for Older Adults*, 21 EDUC. GERONTOLOGY 151 (1995) [hereinafter Morrow et al., *List Formats*]; Daniel G. Morrow, Von O. Leirer, Jill M. Andrassy, Catherine M. Hier & William E. Menard, *The Influence of List Format and Category Headers on Age Differences in Understanding Medication Instructions*, 24 EXPERIMENTAL AGING RES. 231 (1998).
- 22 Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic Layout and Design into the Text of Legal Writing Documents*, 2 J. ASS'N LEGAL WRITING DIR. 108, 124 (2004), <https://rucore.libraries.rutgers.edu/rutgers-lib/51105/PDF/1/play/>.
- 23 James Hartley, *Designing Instructional and Informational Text*, HANDBOOK OF RES. ON EDUC. COMM. & TECH. 925 (David H. Jonassen ed., 2004).
- 24 Typically, self-help materials start by defining legal terms and then explaining abstract legal concepts. In order to understand what to do next, the user must have internalized the legal concepts, as well as the vocabulary, or jargon. This imposes an unnecessary cognitive burden on the user. *See, Instructions for filing Divorce – Without Children*, KAN. JUDICIAL COUNCIL, <http://www.kansas-judicialcouncil.org/sites/default/files/Instructions%20for%20Filing%20Divorce%20Without%20Children%20%2812-2016%29.pdf> (last updated June 5, 2019).
- 25 The following explanation was included in a brochure prepared by the Virginia Bar Association:  
 “Equitable Division of Marital Property and Debts. Virginia is one of more than forty states that has adopted an equitable distribution law for dividing marital property and debts in divorce. Marriage is considered an economic partnership. To determine a fair division of marital property and debts, Virginia law requires the following: that property and debts be classified as marital, separate, or part marital and part separate; that marital property and debts be valued; and that such marital property or debts be equitably divided based on the statutory factors in Virginia Code Section 20-107.3. Marital property is defined as all jointly-owned property and all other property, other than separate property, acquired from the date of the marriage to the date of separation. Typical examples of marital property are the marital home titled in the names of both spouses or a retirement account accumulated during the marriage even if the account is only in the name of one spouse. Separate property includes all property acquired by either spouse before the marriage and all property acquired during the marriage by inheritance or by a gift from a source other than one’s spouse. Typical examples of separate property are an automobile that was given to one of the spouses by a parent and titled in the name of the receiving spouse, an inheritance from a family member, and cash gifts from third parties but only if such gifts and inheritances are then maintained separately from other marital property. Gifts from one spouse to the other spouse such as jewelry are marital property.”  
*Financial Issues in Divorce*, VA. STATE BAR 1, 2, <https://www.vsb.org/docs/Financial-Issues-Divorce.pdf> (last updated Jan. 2019).
- 26 An example of self-help materials describing property division reads:  
 “Wisconsin presumes that all property, other than property that a party receives as a gift or through inheritance, will be divided equally (after considering all debts). To achieve an equal division of property, the judge may award property to one party and a cash payment to the other party. The judge may divide property unequally after considering the factors described in WI Statute 767.255, which is available at the following website: <http://www.legis.state.wi.us/Statutes/Stat0767.pdf>. If the spouses agree on how to divide all their property, they must provide a description of which spouse will receive which property. This also applies to the property that may have already been divided. If the spouses have already divided the property, or it is only in one spouse’s name, they must still tell the court which spouse will get what property and the value of that property.”  
*Basic Guide to Divorce/Legal Separation*, WIS. JUDICIAL SYS., [https://www.wicourts.gov/formdisplay/FA-4100V\\_instructions.pdf?formNumber=FA-4100V&formType=Instructions&formatId=2&language=en](https://www.wicourts.gov/formdisplay/FA-4100V_instructions.pdf?formNumber=FA-4100V&formType=Instructions&formatId=2&language=en) (last updated Nov. 20, 2018).
- 27 Hartley, *supra* note 23, at 931 (adding to the Flesch-Kincaid test, the “cloze test” can be used to test readability. The “cloze test” presents a passage to readers with every *n*th word missing and asks readers to fill in the missing words; the higher the performance on the “cloze test,” the more comprehensible the material. Another way to test the material is to have readers circle sections, sentences and words that they think would cause trouble for other readers of lesser ability); Greiner et al., *supra* note 9, at 1126 (showing that the Principal Investigators of the Financial Distress Research Project used this technique to test self-help materials. We asked study subjects whether they understood the material presented. We then asked them what they thought “someone not as smart as you would say?” The answers received were enlightening.).

- 28 SUSAN B. BASTABLE, *NURSE AS EDUCATOR: PRINCIPLES OF TEACHING AND LEARNING FOR NURSING PRACTICE* 189-232 (2nd ed. 2003).
- 29 *Id.*
- 30 This is an example of a description of the process in a family court handbook:  
“The divorce is commenced when the Summons and Petition signed by the person seeking the divorce are filed with the Clerk of Circuit Court, and served on the spouse. In divorce actions, the party seeking the divorce is the Petitioner and the other spouse is the Respondent. Service of the Summons and Petition occurs when someone, usually the sheriff’s deputy or private process server, delivers the papers to the respondent spouse. Service of the Summons must be done by someone other than the Petitioner. If the papers cannot be served on the respondent personally, then the Court can permit the papers to be published in the newspaper. Joint Petitions for divorce may be signed by both parties if they both want the divorce. Service of a Summons is not necessary if there is a Joint Petition. A copy of the Summons and/or Petition must be provided to the Family Court Commissioner’s Office.”  
*Fond du Lac County Family Court Handbook*, FAMILY COURT COMM’R’S OFFICE OF FOND DU LAC CTY., <http://www.fdlco.wi.gov/home/showdocument?id=3627> (last updated Feb. 2009).
- 31 KAREN A. SCHRIVER, *DYNAMICS IN DOCUMENT DESIGN: CREATING TEXT FOR READERS* 263 (1997); *See also*, Christopher Trudeau, *The Public Speaks: An Empirical Study of Legal Communication*, 14 *SCRIBES J. LEGAL WRITING* 121, 121-152 (2011-2012), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1843415](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1843415)
- 32 BASTABLE, *supra* note 28, at 215.
- 33 *See Measure Text Readability*, READABILITY SCORE, <https://readable.com/text/> (last updated 2017).
- 34 Hartley, *supra* note 23, at 925.
- 35 Morrow et al., *List Formats*, *supra* note 21, at 153.
- 36 Ruth Anne Robbins, *Painting with Print: Incorporating Concepts of Typographic and Layout Design into the Text of Legal Writing Documents*, 2 *J. ASS’N LEGAL WRITING DIRECTORS* 108, 115 (2004).
- 37 BASTABLE, *supra* note 28, at 219.



INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM



UNIVERSITY *of*  
DENVER

Institute for the Advancement of the American Legal System  
University of Denver  
John Moyer Hall, 2060 South Gaylord Way  
Denver, CO 80208  
Phone: 303.871.6600 <http://iaals.du.edu>

**Appendix 4 – Current SRL Handouts: Legal Resources flyer, June 2019;  
Nebraska Free Legal Answers flyer; Omaha Bar Association Lawyer  
Referral Service brochure**

# Do you need information about Legal Resources?

There are a many resources available to help you navigate the court system. Whether you want help finding a lawyer or representing yourself, this brochure provides contact information on the following:

- Places to Find Legal Information & Referrals
- Online Court Forms and Information
- Self-Help Desks & Legal Clinics
- Law & Public Libraries.



## Help Finding a Lawyer

### Legal Aid of Nebraska

Eligibility for services generally depends on income, assets and type of legal problem. Some exceptions apply. Visit the website for more information, including hours of operation, or call.

**Contact information:**

[www.legalaidofnebraska.org](http://www.legalaidofnebraska.org)

If you live in the Douglas County area

(402) 348-1060 AccessLine®

If you live outside the Douglas County area

(877) 250-2016 AccessLine®

If you are 60 and over

(800) 527-7249 Elder AccessLine®

If you are Native American

(800) 729-9908 Native American AccessLine®

If you are a victim of natural disaster

(844) 268-5627 Disaster Relief Hotline

### Nebraska Immigration Legal Assistance Hotline (NILAH)

A centralized hotline and resource for low-income immigration legal assistance. Those in need of immigration legal assistance can contact NILAH to be connected to the non-profit immigration legal service provider that can best meet their needs, in the shortest amount of time.

**Contact information:**

[www.nilah.org](http://www.nilah.org)

(855) 307-6730

### Nebraska Find a Lawyer Website

Search the website for a referral by county and/or practice area. The website provides a list of lawyers willing to provide Limited Scope Representation.

**Contact information:**

[www.ne.findalawyer.com](http://www.ne.findalawyer.com)

## Help Representing Yourself

### Online Court Forms and Information

#### Nebraska Online Legal Self-Help Center

Information, forms, and links to resources for persons representing themselves in Nebraska Courts.

**Contact information:**

[www.supremecourt.nebraska.gov/self-help](http://www.supremecourt.nebraska.gov/self-help)

#### Nebraska Free Legal Answers

Qualified users can post a civil legal question on the website for review by a Nebraska lawyer. Users must meet certain eligibility requirements to use the site, including residency, income, assets, age (must be an adult), civil (no criminal) questions only, and you cannot be incarcerated.

**Contact information:**

[www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org)

#### Law Help Nebraska

Interactive website hosted by Legal Aid of Nebraska. Information and forms in landlord-tenant, debt collection, divorce, etc. The Website is in English and Spanish.

**Contact information:**

<https://lawhelpne.legalaidofnebraska.org/>

### Self-Help Desks and Legal Clinics

#### Access to Justice Center, Legal Aid of Nebraska, Omaha and Lincoln office locations

Eligible persons can receive free legal advice from a Legal Aid lawyer in the Omaha and Lincoln offices. Pre-registration is not required, but a brief intake form will need to be filled out when you arrive. Walk-in clinics are first-come, first-serve.

**Contact information for clinic days and hours:**

[www.legalaidofnebraska.org](http://www.legalaidofnebraska.org) or call (402) 348-1060

## Help Representing Yourself (cont.)

### Self-Help Desks and Legal Clinics (cont.)

#### Self-Help Centers: Buffalo, Douglas, Hall, Madison, Scotts Bluff County Courthouses

A free, walk-in legal information and resource center for low-income persons representing themselves in court. A Self-Help Center is not a substitute for professional legal advice. It can provide legal information and resources to help you resolve a civil legal problem on your own. Dates and times are subject to change without notice. Notices will be posted on the door, where applicable. Self-Help Centers are closed when the court is closed and when volunteers are not available.

**Contact information for locations, dates and times each center is open:**

[www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org)

#### Veterans Coffee and Counsel Program, University of Nebraska College of Law, Lincoln

Students with the University of Nebraska College of Law provide limited-scope legal services to veterans, spouses of veterans, and active duty military on civil matters, including family law, estate planning, debt collection defense, small claims, and other general civil matters.

**Contact information to apply to register for an upcoming Veterans Coffee & Counsel event:**

<https://law.unl.edu/civil-clinic-outreach/veterans-coffee-and-counsel/>  
(402) 472-3271

#### Survivors Legal Consultation, Women's Center for Advancement, Douglas County

Free, walk-in legal consultation for survivors of domestic violence, sexual assault, stalking and human trafficking the 2nd Thursday of the month, 4 pm – 7 pm.

**Contact information:**

(402) 345-6555

*\*If these organizations cannot help you, they may refer you to another organization that may be able to assist you.*

### Law & Public Libraries (cont.)

#### State of Nebraska Library, Lincoln

The State Library provides legal resources including use of the Internet to do legal research.

**Contact information:**

(402) 471-3189

#### University of Nebraska College of Law Library, Lincoln

The Schmid Law Library is located on the east campus of UNL. It has one public access computer to conduct legal research, a print collection, and a Patent and Trademark Resource Center. Unless otherwise posted, reference assistance is available Monday-Friday between 9am-noon and 1pm-4pm, excluding holidays. Contact information:

(402) 472-3547

#### Creighton Law School Library, Omaha

Public access computers for legal research, reference assistance. Open to the public with legal research needs Monday-Friday when school is in session. Hours may vary during breaks and over the summer. Corner of 21st & Cass Street, Omaha, second floor of the Ahmanson Law Center.

**Contact information:**

(402) 280-5541

#### Douglas County Law Library, Omaha

Located in the Douglas County Courthouse at 1701 Farnam Street. Public access computers for legal research, reference assistance. Open to the public with legal research needs Monday-Friday, 8:30 am – 5:00 pm when the courthouse is open.

**Contact information:**

(402) 444-7174

*\*Some counties have law libraries open to the public. Visit the internet for information.*

#### Public Library

The public libraries statewide may have public access computers, legal resources and the Internet.

**Contact information:**

[www.publiclibraries.com/state/nebraska/](http://www.publiclibraries.com/state/nebraska/)

Produced by:



STATE OF  
**NEBRASKA**  
JUDICIAL BRANCH

Administrative Office  
of the Courts & Probation

*\*This list of resources is not comprehensive. Search the internet for information about places for free legal help and resources for persons representing themselves in your community.*



# Need Help with a Legal Question? Can't Afford a Lawyer?



## Nebraska Free Legal Answers

A Website where financially qualifying Nebraskans can ask a Nebraska volunteer lawyer a question about a civil legal problem, for **FREE!** To see if you qualify, go to the Website [www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org)

- You must be a Nebraska resident
- You must be at least 18 years old and cannot be in jail or prison
- You must meet low-income eligibility requirements
- You need an Internet connection (public library has free Internet)

*If you qualify to use the service:*

- There is no cost; the service is **FREE**
- You can post a civil (non-criminal) legal question (limit 3 per year)
- You will receive an email when a lawyer answers your question
- If it appears a lawyer cannot answer your question online, you may be referred to a legal service organization for assistance
- Your question is protected by attorney-client privilege rules



**NEBRASKA**  
State Bar Association

[www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org)

Nebraska Free Legal Answers is a Website operated by the American Bar Association and the Nebraska State Bar Association Volunteer Lawyers Project, 635 South 14th Street, Suite 200 Lincoln, NE 68508 (402) 475-7091.





AMERICAN BAR ASSOCIATION  
FREE LEGAL ANSWERS

NEBRASKA FREE LEGAL ANSWERS

[www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org)

1. Go to [www.NE.FreeLegalAnswers.org](http://www.NE.FreeLegalAnswers.org).
2. Click on **Get Started**.
3. You will be provided with a few instructions. If you want to post a questions online, click **Yes**.
4. Read the **User Agreement**. If you agree to the terms, click **Yes**.
5. Answer questions about **yourself**. You cannot post questions for someone else. Make sure to include the county where you live, email address, age, income, and confirm your answers.
6. If you qualify, create a **password**. Choose a security question and answer to help you if you forget your password.
7. If you *do not* qualify, you will be provided with information about other legal resources.
8. Check your email for a message that requires you to activate your new account. Login under **I am a client User**.
9. Click **Ask a New Question**. Verify you are posting a new question by clicking **Yes**.
10. Type your legal question in **500** words or less. Include the type of problem and **all** parties involved. If you do not name **all** parties involved, your question will be withdrawn. Attach any documents that may be helpful to the attorney (e.g., a court document, copy of lease, photographs, letter, etc.)
11. Click on **Question Tips** for helpful tips to help you when posting a question.
12. Click **Submit**. If an attorney answers your question, you will receive an email with instructions to view the answer.

# Need an Attorney?



*Established 1962*

**(402) 280-3603**

[www.omahalawyerreferral.com](http://www.omahalawyerreferral.com)

## Omaha Bar Association's Lawyer Referral Service

- Omaha's Bar-Sponsored Lawyer Referral Service since 1962
- Free consultations for Personal Injury, Worker's Compensation, Social Security Disability, & Bankruptcy cases
- Consultations for other matters are \$40 for the first 30 minutes
- We schedule the appointment for you
- Open 9 a.m. to 4:30 p.m. M-F  
[lrs@omahabarassociation.com](mailto:lrs@omahabarassociation.com)

## **Appendix 5 – Douglas County Divorce with Kids Process**

## Douglas County Divorce with Kids Process

1. Plaintiff files divorce complaint (+ DHS form) [\$158]
2. Plaintiff obtains service of process (two visits?)
  - Arrange with sheriff: re: personal service (separate fee and process)
  - Obtain voluntary appearance
  - Service by publication after due diligence for personal service (Not easy and time is a factor)
3. Defendant files appearance in person
4. Within 10 days of filing, Plaintiff must register for parenting class [\$50]. Classes take place on Thursdays. Must come to Court by 4 pm to pay. Class usually 4:30-6:30 pm. Just one class.
  - OR could take online class, but will need to file certificate of completion of parenting class with the Conciliation office and clerk in person (another trip to court)
  - See recommendation on better enforcing requirement that private parenting class providers do a better job of supplying parties with completion certificate and/or providing the certificate to the Court.
5. Within 10 days of receiving the complaint, Defendant must register for parenting class (same process as #4) [\$50]
6. Conciliation office assigns a mediator to the case and attempts to mediate
  - Mediator (an individual, not court employee) attempts to contact Plaintiff and Defendant separately. 90-Day clock starts.
7. Mediator meets separately with Plaintiff and Defendant for an initial consultation. \$75 an hour (each), with sliding scale option going down to \$25 an hour. Potential outcomes:
  - If parties develop a parenting plan they can waive mediation or if they are non-receptive mediation may be cancelled and the Conciliation office notified.
  - If mediator thinks case is high conflict or possible DV and is not personally trained for those types of cases, the mediator sends the case back to Conciliation for reassignment to a specific mediator with special training.
8. If joint mediation is appropriate, then the Plaintiff and Defendant set a three-hour session with a mediator. If joint mediation is not appropriate, the first party completes two sessions for a total of three hours. The second party completes one in-person session plus a phone call for a total of three hours. Whether conducted jointly or separately, the standard rate for each party is \$75 an hour (sliding scale may be available).
9. The mediator prepares a draft parenting plan at \$75 an hour. This may take up to two hours.
10. The parties (and, if applicable, their attorneys) review the draft within 21 days. If there are objections or requested changes, the mediator revises the draft plan until the parties are satisfied at a cost of \$75 an hour.

11. Once the parties agree on a draft plan the mediator sends the proposed parenting plan to the Conciliation Office for review.
12. The Conciliation Office files something procedural into Justis to show the case in compliance with local court rule 4.3
13. The mediator sends the parties (and, if applicable, their attorneys) the finalized parenting plan.
14. The parties contact the bailiff to set a hearing date. In advance of the hearing the parties must prepare and submit a:
  - Draft decree
  - Child support calculation (even if no child support is being sought)
  - Copy of the parenting plan
15. The hearing date is typically set four to eight weeks out from the time the parties contact the bailiff
  - If they do a 'prove up' then the hearing is that day. The parties will still have to come back to court after the hearing to get and file the signed and stamped order.
  - If there is a trial or additional hearings are required, the parties may need to come to court several times.
16. If a name change is requested, often the party will need to come back for a separate trip to the court to get a certified copy of the order. This will also cost money.

Notes:

This process description assumes that the parties are not tripped up by any confusion surrounding the Notice of Intent to Dismiss letter and requirements to file a Proposed Scheduling Order. It is likely that the parties would need to come to court an additional time to deal with those issues.

There are a minimum of five to six required court appearances that at least one of the parties must make. More visits are likely if the parties are meaningfully engaging in mediation or if there are additional hearings. A reasonable assumption is that a given party could make nine or more visits to the court.

The minimum cost of this process with fee waivers is \$508.

The maximum cost of this process, assuming typical mediation costs and that the parties are self-represented is \$1,008.

## **Appendix 6 – Divorce with Children Overview, Illinois**

# Divorce with Children Overview

This is an overview of the court process in Illinois. This entire divorce process may often take between six months – 2 years, and often involves multiple court visits.

Plaintiff files for divorce \$

Plaintiff gives notice to spouse of divorce case \$

Defendant responds to the divorce case \$

Both must complete parenting class \$

If agreement: tell the judge your agreement in a hearing called a “prove up” \$

OR

If no full agreement: case goes to trial and judge will make decisions for you. \$

Both update judge about divorce issues

Both negotiate:  
• property and debt  
• spousal support  
• child support  
• custody  
• parenting time

If both do not agree about all issues, parties can be sent to mediation or a lawyer for children may be appointed. \$

\$ Means this step may cost a fee, unless judge grants fee waiver

For the necessary forms and information about how to complete each step, go to: <https://tinyurl.com/divorceselfhelp>.



**Appendix 7 – Nebraska Supreme Court Committee on Self-Represented  
Litigation Strategic Plan 2015-2020**



Nebraska Supreme Court Committee on Self-Represented Litigation

# STRATEGIC PLAN 2015-2020



Honorable Frankie J. Moore, Chief Judge for the Court of Appeals  
Committee Chairperson

Honorable Teresa K. Luther, District Court Judge, 9th Judicial District  
Committee Vice Chairperson



**Nebraska Supreme Court Committee on Self-Represented Litigation**

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# ***A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation***

In September 2001 the Supreme Court formed the Nebraska Supreme Court Committee on Pro Se Litigation to study the nature and extent of pro se litigation in Nebraska’s courts. Its purpose was to develop recommendations to ensure equal access to the courts while maintaining impartiality, dignity, and efficiency in the judicial process. The committee issued its report in November 2002 including a recommendation that the Pro Se Litigation Committee become permanent. In February 2003, the Nebraska Supreme Court Implementation Committee on Pro Se Litigation was constituted under the leadership of Nebraska Court of Appeals Judge Richard D. Sievers, chair, and District Court Judge Teresa Luther, vice chair. Renamed the Nebraska Supreme Court Committee on Self-Represented Litigation in 2015, the committee is now chaired by Frankie Moore, Chief Judge of the Nebraska Court of Appeals with District Judge Teresa Luther serving as vice chair.

Although its name has changed over the years, the committee’s mission has not. It has consistently worked to promote access to justice for all Nebraska citizens. Among its many accomplishments are creation of a training manual on working with pro se litigants for judges and court employees; expansion of the Nebraska Online Legal Self-Help Center on the judicial branch website; work to promote limited scope representation by Nebraska lawyers; involvement with establishing and supporting six self-help centers for self-represented litigants across the state; and forging productive educational partnerships with the state’s librarians.

Access to justice for all Nebraska citizens is a primary goal of the judiciary as recognized repeatedly by Chief Justice Michael Heavican. With that goal at our forefront, the committee is excited for this opportunity to develop a strategic plan to take us beyond our origin and into the future with a clear action plan.

*“Origin, Evolution, and Beyond: A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation,”* by Judge Frankie Moore, detailing the history of the committee and its accomplishments can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.

*I maintain that ensuring that all citizens have meaningful access to the judicial process is an integral part of what we stand for as lawyers and judges – justice, fairness, and equality.*

*Honorable Richard Sievers [The Nebraska Lawyer](#), June 2007*





## Self-Represented Litigation Strategic Planning Conference Attendees

March 19-20, 2015 - Embassy Suites, Lincoln, NE

**John Greacen**, Facilitator, Greacen Associates, New Mexico

**Chief Justice Mike Heavican**, Chief Justice Nebraska Supreme Court

\***Janet Bancroft**, Public Information Officer – AOC

\***Ann Borer**, Research Director, 4th District Court – Omaha

**Michelle Chafee**, Director Office of Public Guardian – AOC

**Katelyn Cherney**, Rural Access to Justice Project - Legal Aid of Nebraska

\***Sheryl Connolly**, Trial Court Services Director - AOC

\***Debora Denny**, Director, Nebraska Office of Dispute Resolution – AOC

**Jeff Eastman**, Managing Attorney, Legal Aid – North Platte

**April Faith-Slaker**, Manager of Research and Evaluation - Legal Aid of Nebraska

\***Marsha Fangmeyer**, Private Practice Attorney – Kearney

\***Annette Farnan**, Deputy Director - Legal Aid of Nebraska

**Jen Gaughan**, Director of Litigation and Advocacy - Legal Aid of Nebraska

\***Judge Russell Harford**, County Court Judge – 12th Judicial District

\***Tracy Hightower-Henne**, Private Practice Attorney - Omaha

**Adriana Hinojosa**, Interpreter Coordinator, Omaha - AOC

Judge **Timothy Hoeft**, County Court Judge – 10th Judicial District

\***Doris Huffman**, Executive Director Nebraska State Bar Foundation and Nebraska Lawyers Trust Account Foundation - Lincoln

Judge **John Irwin**, Nebraska Court of Appeals and Minority Justice Task Force - Papillion

**Jennifer Kirkpatrick**, Domestic Violence Programs Service Specialist - AOC

\*Judge **Teresa Luther**, District Court Judge – 9th Judicial District

\***James Mowbray**, Nebraska Commission on Public Advocacy - Lincoln

\***Carole McMahon-Boies**, Director of Attorney Services – AOC

\***Jean McNeil**, Director of Legal Services - Nebraska State Bar Association

\*Judge **Frankie Moore**, Chief Judge Court of Appeals – North Platte

\***Liz Neeley**, Executive Director - Nebraska State Bar Association

**Stefanie Pearlman**, Professor of Law, Library and Reference Librarian – UNL College of Law

**Marian Petersen**, Bailiff Lancaster County District Court – 3rd Judicial District

\***Cathy Reiman**, County Court Clerk Magistrate – 8th Judicial District

**Mary Jo Ryan**, Communications Coordinator, Nebraska Library Commission

\***Robert Sanford**, Legal Director, Nebraska Coalition to End Sexual and Domestic Violence - Lincoln

**Shela Shanks**, Director of Admissions, Nebraska State Bar Commission Counsel, Commission on Unauthorized Practice of Law - Lincoln

\***Corey Steel**, Nebraska State Court Administrator - AOC

\***Marlene Vetick**, Clerk of District Court- 5th Judicial District

\***Marie Wiechman**, State Law Librarian - Lincoln

\**Members of Supreme Court Committee on Self-Represented Litigation*

# Conference Report and Strategic Plan

In August 2014, the Nebraska Supreme Court Committee on Pro Se Litigation (now known as the Nebraska Supreme Court Committee on Self-Represented Litigation) was awarded a grant from the Center on Court Access to Justice for All to hold a strategic planning conference bringing together key stakeholders from the public, private and non-profit sectors for the purpose of developing a strategic plan of action to meet the needs of Nebraskans attempting to navigate the court system without an attorney. This report is the culmination of the conference activities. It details the work of the conference and, beginning on page 7, identifies ten strategic goals and supporting action steps to address the challenge of providing equal access to justice for Nebraska's self-represented litigants in a coordinated and collaborative way.



## Conference Preparations

Many hours of work went into pre-conference planning. The committee worked closely with organizational consultant John Greacen to identify the needs of Nebraska's self-represented litigants and develop a taxonomy of needs which would serve as a framework to guide the work of conference attendees.

Several large-scale projects were undertaken leading up to the conference. The strategic planning subcommittee used surveys and needs assessments to develop an inventory of resources available to self-represented litigants in the state. A "gap analysis" was conducted comparing the services needed to effectively pursue a case with the services currently available to meet those needs, thereby identifying gaps in service availability for those trying to self-represent.

A survey of judges and clerks was conducted to quantify the amount of self-representation in Nebraska's courts, to identify the characteristics of self-representation cases, to better understand how self-representation impacts the courts, and to assess the effectiveness of available resources. The information will be used to develop better strategies to support self-represented litigants as well as improve court processes.

Documents can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.

# Vision Statement

**VISION OF NEBRASKA SELF-REPRESENTED LITIGATION COMMITTEE:**  
THROUGH COORDINATION AMONG ITS COURTS, BAR, LEGAL SERVICES ORGANIZATIONS, LIBRARIES, AND COMMUNITIES, NEBRASKA WILL PROVIDE SOME FORM OF MEANINGFUL AND EFFECTIVE ASSISTANCE TO 100% OF PERSONS OTHERWISE UNABLE TO ACCESS OR AFFORD AN ATTORNEY FOR DEALING WITH LEGAL NEEDS.

## Overview of Strategic Planning Process

The conference convened on March 19 and 20, 2015 with 36 invited participants. In attendance were representatives of the courts, the bar, legal aid providers, and other key stakeholders. See page 2.

The first task set for conference participants was to develop a vision statement. Guided by organizational consultant John Greacen, the group carefully crafted a comprehensive statement proposing a future where Nebraska will provide assistance to all those unable to access or afford an attorney. See above.

With the vision statement as a guide, attention shifted to creating a plan for making the vision a reality. This step relied heavily on the work of several small groups. The makeup of the small groups and a summary of their work can be found in the Supplemental Materials. Each small group was assigned one of the needs identified in the Greacen Taxonomy of Needs framework (discussed in the next section) and charged with developing strategies to address the need including outlining what to do, how to do it, who should be involved, a realistic timeframe for action, and identification of potential obstacles to success. Once the small groups completed their initial work, each group presented their ideas to the full conference for discussion and further refinement.

On day two the small groups reconvened and incorporated the feedback from the previous day into their original plans, creating a final set of need-specific recommendations. Based on these recommendations a comprehensive framework of ten strategic goals was developed to address access to justice issues in Nebraska.



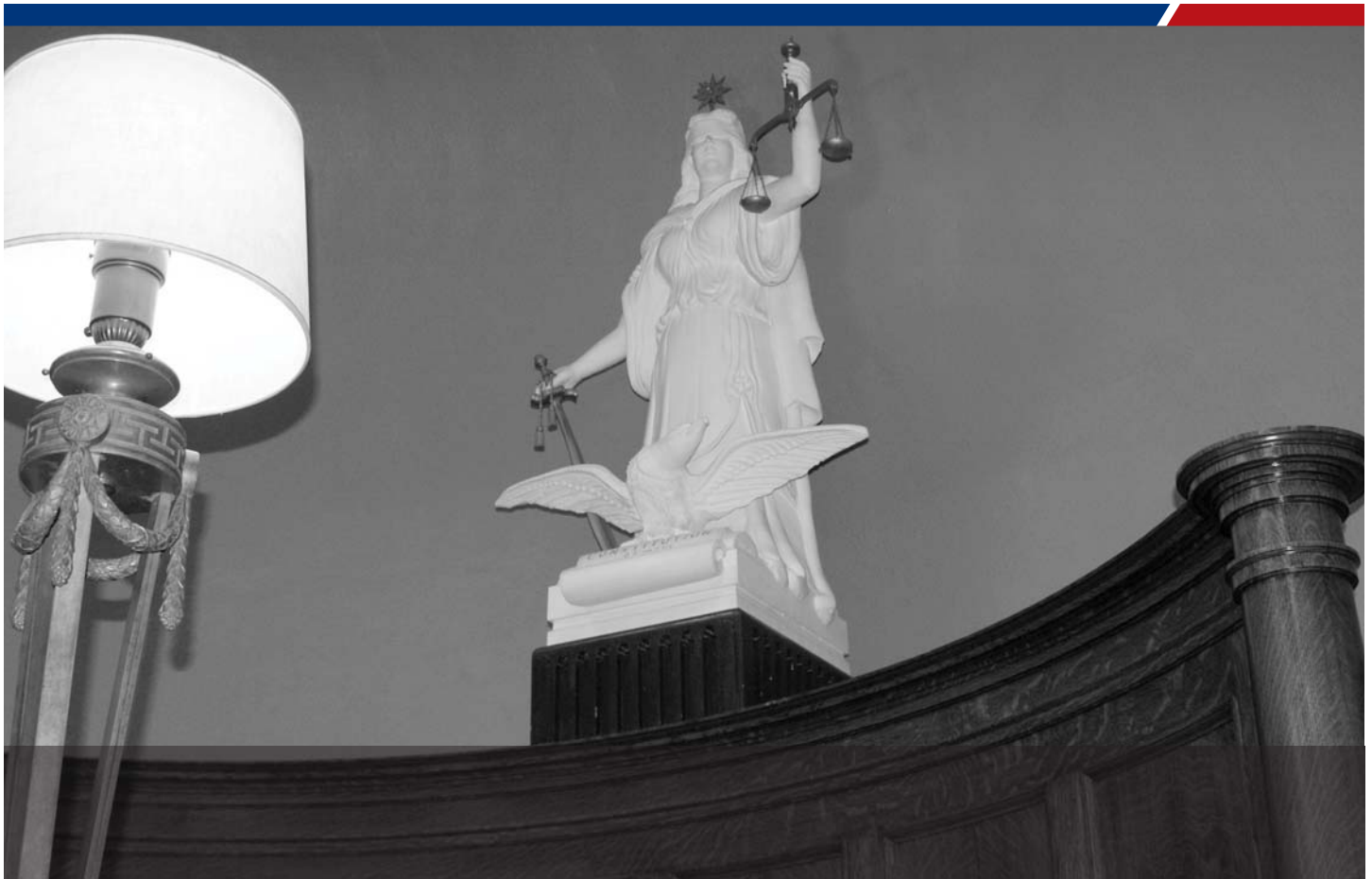
# Meeting the Needs of Nebraska's Self-Represented Litigants

Persons representing themselves in legal proceedings need ready access to legal resources and support services in order to be successful in their efforts to secure justice. Equally important, they need the court system to be willing and able to accommodate and assist them. Organizational consultant John Greacen has identified nine types of needs experienced by self-represented litigants. Greacen categorized the needs and created a comprehensive "Taxonomy of Needs of Self-Represented Litigants" which provides a framework for organizing and assessing how well each of the essential needs is being met by the legal system.

Nebraska's self-represented litigation strategic plan was developed and organized using the Greacen taxonomy.

<b>Greacen Associates</b>
<b>Taxonomy of Needs for Self-Represented Litigants</b>
Legal information concerning rights and remedies and procedural requirements
Forms produced through document assembly software
Assistance in the use of information and forms in pursuing a remedy
Legal advice to understand the legal intricacies of the case and the best strategy to pursue
Personal assistance for persons with disabilities or language access needs
Legal assistance for discrete tasks
Proactive court case management to ensure that cases move through the court process
An accommodating courtroom in which to present the case
Legal representation for persons unable to self-represent because of the complexity of the case or their lack of personal capability





*“All courts shall be open, and every person, for any injury done him or her in his or her lands, goods, person or reputation, shall have a remedy by due course of law and justice administered without denial or delay ...”*

*“Open Courts” clause of the Nebraska Constitution Art. I § 13*



# Strategic Plan Goals and Action Steps

## Goal 1: Create an Access to Justice Commission

*Having a single entity tasked with developing, implementing, and coordinating efforts to improve access and quality of justice for self-represented litigants could lead to a more efficient and effective use of limited resources.*

### POSSIBLE ACTION STEPS:

- Reconstitute the current Supreme Court Committee on Self-Represented Litigation as the Access to Justice Commission with staffing support provided by the Administrative Office of the Courts

### The Commission would:

- Coordinate all self-represented litigant access activities and projects of the Nebraska courts, bar, legal services, libraries and communities
- Coordinate all grant and funding opportunities

## Goal 2: Develop a Statewide Case Triage System

*A case triage system could help streamline the legal process by ensuring that self-represented litigants have adequate information early in the legal process thereby allowing them to make informed decisions on their best course of action in pursuing a case. Using technology to inform litigants of the rules, costs, timelines and procedures could reduce demand on the time of court staff.*

### POSSIBLE ACTION STEPS:

- Coordinate with Legal Aid of Nebraska, the Nebraska State Bar Association, and others to develop and operate the triage system
- Model case triage system on national systems such as described in the National Center for State Courts “Case Triage for the 21st Century” document.

# Strategic Plan Goals and Action Steps

## Goal 3: Provide Legal and Procedural Information

### A. Legal and procedural information provided through technology

*Much of the assistance presently made available to self-represented litigants by the courts is in the form of web-based information and related technologies such as on-line forms. Efforts will continue to ensure that information is easy to navigate and use; legal jargon is minimized; information is concise and duplication is eliminated; links are active; and the reading level is appropriate.*

#### POSSIBLE ACTION STEPS:

- **Develop and maintain user-friendly tools and instructions for self-represented litigants to use to assess their case or prepare for hearing or trial**
- **Develop and maintain user-friendly procedural checklists for self-represented litigants to use to record the progress of their case**
- **Develop instructional videos for self-represented litigants**
- **Create a feedback loop for use by self-represented litigants (e.g. consumer satisfaction surveys)**

### B. Legal and procedural information provided by court staff

*Court staff need clear guidelines to help them fairly and consistently determine what information they may and may not provide in response to questions from self-represented litigants. Restrictions on the scope of information that staff can offer because of the limitation on providing “legal advice” may be detrimental to the efforts of self-represented litigants.*

#### POSSIBLE ACTION STEPS:

- **Develop a UPL exception for court staff, librarians, and other community assistance resources formally associated with the Access to Justice Commission, based on Washington State UPL Committee model which can be found in the Self-Represented Litigation Strategic Plan Supplemental Materials.**
- **Provide regular and ongoing best practices education for court staff**

# Strategic Plan Goals and Action Steps

## Goal 4: Develop Accessible Court Forms

*On-line forms can be complex and difficult to complete. Developing and providing easily accessible, user-friendly, and simplified court forms could be especially beneficial for self-represented litigants. Systemic improvements will help ensure that the needed forms are easy to locate; simplify the language used on forms both in terms of reading level and the amount of legal terminology used; and reduce the multiplicity of forms.*

### POSSIBLE ACTION STEPS:

- Continue to develop, update and maintain forms with Access to Justice partners
- Identify a central host for document assembly systems accessible to legal services, courts, bar, libraries and community resources

## Goal 5: Provide Assistance in the Use of Information and Forms

*Having easy and timely access to assistance when needed will increase the ability of self-represented litigants to effectively pursue their cases. A virtual self-help desk could augment the assistance currently provided by physical self-help desks and increase the overall capacity for aiding the growing number of persons representing themselves.*

### POSSIBLE ACTION STEPS:

- Develop a statewide virtual self-help desk to provide assistance to self-represented litigants, possibly coordinated by the Supreme Court Law Library
- Use call center and co-browsing software, email and live chat from the self-help website
- Use Supreme Court Law Library resources to provide assistance on district court matters
- Incorporate the current county court information specialist system, capturing available time of county court staff throughout the state

# Goals and Action Steps

## Goal 6: Access to Legal Advice Through Limited Scope Representation

*The primary reason for self-representation is financial. The historical reluctance of attorneys to consider “unbundling” of services has perpetuated the problem. Expansion of limited scope representation pursuant to Neb. Ct. R. of Prof. Cond. § 3-501.2 offers a mutually beneficial solution.*

### POSSIBLE ACTION STEPS:

- Create a section or committee for limited scope practitioners open to all lawyers in the state
- Develop ongoing Continuing Legal Education Credits for limited scope practitioners
- Develop a limited scope toolkit
- Encourage lawyers to develop virtual law practice capability for both full and limited scope representation
- Create local lists of lawyers who provide limited scope service

## Goal 7: Assist Persons with Disabilities or Language Access Needs

*People with special needs or disabilities may face unique barriers when accessing the justice system; self-represented litigants with special needs or disabilities may experience even greater challenges. Self-represented litigants with limited English language skills are also confronted with circumstances which increase the difficulty in reaching a just outcome.*

### POSSIBLE ACTION STEPS:

- Educate court staff on assisting self-represented litigants with special needs or disabilities
- Educate court staff on assisting self-represented litigants with cultural differences or language access needs
- Increase usage of video remote interpreting by courts
- Provide ongoing training to courts on effective use of Language Line and similar technologies
- Equip court offices to fully support interpreter services
- Develop multilingual forms and orders
- Continue the support of the Bar Association interpreter resources project/Legal Aid language support

# Strategic Plan Goals and Action Steps

## Goal 8: Proactive Case Management

*Proactive court case management ensures that cases move quickly through the court system. Better utilization of technological resources could improve the efficiency and effectiveness of court processes.*

### POSSIBLE ACTION STEPS:

- **Standardize the definition of self-represented litigant in JUSTICE in order to identify a self-represented individual and differentiate the progression of a case**
- **Add email addresses and cellphone numbers as data elements to JUSTICE if needed for eNotice and eFiling by self-represented litigants**
- **Develop and pilot automated messaging capability and standard messages for divorce/custody cases with the expectation of expanding to additional case-types based on results**

## Goal 9: Create an Accommodating Courtroom

*The courtroom experience may be daunting for self-represented litigants who come seeking help with serious problems. Ensuring that judges and court staff are fully prepared to work with self-represented litigants and that standardized procedures and protocols are in place could help make the courtroom environment more accommodating.*

### POSSIBLE ACTION STEPS:

- **Develop protocols for conducting typical hearings involving self-represented litigants such as protection orders, contempt proceedings, hearings for temporary orders, and trials**
- **Provide enhanced judicial training on the use of the protocols**
- **Establish screening protocols for calendaring hearings and trials**
- **Develop standardized forms for the preparation of orders and judgments**
- **Provide feedback to court staff from self-represented litigants regarding services**
- **Promote annual training for court staff on assisting self-represented litigants and interfacing with assistance services for self-represented litigants**
- **Ensure courtroom access to printers**
- **Support the services provided by NSBA and Legal Aid self-help desks**

# Strategic Plan Goals and Action Steps

## Goal 10: Availability of Full Legal Representation

*Self-representation will not be feasible for everyone. For those unable to represent themselves due to the complexity of their case or their own lack of personal capability, some form of full legal representation will be needed.*

### POSSIBLE ACTION STEPS:

- Use a triage system (Goal 2) to identify cases needing full representation and conducting income means testing

Refer eligible cases to Legal Aid of Nebraska for representation or to pro bono attorneys. Some of these cases may involve mental health or disability cases.

Refer other cases to private bar pilot projects testing the use of multiple approaches to meeting the needs of these clients, including:

Coordinate with mental health services

Coordinate with disability advocates

- Explore the development of “modest means” programs for reduced rate legal services
- Coordinate with judges to recruit attorneys to provide representation in difficult cases

# Nebraska Supreme Court Committee on Self-Represented Litigation

**Purpose Statement:** *To engage in continuing analysis and study of the challenges which self-represented litigation poses for court staff, the judiciary, and the practicing bar; to continue assessment of the challenges to the right of self representation which the judicial system currently presents; to propose solutions or improvements in response to such challenges to the Nebraska Supreme Court; and to implement the recommendations of the Self-Represented Litigation Committee which the Nebraska Supreme Court approves.*

## Chairperson:

**Judge Frankie Moore**, Chief Judge Court of Appeals – North Platte

## Vice Chairperson:

**Judge Teresa Luther**, District Court – 9th Judicial District

## Committee Members:

**Janet Bancroft**, Public Information Officer – AOC

**Ann Borer**, Research Director, 4th District Court – Omaha

**Debora Denny**, Director, Nebraska Office of Dispute Resolution – AOC

**Judge Leo Dobrovolny**, 12th District Court – Gering

**Marsha Fangmeyer**, Private Practice Attorney – Kearney

**Tracy Hightower-Henne**, Private Practice Attorney - Omaha

**Sheryl Connolly**, Trial Court Services Director - AOC

**Annette Farnan**, Deputy Director - Legal Aid of Nebraska

**Jen Gaughan**, Director of Litigation and Advocacy - Legal Aid of Nebraska

**Judge Russell Harford**, County Court Judge – 12th Judicial District

**Doris Huffman**, Executive Director Nebraska State Bar Foundation and Nebraska Lawyers Trust Account Foundation - Lincoln

**Judge Paul Merritt, Jr.**, District Judge — 3rd Judicial District

**Catherine Mahern**, Creighton Legal Clinic — Omaha

**Carole McMahon-Boies**, Director of Attorney Services – AOC

**Jean McNeil**, Director of Legal Services — Nebraska State Bar Association

**James Mowbray**, Nebraska Commission on Public Advocacy - Lincoln

**Liz Neeley**, Executive Director - Nebraska State Bar Association

**Judge Thomas Otepka**, District Court — 4th Judicial District

**Judge Michael Piccolo**, County Court — 11th Judicial District

**Cathy Reiman**, County Court Clerk Magistrate – 8th Judicial District

**Kevin Ruser**, UNL Legal Clinic — Lincoln

**Robert Sanford**, Legal Director, Nebraska Coalition to End Sexual and Domestic Violence - Lincoln

**Corey Steel**, Nebraska State Court Administrator - AOC

**Judge Lauren Van Norman**, Workers' Compensation Court — Lincoln

**Marlene Vetick**, Clerk of District Court- 5th Judicial District

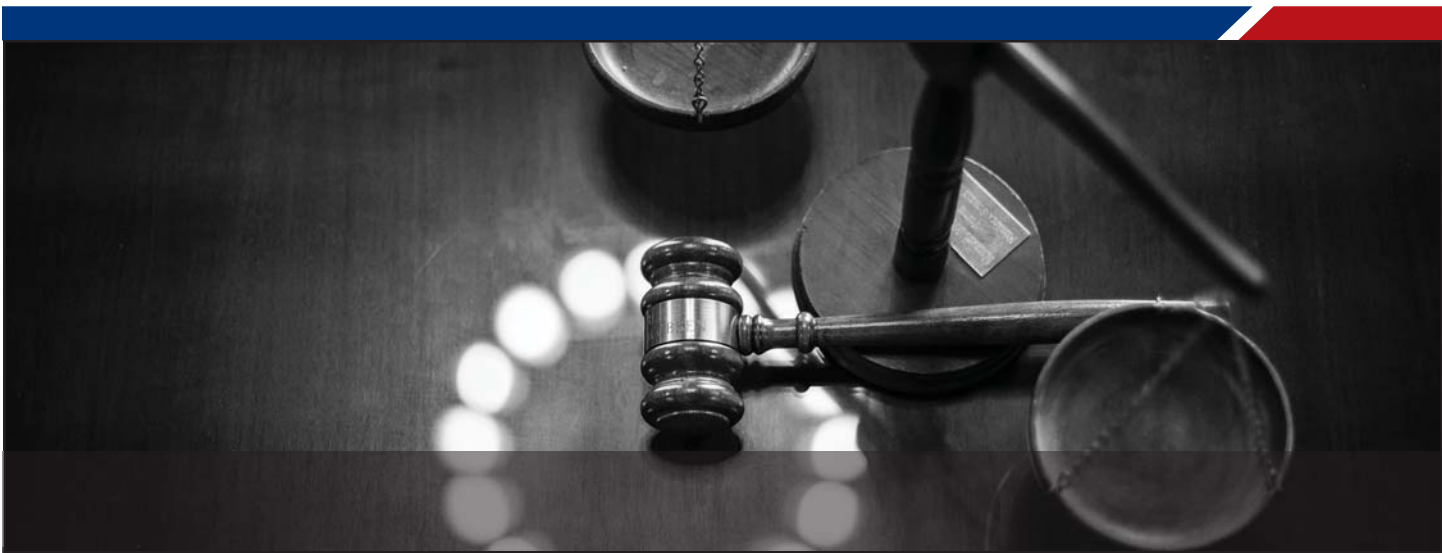
**Judge Arthur Wetzel**, County Court— 9th Judicial District

**Marie Wiechman**, State Law Librarian - Lincoln





Nebraska Supreme Court Committee  
on Self-Represented Litigation



NEBRASKA SUPREME COURT / P.O. Box 98910 / Lincoln NE 68509 / [WWW.SUPREMECOURT.NE.GOV](http://WWW.SUPREMECOURT.NE.GOV)

**Issued October 2015**



**Appendix 8 – Application: Nebraska Parenting Act Divorce and Separation  
Parenting Education Provider Information**

# Application

## Nebraska Parenting Act Divorce and Separation Parenting Education Provider Information

### A. Approval Process:

Please submit the following in the order listed:

1. **Provider information sheet:** Please complete this information sheet; include information requested; and submit with the approval packet.
2. **Educational Objective instructions:** Complete the Educational Objective table for each course(s) for which State Court Administrator approval is being requested.
  - a. Please check off whether your curriculum provides information to meet the numbered, statutorily-required learning objectives indicated in the yes/no box. Education providers that do not meet these statutorily required curriculum objectives will not receive approval from the State Court Administrator's Office to provide parent education for the courts.
  - b. Additional optional educational components are listed in the shaded boxes; please also provide checkmarks as to whether your curriculum includes those elements.
3. **Provider Guidelines Compliance Statement Instructions:** Please read the Provider Guidelines and if your program meets the requirements, sign the statement of compliance. Only those providers that meet those guidelines and submit signed compliance statement will receive State Court Administrator approval.

**Educational Objectives and Provider Guidelines:** There are two educational courses described by the Parenting Act: I. the required Basic Level Parenting Education; and II. the optional Second Level Parenting Education. For each of the educational courses, the State Court Administrator has approved (A) statutorily-required educational objectives, along with suggested additional objectives are provided in a table, and (B) provider guidelines for each of the courses. The bold, numbered statutorily-required educational objectives in the table must be met in curriculum and presentation by the provider. Providers may request approval of online education of I. Basic Level Parenting Education.

4. **Three letters of reference:** Three letter of reference are required for new faculty or educators. Applicants for renewal do not need to submit reference letters if the educators have remained the same.

If the organization has a new educator, please submit three letters of reference as to the performance, proficiency, and quality of the individual facilitator/educator for the educational program, along with a signed Provider Compliance Statement by the new educator/faculty.

**B. Statutory Authority:** Subsection (1) of the Parenting Act, Nebraska Revised Statute §43-2928 (2008) states: “The court shall order all parties to a proceeding under the Parenting Act to attend a basic level parenting education course.” Waivers are permitted. Subsection (2) states that “The court may order parties . . . to attend a second-level parenting education course subsequent to completion of the basic level course when screening or a factual determination of child abuse or neglect, domestic intimate partner abuse, or unresolved parental conflict has been identified.” Subsection (3) states that “The State Court Administrator’s Office shall approve all parenting education courses under the act.”

The Act sets forth descriptions of content of these courses as follows:

Subsection (4) states: “The basic level parenting education course pursuant to this section shall be designed to educate the parties about the impact of the pending court action upon the child and appropriate application of parenting functions. The course shall include, but not be limited to, information on the developmental stages of children, adjustment of a child to parental separation, the litigation and court process, alternative dispute resolution, conflict management, stress reduction, guidelines for parenting time, visitation, or other access, provisions for safety and transition plans, and information about parents and children affected by child abuse or neglect, domestic intimate partner abuse, and unresolved parental conflict.

Subsection (5) states: “The second-level parenting education course pursuant to this section shall include, but not be limited to information about development of provisions for safety and transition plans, the potentially harmful impact of domestic intimate partner abuse and unresolved parental conflict on the child, use of effective communication techniques and protocols, resource and referral information for victim and perpetrator services, batterer intervention programs, and referrals for mental health services, substance abuse services, and other community resources.

The Act sets forth language regarding costs and scheduling separate educational courses for parties to a conflictual relationship as follows:

Subsection (6) states: “Each party shall be responsible for the costs, if any, of attending any court-ordered parenting education course.

Subsection (6) further states that “At the request of any party, or based upon screening or recommendation of a mediator, the parties shall be allowed to attend separate courses or to attend the same course at different times, particularly if child abuse or neglect, domestic intimate partner abuse, or unresolved parental conflict is or has been present in the relationship or one party has threatened the other party.

**Submittal:** Submit this packet to:

State Court Administrator’s Office  
Attn: Rachel Lempka  
Room 1213, State Capitol  
P. O. Box 98910  
Lincoln, NE 68509

Email address: [rachel.lempka@nebraska.gov](mailto:rachel.lempka@nebraska.gov)

Email submittals will be accepted.  
Facsimiles will not be accepted.

Any questions should be directed to Rachel Lempka, State Court Administrator’s Office, 402-471-3148, [rachel.lempka@nebraska.gov](mailto:rachel.lempka@nebraska.gov).

# Nebraska Parenting Act Educational Provider Information Sheet

**A. Contact Information:**

Name of Organization: \_\_\_\_\_

Address: \_\_\_\_\_

City / State / Zip: \_\_\_\_\_

Phone: \_\_\_\_\_

Email: \_\_\_\_\_

*Change in contact information*

**B. Education course(s) being requested for approval:**

\_\_\_\_\_ Basic Level On-Site Parenting Education (Part I)

\_\_\_\_\_ Second Level Parenting Education (Part II)

\_\_\_\_\_ Online Basic Level Parenting Education (Part III)

Website Address: \_\_\_\_\_  
*(required for online course approval)*

**C. Language:** Do you provide your parenting education course in a language other than English?

If so, please indicate the language(s) \_\_\_\_\_

**D. ATTACH your education course schedule: date, time, location, cost, and availability of sliding fee or fee waiver.**

**E. Facilitators/Educators** *(for new educators, please submit three letters of reference):*

Names of Facilitators / Educators	Contact information (if different from Provider)	Relationship to Provider (employee; contractor; other)	Educational background (degrees; years of providing parent or child education)

<p style="text-align: center;"><b>I. <u>BASIC LEVEL PARENTING</u></b></p> <p style="text-align: center;"><b>Items numbered and in bold are mandatory.</b>  <b>For use by both onsite and online educational forums.</b></p> <p><b>A. EDUCATIONAL OBJECTIVES:</b> Parents who attend this educational course will:</p>	Curriculum meets the learning objective	
	Yes	No
<b>1. Learn about the potential impact of the court action (separation/divorce) upon a child</b>		
<i>Additional elements under this objective may include:</i>		
○ To what extent should children be involved in the court action		
○ Empowering parents		
○ Using a child centered approach		
○ Safety		
<b>2. Identify ways to appropriately address parenting functions</b>		
<i>Additional elements under this objective may include:</i>		
○ Basic Parenting Education		
○ Parenting functions as outlined in the statute		
<b>3. Identify the developmental stages of children</b>		
<i>Additional elements under this objective may include:</i>		
○ What is “normal” behavior		
○ Ages and stages and the ranges of these stages		
○ Impact of crisis such as divorce upon the stages of the child’s development		
○ Consideration of the child(ren)’s stage(s) of development when designing the Parenting Plan		
<b>4. Learn about ways to support the child’s adjustment to parental separation.</b>		
<b>5. Identify the elements of Nebraska’s Parenting Plan and how to develop the Plan</b>		
<i>Additional elements under this objective may include:</i>		
○ Elements of a parenting plan		
○ Guidelines for parenting time/visitation/or other access		
○ How to create a parenting plan (parental negotiation, attorney negotiation, mediation, specialized alternative dispute resolution (SADR), litigation)		
<b>6. Learn about alternative dispute resolution; conflict management; stress reduction; appropriate language usage and positive communication</b>		
<i>Additional elements under this objective may include:</i>		
○ Use of “I” messages		
○ How to help children with alienation		
○ Interest based negotiation techniques		
<b>7. Identify provisions for safety and transition plans under the Nebraska Parenting Act.</b>		
<b>8. Identify attributes of child abuse, neglect, domestic intimate partner abuse and unresolved parental conflict and how they impact members of the family.</b>		
<i>Additional elements under this objective may include:</i>		
○ Mandatory reporting requirements		
○ Effects of DIPA and child abuse/neglect at different stages of development		
○ On going persistent parental conflict and its impact on children		
○ Definitions/terms: domestic intimate partner abuse vs. high conflict		
<b>9. Identify parenting through separation resources and references for those wanting to get more information from web sites and books</b>		

**I. BASIC LEVEL ON-SITE PARENTING EDUCATION**

**B. PROVIDER GUIDELINES**

1. The statutorily-required educational objectives are being met by the provider
2. Safety for participants during the intake process and throughout the educational experience is addressed by:
  - a. Offering separate classes for either party in a case
  - b. Screening questions to assess presence of domestic intimate partner abuse
  - c. Safety measures are in place at the site and time of the class
3. Each provider must provide a written proof of completion for each participant
4. Providers must submit significant curriculum modifications to the AOC for approval
5. The basic level class is at least two (2) hours in length and no more than six (6) hours in length
6. Participants have the opportunity to evaluate the course
7. Education class facilitator/educator qualifications shall include:
  - a. Bachelors degree required in children and family, psychology, sociology, social work related field or equivalent
  - b. Masters degree preferred in children and family, psychology, sociology, social work related field or equivalent OR equivalent experience in one of the above listed areas
  - c. Exceptions to the facilitator/educator qualifications will be reviewed on a case by case basis and must receive approval by the State Court Administrator or its designee
  - d. Three written references for the facilitator/educator regarding performance, proficiency, and quality is required to be submitted to the State Court Administrator as part of the request for approval
  - e. Knowledge required in the following fields: domestic violence; mediation and specialized ADR under the Nebraska Parenting Act; parenting plans; family dynamics; understanding of mandatory child abuse and neglect reporting requirements; parental conflict and impact upon children

**Statement of Compliance:** *As a provider of basic level parent education, I affirm that my organization and the facilitator/educators meet the Provider Guidelines as stated above.*

---

Name / Title

---

Date

**For Basic Level On-Site Educational Approval: Submit a completed copy of the following:**

- Provider Information Sheet
1. Basic Level Parenting Educational Objectives Checklist
  2. Provider Guidelines Statement of Compliance
  3. Course Schedule and Sliding Fee Schedule

<b>II. <u>SECOND LEVEL PARENTING</u></b>		<b>Curriculum meets the learning objective</b>	
<b>Items numbered and in bold are mandatory.</b>			
<b>A. EDUCATIONAL OBJECTIVES</b>		<b>Yes</b>	<b>No</b>
Parents who attend this educational course will:			
<b>1. Identify the “why” and “how” to develop provisions for safety and transition plans</b>			
<i>Additional elements under this objective may include:</i>			
○ As it applies to the parenting plan			
○ Examples of safe transitions			
○ Parallel parenting			
○ Options if plan is violated			
<b>2. Identify the potential harmful impact of domestic intimate partner abuse and unresolved parental conflict on the child</b>			
<i>Additional elements under this objective may include:</i>			
○ Definition of terms			
○ Developmental stage specific effects			
○ Resiliency factors			
○ Joint and sole custody behaviors			
○ Purpose of child support and ways to defuse unnecessary conflict			
<b>3. Learn effective communication techniques and protocols</b>			
<i>Additional elements under this objective may include:</i>			
○ Plan for communicating about the needs of children			
○ Safe communication for all parties with examples			
<b>4. Become aware of resource and referral information for victim, perpetrator, and batterer services</b>			
<i>Additional elements under this objective may include:</i>			
○ Victim services			
○ Perpetrator Services			
○ Batterer Intervention Programs			
○ Referrals for mental health services, substance abuse services, and other community resources			

## **II. SECOND LEVEL PARENTING EDUCATION**

### **B. PROVIDER GUIDELINES**

1. The statutorily-required objectives are being met by the provider.
2. Safety for participants during the intake process and throughout the educational experience is addressed by:
  - a. Requiring separate classes for men and separate classes for women
  - b. Screening questions to assess presence of domestic intimate partner abuse
  - c. Safety measures are in place at the site and time of the class
3. Participants have the opportunity to evaluate the course.
4. A minimum of a two (2) hour and a maximum of a six (6) hour course
5. Education Class Facilitator Qualifications shall include:
  - a. Bachelors degree required in children and family, psychology, sociology, social work related field or equivalent
  - b. Masters degree preferred in children and family, psychology, sociology, social work related field or equivalent OR equivalent experience in one of the above listed areas
  - c. Exceptions to these requirements will be reviewed on a case by case basis and approved by the AOC Parent Education Committee
  - d. Must submit three written references regarding the facilitator/educator's performance, proficiency, and quality
  - e. Child welfare background check must be done for those facilitating the child of divorce course
  - f. Knowledge required in the following fields: domestic violence; mediation and specialized ADR under the Nebraska Parenting Act; parenting plans; family dynamics; understanding of mandatory reporting requirements; parental conflict

**Statement of Compliance:** *As a provider of second level parent education, I affirm that my organization and the facilitator/educators meet the Provider Guidelines as stated above.*

---

Name / Title

---

Date

### **For Second Level Educational Approval: Submit a completed copy of the following:**

1. Provider Information Sheet
2. Second Level Parenting Educational Objectives Checklist
3. Provider Guidelines Statement of Compliance
4. Course Schedule and Sliding Fee Schedule



### **III. PARENTING EDUCATION FOR DIVORCING OR SEPARATING PARENTS - ONLINE**

#### **A. EDUCATIONAL OBJECTIVES – BASIC LEVEL PARENTING EDUCATION**

1. Parents who attend a basic parenting education course for divorcing or separating parents by accessing online and related technological resources will achieve the same educational objectives as outlined in section IA of the Nebraska Administrative Office of the Court's approved Parenting Education Guidelines.
2. During all courses, including those presented by telecommunications or utilizing other educational technologies, there should be an opportunity to ask questions of the course faculty. If a faculty member is not available either in person or via telephone, then a qualified commentator should be available to offer comment and answer questions in writing or via e-mail.

#### **B. SECOND LEVEL PARENTING EDUCATION**

Due to the purpose and sensitive nature of the second level parenting education course as defined by the Nebraska Parenting Act, educational objectives cannot be achieved using technological resources. Providers of online second level parenting education courses will not be approved by the Nebraska Administrative Office of the Courts.

#### **C. PROVIDER GUIDELINES**

1. The statutorily-required educational objectives as detailed under SECTION I BASIC LEVEL PARENTING are being met by the provider as indicated by submittal and approval of Basic Level Parenting Educational Objectives Checklist.
2. Whether the online course is provided through either synchronous or/and asynchronous instruction, faculty shall provide an opportunity for participants to ask questions of course faculty. Faculty or instructors, qualified as described below, will inform participants as to when they are available for regular communication by:
  - a. Sharing email address and phone number with all participants at the start of the class;
  - b. Scheduling telephone office hours where participants can expect to call and speak directly to the instructor;
  - c. Returning emails or voicemail messages in a timely manner.
3. If the provider offers online chat, blogs, or posts in an open forum, the provider shall screen all on-line communications prior to posting.
4. Comprehension of educational objectives will be facilitated using a variety of means including text, images, video, and quizzes.
  - a. Video will be used to distribute information such as visual or procedural concepts that are hard to express in text;
  - b. Real life or simulated demonstrations of parenting dilemmas, conflict, and related separation issues will be used in addition to lecture format.
5. Safety for participants during the intake process and throughout the educational experience is addressed by:
  - a. Keeping participants' direct contact and personal information for use only by the instructor, not shared with any other participants;
  - b. Assigning a user name (which will not compromise personal information) to every participant for use during course and participant interaction;
  - c. Maintaining privacy of feedback and information from outside of group discussions;
  - d. Allowing same couple to enroll in different classes if safety is a concern.

6. Each provider must provide a written proof of completion for each participant.
7. The on-line class reflects an amount of content similar to that which is provided during an onsite workshop of three (3) hours in length and no more than six (6) hours in length.
8. Participants have the opportunity to evaluate the course.
9. Participants will sign off on a course policies agreement that incorporates the guidelines within this statement.
10. Provider will need to define hardware and software and internet requirements for class participation. Provider will respond to technology questions in a timely manner.
11. Online curriculum has been developed/will be facilitated by educators and partners with qualifications that reflect:
  - a. Bachelor's degree required in children and family, psychology, sociology, social work related field or equivalent; or
  - b. Master's degree preferred in children and family, psychology, sociology, social work related field or equivalent OR equivalent experience in one of the above listed areas; and
  - c. Knowledge required in the following fields: domestic violence; mediation and specialized ADR under the Nebraska Parenting Act; parenting plans; family dynamics; understanding of mandatory child abuse and neglect reporting requirements; parental conflict and impact upon children.
  - d. Basic technology skills including but not limited to:
    - ability to operate within the preferred standard operating system (Windows, Macintosh)
    - ability to use the preferred standard word processing application(s)
    - ability to use preferred email applications
    - ability to use the preferred web browser
    - ability to use the preferred course management system

**Statement of Compliance:** *As a provider of online basic level parent education, I affirm that my organization and the facilitator/educators meet the Provider Guidelines as stated above.*

\_\_\_\_\_

Name / Title

\_\_\_\_\_

Date

Contact Information:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**For Online Educational Approval: Submit a completed copy of the following:**

1. Provider Information Sheet
2. Basic Level Parenting Educational Objectives Checklist
3. Provider Guidelines Statement of Compliance – Online Format
4. Course Schedule and Sliding Fee Schedule
5. Website Address

## **Appendix 9 – Illinois Prescription Pad (English and Spanish)**

**Next Court Date / Próxima fecha de corte:** \_\_\_\_\_ at \_\_\_\_\_ am/pm in C-\_\_\_\_\_.

**Document(s) to bring to next court date/Documento(s) para llevar a la próxima fecha de corte**

- Fee Waiver Application / **Solicitud para anular cuotas**
- Appearance / **Comparecencia**
- Judgment for Dissolution / **Fallo para la Disolución**
- In Rem Judgment / **Fallo in Rem**
- Certificate of Dissolution of Marriage / **Certificado de Disolución del Matrimonio**
- Affidavit of Military Service / **Declaración bajo juramento de Servicio Militar**
- Parenting Plan / **Plan de Crianza**
- Certificate of Completion of Parenting Class / **Certificado de finalización de la clase para padres**
- Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act / **Declaración bajo la Ley para la Jurisdicción de cumplimiento de menores**
- Uniform Order for Support / **Orden de Apoyo de manutención uniforme**
- Child Support Data Sheet / **Hoja de datos de manutención de niños**
- Notice to Withhold Income / **Aviso de retención de Ingresos**
- Calculate guidelines for Child Support at Law Library & Print Form / **Calcular bajo los parámetros legales la manutención de menores en la Biblioteca Jurídica e imprima el formulario.**
- \$75.00 cash for the Court Reporter / **\$75.00 en efectivo para la taquígrafa**
- Other / **Otros** \_\_\_\_\_

**Next Court Date / Próxima fecha de corte:** \_\_\_\_\_ at \_\_\_\_\_ am/pm in C-\_\_\_\_\_.

**Document(s) to bring to next court date/Documento(s) para llevar a la próxima fecha de corte**

- Fee Waiver Application / **Solicitud para anular cuotas**
- Appearance / **Comparecencia**
- Judgment for Dissolution / **Fallo para la Disolución**
- In Rem Judgment / **Fallo in Rem**
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- Affidavit of Military Service / **Declaración bajo juramento de Servicio Militar**
- Parenting Plan / **Plan de Crianza**
- Certificate of Completion of Parenting Class / **Certificado de finalización de la clase para padres**
- Declaration Under Uniform Child Custody Jurisdiction and Enforcement Act / **Declaración bajo la Ley para la Jurisdicción de cumplimiento de menores**
- Uniform Order for Support / **Orden de Apoyo de manutención uniforme**
- Child Support Data Sheet / **Hoja de datos de manutención de niños**
- Notice to Withhold Income / **Aviso de retención de Ingresos**
- Calculate guidelines for Child Support at Law Library & Print Form / **Calcular bajo los parámetros legales la manutención de menores en la Biblioteca Jurídica e imprima el formulario.**
- \$75.00 cash for the Court Reporter / **\$75.00 en efectivo para la taquígrafa**
- Other / **Otros** \_\_\_\_\_

**Appendix 10 – Kane County Law Library and Self Help Legal Center  
Prescription Pad**

# Kane County Law Library & Self Help Legal Center

Kane County Judicial Center • 2nd floor  
630.406.7126

*You need the following:*

- Notice of Motion
- Motion for Default
- Proof of Service
- Financial Affidavit
- Affidavit for Service by Publication
- Parenting Plan
- Marital Settlement Agreement
- Default Judgment
- Judgment of Dissolution of Marriage
- Other\_\_\_\_\_
- Other\_\_\_\_\_

# Kane County Law Library & Self Help Legal Center

Kane County Judicial Center • 2nd floor  
630.406.7126

*You need the following:*

- Notice of Motion
- Motion for Default
- Proof of Service
- Financial Affidavit
- Affidavit for Service by Publication
- Parenting Plan
- Marital Settlement Agreement
- Default Judgment
- Judgment of Dissolution of Marriage
- Other\_\_\_\_\_
- Other\_\_\_\_\_

# Kane County Law Library & Self Help Legal Center

Kane County Judicial Center • 2nd floor  
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*You need the following:*

- Notice of Motion
- Motion for Default
- Proof of Service
- Financial Affidavit
- Affidavit for Service by Publication
- Parenting Plan
- Marital Settlement Agreement
- Default Judgment
- Judgment of Dissolution of Marriage
- Other\_\_\_\_\_
- Other\_\_\_\_\_

# Kane County Law Library & Self Help Legal Center

Kane County Judicial Center • 2nd floor  
630.406.7126

*You need the following:*

- Notice of Motion
- Motion for Default
- Proof of Service
- Financial Affidavit
- Affidavit for Service by Publication
- Parenting Plan
- Marital Settlement Agreement
- Default Judgment
- Judgment of Dissolution of Marriage
- Other\_\_\_\_\_
- Other\_\_\_\_\_

**Appendix 11 – Illinois Supreme Court Commission on Access to Justice, What is Legal Information? A Guide to Using the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers, (November 2018); Available Assistance to Court Patrons; How Can I Best Assist Self-Represented Litigants**

# What is Legal Information?

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A Guide to Using the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers





## Legal Information and Advice: Why Does It Matter?

Court employees, court volunteers, law librarians, self-help center navigators, and circuit clerks (collectively "court personnel") play an important role in the operation of our state court system. Together, you share an enormous responsibility -- making fair, equal, and efficient justice available to all. Not only are you essential to the operation of the court system, but you also play a key role in helping the public access, understand, and use the courts. You frequently interact with the public and have the power to shape the public's perception of the legal system. By your actions, you can demonstrate that the courts operate in a fair and impartial manner and that they exist for everyone regardless of income, gender, race, disability status, nationality, language proficiency, or legal status.

As an employee or volunteer of the court or the circuit clerk, you serve as the public face of the justice system. For many court patrons, you may be the primary person they interact with during their court case. You can help build confidence in the justice system by treating them in a fair, neutral, unbiased, and helpful manner. When a court patron feels they have been heard and treated fairly, they will have more trust and confidence in the courts, regardless the outcome of their case.

You have a difficult, but important and rewarding, job to perform. You will be asked many different questions, sometimes by challenging court patrons. You must maintain a careful balance between answering questions in a respectful and courteous manner while remaining impartial and neutral. Your job allows you to empower and educate, but not to represent or advise.

Keep this guide available as a reference in conjunction with the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers (also called the "Safe Harbor Policy")<sup>1</sup> amended in November 2018 in case you are unsure how to answer a question or need more information about a possible referral. If you are ever unsure about how to respond, please consult your supervisor to determine the best course of action.

Thank you for all that you do in the service of our state and its judicial system.

## About This Guide<sup>2</sup>

This guide is intended as a supplement to the Safe Harbor Policy. It explains, in detail, what services are permitted and prohibited under the policy. This guide shows the breadth of services and resources that fall under the umbrella term of "legal information." In many situations, court personnel are eager to assist court patrons, but are worried about overreaching and mistakenly giving legal advice. This guide is intended to provide additional clarification about what information, services, and resources court personnel can and should feel comfortable sharing without violating ethical rules or crossing the line into legal advice.

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<sup>1</sup> The full text of the Policy is on the Illinois Supreme Court website at [http://www.illinoiscourts.gov/SupremeCourt/Policies/Pdf/Safe\\_Harbor\\_Policy.pdf](http://www.illinoiscourts.gov/SupremeCourt/Policies/Pdf/Safe_Harbor_Policy.pdf).

<sup>2</sup> This guide was modeled after, with permission, "What Can I Do to Help You," Maryland Access to Justice Commission, Maryland Judiciary, 2010 (<http://www.mdcourts.gov/mdatjc/pdfs/manual.pdf>). The Illinois Supreme Court Commission on Access to Justice (ATJ Commission) thanks the following individuals for their efforts in creating the original guide in 2017: Cindy Braden, Circuit Clerk of Moultrie County; Halle Cox, Director of the Kane County Law Library & Self Help Legal Center; Kahalah Clay, Circuit Clerk of St. Clair County; Maureen Josh, Circuit Clerk of DeKalb County; Gina Noe, Circuit Clerk of Marshall County; Kelly Smeltzer, General Counsel for the Cook County Circuit Clerk; Tammy Weikert, Circuit Clerk of Rock Island County; Samira Nazem, Administrative Office of the Illinois Courts, Self-Represented Litigant Services Specialist; and Members of the Illinois Supreme Court Access to Justice Commission's Court Guidance and Training Committee: Chief Judge Michael Sullivan of the 22<sup>nd</sup> Judicial Circuit, David Holtermann of the Lawyers Trust Fund of Illinois, and Joe Dailing. Lastly, the Commission would like to thank the staff of the Administrative Office of Illinois Courts Access to Justice Division: Jill Roberts, Sophia Akbar, Danielle Hirsch, and Alison Spanner, as well as Halle Cox, Self-Represented Litigant Coordinator for working on updates in 2018.

## Legal Information & Legal Advice: What's the Difference?

### Legal Information is...

General factual information about the law or legal process intended to help a court patron navigate the court system

- **Legal information is neutral**  
Information should not advance one party's legal position over another party's position.
- **Legal information is universal**  
Information should be the same regardless of which party is asking for it.
- **Legal information is objective**  
Information does not require knowledge about specific details of the case.
- **Legal information is unrestricted**  
Information can come from anyone, not just licensed attorneys.

### Legal Advice is...

Guidance regarding a court patron's legal rights and obligations in light of their unique facts and circumstances

- **Legal advice is biased**  
Advice is tailored to advance one party's legal position over another party's position.
- **Legal advice is customized**  
Advice will vary depending on who is asking for it and the desired outcome.
- **Legal advice is subjective**  
Advice will change depending on the specific facts of the case.
- **Legal advice is restricted**  
Advice should only come from licensed attorneys.

### The Golden Rule of Legal Advice...

Do not say to one party what you would not say to another.

# Legal Information Is...

## Explaining Court Procedures and Giving Procedural Information

Many court patrons are unfamiliar with the legal system and have questions about filing and responding to lawsuits. You can help move their cases forward by explaining basic court procedure and giving them the information they need to make informed decisions.

### "What Should I Do Next?"

You probably hear this question many times every day. During every interaction, try to provide enough information for the court patron to understand the next step in the process and their available options. If you hear certain questions repeatedly, consider creating a handout, brochure, or sign to address them (contact the AOIC for examples).

### Give Options, Not Advice

Some court patrons will expect you to act as an attorney, giving them clear instructions as to what to do next. They may be confused, scared, overwhelmed, or emotional and want someone to reassure them that they are making the right decision. Your role is not to help make decisions or offer reassurances. Your role is to share information that helps court patrons make their own decisions. You can empower court patrons to make informed decisions simply by explaining which options are available and how they can learn more. Remember, when answering a question or explaining a process with multiple options, you should try to explain *all* the available options or where to find more information on them, so as not to steer the court patron to choose a particular one.

#### **Should versus Could: Responding when asked for legal advice**

Many court patrons ask for legal advice ("What should I do?") and not legal information ("What can I do?"). You can still respond by providing legal information, instead of advice.

**Example:** How should I serve the other side?

**Answer:** I can't tell you what you should do, but I can tell you what options are available. There are three approved methods of service. You could pick any of them to serve the other party. [If the patron needs more information, you can share another resource such as a standardized form, self-help center, or website]

I Can...	I Cannot...
Tell a litigant what they can do	Tell a litigant what they should do
Explain a process to a litigant	Make a prediction for a litigant
Share all available options	Suggest one particular option
Give a litigant information that may help them make an informed decision	Make a decision on behalf of a litigant
Provide forms and basic instructions	Fill out forms (except for specific exceptions)
Refer to bar associations and legal aid	Refer to individual private attorneys
Help individuals with disabilities or low literacy by reading documents out loud and/or writing down their answers word-for-word	Make suggestions about what to write on a form or change a litigant's words in any way

## Remaining Neutral and Impartial

Even if you think you know what a court patron should do, it is not appropriate for you to tell them. First, you must remain neutral and impartial in the case and cannot offer advice that would unfairly advantage one side over the other. Second, you may not have all the information needed to make the best decision for a court patron. If you follow the Safe Harbor Policy and this guide, you will be able to assist court patrons without engaging in the unauthorized practice of law.

## Helping Court Patrons Who Need Legal Advice

Some questions go beyond basic court rules and procedural information. When responding, you can direct the court patron to another resource where they can get the legal assistance needed. This may involve referring the court patron to court rules, statutes, and regulations that govern the case (see page 14) or to a legal aid agency, bar association, or another legal service provider (see page 11-13).

### Use Your Toolbox



- Frequently Asked Questions and Tip Sheets (varies by county)
- Procedural Guides and Self-Help Packets (varies by county)
- Courthouse Signs (varies by county)
- Referral Sheets (varies by county, already exist for Illinois JusticeCorps sites)
- IL Supreme Court Forms and Instructions (see page 10)
- ATJ Commission and the Administrative Office of the Illinois Courts (AOIC) Access to Justice Division. For templates, resources, and training sessions, contact Jill Roberts at [jroberts@illinoiscourts.gov](mailto:jroberts@illinoiscourts.gov).



### Safe Harbor Policy

The policy allows court personnel to provide legal information about court rules, court terminology, and court procedure (d)(1). The policy also prohibits court personnel from making specific legal recommendations (c)(3) and from giving legal analysis, strategy, research (other than self-guided research assistance), or advice to court patrons (c)(7).

## Legal Information Is...

### Answering Questions about Court Dates

Most cases involve court dates and deadlines. Some of these dates may be set by statute or local rule, while others are set at the discretion of the court or scheduled by the parties. This information is usually public, but it is not always easy to find.

#### Understanding Court Dates and Deadlines

You can let court patrons know about existing court dates and deadlines. If your county has an online docket, you can show court patrons how to use it to check upcoming court dates. You can answer questions about due dates, but only if they are clear from a court document, local rule, or statute. You can also give a court patron relevant information (e.g., upcoming court holidays).

#### Statutes of Limitations

Rules governing the statutes of limitations are very complicated and may require more knowledge about a case than you have available. You should not attempt to explain the laws and rules governing the statute of limitations. Instead, you can tell a court patron that there *may* be a statute of limitations and direct them to a legal resource where they can determine for themselves what it is.

#### Scheduling Court Dates

Some court patrons need help scheduling a new court date or changing a previously scheduled one. You can explain what the process is for scheduling or changing a court date. If the court patron is seeking to change an existing court date, you can let them know that the request must be approved by a judge and is not guaranteed. When scheduling new court dates, you can also share information about a judge's court schedule.



#### Use Your Toolbox

- Online Docket (if available)
- Illinois Legal Aid Online (<https://www.illinoislegalaid.org/>)
- Illinois Compiled Statutes (<http://www.ilga.gov/legislation/ilcs/ilcs.asp>)



#### Safe Harbor Policy

The policy allows court personnel to provide requirements for scheduling hearings (d)(1) and docket information (d)(12).

# Legal Information Is...

## Helping Limited English Proficient (LEP) Court Patrons

### Did You Know?

Over one million Illinois residents are limited English proficient (LEP), representing 21.7% of the state. Illinois also has over 126,000 deaf or hard of hearing residents, representing 1.6% of the adult population.

Many Illinois residents need language assistance when interacting with the courts. If you encounter an LEP litigant, you can advise that person that they are entitled to an interpreter for all court proceedings, both civil and criminal. You can also use a bilingual staff member or a telephonic interpretation service to communicate directly with the litigant in the courthouse.

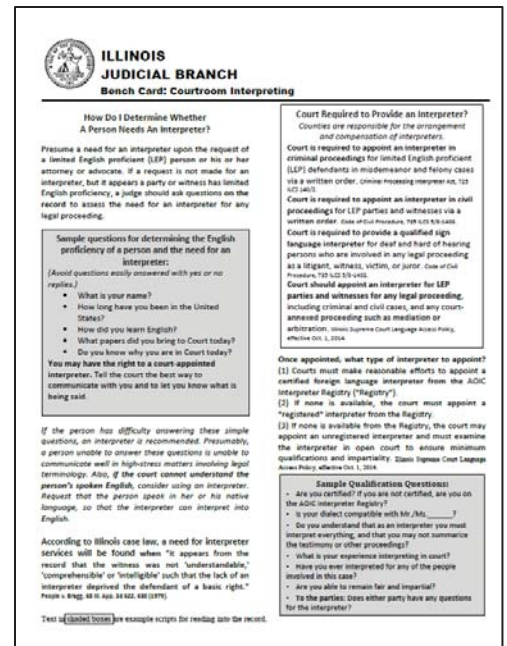
### Language Access Plans

The Illinois Supreme Court has adopted a statewide Language Access Policy, and each judicial circuit has its own local plan (see <http://www.illinoiscourts.gov/CivilJustice/LanguageAccess>).

Become familiar with your local language access plan and understand how to respond when a litigant needs assistance in a language other than English. The AOIC has created two bench cards, one for judges and one for court personnel, to serve as a quick reference for language access services, statutes, and policies.

### In-Person and Remote Interpreting Services

The AOIC maintains a registry of interpreters who have demonstrated proficiency in both interpreting skills and language fluency. You can use the registry to contact interpreters directly. The AOIC offers some reimbursement for the use of certified interpreters from the registry. For immediate interpreting services, you may consider using Language Line, a phone service which can connect you with interpreters remotely. There is no cost to set up an account in your courthouse and you pay only for the minutes that you use.



**ILLINOIS JUDICIAL BRANCH**  
**Bench Card: Courtroom Interpreting**

**How Do I Determine Whether A Person Needs An Interpreter?**

Presume a need for an interpreter upon the request of a limited English proficient (LEP) person or his or her attorney or advocate. If a request is not made for an interpreter, but it appears a party or witness has limited English proficiency, a judge should ask questions on the record to assess the need for an interpreter for any legal proceeding.

**Sample questions for determining the English proficiency of a person and the need for an interpreter:**  
(Avoid questions easily answered with yes or no replies.)

- What is your name?
- How long have you been in the United States?
- How did you learn English?
- What papers did you bring to Court today?
- Do you know why you are in Court today?

You may have the right to a court-appointed interpreter. Tell the court the best way to communicate with you and let us know what is being said.

If the person has difficulty answering these simple questions, an interpreter is recommended. Presumably, a person unable to answer these questions is unable to communicate well in high-stress matters involving legal terminology. Also, if the court cannot understand the person's spoken English, consider using an interpreter. Request that the person speak in her or his native language, so that the interpreter can interpret into English.

According to Illinois case law, a need for interpreter services will be found when "it appears from the record that the witness was not 'understandable,' 'comprehensible' or 'intelligible' such that the lack of an interpreter deprived the defendant of a basic right." People v. King, 88 Ill. App. 3d 622, 638 (1981).

Text in **boxed boxes** are example scripts for reading into the record.

**Court Required to Provide an Interpreter?**  
Courts are responsible for the arrangement and compensation of interpreters.

Court is required to appoint an interpreter in criminal proceedings for limited English proficient (LEP) defendants in misdemeanor and felony cases via a written order. *Illinois Missing Persons Act, 102 ILCS 140/1.*

Court is required to appoint an interpreter in civil proceedings for LEP parties and witnesses via a written order. *Illinois Missing Persons Act, 102 ILCS 140/1.*

Court is required to provide a qualified sign language interpreter for deaf and hard of hearing persons who are involved in any legal proceeding as a litigant, witness, victim, or juror. *Illinois Missing Persons Act, 102 ILCS 140/1.*

Court should appoint an interpreter for LEP parties and witnesses for any legal proceeding, including criminal and civil cases, and any court-annexed proceeding such as mediation or arbitration. *Illinois Missing Persons Act, 102 ILCS 140/1.*

**Once appointed, what type of interpreter to appoint?**  
(1) Courts must make reasonable efforts to appoint a certified foreign language interpreter from the AOIC interpreter Registry ("Registry").  
(2) If none is available, the court must appoint a "registered" interpreter from the Registry.  
(3) If none is available from the Registry, the court may appoint an unregistered interpreter and must examine the interpreter in open court to ensure minimum qualifications and impartiality. *Illinois Missing Persons Act, 102 ILCS 140/1.*

**Sample Qualification Questions:**

- Are you certified? If you are not certified, are you on the AOIC interpreter Registry?
- Is your dialect compatible with Mr./Ms. \_\_\_\_\_?
- Do you understand that as an interpreter you must interpret everything, and that you may not summarize the testimony or other proceedings?
- What is your experience interpreting in court?
- Have you ever interpreted for any of the people involved in this case?
- Are you able to remain fair and impartial?
- To the parties: Does either party have any questions for the interpreter?



### Use Your Toolbox

- Interpreter Registry (<https://publicapps.illinoiscourts.gov/>)
- Language Line (<https://www.language.com/>)
- "I Speak" cards (<https://www.lep.gov/ISpeakCards2004.pdf>)
- AOIC resources including bench cards, multilingual signs, and translated forms (<http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/>)



### Safe Harbor Policy

The policy allows court personnel to assist court patrons with requesting a foreign or sign language interpreter (d)(2). The policy also allows court personnel to provide court forms, including translated ones, to court patrons (d)(7).

## Legal Information Is...

### Accommodating Court Patrons with Disabilities or Special Needs

#### Did You Know?

The most recent U.S. Census Bureau reports over 55 million Americans live with disabilities. Nearly 20% of Illinois residents have a disability, including 35% of the population age 65 or over.

Many court patrons need extra help accessing the courts because of disabilities. You can help them request a “reasonable accommodation” or connect them with the local Court Disability Coordinator.

#### Understanding the ADA

The Americans with Disabilities Act (ADA) applies to any individual who has a “physical or mental impairment that substantially limits one or more major life activities.” The ADA applies to *all* court patrons, including victims and spectators, and not just to litigants. Under the ADA, a court patron can ask for a “reasonable accommodation,” a modification of court rules or procedures, to help them fully access the court.

Some examples include:

- Allowing phone or video appearances for a litigant who cannot travel due to a disability
- Scheduling a court date around a litigant’s medical appointments
- Requesting a sign language interpreter for a deaf witness
- Reading a document out loud for a court patron with a visual impairment
- Permitting food and beverage in the courthouse for medical reasons

#### “Do You Need Assistance Because of a Disability?”

Some disabilities are “invisible” and not immediately apparent. Some court patrons with “visible” disabilities may not need an accommodation. Do not make assumptions about a court patron’s disability or the level of assistance required. Instead, use the question above – “Do you need assistance because of a disability?” – to ask, in a neutral way, if a court patron would like additional assistance.

#### Forms Assistance

If a court patron has a disability that prevents him or her from writing, you should assist with filling out forms. You should write exactly what the court patron says without any changes. You may want to ask another staff person to act as a “witness” or have the court patron sign a disclaimer stating that you are simply writing his or her words. This can protect you if there is any dispute about your role.

#### Use Your Toolbox

- Local Court Disability Coordinator (every court has one and you should be familiar with them and the process for requesting accommodations)
- Supreme Court Policy on Access for Persons with Disabilities  
<http://www.illinoiscourts.gov/SupremeCourt/Policies/DisabilityPolicy/>
- IL Attorney General’s Office – Disability Rights Bureau
  - Technical Assistance: Chicago 312-815-5684; Springfield 217-524-2660



#### Safe Harbor Policy

The policy provides for informing patrons of the process for requesting a reasonable accommodation (d)(3). The policy echoes the ADA requirement that court personnel help complete forms if they are unable to do so because of a disability (d)(8) and to assist with requesting sign language interpreters (d)(2).



## Legal Information Is...

### Informing Court Patrons about Court Fees and Fee Waivers

In most civil cases, court patrons must pay a fee before filing a new case or responding to an existing one. Filing fees can vary by county and case type, and often change from year to year. Make sure you have current fee information available.

#### Did You Know?

In 2015, the poverty rate in Illinois reached the highest rate in fifty years with nearly one in three Illinois families living below or near the Federal Poverty Level (currently \$25,100 annually for a family of four). Fee waivers can make the courts accessible for families and individuals who might otherwise have to choose between paying their bills and exercising their legal rights and remedies.

#### Fee Waiver Statute

For civil cases, court patrons can apply for a waiver of court fees pursuant to [735 ILCS 5/5105](#). The fee waiver application is then reviewed by a judge who determines whether the applicant meets the financial criteria set forth in the statute. The fee waiver statute also requires that circuit clerks post signs advising court patrons that they can apply for a fee waiver in English and Spanish. The AOIC has created signs for court personnel to use.

### Fee Waiver Standardized Forms and Instructions

The Illinois Supreme Court fee waiver form is required for use in every county. The form is at <http://www.illinoiscourts.gov/forms/approved/> and has been translated into six languages (Spanish, Polish, Arabic, Korean, Mandarin Chinese, and Russian).



#### Use Your Toolbox

- AOIC Fee Waiver Signs (see image)
- ILAO Guided Interview – Fee Waiver
- Translated Forms – Fee Waiver
- Illinois Supreme Court Forms and Instructions (<http://www.illinoiscourts.gov/forms/approved/>)



If you cannot pay your court fees and related costs, you may ask the judge to allow you to proceed without paying them.

*Si no puede pagar las cuotas de la corte y otros costos asociados, puede pedirle al juez que le dé permiso para seguir con su caso sin pagarlas.*

The application and instructions are available from the clerk of court and online:

<http://www.illinoiscourts.gov/forms/approved/>



*Pídale una solicitud al secretario de la corte. Puede encontrar formularios en español en:*

<http://www.illinoiscourts.gov/forms/approved/>



This notice complies with the requirements of 735 ILCS 5/5-105

### When Are Court Fees Waived?

Court personnel are not responsible for deciding who can and should have their court fees waived. If someone asks for a fee waiver application, you should give them the form regardless of whether or not you think they are eligible. Be careful not to make assumptions about a court patron's ability to pay as it is ultimately the judge's responsibility to make that determination. When reviewing fee waiver applications, judges will look at several factors including annual household income, eligibility for means-based public benefit programs, and other factors that could demonstrate financial hardship.



#### Safe Harbor Policy

The policy permits court personnel to provide information about and forms for requesting a fee waiver due to inability to pay (d)(4).

**Note: A change to the civil fee waiver statute and creation of a criminal fee waiver will go into effect on July 1, 2019 allowing for 100%, 75%, 50%, or 25% waivers. The AOIC will conduct outreach to court personnel once the statute and rule changes are finalized.**



# Legal Information Is...

## Providing assistance with Electronic Filing (e-filing)

E-filing has changed how court patrons interact with the court system. Some court patrons e-file from outside of the court building, but many others are coming to the courthouse and require guidance to be able to successfully e-file.

### What information can court personnel provide?

All of the instructions needed to walk someone through e-filing is allowable legal information that can be provided to court patrons including, but not limited to: where to find and select an Electronic Filing Service Provider (EFSP); how to register for an EFSP account and set up an email address; how to sign into the EFSP or how to reset an account; how to file into a case including information about: searching for an existing case by case number or party; creating a payment account; selecting locations, case category, and case type; entering party information; uploading documents to file in the correct format and size; selecting filing codes and differentiating between lead documents and attachments; how a paper or electronic document can be converted to the required file type (PDF) through equipment available within the courthouse; and why a filing was rejected.

### What if someone can't e-file?

[Illinois Supreme Court Rule 9](#) governs the mandatory nature of e-filing, but also lists exemptions from e-filing. Self-represented litigants are automatically exempt from e-filing if they are incarcerated in a local jail or correctional facility or have a disability that prevents them from e-filing. Wills and anything filed under the Juvenile Court Act are also automatically exempted from e-filing.

Self-represented litigants are exempt from e-filing for good cause if they turn in a Certification for Exemption from E-filing form stating that they:

- Don't have a computer or internet in their home;
- Have difficulty reading or writing in English; OR
- Are filing a sensitive pleading like an Order of Protection.

You are able to inform court patrons of the existence of the exemption and the process for getting an exemption. Remember, the Certification does not require court approval, if the form is presented to the Clerk's office along with paper documents, everything should be accepted.

This form is approved by the Illinois Supreme Court and is required to be used in all Illinois Circuit Courts.

STATE OF ILLINOIS, CIRCUIT COURT	CERTIFICATION FOR EXEMPTION FROM E-FILING	FILE CASE OR CASE
COUNTY		
<b>Instructions</b> Identify above, enter the name of the county where the case was filed. Enter the name of the person who caused the lawsuit to be filed. Enter the name of the person being sued or Defendant/Respondent. Enter the Case Number filed with the Clerk's Office. Do not check this block if you are a Defendant. As I check the statements and am able to file for and on myself. You should check all that apply. Under the Code of Civil Procedure, 735 ILCS 5/2-201, a person who files a document in a case is deemed to be filing it electronically. Enter your full name, date of birth, age, and past phone area. Enter your complete address and telephone number.	<b>Plaintiff / Petitioner (First, middle, last name)</b>  v. <b>Defendant / Respondent (First, middle, last name)</b>  Case Number	
	<b>1. I am not able to e-file documents in this case for the following reasons (check all that apply):</b> <input type="checkbox"/> I am representing myself and do not have the internet or a computer in my home. My only access is through a public terminal at a courthouse, library, or other location. This poses a financial or other hardship. <input type="checkbox"/> I am representing myself and have trouble reading, writing, or speaking in English. <input type="checkbox"/> I am filing a document in a sensitive case, such as a petition for an order of protection or a civil no contact/stalking order.	
	<b>2. Illinois Supreme Court Rule 9(c)(6) allows for an exemption from e-filing for good cause. For the above reasons, I need a good cause exemption from e-filing for my entire case or until I am able to e-file.</b>	
	<b>I certify that everything in the Certification for Exemption from E-filing is true and correct. I understand that making a false statement on this form is perjury and has penalties provided by law under 735 ILCS 5/2-201.</b>	
	Your Signature _____ Street Address _____ File Your Name _____ City, State, ZIP _____ Telephone _____	



### Use Your Toolbox

- Statewide e-filing guides in English and Spanish as well as some videos can be found at: [http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented\\_Litigants/self-represented.asp](http://www.illinoiscourts.gov/CivilJustice/Resources/Self-Represented_Litigants/self-represented.asp)



### Safe Harbor Policy

The policy lists the type of e-filing information that may be provided (d)(5) and permits providing information about the e-filing exemption and process for getting it (d)(6).

## Legal Information Is...

### Providing Forms and Instructions

One of the most common requests from court patrons is for court forms. Directing court patrons to the appropriate form and providing the information needed to complete and file it can enable them to effectively use the court system to resolve a legal problem.

### How Much Help is Too Much Help?

Some court patrons need help selecting the correct form and filling it out. They may ask you to choose the form for them or to review the form before it is filed. You should be careful not to cross the line into legal advice. You can explain the function and purpose of different forms and can identify which form they need based on their description of their situation. You can also review a form for completeness, but should not check the accuracy of the answers. You can answer basic information about the terms used on a form or the type of information requested, but should not help a court patron answer the questions. You should not second guess a court patron's choice of form when they are filing it, even if you believe it to be the wrong one. You should file all forms exactly as they are given to you without modification (although you can tell a court patron if it is incomplete). A judge will make the ultimate decision about the forms' accuracy.

#### Did You Know?

Every Illinois Supreme Court form is written in plain language by a group of clerks, lawyers, law librarians, judges, and legal aid attorneys and goes through user testing and public comment before publication. The forms also come with detailed instructions and frequently asked questions. The entire process takes over a year to create one form. Forms are available at: [www.illinoiscourts.gov/Forms/forms.asp](http://www.illinoiscourts.gov/Forms/forms.asp)

### Assisting Low Literacy Court Patrons

Court patrons with limited literacy may struggle to complete forms. You can assist by reading the form to the court patron, answering basic questions about the terms used, and writing their answers word-for-word. However, you should not interpret or summarize the document or help the patron come up with answers. For information on assisting court patrons with disabilities, see page 7.

#### Use Your Toolbox



- Illinois Supreme Court Forms and Instructions (<http://www.illinoiscourts.gov/forms/approved/>) (Forms in English, Polish, Spanish, Korean, Arabic, Russian, and Chinese)
- Illinois Legal Aid Online Automated Forms (<https://www.illinoislegalaid.org/>)

#### Safe Harbor Policy



The policy permits court personnel to assist court patrons in accessing forms and related instructions and to answer basic questions about the forms (d)(7). Additionally, one can identify forms and provide services based on the assumption that the information provided by the court patron is accurate and complete (d)(15). The policy also permits court personnel to review forms for completeness (d)(9) and assist court patrons with low literacy is a disability with reading and completing court forms (d)(8).

## Legal Information is...

### Giving Attorney Referral Information

National surveys show that most self-represented litigants wish they had an attorney; they simply cannot afford or cannot find one. Connecting litigants with bar associations and legal aid or *pro bono* attorneys, is one way you can help court patrons get the legal help they need.

### Understanding Different Legal Services

Not all lawyers are alike, and to make the best possible referrals, you should understand some of the different types of lawyers and legal service organizations.

- **Lawyer Referral Services:** These services, often organized by local or state bar associations, can connect a court patron with a local attorney who will offer an initial consultation for a small fee. The litigant can then decide if they want to hire the attorney for a fee.
- **Legal Aid Agencies:** These are non-profit agencies that offer free or low-cost legal service, usually to low-income people. Each agency has different eligibility criteria, especially around case type and income level. A complete list of legal aid agencies in Illinois can be found on ILAO (<https://www.illinoislegalaid.org/get-legal-help>).
- **Hotlines and Help Desks:** These resources offer brief legal assistance, either over the phone or in-person. Most are restricted to certain case types and may only operate during certain hours of the day or days of the week. These services are free, and do not usually include representation in court. *For example:* Illinois Armed Forces Legal Aid Network (IL-AFLAN) statewide veteran's hotline 1-855-452-3526.
- **Pro Bono Services:** These services are provided by private practice attorneys at no-cost to low-income litigants. Many *pro bono* attorneys represent clients through court-based *pro bono* programs, legal aid agencies, or bar associations. Some *pro bono* attorneys host clinics or walk-in hours at their local courthouses.
- **Mediation Programs:** These programs connect litigants with impartial mediators (who may also be attorneys) to help resolve disputes voluntarily outside of court. Some mediation programs offer free services to low-income litigants. Visit the Resolution Systems Institution website for a list of all programs in Illinois: <http://courtadr.org/sourcebook/programs.php>.

#### Did You Know?

Every county in Illinois is served by one of the following legal aid organizations that provide free legal services:

- ❖ LAF (Cook County)  
<http://www.lafchicago.org/>
- ❖ Prairie State Legal Services (Northern Illinois)  
<https://pslegal.org/>
- ❖ Land of Lincoln Legal Assistance Foundation (Southern Illinois)  
<http://lollaf.org/>

Many services have restrictions based on case type, income, or other criteria. When making referrals, do not make assumptions about someone's income level or circumstances, but do make them aware of any eligibility criteria.



### Use Your Toolbox

- Local Bar Associations (varies by county)
- Local Legal Aid and Pro Bono Organizations (varies by county)
- Illinois State Bar Lawyer Finder (<http://www.illinoislawyerfinder.com/>)
- Resource and Referral List (template available from the AOIC)

## Making Attorney Referrals

You cannot make referrals to specific attorneys who charge a fee for their services. However, you can make general referrals to bar associations or legal aid agencies that offer free or low-cost services. If you do not have a local bar association, you can refer court patrons to the Illinois State Bar Association's Lawyer Finder at <http://www.illinoislawyerfinder.com/find-a-lawyer>.

### Limited Scope Representation

For litigants who have some money, but not enough to hire an attorney for an entire case, limited scope representation may be a good option. Illinois Supreme Court Rule 13 allows attorneys to file a "Limited Scope Appearance" to represent a litigant for a certain court date or discrete portion of a case. Attorneys can also offer limited scope services like document preparation and coaching outside of court. This is generally cheaper than hiring an attorney for the entire case. The Supreme Court website has more information on limited scope representation available at: [http://www.illinoiscourts.gov/civiljustice/Resources/Attorneys/Limited\\_Scope\\_Rules.asp](http://www.illinoiscourts.gov/civiljustice/Resources/Attorneys/Limited_Scope_Rules.asp).

## Safe Harbor Policy



The policy prohibits court personnel from referring court patrons to specific attorneys or law firms who offer fee-based services (c)(5). The policy allows court personnel to make general referrals to lawyer referral services, legal aid agencies, *pro bono* attorneys, limited scope legal services, law and public libraries, and web-based resources, as well as for different kinds of non-legal resources, including domestic violence services (d)(10).

## Legal Information Is...

### Providing Referrals to Legal Resources/Community Organizations

There are many legal resources available in Illinois, although they vary greatly from county to county. Some of these resources exist inside the courthouse (court-based legal resources) while others may require the court patron to travel outside the courthouse or to visit a website (community-based legal resources). You may not have all the following resources in your county, but you likely have several of them. Take a few minutes to familiarize yourself with the services available in your courthouse and community so you can best assist court patrons.



Court-Based Legal Resources	Community-Based Legal Resources
Legal Self-Help Center	Illinois Legal Aid Online
Law Library	Public Library
JusticeCorps	Bar Association
Mediation (Pro Bono)	Mediation (Fee-Based)
Legal Help Desk	Legal Aid Providers
Pro Bono Hours	Pro Bono Attorneys
Self-Help Resources	Self-Help Resources

## Making Good Referrals

A bad referral can be worse than no referral as it may waste time or set unrealistic expectations. To make a good referral, you should know the types of information and services available, any eligibility criteria, and contact information including hours of operation. Remember to check your referral list periodically to make sure your information is up-to-date.

## Illinois Legal Aid Online (ILAO)

One helpful statewide resource is Illinois Legal Aid Online (<https://www.illinoislegalaid.org/>). ILAO offers web-based legal information and forms in several areas of law including family, housing, consumer, immigration, public benefits, and traffic. ILAO also operates Illinois Free Legal Answers at <https://il.freelegalanswers.org/>. Users can submit up to three legal questions by email and receive a response from an attorney within one week. When referring to ILAO, or any web-based resource, check on personal internet access or direct them to a public library or other public-access computer.

## Community Organizations

Most legal problems do not begin or end in the courthouse. Many court patrons will also need non-legal help to completely resolve their legal problems. By referring court patrons to social service providers or community organizations, you can help them continue working to solve their problems, even outside of the courthouse.

There are many situations where a court patron can benefit from a non-legal referral, including:

- Someone facing eviction asking for information about homeless shelters
- A veteran with a debt collection case asking how to apply for public benefits
- A survivor of domestic violence asking for counseling services

Social service resources are highly localized. Take a few minutes to learn which service providers operate in your area and basic information including the services provided, hours of operation, and eligibility criteria.



### Use Your Toolbox

- Local DV Advocates
- Illinois DV Hotline: (1 877 TO END DV)
- Resource and Referral List (template available from the AOIC)
- Public Benefits Information: <https://abe.illinois.gov/abe/access/>

### The Illinois Domestic Violence Act (IDVA)

Section 750 ILCS 60/202(d) of the IDVA states that "The court **shall** provide, through the office of the clerk of the court, simplified forms and **clerical assistance to help with the writing and filing** of a petition under this Section by any person not represented by counsel."

The best practice is still to refer court patrons to local DV advocates who have specialized training. However, if that option is not available, you can and should help court patrons. The IDVA applies to all persons filing for protection, regardless of gender, sexual orientation, immigration status, or language proficiency.

## Find Your Local Service Providers

The State of Illinois has compiled several lists to help you find your local social service providers:

- Emergency/Transitional Housing Providers: <http://www.dhs.state.il.us/page.aspx?item=64686>
- Mental Health Services: <http://www.dhs.state.il.us/page.aspx?item=30893>
- Domestic Violence Services: <http://www.dhs.state.il.us/page.aspx?item=31886>
- Alcoholism/Substance Abuse Services: <http://www.dhs.state.il.us/page.aspx?item=29731>

## Legal Information Is...

### Providing Court Records, Rules, Statutes, and Public Information

Sometimes court patrons have questions that can be answered simply by connecting them with the appropriate case file, court rule, or statute. You can direct them to publicly available information by explaining the different ways to access it, both in-person and online.

#### Using Your Local Librarians

Public librarians and law librarians can help court patrons find the rules and statutes that govern their cases. Find out who your local librarians are, what services they can provide, and their hours of operation.

#### Commonly Used Statutes and Court Rules

Many court patrons need help finding the laws, regulations, and rules that govern their case. While you should not explain the rules yourself, you can assist court patrons in finding the rules so they can read them on their own. Public libraries and law libraries may have access to legal texts, electronic legal databases like WestLaw or LexisNexis, or both.

#### Court Files and Docket Information

Court files can seem confusing to court patrons. You can help by explaining what types of information they will find in a court file and how to request it. You can answer questions or define terms that the patron may not understand in the court file, but should not interpret the legal information and court orders found in the file. You can also show a court patron how to read an electronic or print docket sheet by defining abbreviations and acronyms mean.

#### Public and Private Court Records

Not all court files are public records. Make sure that you know how to recognize a sealed file. Some categories of cases are always sealed (e.g., juvenile delinquency cases) while others are sealed by order of the judge. In some circumstances, specific documents in a case file may be sealed while others may be public. Sealed records should not be shared with anyone, even a party to the case, without a court order.

#### Use Your Toolbox



- Local law library or public library (varies by county)
- WestLaw or LexisNexis (if available)
- Illinois Compiled Statutes (<http://www.ilga.gov/legislation/ilcs/ilcs.asp>)
- Illinois Supreme Court Rules (<http://www.illinoiscourts.gov/SupremeCourt/Rules/default.asp>)



#### Safe Harbor Policy

The policy allows court personnel to provide legal information about court rules and terminology (d)(1) and to share public case files and information on how to access them electronically (d)(13). The policy also allows court personnel to assist court patrons in pursuing self-guided legal research (d)(18).

# AVAILABLE ASSISTANCE TO COURT PATRONS

## HOW CAN COURT PERSONNEL HELP YOU?

### WE CAN...

- ✓ Provide general legal information about court rules, court terminology and court procedures
- ✓ Provide information about available legal resources and referrals, including free and low-cost legal help
- ✓ Help identify approved court forms and related instructions relevant to a court patron's case
- ✓ Provide information about how to request a foreign or sign language interpreter
- ✓ Check a court patron's forms to make sure they are complete
- ✓ Answer general questions

---

### WE CANNOT...

- X Provide legal advice or help with legal strategy
- X Recommend whether a case should be brought to court or comment on the merits of a pending case
- X Give an opinion about what will happen in court
- X Represent a court patron in court
- X Disclose any information that would violate a court order, statute or rule
- X Deny a self-represented litigant access to the court or any services provided to other court patrons
- X Refer a court patron to a specific lawyer for fee-based representation

*For more information, see the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers (approved April, 2015).*

# How Can I Best Assist Self-Represented Litigants?

The Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers outlines the services that can be provided to self-represented litigants and other court patrons. Services offered in accordance with this policy do not constitute the unauthorized practice of law. You can read the policy and find additional resources at: <http://www.illinoiscourts.gov>.

## Legal Information Is...

general, factual information about the law and the legal process that is both neutral and objective.

## Legal Advice Is...

guidance regarding an individual's legal rights and obligations in light of their unique facts and circumstances.

### **Should versus Could: Responding when court patrons ask for legal advice**

Court patrons may ask for legal advice ("What **should** I do?"). You can still respond by providing legal information, instead of advice.

Example: How **should** I serve someone?

Answer: I can't tell you what to do, but I can explain your options. There are three approved methods of service you **could** choose.. Here are some resources with more information...

I Can...	I Cannot...
Tell a litigant what they can do	Tell a litigant what they should do
Explain a process to a litigant	Make a prediction for a litigant
Share all available options	Suggest one particular option
Give a litigant information that may help them make an informed decision	Make a decision on behalf of a litigant
Provide forms and basic instructions	Fill out forms (except for specific exceptions)
Refer to bar associations and legal aid	Refer to individual private attorneys
Help individuals with disabilities or low literacy by reading documents out loud and/or writing down their answers word-for-word	Make suggestions about what to write on a form or change a litigant's words in any way
Refer a litigant to legal and non-legal resources inside or outside the courthouse	Represent a litigant in the courtroom
Assist a litigant with self-guided research	Provide legal analysis or legal research
Share publicly available case information	Share information from sealed cases
Review forms for completeness	Review forms for accuracy
Give information about requesting interpreters and reasonable accommodations	Limit access for litigants with limited English proficiency or disability
Inform all litigants about fee waivers	Decide who should get their fees waived
Answer questions about the drop down menus in the e-filing system and walk patrons through the whole process	Make a determination about who is eligible for an e-filing exemption



# Self-Help Resources and Referrals

Private Attorneys	Illinois LawyerFinder: Call (800) 922-8757 or visit <a href="http://www.illinoislawyerfinder.com/">http://www.illinoislawyerfinder.com/</a>
Legal Aid & Pro Bono Attorneys	CARPLS (Cook County): Call (312) 738-9200 or visit <a href="https://www.carpls.org/">https://www.carpls.org/</a> Prairie State Legal Services (Northern Illinois): For contact information visit <a href="https://pslegal.org/">https://pslegal.org/</a> Land of Lincoln (Southern Illinois): Call (877) 342-7891 or visit <a href="http://lollaf.org/">http://lollaf.org/</a>
Mediation & Arbitration	List of programs in Illinois: <a href="http://courtadr.org/sourcebook/">http://courtadr.org/sourcebook/</a>
Public & Law Libraries	Check your local resources
Legal Self-Help Centers	List of programs in Illinois: <a href="https://www.illinoislegalaid.org/get-legal-help/lshc-directory">https://www.illinoislegalaid.org/get-legal-help/lshc-directory</a>
Pro Bono Clinics & Help Desks	Check your local resources
Social Service Providers	Mental health programs in Illinois: <a href="http://www.dhs.state.il.us/page.aspx?item=3089">http://www.dhs.state.il.us/page.aspx?item=3089</a> Emergency and transitional housing programs in Illinois: <a href="http://www.dhs.state.il.us/page.aspx?item=646863">http://www.dhs.state.il.us/page.aspx?item=646863</a> Supportive housing programs in Illinois: <a href="http://www.dhs.state.il.us/page.aspx?item=64687">http://www.dhs.state.il.us/page.aspx?item=64687</a>
Standardized Forms	Statewide forms and instructions available in six languages: <a href="http://www.illinoiscourts.gov/Forms/approved/">http://www.illinoiscourts.gov/Forms/approved/</a>
Language Access Tools	Circuit plans and statewide interpreter registry: <a href="http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/default.asp">http://www.illinoiscourts.gov/CivilJustice/LanguageAccess/default.asp</a>
Domestic Violence Programs	DV programs in Illinois: <a href="http://www.dhs.state.il.us/page.aspx?item=31886">http://www.dhs.state.il.us/page.aspx?item=31886</a>
Illinois Legal Aid Online	Free legal information and forms for civil, domestic, expungment, and traffic legal problems: <a href="https://www.illinoislegalaid.org/">https://www.illinoislegalaid.org/</a>

## Tips for Making Strong Referrals



### Double Check

Check your resources periodically to see if services, hours, eligibility, or contact information has changed.



### Write It Down

Litigants may be overloaded with information at court. Write it down or use a referral sheet to help.



### Be Specific

Provide information about the scope of services available, the application process, and any eligibility criteria



### Manage Expectations

Inform litigants of possible limitations (e.g. referral cannot take all cases, may require waiting)



**The AOIC Can Help!** For more information on access to justice resources, including the Safe Harbor Policy; standardized forms; language access tools; courthouse signs; and self-help templates, please contact Jill Roberts at [jroberts@illinoiscourts.gov](mailto:jroberts@illinoiscourts.gov) or (312) 793-2305.

**Appendix 12 – IAALS, Ensuring the Right to Be Heard: Guidance for Trial Judges in Cases Involving Self-Represented Litigants, (November 2019)**

# IMPLEMENTATION TOOLS FOR

FAMILY  
JUSTICE  
REFORM



CIVIL  
JUSTICE  
REFORM



## ENSURING THE RIGHT TO BE HEARD: GUIDANCE FOR TRIAL JUDGES IN CASES INVOLVING SELF-REPRESENTED LITIGANTS



*These implementation tools were developed by IAALS to support real change on the ground. Each guide is designed to provide the information necessary to help judges, lawyers, court administrators, and others to understand the problems facing our system and the people who use it—and to make improvements that will increase access and bolster public trust and confidence.*

This guide stems from IAALS' work alongside the Conference of Chief Justices (CCJ), the Conference of State Court Administrators, the National Center for State Courts, and the National Council of Juvenile and Family Court Judges on the Civil Justice Initiative and the Family Justice Initiative. In recent years, CCJ launched both initiatives—and developed recommendations and principles—to guide state courts and family courts in better meeting the needs of those who need access to the courts, decreasing cost and delay, and improving case processing. IAALS has been a proud and long-time partner in these national civil and family justice reform projects.

As these sister efforts gain momentum, IAALS is working to support courts implementing these reforms by developing a variety of resource guides like this one, in partnership with national experts.

**ENSURING THE  
RIGHT TO BE HEARD:  
GUIDANCE FOR TRIAL JUDGES  
IN CASES INVOLVING  
SELF-REPRESENTED LITIGANTS**

---

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INSTITUTE *for the* ADVANCEMENT  
*of the* AMERICAN LEGAL SYSTEM



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IAALS, the Institute for the Advancement of the American Legal System, is a national, independent research center at the University of Denver dedicated to facilitating continuous improvement and advancing excellence in the American legal system. We are a “think tank” that goes one step further—we are practical and solution-oriented. Our mission is to forge innovative and practical solutions to problems within the American legal system. By leveraging a unique blend of empirical and legal research, innovative solutions, broad-based collaboration, communications, and ongoing measurement in strategically selected, high-impact areas, IAALS is empowering others with the knowledge, models, and will to advance a more accessible, efficient, and accountable American legal system.

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- **Hon. Sherrill Ellsworth (Ret.)**, Superior Court of Riverside County, California
- **Hon. Mark Juhas**, Superior Court of Los Angeles, California



# INTRODUCTION

The Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) have adopted basic recommendations for improving the processing of both civil and family cases in state courts through their Civil Justice Initiative and Family Justice Initiative.<sup>1</sup> IAALS, the National Center for State Courts (NCSC), and the National Council of Juvenile and Family Court Judges (NCJFCJ) helped develop these initiatives and are supporting implementation of their recommendations in pilot jurisdictions around the country—and evaluating their efficacy. Alongside this work, IAALS is developing more detailed guidance for the pilot courts and others.

The research underpinning these efforts found that roughly three quarters of both civil and family cases today involve at least one self-represented party, someone who navigates the court system without a lawyer.<sup>2</sup> Yet, the rules, procedures, and practices of the general jurisdiction trial court assume the presence of lawyers on both sides of civil and family cases, and cases involving one or more self-represented litigants have been treated as the exception. The reality today is the reverse: cases with lawyers on both sides are in the minority in terms of the court's overall civil and family filings.

The CCJ/COSCA call to action to simplify and streamline court procedures is premised on the notion “that the courts ultimately must be responsible for ensuring access to civil [and family] justice. Once a case is filed in court, it becomes the court's responsibility to manage the case toward a just and timely resolution.”<sup>3</sup> Both sets of recommendations call for significant assistance for self-represented litigants, emphasizing the responsibility of every aspect of the court, and of all of its staff, to provide guidance to self-represented litigants at every phase of the process. For those cases that go to trial, it is essential that the trial judge be able to modify traditional courtroom practices to make it possible for self-represented litigants to present their cases—to give them the opportunity to be heard—even though they are completely unequipped to perform as experienced lawyers would.

The court systems of most states have not provided the guidance that trial judges need to meet this challenge.<sup>4</sup> The maxim “a person representing himself in court will be held to the same standard as a lawyer” still appears in appellate caselaw in almost every state—even though it is not an accurate summary of appellate decisions, and, if applied literally, would produce manifest injustice.

To help trial judges better manage cases involving self-represented litigants, with the ultimate goal of service to court users,<sup>5</sup> this paper summarizes what research and experience show to be effective practices for resolving cases with one or more self-represented litigants in the courtroom. We begin by summarizing the challenges facing self-represented litigants, followed by the challenges facing trial judges in adjudicating these cases. We then review the ethical standards governing a judge's handling of these cases, the 2011 Supreme Court decision in *Turner v. Rogers*, appellate caselaw in the various states, and other guidance materials available to trial judges. We end with an outline of the practices that have proven most effective for trial judges, giving specific examples of their application in the family law context. We hope this guide provides direction to judges facing the challenges associated with managing cases with self-represented litigants.

# CHALLENGES OF SELF-REPRESENTATION

The 2015 NCSC national study of civil dockets found that at least one party was self-represented, usually the defendant, in 76% of civil, non-family cases.<sup>6</sup> In only 24% of cases were both sides represented by counsel—a dramatic change from research findings less than 25 years ago.<sup>7</sup> A 2018 national study of domestic relations cases conducted by NCSC and IAALS yielded similar results: 72% of cases involved at least one self-represented party, with the petitioner more likely to be represented than the respondent.<sup>8</sup> This trend of increased self-representation in state courts has been noticed in some federal courts as well, and some have even created legal advice clinics, such as the United States District Court for the District of Colorado<sup>9</sup> and the United States District Court for the Eastern District of Missouri.<sup>10</sup>

Ongoing public opinion polls indicate that courts are not doing a good job serving this crucial user base of self-represented litigants. For example, NCSC’s annual surveys of American voters, *The State of State Courts*, gauges voters’ perceptions of state courts. The 2017 survey focused on customer service and found that only 52% of those questioned believe the state courts provide good customer service.<sup>11</sup> The poll demonstrates that litigants’ perceptions of customer service reflect their experiences with the entire court process, not just with judges. Respondents to the 2017 survey report that their most serious concerns are: not knowing where to turn for help with forms and procedures (37%); rude, unhelpful, and intimidating court staff (35%); not knowing where you need to go in the courthouse (29%); the amount of time spent at the courthouse (27%); and not being able to complete forms or pay fees online (24%).<sup>12</sup> Sixty-nine percent think that the customer service situation has not gotten better in recent years.<sup>13</sup> And unfortunately, by a margin of two to one, American voters feel judges are out of touch and do not understand the numerous challenges facing self-represented litigants who appear in their courtrooms.<sup>14</sup>

The 2018 *State of State Courts* survey asked voters questions about their confidence in proceeding in court without a lawyer. The polling company reported this finding:

A broad majority (59%) say “state courts are not doing enough to empower regular people to navigate the court system without an attorney.” Only a third (33%) believe courts are providing the information to do so. By similar margins, 61% of voters say they don’t believe they “could represent myself in court, regardless of what resources and information are provided” while just 36% feel confident in finding the information they need. No group feels empowered or confident on their own, even those with previous court experience or who have said it was easy to locate information in the past.<sup>15</sup>

NCSC’s telephone poll of voters was not large enough to produce meaningful results for individual states or even for regions of the country, so the findings are not necessarily applicable to any particular court. The authors’ experience is that the treatment of self-represented litigants varies significantly from state to state and even from jurisdiction to jurisdiction within the same state, with judges in many courts providing exceptionally good service to this customer base<sup>16</sup>—while others do not.

IAALS' 2016 *Cases Without Counsel* project interviewed self-represented litigants and court personnel in four different parts of the country, documenting the following litigant experiences.<sup>17</sup>

- Difficulty understanding the process, what to expect, and what is expected of them (“You kind of sit in the dark . . . when you don’t have a lawyer, and that’s kind of hard because you don’t really know what’s happening.”);<sup>18</sup>
- Difficulty completing paperwork (“[T]he mistakes I made partway through the process made me have to resubmit and re-document, and delay things.”);<sup>19</sup>
- Difficulty in preparing for trial, including gathering and organizing evidence for presentation (“How can I be prepared? What kind of questions are you going to ask me? What kind of stuff should I bring? What kind of proof do I need? You don’t really know any of that stuff going into it.”);<sup>20</sup>
- Difficulty presenting evidence to the court, including navigating courtroom procedures;
- Feelings of intimidation, isolation, and vulnerability (“I think that if I would not have represented myself and I would have had a lawyer do it, I would have not felt so vulnerable, so bullied, and so much like I had to give up everything.”);<sup>21</sup> and
- Feelings of lack of fairness.

Margaret Hagan of the Stanford University Institute of Design has conducted a series of “design sprints” to learn more about the experiences of people who had recently represented themselves in court. IAALS has sponsored several of these design sprints around the country as part of its *Court Compass* project. Out of these events, we learned that participants wish that the courts would:

- Give me a “sense of control” by making sure that I know what to expect;
- Be “responsive” to my individual needs;
- “Read my mind” to help me express myself in legally correct terminology;
- “Take the burden off me” of needing to know how to perform in a legal proceeding; and
- “Recognize my humanity” by not rebuking or shaming me in public.<sup>22</sup>

We also know that over many different case types, self-representation can adversely impact outcomes.<sup>23</sup> The potential extent of that negative impact was demonstrated dramatically in a recently released study by the Harvard Access to Justice Lab about the effectiveness of the Volunteers for the Indigent pro bono representation program in Philadelphia.<sup>24</sup> Researchers found that while almost half of the cases assigned an attorney had obtained a Philadelphia divorce decree after three years, only one of the 237 cases in which parties proceeded without an attorney had obtained a decree.<sup>25</sup>

# CHALLENGES FACING TRIAL COURT JUDGES IN HANDLING CASES INVOLVING SELF-REPRESENTED LITIGANTS

Except for some small claims courts in which lawyers are not permitted, the processes of the American legal system presuppose that every party will be represented by a lawyer. The rules and procedures were created to provide for handling of the most complicated cases and are written using specialized legal language and legal concepts that are well understood by lawyers but are, for the most part, unintelligible to the general public.

Self-represented persons face major challenges in navigating these rules and processes. But judges also face significant challenges in dealing with people appearing in court without a lawyer. In the early 1990s, when high legal fees<sup>26</sup> and the “do it yourself” movement started bringing more and more people into court without a lawyer, judges and lawyers were completely unprepared and reacted negatively, with common refrains like:

- “You do not belong here.”
- “I cannot bend the rules because you choose not to have a lawyer.”
- “If I implement special procedures for you, it will just encourage more people like you to come to court without lawyers.”
- “How are lawyers going to make a living if this trend continues?”
- “If I ‘lean over the bench’ to help a self-represented person, I will cease being impartial.”
- “As a judge, I cannot give legal advice to any party.”
- “My role as a judge is to ‘call the balls and strikes,’ not to pitch and hit, run the bases, and shag flies in the outfield.”

As the new reality of litigants without lawyers has persisted over the past 30 years, most of those negative attitudes have dissipated. For instance, the bar in most states has come to accept that most people who self-represent simply cannot afford their services. They have also learned that having efficient court procedures for self-represented persons serves their own best interests because the courtroom moves more expeditiously for the cases in which they do appear. Most judges recognize that they have a duty to provide a fair environment for the resolution of cases in which counsel are not present or are present on only one side. Today’s courts are designing new systems and service offerings around court users’ needs: simplifying forms, providing self-help materials, hosting self-help classes, setting up physical or digital self-help centers, and providing a multitude of online resources and applications to support them.<sup>27</sup> And judges are adapting traditional courtroom practices and tailoring their procedures for persons appearing without lawyers, including most fundamentally the abandonment of their traditionally passive (just “call the balls and strikes”) judicial role.

Despite these changes, very real challenges remain for judges operating in this new environment.

- Lawyers perform many roles in the traditional courtroom process—e.g., selecting jurors, calling witnesses, submitting exhibits, making objections, educating the judge about the nuances of the law applicable to the case, submitting proposed instructions for the jury, and proposing (or arguing about) how a matter should proceed. How can the judge perform all these roles when no lawyers are present?
- When can violations of rules—for instance, those relating to timeliness of filings—be overlooked in the interests of fairness and when does fairness dictate that they must be enforced?
- How is it possible to maintain the appearance of impartiality when the judge is deeply involved in the proceeding? How can the judge ask questions to establish the foundation for evidence submitted by a party without appearing to disbelieve him or her?
- Judges do not give legal advice to a party. Doing so jeopardizes impartiality. What can the judge do when a party is unaware of the law applicable to the matter at hand?
- The U.S. Supreme Court has explained that courts are obligated to provide some help to self-represented litigants. In what situations must the judge provide assistance?
- What happens when one party is self-represented and the other has retained counsel? If there is a lawyer in the case, isn't the lawyer's client entitled to have the case handled in a formal manner?

The remainder of this guide attempts to marshal various resources to provide helpful suggestions for dealing with each of these challenges.

# EXISTING GUIDANCE FOR TRIAL COURT JUDGES

## ETHICAL RULES AND CODES OF JUDICIAL CONDUCT

Rule 2.6 of the American Bar Association (ABA) Model Code of Judicial Conduct (Model Code) requires a judge to “accord to every person who has a legal interest in a proceeding . . . the right to be heard according to law.”<sup>28</sup> Model Code Rule 2.2 requires the judge to “act at all times in a manner that promotes public confidence in the . . . impartiality of the judiciary.”<sup>29</sup>

The most fundamental mistake trial judges make is failing to guarantee the right “to be heard according to law” out of fear of losing their “impartiality.” The ABA Standards Relating to Trial Courts, promulgated in 1976, give predominant weight to ensuring the right to be heard: “When litigants undertake to represent themselves, the court should take whatever measures may be reasonable and necessary to insure a fair trial.”<sup>30</sup> Echoing the earlier trial court standards, in 2007 the ABA amended the Model Code, adding the following commentary to Rule 2.2 on impartiality:

To ensure impartiality and fairness to all parties, a judge must be objective and open-minded . . . . *It is not a violation of this Rule for a judge to make reasonable accommodations to ensure pro se litigants the opportunity to have their matters fairly heard.*<sup>31</sup>

Some courts of last resort have expanded on this commentary to include a non-exclusive list of examples of such accommodations. Louisiana, for example, provides that judges may do the following:

- 1) Make referrals to resources available to assist the litigant in preparing the case;
- 2) Provide brief information about the proceeding and evidentiary and foundational requirements;
- 3) Ask neutral questions to elicit or clarify information;
- 4) Attempt to make legal concepts understandable by minimizing use of legal jargon; and
- 5) Explain the basis for a ruling.<sup>32</sup>

Richard Zorza, a prolific writer in the realm of access to justice, elegantly notes that judicial passivity is not synonymous with impartiality.<sup>33</sup> He explains that a judge can take an active role while treating both sides impartially and, conversely, that passivity in and of itself does not ensure impartiality (for instance, if one of the parties is being taken advantage of by the other).

## SUPREME COURT CASE LAW

In 2011, the U.S. Supreme Court was asked to hold that due process required the appointment of counsel in a child support enforcement matter in which a noncustodial parent was given six months in jail for contempt of court for non-payment of support.<sup>34</sup> The Court declined to do so. But the Court majority found that the trial court had violated the appellant’s due process rights by failing to employ “substitute procedural safeguards” that were available. It enumerated these safeguards:<sup>35</sup>

- Notice of the defense of inability to pay;
- A form to use for presenting the defense;
- An opportunity to address the issue in court; and
- An express finding on the issue.

Through its holding, the Court introduced the Fourteenth Amendment requirement of due process in analyzing a trial judge’s obligations towards unrepresented persons. Although four justices dissented, no justice suggested that providing this information, which benefitted only one of the two parties before the court, violated the judicial duty of impartiality. And the decision, in even its most narrow interpretation, put to rest the notion that a judge may not give legal advice to a party; it held that the *failure* to give legal advice about the affirmative defense of inability to pay in a contempt proceeding for nonpayment of child support violated due process. Of course, there remains a significant line to be drawn between informing a party about the law and legal procedures and providing tactical advice on how to use the law to his or her personal advantage.

Although clearly beyond its precise holding, *Turner v. Rogers* provides the basis for articulating a right to “informational justice” for self-represented parties. In order to participate effectively in a legal matter, both parties need to have a clear understanding of:

- The procedural posture of the case—What is at stake in the hearing? What is the moving party seeking? What are the possible outcomes?
- The legal requirements for granting the moving party’s request—What are the legal elements that must be established? What is the standard of proof that must be met? What sort and types of evidence can be presented to meet those requirements?
- The affirmative defenses available to the other side, if there are any.<sup>36</sup>
- How the hearing will be conducted and what rules must be followed.

Much of this information is currently available on court and civil legal aid websites in most states. Indeed, 48 states and all federal courts provide websites with some forms and self-help content.<sup>37</sup> Court staff can provide this information to self-represented litigants well in advance of a hearing so that they can use it to understand their situation and prepare for their presentation. But the trial judge cannot assume that self-represented parties have taken advantage of those resources or that they have understood the information presented there.<sup>38</sup> The judge should stay attuned to this issue during a hearing and briefly explain the law in a way that the parties will understand if they seem to be floundering. If an issue is common to multiple cases on the same docket—such as motions to modify custody and visitation or the amount of child or spousal support—the judge (or a short video) can present the information at the beginning of that calendar for all parties present. This is not a new process for trial judges who often give group advisements before arraignment and status conference calendars.

As will be explained later, laying this informational groundwork at the beginning of a calendar call, hearing, or trial significantly improves the likelihood of a just outcome to the proceeding. Additionally, it eliminates many of the procedural concerns that arise in appellate case law.

## STATE APPELLATE COURT CASE LAW

*Judicial Techniques for Handling Cases Involving Self-Represented Litigants*<sup>39</sup> explores exhaustively the appellate precedents at the time of its publication (2003) bearing on a judge's role in dealing with self-represented litigants in the courtroom. The authors point out that appellate courts' use of the maxim "self-represented litigants will be held to the standard to which attorneys will be held" is a classic case of "dictum"—the statement of a legal principle unnecessary to the holding of the case.<sup>40</sup> It is also a demonstrably incorrect summary of the court's analysis of the trial judge's actions in the cases under review.

Invariably, the appellate opinions explored in the article recited significant steps that the trial judge took to assist unrepresented parties, then recited the maxim to affirm the trial judge's decision not to provide even more assistance. Instead of criticizing the trial judges for taking the steps they took to assist self-represented litigants (which would be called for if the appellate court was serious that they should be treated the same as lawyers), the appellate judges invariably *praised* the trial judge for her or his efforts in providing special assistance. Unfortunately, today's appellate courts continue to recite the maxim and some trial judges take them literally. But, even though no appellate court appears to have expressly rejected the maxim, most trial judges today understand that it is, for the most part, obsolete and irrelevant to their handling of civil cases involving one or more self-represented litigants.

The New Mexico Supreme Court has interpreted the maxim in the opposite direction. In proposing a new rule regarding unbundled legal services in 2004, the court reiterated the rule that "in New Mexico courts, attorneys and self-represented litigants are held to the same standards." But, the court continued on to say that "New Mexico courts are lenient with both attorneys and self-represented litigants when deemed appropriate so that cases may be decided on their merits."<sup>41</sup>

There have been instances in which appellate opinions have created a mandatory obligation towards self-represented parties; the U.S. District Courts and Alaska trial courts require that the court advise a party responding to a motion for summary judgment that includes an affidavit that the party must submit a countervailing affidavit or the other party's affidavit will be deemed to have established the facts set forth in it.<sup>42</sup> But, for the most part, appellate courts have simply recognized a trial court's wide discretion to vary court processes to meet the needs of a person appearing without counsel. California's intermediate court of appeal has gone the farthest in holding that the failure to exercise discretion constitutes an abuse of discretion.<sup>43</sup>

In the last ten years, there have only been two appellate precedents finding that a trial judge went too far in assisting a self-represented litigant. In 2006, the Iowa Supreme Court, in *In the Matter of S.P.*, held that a trial judge had improperly taken an adversarial role when it ordered a person involuntarily committed for drug treatment based on evidence elicited by the judge's own questioning of the petitioners.<sup>44</sup> The court's opinion, while not prohibiting a trial judge's asking questions, stated that "any effective questioning will inevitably lead to the heart of the case. When the court itself directs the case in this way it is marshaling or assembling the evidence" with the judge necessarily losing impartiality.<sup>45</sup> In New York, the intermediate appellate court reversed a child support magistrate for using a report prepared for the court by the state child support enforcement agency as the evidentiary basis for determining the child support payment history and therefore how much support was still owed.<sup>46</sup> Neither of these decisions have been followed elsewhere.



## PROCEDURAL FAIRNESS CONSIDERATIONS

Judges and lawyers tend to judge the fairness of a proceeding by their perception of the fairness of the *outcome* of that proceeding. Did the right party prevail? Did she or he obtain an appropriate sentence or award of damages? One result of this sort of thinking is that most judges are convinced that, at best, only half of the litigants who appear before them will ever be satisfied with their decisions. The litigants who win will be happy and the litigants who lose will be unhappy. Judges perceive themselves to be in a “no win” situation—there is nothing they can do to change the fact that half of the participants in any case will leave the courthouse unhappy.

However, social science research shows that the general public, including litigants, do not view fairness in the same way. While they do care about the outcome of their case, they care more about the fairness of the *process* that produces the outcome. They understand that everyone cannot win in court and that there are at least two sides to most arguments. Consequently, it is possible that a winning party will leave the courtroom unhappy. Researchers have heard winning parties say things like, “I have never been so humiliated in my life; I will never subject myself to such abuse again.” And losing parties, including criminal defendants found guilty and sentenced to long prison terms, frequently rate their court experience as fair. So, judges are actually in a “win-win” situation; if they conduct a court proceeding in a way that all participants consider to be fair procedurally, judges can achieve very high levels of satisfaction with their rulings.

There is also some evidence that persons who perceive that they are treated more fairly during a proceeding are more likely to comply with an order resulting from the proceeding. For instance, parties in mediation sessions that they rated as being fairer were more likely to implement a mediated agreement six months after the session than parties who rated the session as less fair.<sup>47</sup>

The top four factors that contribute to perceptions of high levels of procedural justice are the same in all of the studies:<sup>48</sup>

- *Participation*—Did the party have the opportunity to participate in the process, such as by being able to present his or her case in court?<sup>49</sup>
- *Neutrality*—Did the judge treat all parties the same? Did the judge base the decision on objective factors, such as stated legal rules, or on the judge’s personal values and biases?
- *Trustworthiness*—Did the judge care about the case and the litigants? Was the judge concerned about the litigants’ situation? Was the judge trying to do what was right for the litigants? Was everything done in the open?
- *Treatment with dignity and respect*—Was the party treated as a person and as a valued member of society?

Judges Kevin Burke of Minnesota and Steve Leben of Kansas have written and spoken extensively on this topic. Their materials provide excellent guidance for trial judges dealing with self-represented litigants.<sup>50</sup>

## BENCH BOOKS AND RELATED MATERIALS

Some state courts of last resort have tried to provide better direction to their trial bench. Minnesota,<sup>51</sup> Massachusetts,<sup>52</sup> Delaware,<sup>53</sup> and Illinois<sup>54</sup> have provided general guidance for trial judges. Some of the guidance consists of broad statements and some is more specific. All of these policy statements inform trial judges that they have the *discretion* to assist self-represented litigants in a variety of ways; none delineate when a judge *must* provide such assistance.<sup>55</sup>

California has created a complete bench book for judges on the topic.<sup>56</sup>

The Self-Represented Litigation Network, the National Judicial College, NCJFCJ, NCSC, and individual state judicial education programs offer judicial training curricula on presiding over cases involving self-represented litigants, including video examples of effective judicial practices.<sup>57</sup>

# PROVEN PRACTICES AND GUIDELINES

## CASES INVOLVING SELF-REPRESENTED LITIGANTS GENERALLY

**The law must produce a consistent outcome for all litigants, regardless of their legal representation, based on the law and facts of their case.** The real message behind the statement that self-represented litigants must follow the same rules as attorneys is the fundamental idea that the outcome of every matter should be directly related to the merits of each party's case. A self-represented litigant must not prevail simply because she or he does not have legal counsel. Just like a represented party, an unrepresented party must present evidence that meets the legal standards for obtaining a judicial remedy; she or he should not be relieved of making a sufficient showing because they did not hire a lawyer. The converse is also true. In every state, all persons have a fundamental legal right to bring their matters before the court without legal representation; exercise of that right cannot be a reason to prejudice the court against them.

**“Hard” procedural bars—pertaining to statutes of limitations, availability of administrative remedies, and time limits for filing an appeal—apply equally to unrepresented and represented litigants.** These procedural bars are fundamental rules governing the legal process. For the most part, appellate courts are uncomfortable applying them differently to different parties for any reason, including whether the parties are represented by counsel.

**Courts should grant leeway when self-represented litigants miss deadlines that do not represent “hard” procedural bars.** As the New Mexico Supreme Court noted in 2004, courts should always favor decisions that allow cases to be decided on their merits.<sup>58</sup> That includes excusing failures to file a timely answer, failures to identify witnesses and exhibits in advance, failures to comply with discovery requirements, etc. Of course, repeated failures to comply with the same requirement (e.g., continuing failure to produce required documents during discovery) can be seen as scorning the court's rules and directives, with appropriate negative consequences.

**Courts should grant self-represented litigants leeway in both form and content of the documents they file.** This standard is universally observed. Courts can inform the parties of the correct legal characterization of the relief being sought if the moving party has used incorrect legal terminology. The court can also allow a matter to be raised for the first time at a hearing. In some jurisdictions, this requires consent of the other party, and the other party will very often consent to avoid the need to come back to court to deal with the matter; if the other party does not consent, the court can allow a continuance so that both parties can address the newly asserted matter.<sup>59</sup>

**Many states have adopted rules that either relax or completely remove the rules of evidence.** The Idaho Supreme Court adopted special rules of civil procedure for family cases in 2015<sup>60</sup> that provide that the rules of evidence do not apply in family law matters unless both parties stipulate that they will apply. In Alaska, the rules of evidence can be disregarded in certain domestic relations trials unless one of the parties objects.<sup>61</sup>

In Oregon, the rules of evidence do not apply in “simplified trial” cases when both parties agree to use that mechanism.<sup>62</sup> While this degree of latitude is not incorporated into written rules across the county, overall, trial courts have a great deal of discretion whether and how to apply rules of evidence to ensure a fair trial on the merits.

**Courts are responsible for the legal sufficiency of their rulings.** The Supreme Court in *Turner v. Rogers* held that the court, not the defendant, had a duty to raise the defense of inability to pay and to educate the defendant sufficiently to enable him to present evidence to prove that the defense applied in his case. Similarly, the Conference of Chief Justices in its 2016 *Call to Action* report included the following recommendation: “Courts must implement systems to ensure that the entry of final judgments complies with basic procedural requirements for notice, standing, timeliness, and sufficiency of documentation supporting the relief sought.”<sup>63</sup> Further, recognizing that defendants may lack legal representation in certain collection cases, some states have adopted revised procedures requiring plaintiffs to plead the existence or not of applicable affirmative defenses, or requiring the court, not the debtor, to apply debtor exemptions.<sup>64</sup>

**The judge should be guided in her or his conduct of a hearing or trial by the model of an impartial officer attempting to obtain the information needed to render a fair judgment in the matter.** This will include the judge’s exploring—through neutral and open-ended questions—the relevant evidence that both parties present. The judge will, on rare occasions, face the need to ask follow-up questions to test the basis for and credibility of submitted testimony or evidence. The judge will also, on occasion, as justice requires, feel the need to explore the availability of alternative claims or evidentiary bases for relief and for the existence of additional affirmative and other defenses.

Judges presiding over dockets with large numbers of self-represented litigants will, in many ways, perform more in the form of the inquisitorial, rather than the adversarial, model.<sup>65</sup> This approach is not entirely free of complicating factors—Professor Anna Carpenter’s exploration of the judge’s role in workers’ compensation cases points out some of the difficulties that those judges face.<sup>66</sup> Her work shows the importance of research in this largely unexplored area of judicial practice.

**The court always has the ability to postpone a matter and refer a party to a source for assistance in understanding and preparing the case.** When a court has a self-help center in the courthouse, it may be possible simply to postpone a hearing until the end of a calendar, or to the afternoon, instructing one or both of the parties to consult with the self-help staff before returning to court. This process will be furthered significantly if the judge provides a written note to the self-help staff on the assistance needed by the referred party or parties.<sup>67</sup> If this resource is unavailable, the court can refer appropriate parties to legal aid or pro bono attorneys, to attorneys who are willing to provide unbundled services, to videos or live clinics for self-represented litigants, to law or public libraries, or to other special resources in the community.

## CASES IN WHICH ONE OF THE PARTIES IS REPRESENTED BY COUNSEL

A number of trial judges report that this situation gives them the most difficulty. They particularly seek to avoid counsel's objection that the judge has become the attorney for the self-represented litigant.

The most common mistake judges make is to opt into the formal process, rather than into the informal process, in this situation. Counsel can continue to function effectively in the informal process; the self-represented litigant is often crippled by being required to function within the formal trial process.

The most successful approach has been for the trial judge to treat any case with at least one self-represented litigant as if both parties are self-represented. The judge informs counsel that the court will proceed informally, explaining the law and the process to the unrepresented party, and asking questions of both parties and of any witnesses to elicit the information needed to reach a fair decision. The judge can give the attorney the option of presenting the client's case by posing the initial questions to the client and supporting witnesses or having the judge ask them. The judge may also give the attorney an opportunity to cross-examine the opposing party or that party's witnesses. The judge will always give counsel the opportunity to sum up the case on behalf of the client in closing argument. (Some judges will ask the represented party if there is anything that they wish to add at the end of their attorney's closing argument.)

When charged with "serving as co-counsel" for the opposing party, the judge will simply explain that it is the judge's obligation to ensure that the parties before the court understand the law and the process and have a fair opportunity to present whatever evidence the parties have to support their position. The judge can offer to give a similar explanation to the attorney or to the attorney's client if the attorney wishes and to have the judge elicit the client's testimony in the same fashion as the judge elicits the evidence of the self-represented party.

## CONDUCTING A HEARING

**Framing the subject matter of the hearing**—Judges should begin every hearing with a brief statement of the reason for the hearing and the issues that are presented for decision. This review may include a recitation of recent hearings in the case and the orders resulting from them. The framing process clarifies for litigants what the hearing will be about and why they are appearing before the court. It often elicits additional matters that one of the parties would like to raise and have the court decide. This also engenders confidence in the court by demonstrating that the court has prepared for the hearing.<sup>68</sup>

*Example: "This case is before the court this morning on Mr. Jones' request that this court increase his visitation with their four-year-old daughter Daphne from two hours supervised visitation to one night per week unsupervised visitation. The current supervised visitation program was included in an order of this court issued at the close of a hearing three months ago and we agreed to review how it is working out at this time. You were not able to reach an agreement on additional visitation for Mr. Jones during mediation. The mediator recommends that the court allow some unsupervised visitation but not yet on an overnight basis. I will want to hear from both Mr. Jones and Ms. Smith about how the current supervised visitation is going, from Mr. Jones about his 12-step program and why he feels that it is in Daphne's best interests for her to spend more time with him, and from Ms. Smith about her feelings about that same question."*

## Explaining the process to be followed or guiding the process—

*Building on the example above: “This court follows the general rule that a child does best in life if she has two involved parents. We have not followed that rule in this case because of our finding that Mr. Jones uses illegal drugs and, because of that, Daphne would be endangered by spending unsupervised time with him. In this hearing it will be up to Mr. Jones to prove to the court that he no longer uses drugs and is no longer a risk to Daphne’s safety. After hearing from both of you, the court will have to decide whether to allow his unsupervised contact with Daphne and, if so, under what terms. I will allow Mr. Jones to speak first. I will ask him questions. Then I will hear from Ms. Smith and ask her questions. If you have any evidence other than your own testimony I will receive and review it. You are not to interrupt each other. You are to address all of your remarks to me; you are not to argue with each other. You will each have an opportunity to let me know the ways in which you disagree with the other’s testimony. At the end of the hearing, I will give each of you an opportunity to add anything you have overlooked. If you do not raise a point during this hearing, you will not be allowed to raise it later in a further motion on the same subject. Do you have any questions before we start?”<sup>69</sup>*

**Eliciting needed information from the litigants**—Judges swear the parties as witnesses, let them make a statement of their case, and then guide them through the process of completing their case by asking questions.

- *Allowing litigants to make initial presentations to the court*—Judges turn to one of the litigants—usually, but not always, the moving party—to begin the hearing with a framing statement, such as, “Mr. Jones, I have read your petition. Is there anything that you want to add?” Litigants given this opportunity do not tend to abuse it but make the arguments they want the court to consider. The judge then turns to the other party and asks for his or her point of view. The judge uses these initial statements to identify the issues for discussion and resolution.
- *Breaking the hearing into topics*—Judges, in effect, create an agenda or outline for the hearing, letting the litigants know that the judge understands the issues that the litigants considered important and that they will be addressed in a particular order.
- *Moving back and forth between the parties*—In leading the discussion on each issue, judges make certain that both parties have an opportunity to address each of the topics before announcing the court’s resolution of that issue. Some judges have found it preferable to withhold decision on any issue until the end of the hearing.
- *Paraphrasing the testimony and arguments of the litigants*—Judges summarize very briefly the position of a party, using language such as, “I understand you to be saying \_\_\_\_\_, Ms. Smith. Is that correct?” “Mr. Jones, what is your position on that?” Judges use this technique to let a party know gently that they had heard enough information or argument on a point.
- *Maintaining control of the courtroom*—Notwithstanding the common refrain from judges around the country that self-represented litigants are hard to control in the courtroom, the judges following this process generally experience no difficulty with this issue. In fact, judges rarely have to say anything to stop a litigant from interrupting the other party or from running on. In the latter instance, the judge gently interjects by saying something like, “Let’s not get into that just yet. I would like to hear Ms. Smith’s views on \_\_\_\_\_ first.”

- *Giving litigants an opportunity to be heard while constraining the scope and length of their presentations*—It is relatively easy to limit a long-winded litigant by making it clear from the beginning of the hearing that the judge will be actively involved and that it will be more like a discussion involving three parties than a debate involving two parties. By paraphrasing what a party has said in seeking the other party’s point of view, the judge makes it clear to the first party that the judge understands his or her argument. If a litigant appears ready to launch into a repetitive argument, the judge can simply say, “Ms. Smith, I have already listened to your point of view and have all the information I need to decide this issue. Let’s move on.”
- *Giving litigants a last opportunity to add information before announcing a decision*—The judge can pause before making a ruling, look to each litigant in turn, and ask if there is anything that they have not said that they want to add before the court makes its decision. Instead of asking, “Is there anything else that you would like to say,” the judge asks, “Is there anything that you have not already said that I need to hear before making my decision?” Such questions on occasion bring forth highly relevant considerations that a litigant may have overlooked from nervousness.
- *Obtaining foundational information concerning a proposed exhibit or statement*—When a litigant offers a photograph or document to the court as evidence, the judge can say: “Before I can look at your photograph, I need to ask you a few questions about it. What is it a photograph of? Who took the photo? When was it taken? Have any changes been made to the photograph since it was taken? Thank you. Ms. Bailiff, will you hand me the photograph?”

**Engaging the litigants in the decision making**—A skilled judge can engage the litigants in creating the specific terms of an order. “And an overnight would be acceptable to you if . . . ? Please put it in your own words.” Using this process, the judge can, in effect, mediate the dispute in the courtroom, or at least give the parties the opportunity to agree on the details after the judge has given an intended ruling on a major issue.

**Articulating the decision from the bench**—While there may be emotionally charged hearings in which the judge may apprehend increased tension between the parties, even a physical altercation, if she or he announces the ruling from the bench, these situations are rare. In most cases, the process is enhanced for the litigants when the judge announces the decision at the close of the hearing. By announcing the ruling, the judge ensures the losing party that the court heard and considered all the arguments before ruling for the other party. The judge is able to use nonverbal behavior to present the ruling in a way that demonstrates compassion for both litigants—by moving eye contact and focus between the parties. And the parties have an opportunity to seek clarification of points in the order that the judge may have overlooked or that one of the litigants does not understand. The judge can quickly cut off a party who attempts at this point to reargue his or her position.

**Explaining the decision**—A written order after hearing merely states the decision. The judge may not have time in the written decision to recite the reasons for the different parts of the decision. When judges announce and explain their decisions as they work through each of the issues, both parties know what the judge has decided and how the various parts of the order relate to each other. The judge’s ultimate goal, particularly in family law matters, is for the litigants to comply with the court’s orders and to begin to resolve matters between themselves without having to return to court. Explaining briefly but clearly the court’s rationale for its decisions provides the parties with examples of principles they can apply between themselves in resolving future disputes. And the judge has the best opportunity to demonstrate all of the elements that go into the parties’ determination of the trustworthiness of the proceeding.

**Summarizing the terms of the order**—Judges who announce their rulings in the course of the hearing find it helpful to summarize the terms of the order at the close of the hearing—providing the courtroom staff as well as the parties with an opportunity to review and confirm all of the terms and conditions to be included in the court’s order.

**Providing instructions on how to appeal**—Appellate courts often struggle with how to handle cases with self-represented litigants. One of the challenges they face is the self-represented litigant’s lack of awareness of the proper steps needed to appeal their case. After summarizing the terms of the order, trial judges should provide self-represented litigants with instructions about what to do if they want to appeal their case.<sup>70</sup> The court can use a standard fact sheet written in plain English to assist in this process.



## CONCLUSION

Trial judges face significant challenges in handling courtroom proceedings involving self-represented litigants. However, judges overcome those challenges daily to help ensure that self-represented persons get the same justice as those who come to court with a lawyer. These judges realize that many perceived barriers to dealing with self-represented persons do not actually exist. Their example offers lessons for other judges.

The maxim that “self-represented persons are held to the same standards as lawyers” is honored more in the breach than in the observance. Judges are required in many instances to inform litigants what the law is (without advising them how to use it to their personal advantage). Judges may be proactive and actively engaged in hearings and trials to elicit the information they need to make a fair and legally correct ruling. Judges need not require self-represented litigants to adhere to the technicalities of the rules of evidence or to the precise manner required of lawyers in posing questions to witnesses. The timeliness rules can be divided relatively easily into a set that must be enforced and a set that can be treated flexibly. Cases with a lawyer on one side and a self-represented person on the other can be handled informally, giving the lawyer a role that preserves the lawyer’s client the benefit from retaining counsel but not unfairly incapacitate the self-represented person.

The research on procedural justice points trial judges in the same direction as the canons of judicial ethics—the primacy of the right to be heard, the importance of treating all parties equally and with respect, and the significance of performing consistently so as to earn trust in the integrity of the judge and the process over which the judge presides. And while there remains a large “grey area” concerning when judges must (rather than may) accommodate the particular needs of self-represented litigants, the lack of appellate precedent in this area may reflect that capable trial judges predominantly exercise common-sense.

# ENDNOTES

- 1 NAT'L CTR. FOR STATE COURTS & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., CALL TO ACTION: ACHIEVING CIVIL JUSTICE FOR ALL, RECOMMENDATIONS TO THE CONFERENCE OF CHIEF JUSTICES BY THE CIVIL JUSTICE IMPROVEMENTS COMMITTEE (2016), <https://www.ncsc.org/~media/Microsites/Files/Civil-Justice/NCSC-CJI-Report-Web.ashx> [hereinafter CJI RECOMMENDATIONS]; NAT'L CTR. FOR STATE COURTS, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS. & NAT'L COUNCIL OF JUVENILE AND FAMILY COURT JUDGES, FAMILY JUSTICE INITIATIVE: PRINCIPLES FOR FAMILY JUSTICE REFORM (2019), [https://iaals.du.edu/sites/default/files/documents/publications/family\\_justice\\_initiative\\_principles.pdf](https://iaals.du.edu/sites/default/files/documents/publications/family_justice_initiative_principles.pdf). The resolution for the Civil Justice Initiative can be found at <https://ccj.ncsc.org/~media/microsites/files/ccj/resolutions/07272016-support-call-action-recommendations-cji.ashx>. The resolution for the Family Justice Initiative can be found at <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/02132019-Family-Justice-Initiative-Principals.ashx>.
- 2 NAT'L CTR. FOR STATE COURTS, THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS iv (2015), <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx> [hereinafter CJI LANDSCAPE STUDY]; NAT'L CTR. FOR STATE COURTS, THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018), <https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Children%20Families/FJI/FJI%20Landscape%20Report%20mb.ashx> [hereinafter FJI LANDSCAPE STUDY]. This is also true in traffic and misdemeanor cases, where most defendants also appear without counsel.
- 3 CJI RECOMMENDATIONS, *supra* note 1, at 16.
- 4 With very few exceptions, the guidance given trial judges is, at best, general in nature and, in most states, entirely lacking. California, for example, provides its trial judges with a substantial benchbook on the topic. As noted below, Delaware, Illinois, Massachusetts, and Minnesota have issued policy statements on this topic, but they lack the detail of the California benchbook. Other states have training curricula for judges dealing with these cases, but they lack the support of precedents or policy statements from the appellate courts.
- 5 BRITTANY K.T. KAUFFMAN & NATALIE ANNE KNOWLTON, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., REDEFINING CASE MANAGEMENT 3 (2018), [https://iaals.du.edu/sites/default/files/documents/publications/redefining\\_case\\_management.pdf](https://iaals.du.edu/sites/default/files/documents/publications/redefining_case_management.pdf).
- 6 CJI LANDSCAPE STUDY, *supra* note 2.
- 7 *Id.* at 31. For comparison, a comparable 1992 *Civil Justice Survey of State Courts* study found that 95% of the cases disposed of in general jurisdiction courts involved attorneys on both sides. U.S. DEPT. OF JUSTICE, OFFICE OF JUSTICE PROGRAMS, BUREAU OF JUSTICE STATISTICS. CIVIL JUSTICE SURVEY OF STATE COURTS (1992), <https://doi.org/10.3886/ICPSR06587.v5>.
- 8 FJI LANDSCAPE STUDY, *supra* note 2.
- 9 *Colorado Federal Pro Se Clinic*, COLO. BAR ASS'N, <http://www.cobar.org/fpsc> (last visited Oct. 10, 2019).
- 10 *Legal Advice Clinic/Self Help Resources*, U.S. DISTRICT CT. EASTERN DISTRICT OF MO., <https://www.moed.uscourts.gov/legal-advice-clinic-self-help-resources> (last visited Aug. 16, 2019).
- 11 Memorandum from Gerstein Bocian Agne Strategies to the Nat'l Ctr. for State Cts. 2 (Nov. 15, 2017), <https://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSc-2017-Survey-Analysis.ashx>.
- 12 *Id.* at 5.
- 13 *Id.* at 2.
- 14 *Id.* at 3. See also Memorandum from Gerstein Bocian Agne Strategies to the Nat'l Ctr. for State Cts. 3 (Dec. 3, 2018), [https://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSC\\_2018\\_Survey\\_Analysis.ashx](https://www.ncsc.org/~media/Files/PDF/Topics/Public%20Trust%20and%20Confidence/SoSC_2018_Survey_Analysis.ashx) [hereinafter 2018 STATE OF THE STATE COURTS] (the 2018 State of the States survey found that while 48% of Whites expressed this concern, 68% of African Americans and 61% of Hispanics held this view).
- 15 2018 STATE OF THE STATE COURTS, *supra* note 14, at 5.
- 16 Each year, Utah assesses their courts' accessibility and fairness based on court customer survey responses. In 2017, 93% found the forms they needed were easy to understand, 88% noted they finished their court business in a reasonable time, 94% felt court staff paid attention to their needs, and 93% said they were satisfied with their experience at the court. The entire survey results from 2006 through 2017 are available at <https://www.utcourts.gov/performanceasures/access.html>.
- 17 NATALIE ANNE KNOWLTON ET AL., CASES WITHOUT COUNSEL: RESEARCH ON EXPERIENCES OF SELF-REPRESENTATION IN U.S. FAMILY COURT 4 (2016), [https://iaals.du.edu/sites/default/files/documents/publications/cases\\_without\\_counsel\\_research\\_report.pdf](https://iaals.du.edu/sites/default/files/documents/publications/cases_without_counsel_research_report.pdf).
- 18 *Id.* at 31.

- 19 *Id.* at 33.
- 20 *Id.* at 34.
- 21 *Id.* at 47.
- 22 Margaret Hagan, Director of the Legal Design Lab/Facilitator of Court Compass Design Sprints (remarks to the Maryland 2019 Self-Help Provider Conference in Annapolis, Maryland) (Sept. 27, 2019).
- 23 Eighty percent of Arkansas trial judges responding to a survey conducted by Chanley Painter, a student in the University of Arkansas Clinton School of Public Service, agreed that “self-representation has a negative impact on case outcomes.” One judge reported, “there have been times [SRLs] prevailed, but very, very seldom.” See CHANLEY PAINTER, EXPLORING THE PROBLEM OF SELF-REPRESENTED LITIGANTS IN ARKANSAS CIVIL COURTS 25 (2011), <https://arkansasjustice.org/wp-content/uploads/2017/04/Capstone-Report-AAJC-Final-1.pdf>. On the other hand, a random controlled study conducted by the Harvard Access to Justice Lab found no difference in the outcome of cases in the Massachusetts Housing Court in which tenants appeared with and without counsel. That court is known for accommodating the needs of self-represented litigants. See D. JAMES GREINER, CASSANDRA WOLOS PATTANAYAK & JONATHAN HENNESSY, HOW EFFECTIVE ARE LIMITED LEGAL ASSISTANCE PROGRAMS? A RANDOMIZED EXPERIMENT IN A MASSACHUSETTS HOUSING COURT (2012), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=1880078](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1880078).
- 24 The Harvard team conducted a five-year study employing a “random controlled trial” methodology. Persons seeking help in obtaining a divorce were interviewed by a VIP program staff member. All persons found to be appropriate candidates for assistance from a volunteer attorney were then randomly sorted into a “treatment group”—for whom the program attempted to find a volunteer attorney—and a “control group”—who would be given a guide to self-representation prepared by the Women’s Law Project and a telephone number to call with questions. The size of the treatment group was limited to the number for whom the VIP program thought it could find volunteer attorneys. The study ultimately included 74 in the treatment group and 237 in the control group. ELLEN DEGNAN ET AL., TRAPPED IN MARRIAGE (Oct. 23, 2018), <http://dx.doi.org/10.2139/ssrn.3277900>.
- 25 The study identified multiple procedural obstacles facing the self-represented persons. There is no evidence that their lack of success was attributable to adverse treatment in the courtroom; almost none of them were able to succeed in even filing a divorce petition, even though these were the simplest divorces—no children and no property. Interestingly, 14 additional control group cases did obtain a divorce in a nearby county that had a lower filing fee and simpler processes. Courts in those counties overlooked the inappropriate venue. *Id.* at 36.
- 26 The literature shows that most persons in Florida representing themselves in court are poor, but—for one reason or another—not eligible for free legal services. See JOHN M. GREACEN, SELF-REPRESENTED LITIGANTS AND COURT AND LEGAL SERVICES RESPONSES TO THEIR NEEDS: WHAT WE KNOW 4 (2003), <https://drive.google.com/file/d/0B-vVAXlirwl5Ym5MdzVhd21oQ3M/view>. Rebecca Sandefur’s study of civil legal needs in a Midwestern city reached a different conclusion—that the cost of a lawyer was not the most important barrier for persons with a civil legal need to invoke legal remedies to address it; lack of understanding that they had a legal issue, or lack of will to take action to address it, were more significant. Some appellate cases seem to hold a self-represented litigant to her or his “choice” to proceed without an attorney. As noted above, to the extent this is in fact a choice—that the party could have afforded counsel—it is a constitutionally protected choice and cannot be used as a reason for treating her or him more harshly in the courtroom. REBECCA L. SANDEFUR, ACCESSING JUSTICE IN THE CONTEMPORARY USA: FINDINGS FROM THE COMMUNITY NEEDS AND SERVICES STUDY (2014), [http://www.americanbarfoundation.org/uploads/cms/documents/sandefur\\_accessing\\_justice\\_in\\_the\\_contemporary\\_usa\\_aug\\_2014.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/sandefur_accessing_justice_in_the_contemporary_usa_aug_2014.pdf).
- 27 See JOHN M. GREACEN, EIGHTEEN WAYS COURTS SHOULD USE TECHNOLOGY TO BETTER SERVE THEIR CUSTOMERS (2018), [https://iaals.du.edu/sites/default/files/documents/publications/eighteen\\_ways\\_courts\\_should\\_use\\_technology.pdf](https://iaals.du.edu/sites/default/files/documents/publications/eighteen_ways_courts_should_use_technology.pdf) (examples of new systems and service courts are offering its users).
- 28 MODEL CODE OF JUD. CONDUCT r. 2.6 (2013).
- 29 MODEL CODE OF JUD. CONDUCT r. 2.2 (2013).
- 30 STANDARDS RELATING TO TRIAL CTS. § 2.23 (1992).
- 31 MODEL CODE OF JUD. CONDUCT r. 2.2 cmt. (2013) (emphasis added).
- 32 LA. CODE OF JUD. CONDUCT Canon 3A(4) cmt. (2013). The American Bar Association maintains a current list of all state rules implementing the Model Code of Judicial Conduct at [https://www.americanbar.org/content/dam/aba/administrative/professional\\_responsibility/2\\_2.pdf](https://www.americanbar.org/content/dam/aba/administrative/professional_responsibility/2_2.pdf).
- 33 Richard Zorza, *The Disconnect Between the Requirements of Judicial Neutrality and Those of the Appearance of Neutrality when Parties Appear Pro Se: Causes, Solutions, Recommendations, and Implications*, 17 GEO. J. LEGAL ETHICS 423, 423-54 (2004).
- 34 *Turner v. Rogers*, 564 U.S. 431 (2011).
- 35 *Id.* at 444.

- 36 This is the specific element omitted by the trial judge in *Turner*.
- 37 REBECCA LOVE KOURLIS & RIYAZ SAMNANI, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., COURT COMPASS: MAPPING THE FUTURE OF USER ACCESS THROUGH TECHNOLOGY 3 (2017), [https://iaals.du.edu/sites/default/files/documents/publications/court\\_compass\\_mapping\\_the\\_future.pdf](https://iaals.du.edu/sites/default/files/documents/publications/court_compass_mapping_the_future.pdf).
- 38 For very helpful information on how to make legal information most easily understandable to lay persons, see LOIS LUPICA, INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., GUIDELINES FOR CREATING EFFECTIVE SELF-HELP INFORMATION (2019).
- 39 Rebecca Albrecht, John Greacen, Bonnie Hough & Richard Zorza, *Judicial Techniques for Cases Involving Self-Represented Litigants*, 42 THE JUDGES' J. 16 (Winter 2003), <https://www.srln.org/system/files/attachments/JudicialTech.JJWi03.pdf>.
- 40 *Id.* at 44.
- 41 N.M. Sup. Ct., *Proposed amendments to Committee commentary for 16-303 NMRA*, N.M. STATE BAR BULL., VOLUME 43, NO. 43 at page 15 (October 28, 2004).
- 42 *Hudson v. Hardy* (D.C. Circuit 1968) 412 F.2d 1091; *Breck v. Ulmer* (Alaska 1987) 745 P.2d 66.
- 43 *Holloway v. Quetel*, 242 Cal.App. 4th 1425 (Court of Appeal, Second Dist., Div. 7 2015).
- 44 *In re SP*, 719 N.W.2d 535 (Iowa 2006).
- 45 *Id.* at 539.
- 46 *Washington v. Edwards*, 137 A.D.3d 1378 (2016).
- 47 Pruitt, D.G., Peirce, R.S., McGillicuddy, N.B., Welton, G.L. & Castrianno, L.M., Long-term Success in Mediation, 17 *Law and Human Behavior* 313-330 (1993). See also Emery, R.E., Matthews, S.G., and Kitzmann, K.M., Child Custody Mediation and Litigation: Parents' Satisfaction and Functioning One Year After Settlement, Volume 62, No. 1, *Journal of Consulting and Clinical Psychology*, 124-129 (1994) (noting that fathers were found to be more likely to pay child support as a result of mediation, which they rated fairer, than litigation, which they rated less fair); Paternoster, F., Brame, R., Bachman, R., & Sherman, L.W., Do Fair Procedures Matter?: The Effect of Procedural Justice on Spouse Assault, 31 *Law and Society Review*, 163-204 (1997) (noting that men who dealt with police officers called to their homes to investigate claims of domestic violence were more likely to comply with the law in the future when they felt that they were treated fairly by the responding officers).
- 48 Tyler, T., Social Justice: Outcome and Procedure, Volume 35, Number 2 *International Journal of Psychology* 117, at 12 (2000).
- 49 Which has an interesting linguistic twist in the legal context. The research emphasizes the importance of having an opportunity to "speak." But the judicial canons go beyond the right to speak to encompass the right to "be heard," which focuses attention on the judge's need to demonstrate to the parties her or his perception of what was said.
- 50 KEVIN BURKE & STEVE LEBEN, PROCEDURAL FAIRNESS: A KEY INGREDIENT IN PUBLIC SATISFACTION, 44 CT. REV. 4 (2007), [http://www.proceduralfairness.org/~media/Microsites/Files/procedural-fairness/Burke\\_Leben.ashx](http://www.proceduralfairness.org/~media/Microsites/Files/procedural-fairness/Burke_Leben.ashx).
- 51 Albrecht et al., *supra* note 39, at 19 (reprinted).
- 52 JUDICIAL GUIDELINES FOR CIVIL HEARINGS INVOLVING SELF-REPRESENTED LITIGANTS (WITH COMMENTARY), <https://www.mass.gov/guides/judicial-guidelines-for-civil-hearings-involving-self-represented-litigants-with-commentary> (last visited Apr. 18, 2019).
- 53 DELAWARE'S JUDICIAL GUIDELINES FOR CIVIL HEARINGS INVOLVING SELF-REPRESENTED LITIGANTS, <https://courts.delaware.gov/Supreme/AdmDir/ad178guidelines.pdf> (last visited Apr. 18, 2019).
- 54 ADMIN. OFF. OF THE ILL. CTS., ACCESS TO JUSTICE SPIRAL: A COMPILATION OF POLICIES, RULES, TIPS & BEST PRACTICES, [https://courts.illinois.gov/CivilJustice/Training\\_Education/Spiral.pdf](https://courts.illinois.gov/CivilJustice/Training_Education/Spiral.pdf) (last visited Apr. 18, 2019). California will make the benchbook available in an editable electronic format to any state that would like to provide such a resource to its trial bench.
- 55 See generally Cynthia Gray, *Pro Se Litigants in the Code of Judicial Conduct*, 36 JUD. CONDUCT REP. 1 (Fall 2014), <https://www.ncsc.org/~media/Files/PDF/Topics/Center%20for%20Judicial%20Ethics/JCR/JCR%20Fall%202014.ashx>.
- 56 JUD. COUNCIL OF CAL. CTR. FOR FAMILIES, CHILD. & THE CTS., HANDLING CASES INVOLVING SELF-REPRESENTED LITIGANTS: A BENCHGUIDE FOR JUDICIAL OFFICERS (2007), [https://www.courts.ca.gov/documents/benchguide\\_self\\_rep\\_litigants.pdf](https://www.courts.ca.gov/documents/benchguide_self_rep_litigants.pdf).

- 57 For an introduction to the training modules, view the webinar at <https://www.ncsc.org/microsites/access-to-justice/home/Webinars.aspx>. See also AM. JUDGES ASS'N ET AL., *PROCEDURAL FAIRNESS/PROCEDURAL JUSTICE: A BENCH CARD FOR TRIAL JUDGES*, <http://www.amjudges.org/publications/courtrv/cr53-4/PJ-Bench-Card-Full-Final.pdf>; HON. MARK JUHAS, ASS'N OF FAMILY & CONCILIATION CTS., *WORKING WITH PRO-SE LITIGANTS: A GUIDE FOR FAMILY COURT BENCH OFFICERS* (2017), <https://www.afccnet.org/Portals/0/Guide%20for%20Judges%20SRLs.pdf>.
- 58 N.M. Sup. Ct., *supra* note 41.
- 59 Some trial judges, however, will be limited in this regard. For example, Florida small claims case law suggests that it is the court's obligation to determine all theories relied upon based on the statement of the plaintiff in a Statement of the Claim.
- 60 IDAHO R. FAMILY LAW P. (2018), <http://isc.idaho.gov/irflp>.
- 61 AK R. CIV. P. 16.2.
- 62 See William J. Howe & Jeffrey E. Hall, *Oregon's Informal Domestic Relations Trial: A New Tool to Efficiently and Fairly Manage Family Court Trials*, 55 FAM. CT. REV. 70, 71 (2017), <https://www.ncsc.org/~media/Files/PDF/Services%20and%20Experts/Areas%20of%20expertise/Children%20Families/FJI/Oregons%20Informal%20Domestic%20Relations%20Trial%20A%20New%20Tool%20to%20Efficiently%20and%20Fairly%20Manage%20Family%20Court%20Trials.ashx>.
- 63 CJI RECOMMENDATIONS, *supra* note 1, at 33.
- 64 In *Indiana, Branham v. Varble*, 952 N.E2d 744 (Ind. 2011), the court found a state constitutional right to exemptions that the court must protect. In 2014, New York reformed their consumer credit rules. Under the reform, the plaintiff's attorney must provide with the complaint an affirmation of non-expiration of statute of limitations, absolving the defendant from needing to raise statute of limitations as an affirmative defense. Regarding lack of standing, when the plaintiff is a debt buyer and not the original creditor, the plaintiff must provide an "Affidavit of Facts and Sale of Account by Original Creditor," which is an affidavit signed by an employee/officer/member of the original creditor swearing that the original creditor assigned all of its interest in the account to the debt buyer, and providing a copy of that written assignment of the account.
- 65 See Jessica K. Steinberg, *Informal, Inquisitorial, and Accurate: An Empirical Look at a Problem-Solving Housing Court*, 42 L. & SOC. INQUIRY 1058 (2017), [https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2427&context=faculty\\_publications](https://scholarship.law.gwu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=2427&context=faculty_publications) (Jessica Steinberg's interesting description of the DC Housing Court).
- 66 Anna E. Carpenter, *Active Judging and Access to Justice*, 93 NOTRE DAME L. REV. 647 (2018), <https://scholarship.law.nd.edu/cgi/viewcontent.cgi?article=4764&context=ndlr>.
- 67 A number of courts have created a form for the judge to use to jot down what the party needs. The judge may refer to a missing or incomplete form or describe the problem the party encountered in the courtroom.
- 68 The process of preparing for this "framing" also alerts the judge to potential legal issues s/he needs to review or research before the hearing. Presiding over cases involving self-represented litigants necessarily imposes on the judge the obligation of being fully versed in the law applicable to the matter at hand because s/he cannot expect help from a self-represented party in identifying or explicating legal issues.
- 69 In some courts, a court attendant plays a short videotape or PowerPoint presentation before the judge takes the bench providing more detailed background information on the type of proceeding that will be held (for instance, explanation of the procedures for domestic violence restraining orders).
- 70 See *Robinson v. Sweeny*, 794 F.3d 782, 784 (7th Cir. 2015) ("...consideration should be given to requiring district judges to accompany their judgments in pro se cases with a statement of the options and associated deadlines for reconsideration or appeal of the judgment").



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**Appendix 13 – Mary E. McClymont, Nonlawyer Navigators in State Courts:  
An Emerging Consensus, (June 2019)**

# **Nonlawyer Navigators in State Courts: An Emerging Consensus**

A survey of the national landscape of nonlawyer navigator programs in  
state courts assisting self-represented litigants

by  
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The Justice Lab at Georgetown Law Center

Project Advisory Board:  
Katherine R. Altenecker, Tanina Rostain, & Rebecca L. Sandefur



June 2019

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## **About The Justice Lab**

The Justice Lab works to address the justice gap in the United States. The Lab's activities include developing and assessing new approaches for expanding access to the justice, such as the use of non-lawyers and new technologies, creating curricula and programming to engage law students on the problems of access to justice and inequality, and serving as a resource for legal aid organizations, access to justice commissions, and courts on the implementation of new technologies. Drawing on its location in Washington D.C., a center of access to justice initiatives, the Justice Lab regularly convenes meetings and conferences for bar leaders, community members, and stakeholders on the effects of lack of access in entrenching inequality.

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## **Executive Summary**

### **Background**

The access to civil justice crisis looms large. A stunning 86% of the civil legal problems of low-income Americans receive inadequate or no legal help and an estimated 30 million people each year are reported to lack legal representation in the state courts. Without legal assistance, these individuals are at risk of suffering dire consequences for their families, their homes and their livelihoods.

A full spectrum of approaches is required to mitigate this crisis. The chief justices and top administration officials of the state courts affirmed this concept, calling in 2015 for “100% access to effective assistance for essential civil legal needs...through a continuum of meaningful and appropriate services.”

One important approach to help solve the puzzle is the use of “nonlawyer navigators” who come from outside the state courts to assist self-represented litigants (SRLs) with their civil legal problems.

This survey of the current national landscape identified and analyzed 23 programs in 15 states and the District of Columbia. It is based on extensive outreach and interviews with more than 60 informants who created, oversee or manage nonlawyer navigator programs in court settings. The report describes program features and offers practical considerations for creating and implementing such programs.

The programs use nonlawyer navigators who are not court staff, operate physically within a court, and provide direct “person to person” assistance to SRLs. Navigators in the study are defined as individuals who do not have full, formal legal credentials and training (i.e., a law degree), who assist SRLs with basic civil legal problems. They do not act or operate under an attorney/client relationship and they are part of a formal program and institutional auspices that provides specialized training.

### **Findings**

There is a breadth of creative activity within programs using nonlawyers to assist SRLs in the state courts. There is also strong potential for further experimentation and taking these programs to every state and, ultimately, to scale.

Navigator programs advance a number of goals. They:

- enhance the effectiveness of, and build public trust in, the courts;
- facilitate access to justice for SRLs by helping them understand and navigate their cases;
- provide an additional way for justice advocates to supplement their own client services and allow lawyers to operate “at the top of their licenses”; and

- enable an array of community actors to better understand the plight of SRLs and help them manage the often unfamiliar and daunting court process.

Programs show significant variations in their features and characteristics with no “one size fits all” model. Court context matters and program managers are adapting programs to optimize operations according to their particular circumstances.

The programs have been initiated by multiple champions, often in partnerships, including the judiciary, official bodies like state access to justice commissions or specially appointed task forces, discerning nonprofit and legal aid lawyer leaders, bar foundations, and creative court staff. These trailblazers have brought a range of diverse resources and strategies to help meet the SRL demand and have created programs without major regulatory reform or rule changes.

Navigators work on a range of case types such as family, housing, debt collection, domestic violence, conservatorship, and elder abuse.

Programs demonstrate that well-trained and appropriately supervised navigators can perform a wide array of tasks. For example, they help SRLs find their way around the court; get practical information and referrals to other sources of assistance; or complete their court paperwork. Navigators also accompany SRLs to court to provide emotional back-up, help answer the judge’s factual questions, or resolve a matter with opposing counsel. Program managers are mindful of admonitions against nonlawyers providing legal advice and take the need for quality assurance measures seriously.

Navigators come from a range of backgrounds, including paid staff, AmeriCorps members, and volunteers, among them college and graduate students, recent graduates, and retirees. The diversity of backgrounds and skill sets show the potential for using many more of these individuals, as well as for recruiting new types of community actors as navigators.

The institutionalization and longer-term sustainability of programs is an overriding concern. Although program leaders have been creative in securing resources to run programs, and in-kind support from court staff along with volunteer service is valuable to a number of operations, the patchwork funding of many programs poses real obstacles to their long-term viability. Adequate resources are crucial to staff up programs; to bolster training, supervision and recruitment; to measure progress and outcomes; and to expand efforts.

Some programs have an integrated system using both lawyers and navigators, who complement each other’s work. Further integrating the navigator programs into ongoing court operations and/or with other legal providers can foster institutionalization of programs, enhance court efficiency, and provide an improved system in which to serve SRLs.

## **Recommendations**

1. Champions of all stripes have gone to bat to create these programs and they should work to secure needed financial resources to sustain them. Help is out there to guide innovators toward funding opportunities.
2. Creating pilots is a good way to explore and refine navigator program operations, as well as to secure buy-in from judges and court staff, the bar, and other relevant stakeholders.
3. Court leaders should consider utilizing navigators' experiences and learning from SRLs, which offer untapped resources for courts as they work to identify opportunities for simplification, as well as gains in efficiency and customer service.
4. Securing good data to measure and determine the results of navigator programs is vital to making wise program decisions and sustaining or expanding operations. Both financial resources and leadership commitment are needed to make this happen.
5. As new solutions, such as unbundled services, right to counsel, and navigator programs continue to emerge to meet the SRL demand, it is important to connect these components with each other as well as with other existing ones. Stakeholders should study their own ecosystems and strategize together on melding these elements to facilitate access to justice and optimize service for SRLs.
6. Key national networks and organizations in the justice field, like the Self-Represented Litigation Network, should consider creating a community of practice to share lessons and insights among current and future program leaders. They should build toolkits for courts to create partnerships with nonprofits and to help navigator programs measure and report on progress.
7. Independent research is needed to make the best use of navigator efforts, including evaluations of individual programs to demonstrate program outcomes, impact, and cost savings; studies to help determine when best to use nonlawyers to provide assistance; and surveys of best practices in community-based programs using nonlawyers to help unrepresented people.

## I. INTRODUCTION

### A. Background

In 2017, a study by the Legal Services Corporation (LSC) found that 86% of the civil legal problems reported by low-income Americans in a given year receive inadequate or no legal help.<sup>1</sup> According to the American Bar Association, “[m]ost people living in poverty, and the majority of moderate-income individuals, do not receive the legal help they need.”<sup>2</sup> It is estimated that in the state courts at least one party is self-represented in approximately three-quarters of civil cases.<sup>3</sup> Another estimate indicates that more than 30 million people per year appear without legal representation in America’s state courts, handling matters on their own that result in court orders determining such things as where they can live and when they can see their children.<sup>4</sup> Without legal assistance, these litigants are at risk of suffering dire consequences for their families, their homes, and their livelihoods.<sup>5</sup>

In response to this ongoing justice crisis, the Conference of Chief Justices (CCJ) and the Conference of State Court Administrators (COSCA) issued a resolution in 2015 calling for “100% access to effective assistance for essential civil legal needs...through a continuum of meaningful and appropriate services.”<sup>6</sup> As the CCJ/COSCA resolution underscores, no one tool or innovation alone exists to mitigate the crisis. Instead, a full spectrum of approaches is needed. These types of approaches have been described by various bodies.<sup>7</sup> Highlighting a number of reform initiatives on the spectrum to ameliorate the crisis, Professor Deborah Rhode noted recently: “Never has there been a more receptive climate for access to justice issues.”<sup>8</sup>

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<sup>1</sup>LEGAL SERVICES CORP., THE JUSTICE GAP: MEASURING THE UNMET CIVIL LEGAL NEEDS OF LOW-INCOME AMERICANS 14 (2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>.

<sup>2</sup>ABA COMM’N ON THE FUTURE OF LEGAL SERVICES, REPORT ON THE FUTURE OF LEGAL SERVICES IN THE UNITED STATES 5 (2016), [https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport\\_FNL\\_WEB.pdf](https://www.americanbar.org/content/dam/aba/images/abanews/2016FLSReport_FNL_WEB.pdf).

<sup>3</sup>NATIONAL CENTER FOR STATE COURTS, THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS iv (2015), <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>.

<sup>4</sup>*SRLN Brief: How Many SRLs?* (SRLN 2019), Self-Represented Litigation Network, <https://www.srln.org/node/548/srln-brief-how-many-srls-srln-2015> (last visited May 21, 2019).

<sup>5</sup>See LEGAL SERVICES CORP., *supra* note 1, at 25.

<sup>6</sup>CONFERENCE OF CHIEF JUDGES AND CONFERENCE OF STATE COURT ADMINISTRATORS, RESOLUTION 5 REAFFIRMING THE COMMITMENT TO MEANINGFUL ACCESS TO JUSTICE FOR ALL (2015), <https://ccj.ncsc.org/~media/Microsites/Files/CCJ/Resolutions/07252015-Reaffirming-Commitment-Meaningful-Access-to-Justice-for-All.ashx>.

<sup>7</sup>See ABA COMM’N, *supra* note 2, at 5–7; NATIONAL CENTER FOR STATE COURTS, JUSTICE FOR ALL STRATEGIC PLANNING GUIDANCE MATERIALS 1–6 (2016), <https://www.ncsc.org/~media/Microsites/Files/access/Justice%20for%20All%20Guidance%20Materials%20Final.ashx>; ABA STANDING COMMITTEE ON THE DELIVERY OF LEGAL SERVICES, AN ANALYSIS OF RULES THAT ENABLE LAWYERS TO SERVE SELF-REPRESENTED LITIGANTS 1–4 (2014), [https://www.americanbar.org/content/dam/aba/administrative/delivery\\_legal\\_services/ls\\_del\\_unbundling\\_white\\_paper\\_2014.pdf](https://www.americanbar.org/content/dam/aba/administrative/delivery_legal_services/ls_del_unbundling_white_paper_2014.pdf); LEGAL SERVICES CORP., REPORT OF THE SUMMIT ON THE USE OF TECHNOLOGY TO EXPAND ACCESS TO JUSTICE 1–4 (2013), [https://www.lsc.gov/sites/default/files/LSC\\_Tech%20Summit%20Report\\_2013.pdf](https://www.lsc.gov/sites/default/files/LSC_Tech%20Summit%20Report_2013.pdf); Richard Zorza, *Access to Justice: The Emerging Consensus and Some Questions and Implications*, 94 JUDICATURE 157 (2011); SELF-REPRESENTED LITIGATION NETWORK, BEST PRACTICES IN COURT-BASED PROGRAMS FOR THE SELF-REPRESENTED: CONCEPTS, ATTRIBUTES, ISSUES FOR EXPLORATION, EXAMPLES, CONTACTS, AND RESOURCES (2008), <https://www.srln.org/system/files/attachments/SRLN%20Best%20Practices%20Guide%20%282008%29.pdf>.

<sup>8</sup>Deborah L. Rhode, *What We Know and Need to Know about the Delivery of Legal Services by Nonlawyers*, 67 S.C. L. REV. 429, 436 (2016).

This study investigates one important tool along the “continuum of services” to help solve the justice crisis puzzle: the use of “nonlawyer navigators” in the state courts to assist self-represented litigants with their civil legal problems. Nonlawyers have been used to help fill gaps in a variety of different settings.<sup>9</sup> Professor Rebecca Sandefur summarizes the trend this way: “As research shows in a range of contexts, lay people can and do accurately and successfully perform some parts of lawyers’ work. . . Across a number of common justice problems—for example, disputes about evictions and custody of children, disputes over public benefits with government agencies—nonlawyer advocates and unrepresented lay people have been observed to perform as well or better than lawyers.”<sup>10</sup>

Other common law countries have long adopted practices using nonlawyers to assist people with civil legal problems.<sup>11</sup> In the United States, the health care field uses paraprofessionals widely, including as patient navigators and community health extenders.<sup>12</sup>

Outside of court settings, two states have recently created models that establish licenses for trained legal practitioners, who do not hold traditional law degrees, to give legal advice in designated practice areas and within a limited scope of service. In 2012, Washington State was the first to create this model, called “Limited License Legal Technicians” (LLLT). Authorized by the Washington Supreme Court, LLLTs are licensed to practice on certain matters in the family law area. Numerous articles and reports have been written describing and assessing this model.<sup>13</sup> A similar model, called “Licensed Paralegal Practitioners” (LPP), is being established in Utah. The first group of LPPs will reportedly complete their training and be licensed to practice in

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<sup>9</sup>See ABA COMM’N, *supra* note 2, at 19–24; Richard Zorza & David Udell, *New Roles for Non-lawyers to Increase Access to Justice*, 41 *FORDHAM URB. L. J.* 1259, 1270–1287 (2014); Rebecca L. Sandefur & Thomas M. Clarke, *Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the USA*, 67 *HASTINGS L. J.* 1467, 1471 (2016).

<sup>10</sup> Rebecca L. Sandefur, *Access to What*, 148 *DAEDALUS* 49, 52 (2019).

<sup>11</sup> See Herbert M. Kritzer, *Rethinking Barriers to Legal Practice*, 81 *JUDICATURE* 100, 100–01 (1997) (discussing English Citizen’s Advice Bureaus with trained nonlawyer volunteers); Richard Moorhead et al., *Contesting Professionalism: Legal Aid and Nonlawyers in England and Wales*, 37 *LAW & SOC’Y REV.* 765, 773–87 (2003) (discussing the long history of nonlawyer lay advisers in the UK); Ivan Mitchell Mellow & Madeleine Dusseault, *Non-lawyer Legal Services: An International Round-up*, Ontario Bar Ass’n (June 22, 2017), [https://www.oba.org/JUST/Archives\\_List/2017/June-2017/Non-lawyer-global-3](https://www.oba.org/JUST/Archives_List/2017/June-2017/Non-lawyer-global-3); THE LAW SOCIETY OF UPPER CANADA, REPORT TO THE ATTORNEY GENERAL OF ONTARIO PURSUANT TO SECTION 63.1 OF THE LAW SOCIETY ACT 50 (2012), <http://lawsocietygazette.ca/wp-content/uploads/2012/07/Paralegal-5-year-Review.pdf>.

<sup>12</sup>See BENJAMIN H. BARTON & STEPHANIE BIBAS, REBOOTING JUSTICE: MORE TECHNOLOGY, FEWER LAWYERS, AND THE FUTURE OF THE LAW 174–177 (2017); MARY-BETH MALCARNEY ET AL., COMMUNITY HEALTH WORKERS 2–7 (2015), [https://hsrc.himmelfarb.gwu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1010&context=sphhs\\_policy\\_workforce\\_facpubs](https://hsrc.himmelfarb.gwu.edu/cgi/viewcontent.cgi?referer=https://www.google.com/&httpsredir=1&article=1010&context=sphhs_policy_workforce_facpubs).

<sup>13</sup>See Rebecca Donaldson, *Law by Nonlawyers: The Limit to Limited License Legal Technicians Increasing Access to Justice*, 42 *SEATTLE UNIV. L. REV.* 1, 1 (2018); THOMAS CLARKE & REBECCA L. SANDEFUR, PRELIMINARY EVALUATION OF WASHINGTON’S LIMITED LICENSED LEGAL TECHNICIAN PROGRAM (2017), [http://www.americanbarfoundation.org/uploads/cms/documents/preliminary\\_evaluation\\_of\\_the\\_washington\\_state\\_limited\\_license\\_legal\\_technician\\_program\\_032117.pdf](http://www.americanbarfoundation.org/uploads/cms/documents/preliminary_evaluation_of_the_washington_state_limited_license_legal_technician_program_032117.pdf); WASHINGTON STATE BAR ASS’N, REPORT OF THE LIMITED LICENSED LEGAL TECHNICIAN BOARD TO THE WASHINGTON SUPREME COURT: THE FIRST THREE YEARS (2016); Robert Ambrogio, *Washington State Moves Around UPL, Using Legal Technicians to Help Close the Justice Gap*, *ABA J.* (2015); Barbara Madsen, *The Promise and Challenges of Limited Licensing*, 65 *S.C. L. REV.* 533 (2014).



certain areas of law in 2019. Under both models, the practitioners are regulated by their respective state bars and, at this stage, are restricted from representing people in court.<sup>14</sup>

A number of other states are exploring the possibility of instituting programs that would permit nonlawyers to assist self-represented litigants.<sup>15</sup> Minnesota, for example, is developing a pilot project that would permit “legal paraprofessionals” to provide legal advice, and in some cases, represent a client in court when under the supervision of a Minnesota attorney.<sup>16</sup> Similarly, a sub-committee of a body of the Colorado Supreme Court has recommended the implementation of a pilot project to enable trained nonlawyer advocates to assist tenants in eviction cases. Under the proposal, these advocates could negotiate on behalf of tenants, confer at counsel table with clients, and answer the judge’s questions.<sup>17</sup>

As Sandefur and Clarke underscored in the first in-depth evaluation of programs providing nonlawyer assistance for unrepresented litigants, “[t]here is now a major movement in the United States to expand the use of appropriately trained and supervised individuals without full formal legal training to provide help to people who would otherwise be without legal assistance of any kind.”<sup>18</sup> The authors noted that their evaluation “provides important evidence that these initiatives can influence the experiences of unrepresented litigants in positive ways and can also shape the outcomes of court cases, including legal and real life outcomes.”<sup>19</sup> They emphasized that, “[t]he New York City courts are among the most chaotic and overloaded in the United

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<sup>14</sup> LPPs are authorized to practice in the limited areas of certain family law matters, forcible entry and detainer and debt collection. See Catherine J. Dupont, *Licensed Paralegal Practitioners*, 31 UTAH BAR J. 3, 16 (May 2018) (reviewing the role of the LPP); 2019 State of the Judiciary Chief Justice Matthew B. Durrant, UT Courts Recent Press Notifications (Jan. 28, 2019), <https://www.utcourts.gov/utc/news/2019/01/28/2019-state-of-the-judiciary-chief-justice-matthew-b-durrant/>.

<sup>15</sup> See Patrick McGlone, *Can Licensed Legal Paraprofessionals Narrow the Access-to-Justice Gap?*, ABA J. (Sept. 6, 2018), [http://www.abajournal.com/news/article/can\\_licensed\\_legal\\_paraprofessionals\\_narrow\\_the\\_access\\_to\\_justice\\_gap](http://www.abajournal.com/news/article/can_licensed_legal_paraprofessionals_narrow_the_access_to_justice_gap); C. J. Tani G. Cantil-Sakauye, State of the Judiciary Address to a Joint Session of the California Legislature (Mar. 19, 2018), <https://newsroom.courts.ca.gov/news/2018-state-of-the-judiciary-address> (discussing the possibility of developing a program using “legal Wayfinders” who could personally assist people who come to court without an attorney).

<sup>16</sup> In re Implementation Committee for Proposed Legal Paraprofessional Pilot Project, No. ADM09-8002 (Minn. Mar. 8, 2019), <http://macsnc.courts.state.mn.us/ctrack/document.do?doView=&document=e254ca3cdd8d2509ee21734e81ec789cd7cd1c17490561975d90507ea37e5ab0>.

<sup>17</sup> Telephone Interview with Judge Daniel M. Taubman, in his capacity as a member of the Subcommittee on Providers of Alternative Legal Services (PALS) of the Colorado Supreme Court’s Attorney Regulation Advisory Committee (May 20, 2019).

<sup>18</sup> REBECCA L. SANDEFUR & THOMAS CLARKE, ROLES BEYOND LAWYERS: SUMMARY, RECOMMENDATIONS AND RESEARCH REPORT OF AN EVALUATION OF THE NEW YORK CITY COURT NAVIGATORS PROGRAM AND ITS THREE PILOT PROJECTS 3 (2016) [hereinafter ROLES BEYOND LAWYERS], [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=2949038](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2949038). The projects in the New York court used nonlawyers who were authorized to provide to self-represented litigants factual information, assistance in obtaining and completing simplified court-required forms, attendance with them at settlement negotiations, and accompaniment into the courtroom. The navigators also were authorized to respond if the judge addressed them with a direct factual question.

<sup>19</sup> *Id.* at 3–4.

States. That the pilot project showed evidence of the positive contributions in such environments suggests that such programs could be effective in a wide range of jurisdictions.”<sup>20</sup>

Programs where court staff have provided self-help services to self-represented litigants are well established.<sup>21</sup> This study describes the evolution of these services to include nonlawyers who are not court staff. This new type of assistance supplements self-help efforts in the courts and expands the services available to address the increasing demand created by self-represented litigants.

Recognizing this emerging trend, we sought to survey the national landscape to explore what programs were underway in jurisdictions where nonlawyers from outside the court are helping self-represented litigants (hereinafter “SRLs”)<sup>22</sup> with their civil legal problems. The research focused on several key questions: Where and how are nonlawyers being used in the courts? What can be learned about the characteristics or features of the programs that can be shared with others who might wish to design and undertake similar programs? Besides court staff, what other leaders are implementing these programs? What kinds of hurdles are program creators experiencing? What information and insights about the programs are their leaders gathering? How do the leaders believe their programs are being seen and received by their fellow stakeholders—judges, court staff, legal aid lawyers, or private bar members, not to mention the SRLs themselves?

## B. Goals, Parameters, and Methodology

Goals and Parameters. The goals of the research and this report are to describe the current landscape of programs underway that use nonlawyers in the state courts to expand and extend resources available to SRLs; to discuss the characteristics of these programs and offer practical considerations to those who wish to design their own; and to encourage cross-pollination between and among current program creators and implementers.

Upon completion of an initial scoping exercise to gauge the wide range of activity underway to assist SRLs by court staff, we further refined our research parameters to include **only** programs that use nonlawyers who are not court staff;<sup>23</sup> are physically situated in or operated out of a court; and which provide direct “person to person” assistance to SRLs. Although nomenclature varies across the programs, for purposes of this research and report, we chose the term “navigator,” which resonated with many of the informants and experts with whom we spoke. We define navigators as individuals who:

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<sup>20</sup>*Id.* at 4.

<sup>21</sup>See *SRLN Brief: Evolution of Court Staffing for SRLs*, Self-Represented Litigation Network (2019), <https://www.srln.org/node/1393/srln-brief-evolution-court-staffing-srls-2019>.

<sup>22</sup>We use the term “self-represented litigant” or “SRL” to capture the range of terms used to identify persons appearing in court without a lawyer, such as pro se, court patron, court customer, court user, and unrepresented party.

<sup>23</sup>The Self-Represented Litigation Network (SRLN) is conducting a comprehensive survey of county-level court self-help services (to be completed in 2019) that will include information about court self-help center staffing patterns. In addition, the SRLN Library Working Group issued a survey on self-help in libraries in 2013 and is resurveying the field in 2019. Survey: SRLN Library Working Group National Self-Help in Libraries Survey, <https://www.srln.org/node/551/survey-srln-library-working-group-national-self-help-libraries-survey-srln-2013>.

- are without full formal legal credentials and training (i.e., a law degree), but who are trained specially to assist SRLs with basic civil legal problems, one party or side of a case at a time;
- do not act or operate under an attorney/client relationship, with no “traditional professional liability” accruing to the navigators, the entities under which they operate, nor to their supervisors, even if the supervisors happen to have law degrees; and
- are part of a formal program and institutional auspices, and not acting in their individual capacity.<sup>24</sup>

To chart this space, we sought to discover and describe programs based on information provided by the individuals who created, oversee, or manage the programs. To do so, we devised a set of features or characteristics of the programs about which we sought to gain information in order to then analyze them in the aggregate. It was not our goal to conduct evaluations of any individual programs.

The intention of the survey was to be expansive, but in the end, we know it cannot be comprehensive. The navigator role is relatively new in the state court context with a "brand" that is not yet widely recognized. In the end, we believe we have discovered and report on much of what falls within our scope and exists across the country. The hope is that other program leaders will add to and further refine the initial collection of programs we found.

Methodology. To undertake our analysis, we have drawn largely on informant interviews and documentation publicly available or provided by the programs. The programs include those we discovered during an eight-month period (May-December 2018) that were in place or were fully planned and soon to emerge. (See the Appendix for a listing of the programs and relevant contact information.)

To start identifying relevant programs in the courts and beyond, we distributed a brief research query in collaboration with three major civil justice networks: Voices for Civil Justice Advocacy Network, with 1,500 advocates, including legal services executive directors, lawyers and access to justice commission staff; more than 100 individuals in the IOLTA network; and the 400-plus activists in the working group listservs of the Self-Represented Litigation Network (SRLN). We then used a snowball sampling method to identify from one to five informant contacts per state that we believed would have the most knowledge of nonlawyer programs in their own state. By email and telephone, we engaged with informants in all 50 states and the District of Columbia

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<sup>24</sup> There are many programs using nonlawyers that do not fall with the scope of this research. We did not include, for example: those that primarily use technology-based tools to assist SRLs remotely, such as through hotlines or live chat; those using paralegals operating under an attorney, often based in legal aid offices; law school clinics that use attorney-supervised second- or third-year law students who are authorized to form attorney-client relationships; or mediation programs that serve two opposing SRLs simultaneously.

For example, a program falling outside the scope of this study is the Volunteer Court Navigator Program in the Seventeenth Judicial District in Adams County, Colorado. This program uses nonlawyer navigators to help both the landlord and tenant SRL simultaneously, in what they call a facilitated discussion. Several elements of their program design and operation, among others, merit a close look by those who wish to pursue this kind of approach using nonlawyers to assist SRLs: strong judicial and court staff leadership; clarity of goals; training materials; and data collection and outcome reporting.

(about 150 telephone conversations). Through this outreach process, we located initial respondents who then led us to others with deeper knowledge about the programs falling within our research parameters.

To derive information about the relevant programs themselves, we talked with over 60 informants. These are individuals who created, oversee, or manage the programs, including mostly judges, court staff, nonprofit leaders, and legal aid lawyers. We used a detailed interview protocol to collect information about program origins, features, and basic operations. Informants were advised that we would not directly name or attribute to them opinions they shared with us unless we were given permission to do so. In the report, we ascribe to any identified program only factual data that came from interviews and/or was provided through publicly available documents.

Relevant judicial directives or court guidelines, state statutes, program websites, or program documents requested and provided by informants have supplemented the interviews.

In addition to key informants, we consulted with some 20 experts and leaders, including court observers, access to justice advocates, legal aid lawyers, private bar members, court staff and members of the judiciary to help inform the study generally. We also visited several program sites to conduct interviews and observe programs firsthand.

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## **II. OVERVIEW**

The analysis that follows is based largely on interviews with informants who have created, oversee, or manage the 23 programs we discovered in the research. Some are within a larger program or initiative of which the nonlawyer navigator component is a part.<sup>25</sup> As described in the following sections, informants reported on observations, lessons, and insights about features of their programs and we offer potential considerations for creating a nonlawyer navigator program in court settings. This guidance should prove useful to those who wish to design and implement their own programs.

This section (II) provides an outline of the report. Additional sections describe in more detail the program characteristics and components: Section III covers primary program objectives; Section IV examines navigator roles, including case types, specific tasks, how the work is organized in the various settings where navigators operate, and their training and supervision. Section V outlines program implementation, including program origins, staffing and funding, and data collection and assessment practices. Section VI highlights examples of program impact from key informants. The final section (VII) is the conclusion, including opportunities, challenges, and recommendations.

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<sup>25</sup> In some instances, larger programs also use trained lawyers who typically provide brief legal advice on a pro bono basis, often in or near the same court space where the nonlawyers are working. The analysis here focuses only on the part of the program using nonlawyer navigators.

Because the movement to make use of nonlawyers as navigators more widely in court settings is relatively new, many programs have been established recently. More than half of the programs have started since 2014, with many of those beginning operation in just the last two years. The remaining programs were founded since 2002, except for one program that dates back to 1981.

The 23 programs are established in more than 80 locations in 15 states and the District of Columbia. Over 60% operate only in a single locale or courthouse, while the remainder are based in multiple settings in cities or regions across a state. Most programs are operating in courthouses, though several are in nearby locations, such as law libraries. Many programs operate in high volume urban courthouses, but some are in smaller cities across a state.

Very few programs have formal authorization to deploy navigators in the court, such as a judicial order, regulation or statute. Rather, they have been initiated (and are often currently managed) by the actions and impetus of multiple champions and supporters, including the judiciary, official bodies like state access to justice commissions or specially appointed task forces, discerning nonprofit and legal aid lawyer leaders, bar foundations, and creative court staff. These same entities often partner with others to create or manage programs under various arrangements.

In all the programs, navigators come from a range of backgrounds, such as paid staff, college or graduate students, recent graduates or retirees. They undertake a wide array of tasks on behalf of the SRLs, such as helping them physically navigate the court; get practical information and referrals; or complete their court paperwork. Navigators also accompany SRLs to court to provide emotional support, help answer the judge's factual questions, or aid in resolving a matter with opposing counsel. They work on a variety of case types.

The programs show significant variations in their design. Despite common patterns of certain sets of features, there appears to be no clear coalescence around discrete models. The variation in key program elements reflects the range of creative ways program managers and leaders have found to move forward based on circumstances within their own particular court environments. They have shown adaptability and flexibility in designing their programs to operate in different contexts.

As to broad patterns found, the court is in the lead management/supervisory role in about half of the programs, sometimes in partnership with other entities, and the programs operate in self-help centers (SHCs)<sup>26</sup> or similar locations in courts. In these programs, navigators are frequently volunteers, lightly compensated staff, or AmeriCorps members who are trained to undertake a variety of tasks for SRLs, often on multiple case types. Navigators in these programs are mandated to serve either side of a matter, reflecting the neutral posture of the court. Typically, even those programs charged with serving either side provide services to only one side, e.g., tenants as opposed to landlords, who are usually represented by an attorney.

The other half of the programs are overseen by nonprofit organizations, also sometimes in partnership with other entities. Rather than serving multiple types of cases, these programs often focus on one kind of case, such as nonpayment proceedings, conservatorships, elder abuse, child

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<sup>26</sup> We use "self-help center" or "SHC" to capture the range of terms used by informants, such as self-help law center, self-help resource center, or self-help service center.

custody petitions, or debt collection. Navigators in these programs may be paid staff or volunteers and typically are based at a designated table or desk, an assigned room or office, or can be found in or near relevant courtrooms. Some of these programs are serving SRLs on only one side of a matter.

Within this second cluster of programs, there are several that provide assistance in the area of domestic violence. These advocacy programs have existed for many years, share a major source of federal funding, and are widespread across the country. Many domestic violence advocates are not attorneys. Rather than including every such program, this report focuses on three programs that are illustrative of those found in various states.<sup>27</sup>

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### III. PROGRAM OBJECTIVES

Clear objectives are critical when initiating any new program.<sup>28</sup> Drawing on publicly available information and descriptions by key informants of the goals of their work, we identified three principal objectives: 1) enhancing court effectiveness; 2) facilitating “access to justice” for SRLs; and 3) providing a positive and rich experience for navigators.

One-third of the programs pursue multiple objectives, while the remainder focus on a single core objective. Informants often emphasized the complementary nature of the benefits that accrue to the court, SRLs, and navigators themselves. One senior court manager with long experience in court self-help services who works with volunteer navigators captured a perspective that was conveyed by many informants: “If you enhance court efficiency, it naturally helps [SRLs].” Similarly, a senior judge in another court observed that a “by product” of facilitating access to justice for SRLs is that it makes court processing more efficient. And another highly experienced court manager summed it up well, saying, “There is an advantage to courts to have navigators who help provide accurate forms, save time, mitigate the volume, bring fresh perspective, and improve procedural justice.”

Enhancing court effectiveness. More than one-third of the programs highlighted the goal of efficient or streamlined court processing, as reflected in a few comments: “Diminishing the workload of court staff given the overwhelming number of SRLs;” helping create “accurate and

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<sup>27</sup> See NATIONAL NETWORK TO END DOMESTIC VIOLENCE, DOMESTIC VIOLENCE COUNTS: 12TH ANNUAL CENSUS REPORT 3, 17 (2017), <https://nnedv.org/content/domestic-violence-counts-12th-annual-census-report/> (reporting in this most recent version of the annual census that more than 1500 domestic violence (DV) programs in the United States provide nonlawyer court or legal accompaniment/ advocacy to DV survivors).

<sup>28</sup> According to Judge Fern Fisher (ret.), “[c]learly identifying the goals and objectives of a Navigator program is important to accomplish from the start and will shape the roles of the Navigator. . . [as well as] the types of funding that might be available for the program, whether volunteers or more trained navigators should be used, as well as other operational decisions.” Fern Fisher, *Navigating the New York Courts with the Assistance of a Non-Lawyer*, 122 DICK. L. REV. 825, 833–834 (2018).

complete forms to ease judges' workloads and save time for all court staff;" and creating a "smoother operation in the court." Several program leaders believe that these programs promote public trust in the courts, or as one manager put it, they help "bring the court closer to the community."

Facilitating "access to justice" for SRLs. One aim of the programs is to equip SRLs "to understand their legal issues and navigate the court system by providing high quality practical information." Another version of this idea was expressed as, "serving the many individuals who lack representation and helping them overcome obstacles in resolving their legal matters." Some informants described the purpose of the navigators as helping SRLs "file appropriate forms;" "pursue their legal cases more effectively than when they go it alone;" or "become educated about their legal options and potential outcomes." One program director observed that many SRLs are "functionally illiterate." The navigators "give them information [with which] at least they can do a better job and be more prepared than if they didn't have information from us." Another program offered the following goal: "In the short term [SRLs] are better prepared to move forward with their cases while in the long term this assistance will help litigants move to a place of stability."

As their main objective, more than one-third of the programs focused on helping SRLs navigate a specific case type/practice area such as eviction proceedings, child custody cases, or filing for conservatorship or elder abuse restraining orders. Some specifically seek to assist victims of domestic violence to obtain civil orders of protection, while another works to help homeowners secure diversion from foreclosure so they can stay in their homes.

Many programs also aspire to increase the procedural fairness that SRLs experience in the court. Some informants saw this as happening through "empowering the SRLs to tell their own stories" or giving them "more confidence" to represent themselves. Several informants say their programs aspire to make the process less "intimidating" and "confusing" for SRLs.

Providing a positive and rich experience for navigators. A number of the programs, especially those utilizing student navigators, emphasized helping the individuals working as navigators gain life and leadership skills, such as getting "real life experience," even while "they are helping people in need." Others stressed the importance of students learning more about the legal profession and/or how the court system works. Several informants emphasized that their aspiration was to help law students gain from the experience now while they are in law school, which would benefit them throughout their careers.

Some informants also aspire to have a broader impact than enhancing the experiences of navigators, court staff, or SRLs. These informants spoke of "strengthening the broader community" with higher aims, such as helping improve housing conditions or preventing homelessness.

## IV. NAVIGATOR ROLES

### A. Legal Advice vs. Legal Information

Informants emphasized a deep respect for the importance of ensuring that nonlawyer navigators understand and abide by the critical distinction between legal information and legal advice. By all reports, program leaders exercise an abundance of caution and show deference to this difference. Accordingly, the admonition against giving legal advice is firmly embedded in all program materials, such as training guides, volunteer handbooks, mission statements, state court directives, policies or guidelines, “do's and don'ts” sheets or cards, as well as in disclosure forms or waivers signed by the SRL. Distinctions between communicating with SRLs about what they “can” do rather than what they “should” do are prevalent in many of the materials.

One senior court administrator underscored the need for a “safe harbor policy,” meaning guidance on the legal advice versus legal information distinction. She noted that it is very useful to advancing the adoption and implementation of a nonlawyer navigator program. Several states where programs operate already have clear court or judicial guidelines that underscore the advice/information distinction, not only for court employees, but also for volunteers.

A majority of programs use some kind of waiver, disclaimer or disclosure form, often as part of an intake form that all SRLs must sign. Such a form typically tells the reader that the nonlawyer status of the navigator precludes the giving of legal advice, or creation of an attorney- client relationship. These documents also usually inform the SRL that there is no confidentiality in the context of court-provided services in self-help centers where navigators may work. The exception to this no-confidentiality policy is in domestic violence advocacy programs.

Our informants reported no official charges or complaints of unauthorized practice of law (UPL) filed with relevant disciplinary bodies concerning navigators. Support from the judiciary and official legal bodies have helped overcome some initial concern expressed about UPL or other skepticism. According to informants in one program, for example, an early concern about UPL was mitigated by the support of a formal committee and its two co-chairs, one of whom was a senior judge in the court where the effort would be based. The judge reports that there have been no complaints about UPL as, he notes, “[i]t is very clear the navigators are not practicing law. They are providing education to [SRLs].”<sup>29</sup>

### B. Nomenclature

Existing programs use a variety of names, with no particular “brand” yet dominant. That is not surprising, given the variations in their functions, the type of personnel used, and their relatively recent vintage. Nonetheless, the term “navigator” seems to strike a chord and is evocative of the type of role undertaken by these individuals.

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<sup>29</sup> Another judge, Fern Fisher (ret.), recommends reaching out early on to bar associations to assuage concerns and perhaps secure their support. *Id.* at 834.



<b>Title of Navigators</b>	<b>Programs Using</b>	<b>Title Distinctions</b>
Navigator	7 (30%)	Navigator, <i>Volunteer Court Navigator</i> , <i>Court Navigator</i> , <i>Courthouse Navigator</i> , <i>Legal Navigator</i>
AmeriCorps Member <sup>30</sup>	5 (22%)	AmeriCorps Member, AmeriCorps <i>Fellow</i> , AmeriCorps <i>Advocate</i>
Volunteer or Intern	5 (22%)	<i>n/a</i>
Advocate	5 (22%)	Advocate, <i>Supportive Advocate</i> , <i>Legal Advocate</i> , <i>Court Advocate</i> , <i>Family Self-help Center Advocate</i>
Housing Counselor	1 (4%)	<i>n/a</i>

C. Case Types

Across programs, navigators work on a wide range of case types. Several informants shared their views about the appropriateness of nonlawyer assistance in different areas of law. Some held the view that navigators should work on certain case types they deemed less complex. On the other hand, one senior program manager, who is a lawyer and oversees student volunteers, expressed a different view: “Case type and complexity are less significant as long as volunteers are well-trained and supervised.” Several other managers, also trained as lawyers, echoed that view.

Navigators within the programs are assisting SRLs on a number of case types, with a primary focus on one or two types as the table below reflects.

In slightly under half of the programs, navigators work a single case type. In those programs that focus on two or three case types, program leaders preferred exercising caution at the start of their programs, waiting to deploy navigators in more than one case type only when navigators became well-versed and comfortable with the initial assignment. Even in the programs where navigators work in settings like self-help centers that address multiple case types, their actual work tends to be predominantly on one case type -- most typically family law matters -- and navigators are overseen with dedicated (most often lawyer) supervision.

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<sup>30</sup> In two states— Illinois and California— the group of AmeriCorps members serving SRLs are called “JusticeCorps.”

Focus of Programs	Case Types & Number of Programs
One case type (11 programs)	<ul style="list-style-type: none"> <li>• Family Law <ul style="list-style-type: none"> <li>○ Child Custody (1)</li> <li>○ Uncontested Divorces; Name Change; Modifying/Enforcing Court Orders (1)</li> </ul> </li> <li>• Housing <ul style="list-style-type: none"> <li>○ Nonpayment Proceedings (2)</li> <li>○ Landlord / Tenant (1)</li> <li>○ Mortgage Foreclosure Diversion (1)</li> </ul> </li> <li>• Filing for Elder Abuse Restraining Orders (1)</li> <li>• Petitioning for Conservatorship (1)</li> <li>• Filing for DV Civil Protection Orders (3)</li> </ul>
Two to Three case types (3 programs)	<ul style="list-style-type: none"> <li>• Habitability (Rent Escrow); Debt Collection (1)</li> <li>• Landlord / Tenant; Debt Collection (1)</li> <li>• Landlord / Tenant; Debt Collection; Non-family Temporary Restraining Order (TRO) (1)</li> </ul>
Multiple case types (9 programs)	<ul style="list-style-type: none"> <li>• Family Law (<i>*in 7 programs predominantly</i>) <ul style="list-style-type: none"> <li>○ Child Custody; Uncontested Divorce; Visitation; Child Support</li> </ul> </li> <li>• Also may include: <ul style="list-style-type: none"> <li>○ petitioning for domestic violence civil protection orders; landlord-tenant; temporary restraining orders; debt collection or small claims matters</li> </ul> </li> </ul>

#### D. Tasks Performed by Navigators

As defined here, navigators help only one SRL at a time. However, by mandate, about 75% of the programs offer their services to either side of a matter (e.g., tenants and landlords or either spouse in a family law matter). In the remaining 25% of programs, navigators provide assistance to one side only. However, among those programs that do serve both sides, a number indicate that most of their services aid only one side because the other side—for example, landlords in eviction cases—often already has a lawyer to represent them.

Virtually all the navigators are “navigators for the day,” i.e., they do not help an SRL beyond one day of service. Across all the programs studied, navigators generally perform eight distinct kinds of tasks: helping people physically navigate the courthouse; referring SRLs to other sources of assistance; providing legal and procedural information; sharing options with SRLs; assisting SRLs with forms or other documents; translation and other language assistance; accompanying SRLs through different activities in court; and, offering feedback to courts and service providers based on navigator experiences working with SRLs. Programs vary in how many categories of tasks navigators perform, and in how the different specific tasks are bundled together.<sup>31</sup>

CATEGORIES OF NAVIGATOR TASKS	
<b>1. Navigational direction/information</b>	
	<ul style="list-style-type: none"> <li>• Verbally direct SRL to a specific office or place in or surrounding the courthouse (clerk’s office, courtroom)</li> <li>• Provide information about where to go in the courthouse or basic procedural information (correct courtroom, checking court computer terminal)</li> <li>• Physically escort SRL to a court location (“Let me take you where you need to go.”)</li> </ul>
<b>2. Referrals</b>	

<sup>31</sup> These categories do not exhaustively include every individual task highlighted by informants.

- Provide information about appropriate referral options for further assistance outside court (e.g., legal aid or pro bono lawyers, non-legal/social services resources; distributing brochure/listing of services, sharing website or online information)
- Provide information about obtaining available court services (such as self-help center, clerk’s office, interpreter or mediation services)
- Connect SRL directly to legal aid provider/pro bono lawyers on site with whom navigator is working (make an announcement or encounter SRL during the court docket call or during intake at a help desk; direct to the particular lawyers)

### **3. Legal and procedural information**

- Provide information about the courthouse, courthouse rules and protocol, roles of courtroom personnel, answers to frequently asked basic questions (verbally or through specific brochures or fact sheets)
- Assist SRL in understanding procedural posture of his/her case
- Prepare SRL for what to expect at his/her court hearing
- Assist in using web-based resources, including assistance with self-guided research or self-help materials.
- Facilitate workshops or provide materials on discrete subject matter areas
- Provide information about required next steps in the process, e.g., court scheduling, requesting a hearing, filing a fee waiver or securing another type of post-hearing service

### **4. Options guidance**

- Conduct initial assessment of SRL needs (listen to concerns, basic intake and screening, sometimes by reviewing completed intake survey or through initial meeting at the front desk)
- Share available options about practical and process information to make informed decision (but not identify or suggest option to influence); make appropriate referral if needed. Instruction: “you can do this” and not “you should do this.” This activity is often coterminous with reviewing forms with instructions or done by giving prepared brochures.

### **5. Assistance with legal forms or documents**

Assist in:

- Gathering and organizing SRLs’ documents
- Identifying, referring to, or printing out/providing correct legal forms or packet
- Preparing, completing, and copying legal paperwork
- Reviewing forms/paperwork for completeness
- Providing access to and helping use computers that produce forms

### **6. Language assistance**

- Assist SRLs in their native or first language

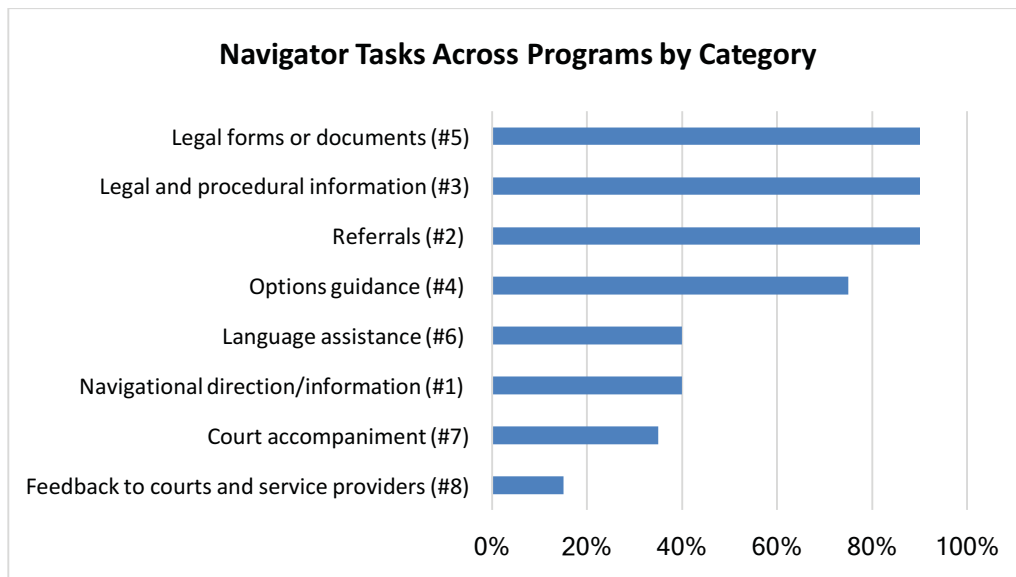
### **7. Court Accompaniment**

- Accompany SRL during court appearance to take notes on judge’s orders; post-hearing, share notes to help SRL understand what happened and to undertake necessary follow-up
- Accompany SRL to meet with judges, court attorneys, or other side’s attorney (in hallway or in courtroom); take notes to help SRL understand what happened in meeting and to assist with factual inquiries
- Accompany to courtroom and be present to provide SRL emotional support (including sitting at counsel table with or standing beside SRL)
- Accompany to court appearances and answer factual questions as needed that are addressed to SRL by judge or court attorney
- Assist SRL during negotiations with counsel on the other side in a conciliation conference

### **8. Feedback to courts and service providers**

- Observations and suggestions for changes in broader court/legal practices based on experiences

Categories of navigator tasks used by the programs overall identified in the table above breakdown approximately as follows below:



As reflected in the bar graph above, in 90% of programs, navigators provide the following sets of tasks: referrals; legal and procedural information; and assistance with legal forms and documents. In 75% of programs, they share information on available options. In 40% of programs, they give navigational direction/information as well as offer language assistance. In 35% of programs, they provide court accompaniment, while in another 15%, they give feedback to courts and service providers.

Across many programs, supervisors either review all documents created with the assistance of navigators for accuracy and completeness, or they rely on specific written instructions or preapproved forms to guide navigators' work on this task. Informants also stress their belief that navigators are well-trained to understand that they may only explain to the SRL what she "can" do, rather than what she "should" do. Program managers also emphasize that navigators add significant value by assisting SRLs with computer-related activity, particularly on completion of forms

In certain programs, the ability of navigators to speak a language in addition to English is a significant attribute. In a recent snapshot survey by California JusticeCorps, for example, 29% of the SRL responders noted that their encounters involved assistance provided in languages other than English. As noted earlier, a number of programs emphasized that they consciously recruit individuals with diverse language skills.

While navigators in many different programs assist SRLs in moving their matters forward through the process, it is rare that navigators accompany SRLs into the courtroom for the purpose of helping them understand the judge's order and the next steps after the hearing. Several informants who have run programs for many years noted that they believe that this task is critical, and they would like to build it more fully into their programs.

Few programs draw on the experiences of navigators to help improve court process or procedures. Informants from those programs that do use navigator feedback indicate that this has been helpful in modifying court practices to better serve SRLs.

#### E. Connecting with SRLs in the Courthouse

The particular tasks carried out by navigators often comport with a particular space in the courthouse where they work. For example, providing information about where to go happens mostly at security entrances or help desks located in the court, while assistance with forms is often undertaken in a central location like a self-help center.

The spaces in courts where navigators work differs from program to program. Informants report that having assigned space where navigators can work is important for a range of reasons. Dedicated space can provide a clear location to connect with SRLs; the navigators' work can be facilitated by providing areas where they can sit with SRLs and go over paperwork or other matters together; and, legitimacy is conferred on the program in the eyes of SRLs, judges and court staff. Navigators in many programs also signal their status by wearing badges, lanyards or special uniforms.

In most cases, navigators are primarily stationed in one location, about half in a court self-help center or, on occasion, in the clerk's office or a law library. Among the other half, programs that are often led by a legal aid or nonprofit organization have been assigned a designated office within the courthouse, such as an intake center for domestic violence programs or at a table in a lobby area or near a courtroom where navigators work. Several programs have not been assigned a specific space, at least in one instance, because no space is available.

Clear signage that directs visitors to various court locations and services is essential, but often not sufficient. Several program leaders emphasize that it is critical to meet SRLs "where they are," or "where you find them." For example, one judge noted that SRLs "get lost," stressing that "a shocking number of people" are literally unable to find their courtroom, even leading to default on their cases. Another program leader noted that "we want to be where the [SRLs] are. This is part of the navigator's job."

Several programs also believe it is critical to proactively install navigators in a variety of locations or near where the SRLs will need to transact their business. For example, the PACS program in Arizona stations navigators at information desks and security checkpoints at the courthouse entrance and deploys them to 'roam' the courthouse looking for SRLs. This program also places navigators where they do their main work assisting SRLs with documents—the self-help center, which is co-located in the law library. Navigators in the Hawaii-based Volunteer Court Navigator Program can be found at the security checkpoint in the courthouse or stationed near relevant courtrooms where they will meet SRLs. In New York City, the court navigators may be based in courtrooms or a self-help center, and they also seek out SRLs waiting in line near the clerk's office.

#### F. Training and Supervision

As noted above, program managers believe that the necessary level of training and supervision is a function of the tasks the navigators perform and their level of experience. Training and supervision, as well as dedicated and appropriate backup, are critical and are elements of the design of all the programs.

Training. Informants believe that the training navigators require is determined by what they would be doing and the knowledge and experience they bring to those tasks. Many informants emphasized the importance of “on the job” training, which often includes “shadowing” or observing the work of others or of court proceedings. In addition, several informants underscored the importance of follow-up training beyond the initial orientation for those navigators who work over an extended period of months.

Programs undertake varying combinations of training topics, methods, and phases highlighted in the table below.

<b>EXAMPLES OF TRAINING COMPONENTS</b>	
<b>Content</b>	<ul style="list-style-type: none"> <li>• Distinction between legal information and advice</li> <li>• Descriptions of court system, personnel, basic rules, operations, and glossary of relevant legal or court terms</li> <li>• Substantive Law - case types or issues navigators will be assisting with (substance and steps in the process of relevant housing law, debt collection, etc.)</li> <li>• Common fact patterns that might arise</li> <li>• Relevant legal and social services resources and references</li> <li>• Pertinent job skills, such as ethical concerns etc.</li> <li>• Communications skills and how to work with different types of SRLs</li> </ul>
<b>Methods</b>	<ul style="list-style-type: none"> <li>• Webinars modules/videos /online lessons</li> <li>• Written training manual/materials including information sheets</li> <li>• Role playing exercises</li> <li>• Completion of forms exercises</li> <li>• Post-training testing and periodic quizzes</li> </ul>
<b>Phases</b>	<ul style="list-style-type: none"> <li>• Initial on-site orientation</li> <li>• On the job, hands on training at specific sites</li> <li>• Shadowing and observing colleague or supervisor</li> <li>• Observation of relevant court hearings or matters</li> <li>• Mandatory follow-up training sessions during the course of a year</li> </ul>

As with the tasks navigators undertake, program training models combine these elements in different ways. For example, many of the AmeriCorps member programs incorporate a variety of training components such as a detailed training manual or handbook, a full orientation that varies in length along with training or shadowing on site, followed by mandatory refresher or supplemental trainings during the year. In two domestic violence programs, advocates undergo an initial 40 hours of training on a range of relevant topics. In another program, university students are enrolled in course work for credit and are required to do 5 online lessons with quizzes to assess their command of the material. They then engage in a face-to-face training at the courthouse that includes role playing and observation followed by a test to ensure their readiness to be navigators. Before they begin service, they also receive a detailed manual for reference.

Supervision. Supervision helps navigators stay within the scope of their duties and feel more confident in their work. Many program leaders stressed the importance of dedicated, ongoing supervision on site by qualified staff to help navigators with questions, support and consultation. Yet, depending on the circumstances, leaders also show flexibility regarding supervision, in light of the variety of training and skill levels the different navigators bring to their jobs, the roles navigators perform, and the environment in which they work. Several program leaders express a clear desire for more resources to enhance program supervision on site. And, in one-third of the programs where leaders say they wish to expand their programs, whether in volume or in case type, additional resources will be needed.

Almost 75% of the programs have dedicated supervision on site where navigators work, with all but three providing supervision at all times. When supervision is not continuous, two programs are spread between several locations for which there is not always on site supervision covering all locations at all times. In another program, supervisors provide intensive guidance on site when navigators are new to the role, but, thereafter, provide periodic supervision, observing navigators as they assist SRLs and providing feedback to ensure they are following the protocols. All supervisors in these instances are available for phone or email backup and support.

In a few of the programs that rely on nonprofit staff, a variety of arrangements assure backup and support if no dedicated supervisor is on site. As examples, in two programs the navigators are nonprofit staff who have been trained and observed by supervisors for a considerable time during their initial tenure before being allowed to operate on their own. In these programs, the navigators come to the job well-versed in the subject matter on which they are providing information. The supervisor makes visits on site several times a week to check in and is available by phone and email. In another program, for example, a certified housing counselor assists an SRL homeowner through a process seeking diversion from foreclosure including a conciliation conference at the court with opposing counsel for the lender. The housing counselor may consult, as needed, with a legal aid lawyer on site (and throughout) to address any concerns or questions that might arise.

In other programs where there may be no direct dedicated supervision, trained volunteers can turn to court employees for questions, as needed. In one of those instances, the navigators also meet weekly with their program manager to discuss questions or problems that have come up.

In more than half of the programs, an individual trained as a lawyer provides the supervision, consultation and support.<sup>32</sup> In the remainder of the programs, experienced nonprofit or court staff, who may or may not be lawyers, are designated as supervisors.

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## **V. PROGRAM IMPLEMENTATION**

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<sup>32</sup> As noted earlier, even when there is a lawyer acting in a supervisory role, the navigator is not representing the SRL in an attorney-client relationship.

## A. Program origins

Several informants stressed the utility of initiating programs as pilots, with 40% starting as such. Of the pilots, 50% have now become “permanent,” with two of those having expanded to new sites within their respective states. Informants report that pilots have allowed for experimentation on how best to serve SRLs within a given court context, helping to secure court buy-in, and “working out the kinks” in program operations.

Very few of the programs secured, let alone required, formal authorization for the role of navigator in the program in order to begin operations, such as a judicial order, certification, state statute or specific regulation. Rather, several informants stressed that the need for formal authorization is largely determined by the particular court culture or context, with one senior court administrator offering that it depends “on how we do things here.” As one judge noted, for example, “we already have a number of pro bono activities in the court, so why wouldn’t we permit this one?”

Of those programs surveyed, two were officially authorized by way of judicial order. For example, the chief judge in New York proclaimed the establishment of one program in his annual judiciary speech and it was later codified by an order of the chief administrative judge in the state. The Hawaii Supreme Court authorized the navigator role in the other program by an order that spelled out the program’s contours.

In the Philadelphia foreclosure diversion program, the “housing counselors” are certified by the city’s housing department and must meet certain training and testing requirements. This program started as a pilot in 2008 during the housing crisis and the certification process was developed subsequently.

Finally, two of the domestic violence programs cited in this study operate in jurisdictions where “domestic violence advocates” are within a “domestic violence program,” both terms defined by state statute. In one of these states, the statute explicitly authorizes nonlawyer advocates to assist victims in the preparation of their civil protection orders and allows them to attend court proceedings and “sit at counsel table and confer with the victims unless otherwise directed by the court.”<sup>33</sup>

Apart from any formal authorization, the impetus for these programs has come from the actions of multiple champions and supporters. These include the judiciary, official bodies like state access to justice commissions or specially appointed task forces (which have often issued recommendations or reports in support of the idea that has helped tip the balance to start the programs), discerning nonprofit and legal aid lawyer leaders, bar foundations and creative court staff. Programs have often emerged through partnerships among these different entities. Such support seems to be a critical component in order to secure “buy in” from court and bar stakeholders and to overcome any initial obstacles or concerns.

Here are some examples.

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<sup>33</sup> 750 ILL. COMP. STAT. 60/205(b)(3). Further, the statute at 60/205(b)(4) specifically states advocates are “not engaged in the unauthorized practice of law when providing assistance of this type.”



Judicial or access to justice commission support has played a key role in at least one-half of the programs. For example, a senior judge in Hawaii led a task force of the access to justice commission recommending a volunteer court navigator program which led to a state supreme court order authorizing it. The access to justice commission in Illinois is part of a collaboration of groups (including the Chicago and Illinois Bar Foundations) that guides the Illinois JusticeCorps program.

Legal aid or nonprofit leaders have spearheaded programs as a result of their recognition of the great volume of SRLs in their particular practice areas and their belief that a new approach was needed. In other instances, court staff played an important role in pushing forward use of nonlawyer navigators.

Across the board, partnerships have proven instrumental, serving as the driving force behind programs. Nearly half of the programs reportedly started as collaborations and they continue to see themselves as such, with a variety of arrangements in play—whether between and among the judiciary, bodies like access to justice commissions, and/or legal aid and nonprofit groups.

Some program leaders reported that inspiration to start a program came from programs in other states. Several informants specifically mentioned that their programs were inspired by the New York navigator projects and the 2016 evaluation of them, *Roles Beyond Lawyers*.<sup>34</sup> Similarly, several of the AmeriCorps programs and court self-help center-based volunteer programs were inspired by learning of a program elsewhere. For example, a judge from Maricopa County, Arizona saw the California JusticeCorps program and returned to his jurisdiction to help spawn an AmeriCorps program there.

## B. Navigator staffing<sup>35</sup>

### 1. Paid or Salaried Staff

Eight of the 23 programs utilize employees of nonprofits to take on the navigator role. Seven of these programs use individuals who bring to the role knowledge or training in a specific case type given the nature of the nonprofit for which they work, *e.g.*, housing, domestic violence, or family law. They are recruited through the standard process used by their respective organizations.

Most of these navigators are full-time staff, although some may not be deployed in the court full-time. Instead, they work at their court site mainly when it is “open for business,” typically at the busiest times to meet and work with SRLs.

Examples of paid staff include the housing counselors in Philadelphia who appear at court conciliation conferences on a particular day having assisted the SRL homeowner through the foreclosure diversion process. Another example is a nonprofit that uses nonlawyer staff seated at tables in housing court to connect with SRLs and assist them with their answers, largely in nonpayment proceedings.

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<sup>34</sup> ROLES BEYOND LAWYERS, *supra* note 18.

<sup>35</sup> This section refers solely to the navigators per se, and not to their supervisors who have a different compensation structure.

## 2. AmeriCorps Members

In the 15 programs using non-salaried staff, there is a variety of types of individuals, tasks or services performed, commitments made, and incentives or compensation provided. Programs often use a combination of several types of individuals to provide assistance.

Five programs use AmeriCorps members. They are not paid staff, nor are they considered to be traditional volunteers.<sup>36</sup> Funded in large part by the federal Corporation for National and Community Service (CNCS), with a match from the relevant grantee in the locale (such as courts or nonprofits), these programs use mostly undergraduates or recent college graduates, in some cases deploying the latter in the role of “fellows.” There are designated eligibility requirements spelled out for these opportunities.<sup>37</sup>

Members typically commit to 300 hours over an academic year or a semester (minimum time), with some giving “half time” at 900 hours, and, in one program, “quarter time.” The AmeriCorps fellows may serve as team leaders or mentors to other members. They gain full-time status serving 1,700 hours during one year and may return for another year of service.

Understandably, program managers largely favor the fellows who can provide full-time service, bring at least one previous year of experience with strong knowledge of the court processes, and can perform more advanced tasks in addition to helping mentor other members. One program leader adds that, in his program, it is better to get a two-year commitment to avoid the turnover problem. Yet, program leaders acknowledge that fellows require a higher level of resources.

In exchange for their service, members typically receive a small cash stipend or living allowance, depending on their status, as well as some kind of post-service educational award or credit. The fellows are also often able to garner certain benefits such as childcare, health insurance or deferral of student loan payments. Members are typically recruited from college campuses, with the JusticeCorps in California, for example, maintaining a formal partnership with 16 universities.

California’s JusticeCorps is also the largest and oldest of the AmeriCorps member cohorts, which vary in size. As of this writing, California has 312 members (274 minimum time members and 38 fellows), who work in three regions across 27 sites, Arizona’s Maricopa County program has 70 minimum time members, while the Illinois JusticeCorps has 13 fellows and 43 members working in 13 courthouses. In their court-related programs, the Montana and Hawaii programs have six and seven members, respectively.

There is now considerable experience with AmeriCorps member programs working in the courts, with California, for example, having initiated its first site in 2004.

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<sup>36</sup> *Introduction to AmeriCorps Members: A Presentation for AmeriCorps Grant Applicants*, Corp. for National and Community Service 4, [https://www.nationalservice.gov/sites/default/files/documents/Intro%20to%20AmeriCorps%20Members%20Final\\_tagged.pdf](https://www.nationalservice.gov/sites/default/files/documents/Intro%20to%20AmeriCorps%20Members%20Final_tagged.pdf) (last visited May 21, 2019).

<sup>37</sup> *Id.* at 6; AmeriCorps, *Become a Member*, Corp. for National and Community Service, <https://www.nationalservice.gov/programs/ameri-corps/ameri-corps-state-national/become-member> (last visited May 21, 2019).

### 3. Volunteers and Interns

The type of volunteers most commonly deployed are undergraduate or graduate students. Others include law students, retirees or adults from the community who may be changing careers or simply wish to help, as well as, less frequently, paralegals, paralegal students, and community college students.<sup>38</sup>

Some programs secure students through formal arrangements with law schools or college campuses in their respective communities. They have created internship or externship programs where the students can gain educational credit or, in the case of law students, meet their voluntary pro bono pledge. In other programs, students are responsible for securing their own arrangements with their respective schools.

Of course, time commitments of volunteers vary. Some work on a periodic shift basis where they agree to assist in a self-help center at designated times, with several programs requiring a specific commitment of hours. In several programs, volunteers are required to be present when certain substantive court dockets occur during a week or month. Another program uses undergraduate and graduate students to serve as navigators as part of a university course for which they obtain three hours of educational credit. Each of those students commits to at least one four-hour shift during the week consistent with the times most opportune to serve SRLs.

Informants offered useful perspectives about engaging volunteers.

Recruitment and retention concerns. Informants report that they recruit volunteers in various ways such as attending career fairs or other events to speak to students; distributing flyers; or posting notices on their websites. Some informants discussed the “ups and downs” of recruitment and retention. Of course, programs are keen to secure returnees who require less staff supervision or training upfront. They also carry out their activities with more confidence and they help mentor the new recruits.

Informants from more rural states commented on the difficulty of finding student volunteers, especially since no colleges or universities, let alone law schools, are in the vicinity. At the same time, one of the program leaders in a major urban area noted that it can be difficult to recruit and retain individuals from local colleges because their program seeks students who bring diverse language capacity. She indicated that many of the students, however, often need to find paid work. In two other programs, supervisors noted that volunteers “may come and go” and they have difficulty reaching the desired consistency and ongoing commitment from the volunteers who sign up for only a limited duration of service.

A number of programs do not have a staff person who is responsible for recruitment. Many supervisors noted the significant benefit a staffer assigned to recruit volunteers would bring to their programs, helping find not only more, but more diverse navigators.

Incentives. Several informants commented on the importance of providing some kind of incentive for volunteers, whether a small cash stipend or educational credit similar to what

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<sup>38</sup> Several of the volunteer programs also use on occasion volunteer attorneys or a retired judge, but usually these individuals are providing a separate set of services, such as offering brief advice or pro bono counsel on a matter.

AmeriCorps members receive. A number are seeking to set up more formal arrangements with universities/law schools whereby students can secure credit for, say, an internship or externship type of program.

Volunteer limits and strengths. Program leaders express an ongoing appreciation for the kinds of matters on which they permit volunteer navigators to provide assistance. As an example, in two programs, closely supervised high school students are engaged under public service programs. One senior program leader said that high school students can help “bring a fresh perspective,” but she readily notes that she supervises the students closely and would only allow them to undertake certain kinds of tasks. On the other hand, a manager in another program was wary of using these students, although she had no direct experience in doing so.

Some court managers lament that they are unable to use law students because there are no law schools in the area, while in another program, managers are seldom able to recruit law students because the navigator activities do not fall within the scope of the relevant pro bono requirement that could provide the necessary incentive to students. In other programs, managers express wariness about recruiting law students. Their concern is that the students may become overly involved, going beyond the prohibition held firmly by all the programs that no legal advice may be provided by the navigators.

Several of the programs are occasionally able to recruit social work students, with at least one of the programs actively seeking to make an arrangement with their schools or departments. They believe that social work students relate well to individuals who comprise much of the SRL population.

Some program leaders expressed a preference for engaging “adults” or retirees, desiring “life experience.” They believe these are the best individuals with whom to test out a navigator program. Program managers have secured professionals with diverse experience, such as someone completing a paralegal studies program, or a former sheriff, college professor, and/or librarian who has retired.

### C. Program funding and structural support

Despite the best efforts of program personnel, many programs lack the institutional commitment to garner necessary resources for longer-term program sustainability, let alone expansion. Availability of resources is a critical issue and, unfortunately, in a number of the programs, funding is relatively patchwork and ad hoc. Many informants described their persistent concern about the difficulty of maintaining programs without dedicated funding. Even with their current funding in place, several informants underscored the challenge of having steady multi-year funding because they cannot count on a line item in the budget, and instead, must depend on less reliable sources such as private grants.<sup>39</sup>

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<sup>39</sup> One of the most promising efforts was a New York City navigator project evaluated and reported in ROLES BEYOND LAWYERS. This program achieved very impressive outcomes for SRLs in housing court. It was carried out jointly by two nonprofits, Housing Court Answers and University Settlement. ROLES BEYOND LAWYERS, *supra* note 18, at 4–5; Unfortunately, this collaborative project is no longer operating in the way and at the level it was as

There is of course a relationship between the availability of ongoing funding and the ability to support adequate program infrastructure which often helps assure quality and demonstrates a level of institutional commitment to programs. Although 60% of the programs have some management personnel beyond the immediate supervisor(s) for navigators, few have clear formalized organizational structure. A number of programs lack human resources functions that could provide more robust training, recruitment and application processing or other structural support, such as communications and the capacity to collect and analyze data.

In a number of situations, programs are reliant on in-kind support, such as supervision, which is added on to the existing duties of already busy court staff. Some informants explained that being short-staffed prevents them from leveraging staff and being able to train more volunteers, while others aspire to having more help to undertake concerted volunteer recruitment.

Several court staff also expressed concern about diverting money from legal aid lawyers to do their work. Some program managers discussed their hope and belief that the court should and would fund more of these kinds of programs.

Despite fundamental concerns about their sustainability, program leaders have been creative in seeking funding, as well as in deciding to launch initiatives in pilot form, perhaps without “every ‘I’ dotted or ‘T’ crossed” in order to begin to demonstrate the potential of their concept. Because many programs are volunteer-based, to the extent funding is provided, it is largely to support staff supervision.

In short, programs often rely on a variety of individual and combined funding sources to support navigators. Below is a summary of primary funding sources that informants reported, along with some illustrative examples.

Federal, state, and/or city funding.<sup>40</sup> Eleven programs indicated that their main source of funding comes from the federal government. These funds often flow through or are directly administered by a state entity and/or may require a match from a state, local, nonprofit or court entity. Federal

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described in ROLES BEYOND LAWYERS due to, among other reasons, loss of city and private funding. Fisher, *supra* note 28, at 834–835.

<sup>40</sup> See the Justice in Government Project Toolkit for descriptions of state-administered federal block and formula grants that allow states to include spending on legal services, including some of the sources tapped by a number of the programs in this study. To obtain the most recent version of this matrix, visit the following link and select “Grant Matrix PDF.” The Justice in Government Project, *Module 2: Funding Civil Legal Aid*, Am. U School of Public Affairs, <https://www.american.edu/spa/jpo/toolkit/module-2.cfm> (last visited May 21, 2019). For information about federal grants involving federal funds applicants apply for directly from federal agencies, see *Civil Legal Aid Federal Funding Resources*, National Legal Aid Defender Ass’n., <https://legalaidresources.org/> (last visited May 21, 2019). Given the breadth of family law matters that navigator programs address, program leaders might consider exploring also the use of Title IV-D child support and establishment of paternity funds, which state child support directors may choose to use for self-help services, as reported in the Toolkit’s Grants Matrix and the Self-Represented Litigation Network Title IV-D Funding Resource Guide. See <https://www.srln.org/node/53/resource-title-iv-d-funding-resource-guide-srln-2014> (last visited May 21, 2019).

sources include: CNCS (for AmeriCorps programs); and, largely for domestic violence programs, the Violence Against Women Act (VAWA); Services, Training, Officers, and Prosecutors (STOP) or Justice for Families grants; and Victims of Crime Act (VOCA) funds. One navigator effort is part of a large partnership of nonprofits which is funded partially through a city housing department and the federal Community Development Block Grant (CDBG) program. Another nonprofit partnership that uses navigators was initially funded by the city council and is now supported by the mayor's budget.

Private funding. Seven programs secure funding or in-kind support from private or nonpublic sources. Three of these receive grants from private foundations. Several programs have been able to use state bar funding or IOLTA funds. Another program has been able to initiate operations recently and make use of supervisory support from a lawyer who received a one-year post-graduate fellowship. An additional program has been able to capitalize on the fact that the university professor who runs the program, along with the adjunct professor who assists her, are compensated as faculty and supervise the navigators as part of their regular professorial responsibilities.

Court funding. Five programs rely primarily on different forms of court support. In one instance, the court contracts with a nonprofit to undertake a navigator program. In the second example, court funding is provided for a coordinator for the court-managed navigator program. In the remaining three programs, court staff participate as part of, or in addition to, their regular duties by supervising the navigators who are volunteers.

Leaders from at least one-third of the programs indicate that they intend to expand their efforts, either geographically to more locations or by providing navigator assistance on additional case types. They contemplate expansion, often because of the affirmative support of those in and around the programs who observe them in operation, including judges, court staff, and legal aid and nonprofit groups. Still, additional investments will be required to pursue these aspirations.

#### D. Data collection and assessment practices

There is a clear correlation between the availability of financial and human resources and a program's ability to measure its progress or inform its decision-making. Managing and analyzing data is a challenge. Without adequate resources, it is difficult to secure good data, and, without data, it is difficult to make the case for new resources and/or maintain current funding.

The life tenure of the 23 programs varies, which in part may explain the degree and type of data collected. Some have clear systems in place and an array of collection tools and approaches, while newer programs report working deliberately to determine the best methods to use to measure their progress.

Although several programs have sought to devise goals and collect outcome data, most programs primarily gather records of service or “output” data. The type of data collected can be described generally.

<b>EXAMPLES OF DATA COLLECTION TOOLS &amp; APPROACHES</b>
<b>Intake type forms</b> <i>(most common)</i>
Forms that collect basic data on SRLs served; forms often include demographics, geographic location served, type of service provided (assisted with computer, assisted with forms, etc.), type of legal matter addressed, language or other special assistance required, duration of activity with SRL, user type (new or repeat).
<b>Navigator activity logs or tally sheets.</b>
Running logs or tallying of instances of service or assistance, types of service, time spent with SRL, etc. over specific time periods.
<b>SRL Satisfaction Surveys</b>
Exit-surveys that collect data on the level of satisfaction about the experiences of SRLs and their perceptions concerning service delivery.
<b>Snapshot surveys</b>
Periodic surveys to collect feedback from SRLs or to measure certain services conducted by navigators.
<b>Navigator Feedback and Observations</b>
Sessions with volunteer navigators to collect their respective feedback and observations from experiences in the court to help identify systemic concerns.
<b>Progress reports</b>
Routine reports utilizing aggregated data regarding court patron satisfaction, types of services provided by navigators, numbers served, etc., often produced and/or analyzed on a monthly, quarterly or annual basis.
<b>Measurement framework</b>
Setting goals and performance metrics that measure progress related to outputs and outcomes of the program.
<b>Independent program evaluations</b>
Outside consultant/firms contracted to implement evaluation activities that measure intended outcome or impact.

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## **VI. PROGRAM IMPACT EXAMPLES**

Although it was not our intention to collect in a systematic fashion outcome or impact data from the programs, we offer here examples of how informants perceive their progress, along with some of the results they are achieving. The views of many of our informants align with the intended objectives of the programs, as noted in Section III above. Additionally, we highlight here perspectives from legal aid lawyers and nonprofit leaders, and we offer stakeholder comments about strengthening court communications and program integration.

### A. Informant perceptions and achievements that align with objectives in Section III

Enhancing Court Effectiveness. Navigators leverage staff to meet the SRL demand. Numerous examples from court staff underscore the importance of utilizing volunteers to supplement their work, given the high volume of SRLs encountered daily. Staff mention gaps experienced when student volunteers are not present in the summer or during holiday periods and emphasize that they could deploy many more student volunteers if they had more time to train them. For example, one program leader reports that AmeriCorps members have made it possible to increase staffing of a court information desk. That has resulted in more information provided to SRLs by navigators and thus, as noted by some court staff and judges, fewer instances when SRLs have failed to appear.

One program manager put it succinctly: “Without volunteers, we can assist only a fraction of the cases” involving SRLs. Another program manager who works with AmeriCorps members said that without their help “most help centers would be open only part-time.” Said another, “AmeriCorps members are an integral part of the self-help law program.”

Navigators enhance accuracy and completion of forms. Several program managers commented on how SRLs are better prepared to file more accurate documents and thereby streamline the court process when they have been assisted by navigators. Specific examples of this result were reported by two of the AmeriCorps programs.

The Illinois JusticeCorps conducted interviews as part of an independent evaluation to gather data about the impact of the navigator program from the perspectives of court staff and legal aid providers. Of those interviewed, 90% believed that navigators improved the completeness and correctness of documents filed by SRLs, 82% felt SRLs were better prepared for court proceedings and over 70% felt navigator assistance saves the time of court clerks. Moreover, 88% of stakeholders said they had a very positive interaction with the JusticeCorps members.<sup>41</sup>

The California JusticeCorps recently undertook a pilot study of court filings to assess their court readiness, seeking to learn if SRLs assisted by the program would be better prepared to make their court filings. The sample included forms completed by 257 SRLs, 25% of whom were served by the JusticeCorps and 75% of whom received no assistance. Clerks were asked to rate accuracy and completeness of paperwork. On a 4-point scale, 92% of the paperwork assisted by the JusticeCorps members rated at the top of the scale for being completely accurate. Those who had received no help rated significantly lower with an average score of 2.3.<sup>42</sup>

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<sup>41</sup> Illinois JusticeCorps & Philliber Research and Evaluation, *The Impact of the Illinois JusticeCorps Program on the Courts, Court Users, and Legal Aid Organizations Summary Report (2015)* (unpublished report) (on file with Illinois JusticeCorps).

<sup>42</sup> Philliber Research and Evaluation, *2017–2018 JusticeCorps Program Evaluation Final Summary Report 21–22 (2018)* (unpublished report) (on file with California JusticeCorps).



In his 2017 State of the Judiciary speech, Montana Chief Justice Mike McGrath underscored the kind of benefit a court help program, which uses AmeriCorps navigators, can bring, “[O]ur judges agree this program does significantly increase judicial efficiency and does reduce court backlog.”<sup>43</sup>

Facilitating “access to justice” for self-represented litigants. Data from two programs show the kinds of benefits programs can deliver. One program reported that its volunteers (60% to 70% of whom are reported to be nonlawyers) assist with 1,500 SRL conservatorship filings each year (which constitutes 75% of those in Los Angeles County). An impressive 90% of the filings are successful.

The Philadelphia Residential Mortgage Foreclosure Diversion program assigns a nonlawyer housing counselor to every SRL homeowner looking for relief from foreclosure. Over the course of a decade, 11,800 SRL homeowners were able to save their homes through the diversion process, for a 55% success rate.<sup>44</sup>

Many informants cited successful examples of addressing procedural fairness concerns. They collected and aggregated data from surveys or exit interviews to get SRL feedback about their court experiences after being assisted by navigators. SRLs report how much better prepared they are for their next step, how their anxiety level was reduced, how they felt less confused and worried and how much more trust they have in the process. Importantly, they express satisfaction about “being heard and being able to tell their stories.”

Here are some examples.

The Illinois JusticeCorps shared its results from a two-week snapshot survey. SRLs were asked to rate services received, with measurements including courtesy and politeness, information provided in the language needed, overall rating of assistance, amount of time spent, questions answered, and an explanation of legal process or procedures. They were also asked to rate the extent to which their views changed after their visit to gauge the impact of the service provided. Among the respondents, 81% reported feeling much better prepared to proceed with their legal issue and 82% were much clearer on what they needed to do next. The overall rating of assistance exceeded 3.9 on a 4.0 scale (with 1 as “poor” and 4 as “excellent”).<sup>45</sup>

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<sup>43</sup> C. J. Mike McGrath, MT Supreme Ct., State of the Judiciary Address at Montana’s 64th Legislative Session 7 (Jan. 11, 2017) (transcript available at the MT Standard), <https://bloximages.chicago2.vip.townnews.com/mtstandard.com/content/tncms/assets/v3/editorial/8/cf/8cf24e0f-6b61-5f5f-a31b-0015ad5ab7dd/58880d0373ece.pdf>.

<sup>44</sup> Caitlin McCabe, *In One Chaotic Courtroom, Free Counselors and Attorneys Have Saved 11,000 Philly Homes from Foreclosure*, PHILADELPHIA INQUIRER (July 19, 2018), [https://www.philly.com/philly/business/real\\_estate/residential/philadelphia-foreclosure-mortgage-diversion-program-rizzo-city-hall-courtroom-sheriff-sale-20180719.html](https://www.philly.com/philly/business/real_estate/residential/philadelphia-foreclosure-mortgage-diversion-program-rizzo-city-hall-courtroom-sheriff-sale-20180719.html).

<sup>45</sup> Illinois JusticeCorps, Illinois JusticeCorps Program Court Patron Feedback Survey Results Aggregate Report for all Sites (2015) (unpublished report) (on file with Illinois JusticeCorps).

The California JusticeCorps undertook a one-week snapshot satisfaction survey in 2018. They asked SRLs to complete a brief form about why they were seeking services and what was their level of satisfaction. In response, 83% said they were seeking services because they were unable to afford a lawyer. After receiving help, 98% of litigants reported feeling more confident that they understood the legal steps in their cases; 97% knew what to do next in their cases; and 95% felt able to prepare and file their court forms. Overall, 97% of the litigants reported that the service received was very helpful.<sup>46</sup>

Another program offered a representative sample of the comments received from SRLs who were served by court navigators: “Very useful, it helped a lot and [the Navigator] made us comfortable.” “Felt at ease after talking to [the Navigator].” “Super helpful. I felt out of my element and [the Navigator] helped put me at ease.” “Reduced my anxiety about court.” “Very helpful in explaining where I should be.” “Way more info than I got from anyone else.” “Made court less confusing & intimidating.” “[The Navigator] was informative, factual and very centering for me.” “Compassionate — and to the point.” “Needs were answered according to my case.” “Thanks for your enthusiasm.” “What a great service.” The program informants report that no one rated the navigators lower than “excellent” which was the highest rating on the program evaluation form.

Indeed, many informants commented on the utility of navigators being available to “listen to peoples’ stories.” Said one, they “listen to people and are more patient,” while another offered that the SRLs want “to have their say and be heard. They need to talk and tell their story and the judge doesn’t need to hear all the details.”<sup>47</sup> She added that if the SRL has been able to talk to a navigator first, “it shaves 20 minutes off what the judge will require.” Another program leader echoed the same perspective. By speaking to the navigators, SRLs can “tell their stories more clearly when they get to court because they will have already told the story once, to the [navigator].” Another informant noted that, “[I]t is very important to have the volunteers sit down and hear stories. It’s important to take time with people.”

One manager said that navigators “calm litigants down” so they can better interact with the court, especially when they go before the judge. She added that SRLs “better understand what is happening,” they are less “upset,” and they “can go to court without thinking the system is against them.” Another informant observed that the help from navigators “calmed down” all the court actors involved.

The value of such results was emphasized by a professor, formerly a legal aid lawyer, who runs a program deploying university students. After an independent evaluation that measured student

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<sup>46</sup> Philliber Research and Evaluation, *supra* note 42, at 25.

<sup>47</sup> This echoes the findings in ROLES BEYOND LAWYERS. For one of the navigator projects evaluated in that study, Sandefur and Clarke found that “litigants who receive the help of any kind of navigators were 56% more likely than unassisted litigants to say they were able to tell their side of the story.” ROLES BEYOND LAWYERS, *supra* note 18, at 4.

perceptions of program impact as well as their own training, the professor said that she learned the importance of “procedural justice,” meaning, as she put it, that navigators are able to help SRL’s “handle stress better and understand what is happening to them.” Like many informants, she hopes to conduct further assessments to collect more outcome data to strengthen the program.

Providing a positive and rich experience for navigators. According to one AmeriCorps coordinator, members themselves benefit in many respects from the navigator experience, including being better prepared for leadership. Engaging students also increases their potential for contributing to access to justice in their careers. In a recent report of another program, the vast majority (81%) of California JusticeCorps members reported they plan to pursue a Ph.D., law, or other professional degree.

Another AmeriCorps program director notes that the members are exposed to “real world problems” and gain experience and job skills in working with people who can be challenging given their dire circumstances. An Illinois JusticeCorps program leader shared this view. “By design, our members will have received practical training and experience prior to applying to law school or graduate programs, so they will be better informed decision-makers regarding their educational path. After completing their term of service, members will have a strong foundation on which to build their formal education and they leave the program having developed critical thinking and analytical skills.”

#### B. Perspectives of legal aid lawyers and nonprofit leaders

Additional support for navigator programs comes directly from legal aid lawyers and nonprofit leaders managing or observing navigator work. They recognize the value of navigators in helping to handle the heavy volume of SRLs and express confidence in what the navigators have the capacity to take on.

For example, a senior legal aid lawyer who works with housing counselors in the Philadelphia Mortgage Foreclosure Diversion Program noted that, “[W]ithout the housing counselors, the program to assist unrepresented homeowners in their cases could not function.”

Yet another lawyer, who also serves in senior management with a major legal nonprofit group, feels “supremely confident” in the ability of the volunteers to handle the matters—conservatorship filings and elder abuse restraining orders—addressed in the clinics his organization runs on behalf of SRLs.

A nonprofit lawyer, who oversees other lawyers providing limited pro bono help in a court space where navigators also provide assistance, believes the navigators are very helpful in filling gaps because there are not enough lawyers to answer all the SRL questions. The navigators distribute brochures that have very detailed information and help answer questions that SRLs have pre-and post-hearing.

Other legal aid lawyers who oversee newer programs aspire to elevate the navigator's role in due course. As one noted, once the program is better acclimated and integrated into the court environment and the role of the navigators is better understood by judges and court staff, she hopes that navigators will be able to do more than only distribute basic information to SRLs.

In sum, navigator program leaders have met with no serious concerns or pushback in terms of receptivity by stakeholders in and around the court. Informants note that the longevity of their programs alone suggests acceptance. For example, Housing Court Answers in New York has been in operation since 1981 and the California JusticeCorps program since 2004. Over the years, many programs have secured and maintained a variety of funding sources which clearly recognize the merit in this work. One senior legal aid lawyer involved with a navigator program, for example, notes that after a decade, the program not only retains its public funding, but relevant officials are considering whether to use navigators to help with additional case types in their jurisdiction.

### C. Perceptions about strengthening court communications and program integration

Various stakeholders underscore the need for good communications and understanding within the court about navigator programs. They stress the importance, whenever possible, of better integrating the navigator work into overall operations of the court, as well as the utility of integrating navigator efforts with existing assistance programs. As one senior manager put it succinctly, “[y]ou need buy-in from the court and the judges. They need to own the program. It is critical to have the program integrated into the core operation of the court.” Several court managers also echoed the need to accustom the court to the navigator presence.<sup>48</sup>

One legal aid leader, who oversees a new program, reports that she has begun getting initial positive feedback about the value of the navigators from the court manager in the self-help center and the clerks in the court. She understands the importance of building relationships with court staff and judges alike and feels her program is “off to a good start.” Similarly, another nonprofit program leader expressed her own desire to work in a more focused way on the relationship and coordination with the court staff. And a senior legal aid lawyer, who helped start a navigator program, thinks navigators are doing well and are capable of more advanced work like accompanying SRLs in the court to help them answer factual questions by the judge. He also wishes judges would refer SRLs to the navigators more regularly, but he appreciates that both of his aspirations will first require a better understanding of the program by the judges.

And a senior judge who was instrumental in helping start one navigator program believes it is very important to develop and maintain good relations among judges, court staff, and navigators.

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<sup>48</sup> The authors of ROLES BEYOND LAWYERS made a similar observation, noting that “[t]he legitimacy of the Navigator program could be enhanced by better communication with litigants, judges, court attorneys, court officers, court clerks, and the landlords and debt-buyers bars about what Navigators are and what they can do.” ROLES BEYOND LAWYERS, *supra* note 18, at 49.

He believes the navigator program in his court is helping SRLs, but he sees the need to better educate all the judges about the navigators' work and their relationship with the bench.

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## VII. CONCLUSION

We offer here a summary of opportunities and challenges gleaned from the research, and we share recommendations to help develop and strengthen nonlawyer navigator programs.

### A. Opportunities

There is a breadth of creative activity within programs using nonlawyers to assist SRLs in the state courts. There is also strong potential for further experimentation and an opportunity to take these programs to every state and ultimately to scale.

Albeit nascent in many places, the work is underway in numerous states across the nation— from Mississippi to California and Oklahoma to Massachusetts. Nonlawyer navigator help is emerging as a viable option for courts to amplify and enrich their ongoing services to meet the overwhelming demand from SRLs, as well as for justice advocates to supplement their work and allow lawyers to operate “at the top of their licenses.”

Navigator programs advance a number of goals. They enhance the effectiveness of, and build public trust in, the courts; facilitate access to justice for SRLs by helping them understand and navigate their cases; provide an additional way for legal aid lawyers and nonprofit leaders to supplement their own client services; and enable an array of community actors, students, and retirees alike, to better understand the plight of SRLs and help them manage the often unfamiliar and daunting court process.

Many forward-leaning leaders, often in partnership, including judges and court staff, access to justice commissions and similar bodies, legal aid lawyers and nonprofit leaders, and bar foundations, have brought a range of diverse resources and strategies to meet the SRL demand. These trailblazers have discovered ways to create navigator programs without the need for major regulatory reform or rule changes.

Nonlawyer navigators in the courts are performing a variety of roles without raising concerns of unauthorized practice of law. Program leaders and managers are fully mindful of admonitions against nonlawyers providing legal advice and they take the need for quality assurance measures seriously.

Programs show significant variations in their features and characteristics with no “one size fits all” model, suggesting considerable potential for further innovation ahead. Court context matters

and program managers are adapting programs to optimize operations according to their particular circumstances.

Importantly, programs are demonstrating that well-trained and appropriately supervised navigators can perform a wide array of tasks and could undertake even more elevated tasks along the spectrum. Indeed, jurisdictions exploring the use of navigators should recognize that they can adapt and deploy a broad range of navigator tasks depending on the needs of their own environments.

More community partners—including paid nonprofit staff, AmeriCorps members, and a rich cadre of volunteers who come from many walks of life—are appreciating the role they can play. Their diversity of backgrounds and skill sets show the potential for using many more of these individuals, as well as for recruiting new types of community actors as nonlawyer navigators.

## B. Challenges

The institutionalization and longer-term sustainability of programs is an overriding concern that program leaders face on various fronts. Although in-kind support from court staff along with volunteer service is abundant and valuable to many operations, the patchwork funding of many programs poses real obstacles to their sustainability. Resources are crucial, not only to staff up programs to bolster training, supervision and recruitment, but also to measure their progress and outcomes. These are necessary investments to help programs convince stakeholders and donors to support or fund their efforts.

Some programs have an integrated system using both lawyers and navigators, who complement each other's work. Further integrating the navigator programs into ongoing court operations and/or with other legal provider efforts can be difficult, but it remains an important goal. This process can foster institutionalization of programs, enhance court efficiency, and provide an improved system in which to serve SRLs.

Without a common understanding from the start about the navigator programs and their objectives, and absent regular communications with judges and court staff about program progress, tensions and misunderstandings can arise between all parties. Relationship-building and ongoing communications among the parties is key to achieving smooth operations.

There is minimal sharing of information let alone best practice among navigator programs across the country. A number of program leaders expressed their interest in learning about what other navigator programs exist across the country, and how they are overcoming obstacles and strengthening their respective programs to meet the need.

## C. Recommendations

1. Funding streams that support legal assistance of various types, including court-based navigator work, are diversifying. Champions of all stripes have come to bat to create these programs and

they should work to secure resources to sustain these programs. They should explore new, and encourage the appropriate redirection of existing financial resources to keep these programs going. Help is out there to guide innovators toward funding opportunities, as highlighted earlier in this report.

2. Creating pilots is a good way to explore and refine navigator program operations, as well as to secure buy-in from judges and court staff, the bar and other relevant stakeholders.

3. Court leaders should consider utilizing navigators' experiences and learning from SRLs, which offer untapped resources for courts as they work to identify opportunities for simplification, as well as gains in efficiency and customer service.

4. Securing good data to measure and determine the results of navigator programs is vital to making wise program decisions and sustaining their full staffing and expansion, as desired. Both financial resources and leadership commitment are needed to make this happen.

5. As new solutions and approaches, such as unbundled services, right to counsel, or navigator programs, continue to emerge along the continuum of services to meet the SRL demand, it is important to connect these components together with each other and with other components that may already exist. Stakeholders should study their own ecosystem and strategize together on how to meld these elements to facilitate access to justice and optimize service for SRLs.

6. Key national networks and organizations in the justice field, such as the Self-Represented Litigation Network (SRLN), should consider creating a community of practice to share lessons and insights on design and implementation of programs. These networks and organizations should also build toolkits for courts to create partnerships with nonprofits, including a curriculum of how to understand court process, as well as to help navigator programs measure and report on progress.

7. Independent research is needed to make the best use of navigator efforts. Evaluations of individual programs, such as *Roles Beyond Lawyers*, can demonstrate program outcomes, impact, and cost savings. And more studies can help determine when best to use nonlawyers to provide assistance. Funders should also support research that surveys and shares best practice about the wealth of community-based programs using nonlawyers to help unrepresented people, both in nonprofits and legal aid offices across the country.

## APPENDIX

### Program Contact List

This appendix lists nonlawyer navigator programs which are described in this study. In several cases, the navigator program component falls within a larger organization or initiative. Contacts are current as of May 2019.

#### Alaska

##### **Legal Advocacy**

Abused Women's Aid in Crisis ("AWAIC")

<http://www.awaic.org/get-help/legal-advocacy>

**Contact:** Marjorie M. Thayer, Advocate, 907-264-0790, [marjorie\\_t@awaic.org](mailto:marjorie_t@awaic.org)

#### Arizona

##### **Providing Access to Court Services (PACS)**

Superior Court of Arizona in Maricopa County

**Contact:** Shawn Haught, Director, Law Library Resource Center, 602-506-3464, [haughts@superiorcourt.maricopa.gov](mailto:haughts@superiorcourt.maricopa.gov)

#### California

##### **California JusticeCorps**

Judicial Council of California (in partnership with CA Superior Courts)

<http://www.courts.ca.gov/justicecorps.htm>

**Contact:** Nicole Claro-Quinn, Senior Analyst, Judicial Council of California, 415-865-4504, [Nicole.claro@jud.ca.gov](mailto:Nicole.claro@jud.ca.gov)

##### **Elder Abuse Restraining Order Clinic**

Bet Tzedek

<https://www.bettzedek.org/events/elder-abuse-restraining-order-clinic-4/>

**Contact:** Dani Kaiserman, Staff Attorney, 323-549-5837, [dkaiserman@bettzedek.org](mailto:dkaiserman@bettzedek.org)

##### **Self-Help Conservatorship Program Clinic**

Bet Tzedek

<https://www.bettzedek.org/events/self-help-conservatorship-clinic-first-time-visitors-norwalk/>

**Contact:** Erikson Albrecht, Managing Attorney, 323-939-0506, [ealbrecht@bettzedek.org](mailto:ealbrecht@bettzedek.org)

#### District of Columbia

##### **Supportive Advocacy**

DC SAFE

<https://www.dcsafe.org/our-programs>

**Contact:** Ana Natalia Otero, Executive Director, 202-506-2901, [notero@dcsafe.org](mailto:notero@dcsafe.org)

#### Georgia

##### **Legal Navigators**

Southwest Georgia Legal Self-Help Center

[www.dougherty.ga.us/lawlibrary](http://www.dougherty.ga.us/lawlibrary) (new website currently under development)

**Contact:** Laureen Alford Kelly, Executive Director, 229-446-2750 and 229-431-2133, [lkelly@dougherty.ga.us](mailto:lkelly@dougherty.ga.us)

#### Hawaii

##### **Project Kaulike**

AmeriCorps Program with Legal Aid members serving in Hawaii Judiciary Self-Help Centers [www.legalaidhawaii.org](http://www.legalaidhawaii.org),

[https://www.courts.state.hi.us/general\\_information/access\\_to\\_justice\\_rooms\\_self\\_help\\_centers](https://www.courts.state.hi.us/general_information/access_to_justice_rooms_self_help_centers)

**Contact:** Angela Lovitt, Deputy Director, Legal Aid of Hawaii/AmeriCorps Program Director, 808-527-8003, [angela.lovitt@legalaidhawaii.org](mailto:angela.lovitt@legalaidhawaii.org)

##### **Volunteer Court Navigator Program**

Second Circuit, Maui, Hawaii

<https://www.courts.state.hi.us/wp-content/uploads/2018/08/flyerVolunteerCourtNavigator.pdf>

**Contact:** Joseph E. Cardoza, Chief Judge, Second Circuit, 808-244-2860, [joseph.e.cardoza@courts.hawaii.org](mailto:joseph.e.cardoza@courts.hawaii.org)



## Illinois

### **Illinois JusticeCorps**

Illinois Bar Foundation (in partnership)  
<https://www.illinoisbarfoundation.org/illinois-justicecorps>

**Contact:** Stacey Jonas Weiler, Program Operations Director, 312-920-4693, sweiler@iljusticecorps.org

### **Legal Advocacy Program**

Family Rescue, Inc.  
<https://familyrescueinc.org/programs-services/legal-advocacy-program/>

**Contact:** Himagiri Sarma, Program Director, Legal Advocacy, 312-325-9309, h.sarma@familyrescueinc.org

## Maryland

### **Court Navigator Project**

The University of Baltimore  
<http://www.ubalt.edu/academics/prelaw/court-navigator-pilot-project.cfm>

**Contact:** Michele Cotton, Associate Professor, Division of Legal, Ethical and Historical Studies (LEST), 410-837-5320, mcotton@ubalt.edu

## Massachusetts

### **Court Service Center**

Massachusetts Trial Court  
[www.mass.gov/courts](http://www.mass.gov/courts)

**Contact:** Sheriece M. Perry, Acting Co-Director, Department of Support Services, 617-878-0338, sheriece.perry@jud.state.ma.us

## Mississippi

### **Justice Court Navigator Program**

Mississippi Center for Justice  
**Contact:** Samuel Reese, Harvard Legal Fellow, 769-230-0529, sreese@mscenterforjustice.org

## Montana

### **Justice for Montanans**

AmeriCorps program based at Montana Legal Services Association and partnered with the Montana Supreme Court Help Program  
<https://www.mtlsa.org/ameriCorps-state-justice/>,  
<https://courts.mt.gov/selfhelp>

**Contact:** Meghan Scott, AmeriCorps Program Manager – Justice for Montanans, 406-442-9830 (ext. 143), mscott@mtlsa.org

**Contact:** Nolan Harris, Court Help Program Administrator, 406-841-2975, Nharris2@mt.gov

## New York

### **Court Navigator Program**

New York State Courts  
<https://www.nycourts.gov/courts/nyc/housing/rap.shtml>

**Contact:** Alina Vargas, Coordinator, Court Navigator Program, 646-386-4016, amvargas@nycourts.gov

**Contact:** Angela Redman, Special Counsel for Office of Justice Initiatives, 646-386-3824, aredman@nycourts.gov

### **Housing Court Answers**

<http://housingcourtanswers.org/>  
**Contact:** Jenny Laurie, Executive Director, 212-9624795 x206, jennyl@hcanswers.org

## Ohio

### **Hamilton County Municipal Help Center**

<http://cincyhelpcenter.org/>  
**Contact:** Rob Wall, Director, 513-946-5732, wallrj@ucmail.uc.edu

## Oklahoma

### **Cleveland County Courthouse Navigator Project**

Legal Aid Services of Oklahoma, University of Oklahoma College of Law, and Oklahoma ATJ Commission (in partnership)

**Contact:** Rebecca Hamrin, Associate Director of Pro Bono and Public Interest, University of Oklahoma College of Law, 405-325-4785, rhamrin@ou.edu

## Pennsylvania

### **Family Court Help Center**

Philadelphia Legal Assistance

**Contact:** Susan Pearlstein, Family Law Unit Supervising Attorney, 215-981-3861, spearlstein@philalegal.org

### **Philadelphia Eviction Prevention Project (PEPP)**

Community Legal Services of Philadelphia (Lead in PEPP partnership)

<http://www.phillytenant.org/pepp/>

**Contact:** Barrett Marshall, Director, PEPP, 215-981-3714, bmarshall@clsphila.org

### **Residential Mortgage Foreclosure Diversion**

**Program** (First Judicial District of Philadelphia)

Partnership of the Philadelphia Court of Common Pleas and the City of Philadelphia Department of Housing and Community Development (in conjunction with local non-profit housing counseling agencies and local legal / legal aid providers)

**Contact:** Michelle Brix, Paralegal, Homeownership and Consumer Rights Unit, Community Legal Services of Philadelphia, 215-981-3764, mbrix@clsphila.org

## Wisconsin

### **Self-Help Family Forms Clinic**

Milwaukee Justice Center

<https://www.milwaukeejusticecenter.org/services-hours-location.html>

**Contact:** Mary L. Ferwerda, Executive Director, Milwaukee Justice Center, 414-278-4271, Mary.Ferwerda@wicourts.gov

**Appendix 14 – Stacey Marz, Faster and As Satisfying: An Evaluation of  
Alaska’s Early Resolution Triage Program, 57 Family Court Review (2019)**

# FASTER AND AS SATISFYING: AN EVALUATION OF ALASKA'S EARLY RESOLUTION TRIAGE PROGRAM

Stacey Marz

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The Alaska Court Early Resolution Program (ERP) addresses many issues – self-representation in divorce and custody cases, triaging to determine the appropriate resolution approach, the importance of early intervention and the desire to use a simplified process and a problem-solving approach. This article reports on an evaluation of the Anchorage ERP. It found different outcomes for ERP cases that settled than comparable cases that proceeded on the regular trial process track with respect to the following outcomes:

- time to disposition,
- number of staff processing steps and associated completion time, and
- number of motions to modify filed within two years of the disposition.

Key Points for the Family Court Community:

- Courts can resolve 80% of their contested divorce and custody cases between self-represented parties in just one hearing with a special calendar that employs a problem-solving approach, triage, a simplified process, and early intervention.
- Courts should use problem-solving approaches instead of the traditional adversarial model to resolve divorce and custody cases.
- Courts can facilitate problem-solving by using unbundled volunteer attorneys, mediators and settlement judges to help parties resolve cases.
- Courts should triage cases into the appropriate resolution approach.
- Case screening can occur effectively using information from the pleadings and filed documents along with information about each party's other court cases.
- Early intervention in the case process is important to allow the parties to resolve and move on as soon as possible.
- There are significant efficiencies for the court by mass calendaring many cases for the same hearing time.

**Keywords:** *Custody; Differentiated Case Management; Divorce; Early Resolution Program; Problem Solving; Self-Represented; Simplification; and Triage.*

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Many courts are grappling with how to manage divorce and custody cases involving self-represented litigants efficiently and effectively. Some are exploring how to triage each case to determine the appropriate resolution approach. Some are implementing processes in which the litigants avoid contentious litigation and resolve the issues as quickly as possible. The Alaska Court System created the Early Resolution Program (ERP) to improve outcomes for families. The program identifies and triages newly filed contested divorce and custody cases involving two self-represented litigants, applying a non-adversarial process shortly after the case is filed. The author evaluated the Anchorage ERP and compared three years of ERP cases that settled to a control group composed of similarly situated cases that proceeded on the regular trial track before ERP began.

This article provides a look at the possible pathways a hypothetical family's case could take—ERP or the typical trial track—to understand the types of issues that need to be resolved and how the processes differ. It explains the prevalence of self-representation in divorce and custody cases in Anchorage, which is similar to much of what is seen in courts across the country. Providing the

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foundation for why the court system created ERP, there is discussion about the appropriateness of a problem-solving approach, the importance of caseload management and early intervention by the court, and the need for triage. There is a section outlining the Early Resolution Program, including the triage screening process. The evaluation is summarized, including the methodology and outcomes. Finally, the findings and conclusions are presented.

## **I. HYPOTHETICAL FAMILY AND POSSIBLE CASE PATHWAYS**

To understand the difference between a case that has an ERP hearing and a case that takes the usual adversarial case approach, it is helpful to consider a fictitious couple, Ms. W and Mr. H, whose situation represents a case commonly heard in the Alaska Court System. They have been married for 14 years. They have two children, aged 10 and 12. They split up four months ago after deciding their marriage was over. They own a home with a mortgage in which Mr. H has been living since they separated. Ms. W rented an apartment 15 minutes from the marital home. The children have been living with each parent one week at a time for alternating weeks. Ms. W is a teacher and has vested in the school district's pension. Mr. H is a manager in a home improvement store and has no retirement account. Their debts include medical bills, credit cards, and Ms. W's student loans.

Mr. H filed a divorce complaint in the Anchorage court on May 16, 2014, asking for shared decision making regarding the children, a parenting schedule with the children living with him Monday–Friday and with Ms. W Friday–Monday. He wants an even split of the marital property and debt. Ms. W filed an answer<sup>1</sup> on June 2, 2014. She asks for shared decision making regarding the children and a parenting schedule of weekly rotations between each parent. She wants Mr. H to keep the house and pay her one-half the equity and split the debt. She wants to keep her pension.

This case could take two different courses. One course would result in the divorce being completed within eight weeks of filing after one uncontested hearing, no postjudgment motions, and fewer case-processing steps by court staff. Another course would result in the divorce taking six months to resolve after a trial, a postjudgment motion to modify, and a higher number of case-processing steps.

### **A. COURSE 1: EARLY RESOLUTION PROGRAM**

If their case takes the first course, within one day after Ms. W files the answer, the file is routed to the Family Law Self-Help Center. That day, a staff attorney reviews the file to determine whether it meets the criteria for the Early Resolution Program (ERP). First, he determines whether the case involves two self-represented litigants. If so, he triages the case to determine whether it is suitable for ERP. Cases are referred to ERP unless there are factors that would exclude it from the program. If appropriate, the attorney schedules the case for an ERP hearing before a settlement judge in approximately three weeks along with up to nine other cases. He sends a notice of the early resolution hearing immediately after the triage is completed and the case is accepted, notifying the parties about the special opportunity to resolve their case quickly by working with legal professionals at the courthouse. The notice also advises the litigant about useful information to bring to court and the staff attorney's direct phone number for questions. Two days before the hearing, the staff attorney calls each party to remind them about the hearing, explain how ERP works, and explain the factors the judge uses to decide parenting issues and the division of marital property and debt. He also suggests information to gather to make the hearing process go more quickly, encourages the parties to think about workable solutions specific to the issues in the case, and asks them to discuss the issues before coming to court if possible, answering any questions.

Depending on the issues in the case, the parties may be assigned two volunteer unbundled attorneys or a court mediator to help them try to resolve the issues by agreement at the hearing. If the case

is similar to the approximately 80 percent of the cases that are heard in ERP, they reach a settlement in one hearing after working together for up to three hours. The parties go into the courtroom with their volunteer attorneys where a judge hears the terms of the agreement, asking any necessary questions. A staff attorney finalizes the final documents—findings of fact and conclusions of law, parenting plan, divorce decree, and child support order—in the courtroom during the hearing. The judge reviews and signs all the documents, which are then copied and distributed in the courtroom. The judge grants the divorce, and the parties leave the courtroom with all the documents in hand. The case is docketed in the case management system by the next day and the case is closed.

## **B. COURSE 2: ADVERSARIAL CASE APPROACH**

Alternatively, the case could take a different course if not referred to ERP. In this scenario, after Ms. W files the answer on June 2, 2014, the judge sets a 15-minute trial-setting conference for four to six weeks later, at which both self-represented parties are to appear. During the conference, the judge schedules a trial for February 27, 2015. Afterward, the judicial assistant types up a trial scheduling order that includes the trial date and time, noting the requirement to file trial briefs and witness lists and to exchange exhibits 45 days before trial.

On November 14, 2014, Ms. W files a motion requesting to take the children to Hawaii for winter break after Mr. H told her she could not take the children on vacation because he had different plans for them. She also files a supporting affidavit and proposed order. However, Ms. W fails to fill out the certificate of service section on the form indicating she provided Mr. H with a copy of her filing, so, on November 20, the court's civil department mails her a written deficiency notice alerting her that she needs to serve Mr. H again and file a completed certificate of service. On November 27, Ms. W sends Mr. H a copy of the filing and files a certificate of service that day. On December 9, Mr. H files an opposition to Ms. W's motion, along with an affidavit and proposed order, stating he did not want the children to go to Hawaii because their 95-year-old grandmother (his mother) was going to be visiting Anchorage over the holidays. On December 15, Ms. W files an expedited motion, affidavit, and proposed order, and an underlying motion, affidavit, and proposed order, asking the court to schedule a hearing on the vacation matter as soon as possible because she already purchased the Hawaii plane tickets and rented a condo on Maui for ten days, and they were supposed to depart on December 20.

The court schedules a hearing on December 19 for 30 minutes. After hearing each side's arguments, the judge rules from the bench and allows Ms. W to take the children to Hawaii. After the hearing, the judge listens to the electronic recording, writes up a two-page order, and gives it to his judicial assistant. She docketed the order in the electronic case management system, makes two copies to mail to each party, and puts the original order in the file.

By mid-January, the parties follow the trial scheduling order and each files the trial brief, witness list, and exchanged exhibits. On February 12, the parties appear at a 15-minute pretrial hearing where the judge tells them the trial will happen on the scheduled date. On February 27, the trial occurs over the course of four hours. At the trial's end, the judge takes the matter under advisement. On March 10, the judge reviews the notes he took during the trial and listens to parts of the testimony of the parties and some of their witnesses. After two and a half hours, he reaches a decision and drafts the required final documents. His judicial assistant makes the distribution copies, docketed the documents in the case management system, files the originals, and mails copies to the parties.

The implications for litigants and the court system are different depending on which course the case takes. A case that moves through Course 1 is there specifically because the triage screening process found the case suitable for ERP. The ERP process is geared toward helping parties settle their dispute without trial. The case gets into court quickly and likely resolves in one hearing. Cases that go the Course 2 route usually result in multiple appearances and a longer time until the case is over. No systemic screening process is involved and cases are treated generally as if they are destined for trial regardless of the issues or characteristics of an individual case. Elongating the parties'

interaction with each other and the court system is problematic, particularly when the majority of family law cases involve self-represented individuals.

## II. PREVALENCE OF SELF-REPRESENTATION IN ANCHORAGE DIVORCE AND CUSTODY CASES

“A traditional hallmark of civil litigation is the presence of competent attorneys zealously representing both parties.”<sup>2</sup> “The idealized picture of an adversarial system in which both parties are represented by competent attorneys who can assert all legitimate claims and defenses is an illusion.”<sup>3</sup> It is widely believed that at least 75 percent of cases handled by civil courts nationally involve at least one self-represented litigant.<sup>4</sup> In the Anchorage court, the majority of contested divorce and custody cases involve at least one self-represented party, with the percentage ranging from 67 to 72 percent between 2010 and 2014. The percentage of cases with two self-represented parties increased from 38 to 45 percent over this five-year period.

People represent themselves for a variety of reasons. Many low-income and middle-income individuals, as well as small businesses, cannot afford to pay for attorneys. Others believe they can handle the matter themselves or want control over their cases.<sup>5</sup> The ready availability of information in books and online has fostered the perception that the legal process can be navigated without an attorney.<sup>6</sup> “[G]rowing numbers of people who use family courts simply do not want or trust lawyers to serve their best interests even when they can afford them.”<sup>7</sup> These reasons for not hiring an attorney “reflect economic and social trends and are not likely to change in the near future.”<sup>8</sup>

Self-represented litigants pose challenges for the court. They may be unfamiliar with court procedure, so they may make mistakes regarding the documents they file and may not know how to conduct themselves during hearings or trials. Judges may feel tension between instructing self-represented litigants about proper procedures that Alaska Supreme Court case law permits and not giving them legal advice that is clearly prohibited to maintain judicial neutrality.

## III. A PROBLEM-SOLVING APPROACH IN FAMILY LAW CASES

Courts generally use the adversarial model to resolve divorce and custody cases. The adversarial system relies on the court and the litigants engaging in a rational fact-finding process to reach legally appropriate and final decisions for legal disputes. Court rules provide the procedures for opposing parties to make their respective arguments and introduce supporting evidence so the judge is able to issue an impartial final decision. The adversarial model, however, is not suited to resolve family law disputes. “Although adversary procedures are rooted in due process of law and perform essential social functions, they do not meet the needs of many reorganizing families who look to the courts for solution.”<sup>9</sup> “As family law scholars repeatedly explain, adversarial procedures are uniquely costly and counterproductive in resolving custody disputes.”<sup>10</sup> The process “bears with it significant emotional and financial cost.”<sup>11</sup> It facilitates one parent’s alleging that the other parent engages in bad behavior and deficient parenting to elevate his or her position, exacerbating existing hostility and engendering long-term mutual distrust. As one critic characterized it, “The formal nature of the courts pits the parties against one another like two scorpions in a bottle, at a time when they are most angry and hostile toward one another.”<sup>12</sup> Jane Murphy and Jana Singer write extensively about how the adversarial process used in family dispute resolution harms children, parents, families, the judicial system, and lawyers and undermines confidence in the legal system.<sup>13</sup> Interestingly, litigants tend to express dissatisfaction with the adversarial process, even when they prevail at trial.<sup>14</sup> “There is a profound consensus that the emotional costs of adversarial custody proceedings are intolerably high.”<sup>15</sup>

Reform efforts in domestic relations courts reflect this understanding. As Professor Singer observes, courts are undergoing a “paradigm shift” away from a “law-oriented and judge-focused

adversary model” toward “a more collaborative, interdisciplinary, and forward-looking family dispute resolution regime.”<sup>16</sup> Recognizing that family disputes are not well served by the adversarial system, the Conference of State Court Administrators (COSCA) issued a white paper that called upon court leaders to consider a problem-solving approach to family cases:

To aid litigants in reaching acceptable outcomes to these very personal disputes, court leaders must examine the management of family cases and the underlying system used to resolve these cases. If courts are to help families fashion outcomes that are both legally appropriate and practically workable, court leaders must de-emphasize the adversarial model of dispute resolution and place greater weight on a “problem-solving” approach to family cases. Court leaders must ask what the current system does—through its processes, procedures, attitudes, and lack of resources and services—to aggravate the problems seen in family cases[.]<sup>17</sup>

COSCA called for

creating a judicial environment that identifies and minimizes the wide-ranging negative effect that these cases can have on the parties, both during the court process and afterwards. To the extent that courts can soften the adversarial nature of family proceedings by encouraging restorative, problem-solving resolution processes, they will help the litigants reach outcomes that are more acceptable to everyone.<sup>18</sup>

In resolving family law disputes, the court system’s role “as adjudicator is compatible with being a convener, mediator, facilitator, service provider, and case manager.”<sup>19</sup> A problem-solving approach to family cases envisions the judge and court staff as viewing “their roles and actions as defined by both the law and the unique needs of each family.”<sup>20</sup>

Research suggests that attempts by courts to formulate problem-solving focused alternatives to the adversarial process for separating and divorcing parents have yielded positive results.<sup>21</sup>

#### IV. CASEFLOW MANAGEMENT: EARLY INTERVENTION

In creating a problem-solving approach to family cases, it is critical to think carefully about caseload management. “Effective caseload management is the process through which courts move all cases from filing to disposition. Judicial branch supervision and management is imperative to manage the time and events involved in the life of a case.”<sup>22</sup>

A basic principle of caseload management is that the court should control the progress of cases, with no unreasonable interruption in its procedural progress from initiation through disposition.<sup>23</sup> Courts should give attention to civil cases at the earliest possible point, resulting in earlier settlements.<sup>24</sup> Steelman et al. provide the following:

The objectives of early intervention are to make the point of case resolution happen as early in the case process as is reasonable, and to reduce the costs for the parties and the court of getting to case resolution. This reflects recognition that most cases are resolved by negotiated settlement or plea, while only a small percentage of cases are actually resolved by the binding decision of a judge or jury after a trial.<sup>25</sup>

It is important to avoid delay in family cases because the adjudication style can be distinguished from other criminal and civil case types. “Instead, family cases are dominated by what has been called ‘diagnostic adjudication,’” which focuses on the proactive role of the court in defining the issues and fashioning appropriate remedies.<sup>26</sup> Specific caseload management techniques recommended for divorce cases to promote more prompt justice as outlined in Steelman et al. include the following:

- Recognize emotional issues;
- Adopt and follow time standards;



- Adopt appropriate measures for self-represented litigants because the majority of cases are likely to have one or both parties representing themselves;
- Exercise control over the scheduling of case events;
- Develop simplified procedures to expedite uncontested cases;
- Screen cases early for assignment to differentiated case management tracks;
- Give careful attention in divorce decrees to property, custody, visitation, and support questions; and
- Give management attention to contested postdisposition matters.<sup>27</sup>

As Richard Zorza's article on the need for court simplification to enhance civil access and justice transformation provides:

Speedy resolution, while not the only goal, is important to litigants. Speed is also closely related to total cost. For poor and middle-income people, each hearing or step may represent lost wages, or even the threat of a lost job, as well as incidental travel and childcare expenses. To the extent that advocacy costs are being incurred, those also increase with longer case processing time. Finally, extra time adds complexity and, thus, other costs. Several decades of caseload management data give us the tools to assess this criterion and a history of attempts to control timelines.<sup>28</sup>

## V. DIFFERENTIATED CASE MANAGEMENT AND TRIAGE

Many courts have recognized the value of differentiated case management (DCM) to control case progress, to reduce the time to resolution, and to reduce costs for litigants. DCM is "a technique courts can use to tailor the case management process to the requirements of individual cases."<sup>29</sup> Central to the DCM approach is the recognition that many cases should proceed through the court system at a faster pace than other cases if appropriate pathways are provided. Cases should not "wait for disposition simply on the basis of the chronological order of their filing."<sup>30</sup>

The next step in the evolution of case management beyond DCM is a "more refined triage based upon issues raised rather than case type."<sup>31</sup> In the context of courts, case triage is a more aggressive form of case management that identifies the appropriate resolution approach for a specific case based on its issues and characteristics. Some have defined triage as

a process of rational distribution of resources based on litigant need and case complexity to assure all litigants have equal access to justice. In other words, triage should be designed to sort resources and people to enable the most just, accurate and efficient result for all.<sup>32</sup>

"Triage is necessary to match the right issues with the right adjudicatory processes."<sup>33</sup> As such, four cases of the same case type might go into four different tracks: one may receive a problem-solving approach of a settlement calendar; one may receive mediation services; one may be in the early neutral evaluation track; and one may receive the full adversarial treatment processing for a trial.

Numerous stakeholders, including court administrators, judicial officers, and legal service providers, increasingly recognize the importance of triage within the legal system.<sup>34</sup> Identifying the most appropriate process at the outset has three significant benefits. It may save parties from repeated visits for multiple family court service processes, it avoids delays, and it reduces the escalating polarization and associated entrenchment of positions that can accompany repeated failed settlement attempts through multiple processes.

Screening criteria are needed, as well as a consistent methodology, that could be used by different staff members to arrive at the same resolution track despite who is doing the screening. Different courts and organizations have embarked on developing screening tools.<sup>35</sup>

The Connecticut Judicial Branch Court Support Services Division pioneered a combination of an intake process, the Family Civil Intake Screen, and a menu of services that include mediation, a conflict resolution conference (CRC),<sup>36</sup> a brief issue-focused evaluation (IFE),<sup>37</sup> and a full

evaluation.<sup>38</sup> The Family Civil Intake Screen was designed to “streamline families into appropriate services by paving more efficient and appropriate paths through the family court system based on each family’s needs.”<sup>39</sup> The screen includes questions that address the level of conflict, communication and cooperation, complexity of issues, and level of dangerousness.<sup>40</sup>

## VI. EARLY RESOLUTION PROGRAM

In 2009, inspired by her experience with problem-solving drug courts, Anchorage Superior Court Judge Stephanie Joannides wanted to manage her family law cases involving self-represented parties differently and more efficiently. She partnered with the author, who is the director of the court’s statewide Family Law Self-Help Center (FLSHC), to create a new program called the Early Resolution Program (ERP) to manage contested divorce and custody cases with two self-represented litigants. Katherine Alteneider, who was working at the Alaska Pro Bono Program (APBP), offered to bring unbundled volunteer attorneys into the program and to help figure out the case-screening process.<sup>41</sup> The unbundled volunteer attorneys would advise and represent self-represented litigants at the ERP hearings and negotiate with the other party’s volunteer attorney in the spirit of settlement. This unbundled representation would be for the ERP hearing only; extensive training materials and limited-scope representation agreements were developed to facilitate this limited-scope work. In addition to partnering with APBP, Wendy Lyford, the court’s mediation program coordinator, offered to provide mediators from the court’s Child Custody Visitation and Mediation Program, as appropriate, to parents needing assistance with parenting plans at the ERP hearings.

The court system anticipated that early intervention in the case process and the help of legal professionals would encourage parties to settle their issues rather than go through a protracted court trial. The result would be faster resolutions in which the parties created their own solutions after benefiting from legal advice, mediation or a settlement conference, and a lessening of workload for the courts.

In ERP, an FLSHC staff attorney conducts a triage process with every newly filed contested divorce and custody case involving two self-represented litigants. The attorney screens the case to determine suitability for the program and, if included, assigns the appropriate free legal resource—volunteer unbundled attorneys, mediator, or settlement judge—to help resolve the case. Upon acceptance, the FLSHC attorney sends each party a plain-language scheduling notice to appear at an ERP hearing that includes information about the program. Attendance at the hearing is required, but the case is usually removed from ERP if one or both parties hire an attorney.<sup>42</sup> Six to nine cases are placed on the court calendar for the same hearing time slot. The process is swift, and the parties often leave the courtroom with all issues resolved and signed copies of all the necessary final paperwork.

After a six-month pilot, in mid-2011, the program became institutionalized in the Anchorage court. As of September 2018, over 1,200 cases had been heard in the Anchorage ERP. Three other court locations also run ERP calendars. After screening, over half of the eligible cases are included in the program. Approximately 80 percent resolve by agreement.

### A. ERP TRIAGE

Effectively triaging divorce and custody cases involving self-represented litigants to determine the appropriate resolution approach is a hot topic in family law.<sup>43</sup> The Alaska ERP screens cases to determine whether the case could resolve by agreement with the assistance of volunteer attorneys, mediators, and/or a settlement judge soon after the case is filed. An FLSHC staff attorney conducts a simple two-level triage process using readily available information for each newly filed contested divorce and custody case involving two self-represented litigants. Level 1 looks for reasons to exclude a case, and, if included, Level 2 determines which legal resource—volunteer unbundled attorneys, mediator, or settlement judge—is appropriate to help the parties resolve the issues.

The Level 1 screening starts after an answer is filed because both parties are participating in the case, which is necessary to reach an agreement. The screening reviews the court file, which typically includes the complaint and answer that provides information about the marital property and debt in a divorce, and the parties' positions on parenting plans for children of the relationship (i.e., how decisions about the children should be made, what living schedules the children should have with each parent, and information about each party's earnings and tax returns). The screening also reviews each party's individual court case histories as reflected in the electronic court case management system, including domestic violence, criminal, child protection, mental commitments, small claims, evictions, and other divorce or custody cases with different partners.

Importantly, the screening process does not weigh heavily the level of conflict between the parties or their positions on the issues because the adversarial process likely contributes to the parties' conflict. Moreover, ERP staff attorneys have observed that the parties' positions are not necessarily reliable indicators of what they really want or expect to happen when the case is decided. Some parties have reported that their positions represent what they think they should request. Their position may also be the result of posturing or may be based on a misunderstanding of what the legal terms *legal custody* and *physical custody* actually mean. Instead, the screener looks for reasons to exclude a case from ERP, believing that most cases could benefit from a settlement process if provided appropriate resources. Some factors that may cause a case to be screened out as inappropriate include current and serious domestic violence incidents, especially if there are minor children involved;<sup>44</sup> issues requiring evidentiary findings, such as a challenge to the court's jurisdiction or disputed valuation of marital property; a pending child abuse or neglect case; or a nonparent who has asserted that he or she should be awarded custody.

Regardless of whether the parties agree on any issues, the case will be included in ERP if a workable solution seems obvious (e.g., disputes regarding legal decision-making authority, living schedule issues that do not involve contested relocation, and low-value assets/debts, although division of retirement accounts and marital homes is common). In addition, important factors are the length of marriage and separation, the age of the children, and whether the list of marital property and debt is similar, even if the values or proposed allocations are different.

The second level determines the appropriate legal resource for the individual case: two volunteer unbundled attorneys, a mediator, or a settlement judge. Assignment depends on several considerations, including the issues involved and how close the parties' positions are to the realistic range of possible outcomes given the facts of the case and the legal framework.

If the staff attorney determines that the parties would benefit from legal advice because one or both parties' positions are extreme or unrealistic given the legal framework, there is known or alleged domestic violence, or a party seems particularly indecisive, a free volunteer unbundled attorney is provided to each litigant for the hearing. The volunteer attorneys provide limited-scope representation, advising their client for the ERP hearing only and negotiating with the opposing party's volunteer attorney to see whether any agreements can be reached. Sometimes, due to the issues in the case (e.g., a long marriage with no minor children but many items of marital property to address), a volunteer attorney may function as a neutral, not advising either party, but acting as a mediator to help facilitate communication. Also, if there are not enough volunteer attorneys to be assigned to each party at a particular hearing, one attorney may work as a neutral to see whether any issues can be resolved.

Cases involving parties with children are often assigned a mediator from the court's Child Custody Visitation and Mediation Program if it is determined they could benefit from talking through the details of a parenting plan or need assistance communicating. Young parents of babies are particularly suited for mediation because they have many years to co-parent during a child's minority period. Also, parents of teenagers are good candidates for mediation; the teen's preference is often strongly indicative of what the final parenting arrangement will be to avoid runaway situations when teens do not want a certain living arrangement.

Some cases are not assigned attorneys or mediators if there is nothing in dispute or relatively few or simple issues need to be decided and they work directly with the settlement judge. At every

hearing, there are usually one or two cases in which the parties had short marriages, had no children, and agree there is no property or debt to be divided. The settlement judge can finalize such cases very quickly. In some cases, it is determined that the “black robe effect” will be helpful to educate parties about the reality of their proposed positions and attorneys, or the mediator can ask the judge to talk to the parties to explain an issue, such as how child support is calculated, or to present options.

If the parties reach an agreement, the ERP judge makes sure it meets the legal requirements and the parties memorialize it on the record. During the hearing, an FLSHC staff attorney drafts the final orders based on the agreement that the judge signs at the hearing’s conclusion and distributes them to the parties in the courtroom.

## **B. EVALUATION FOCUS**

Once a triage tool or screening process is implemented, it is important to track the outcomes of the cases to determine whether the tool meets its intended objectives. In 2015–2016, an evaluation was conducted to determine whether there were differences between ERP cases and cases that proceed through the typical adversarial process with respect to

- time to disposition from the answer filing date to the disposition date;
- number of processing steps conducted by court staff and the judge and amount of time associated with those steps; and
- number of motions to modify filed within two years of the case disposition.

Shorter time to disposition and fewer case-processing steps that take less time overall provide evidence of enhanced case-processing efficiency. Resolving cases more quickly results in reduced time for litigants engaging in their court cases and thus facilitates their transition to life after court. To determine whether litigants are satisfied with the case resolution, the number and timing of post-judgment motions to modify can be reviewed. The assumption is that parties file motions to modify soon after the final judgment if they are unhappy with the outcome. Reviewing the number of motions to modify can be useful when comparing two different case-processing methods, particularly when one process emphasizes quick disposition.

## **VII. METHODS**

The evaluation goal was to determine whether ERP cases that resolve by settlement have better outcomes than similarly situated cases that do not go through ERP and proceed through the typical trial process. There was an abundance of information collected for ERP cases since the program began in December 2010, including case outcomes, time to disposition, and the number of motions to modify. This evaluation looked at 299 ERP cases that resolved by settlement from 2011 to 2013.

It was not possible to create a control group from cases that occurred during the same time period as the ERP cases because they would not be comparable. The cases from 2011 to 2013 that were not accepted into ERP were rejected because they had disqualifying characteristics. To find a group of cases in which to compare the relevant outcomes, a random sample of 392 divorce and custody cases from 2007 to 2009, prior to ERP implementation, was screened using the same screening methodology as ERP cases.<sup>45</sup> The screening looked at the documents in the file until the answer filing date and ignored everything filed after that date. In addition, a search of the court’s electronic case management system occurred for each party to the case using a name search to determine each of their court case histories until the date of the answer. From that group of 392 screened cases, 228 would have been “accepted” into ERP, had it existed at the time.

#### **A. TIME TO DISPOSITION AND MOTIONS TO MODIFY**

Reports generated from the court's case management system calculated (1) the time from the answer filing date to the disposition date and (2) the number of motions to modify filed within two years of the disposition date for the cases in the ERP group and the control group.

#### **B. CASE-PROCESSING STEPS AND TIME TO PROCESS CASE**

It was not possible to calculate the precise number of steps and associated amount of time for each case in the ERP group and the control group because that information was not collected when the cases moved through the system. As such, a proxy of the average case's processing steps was determined for ERP and for cases that proceeded through the typical process before the assigned judge in 2015–16 when this evaluation occurred. The number of steps to process an ERP case and a typical divorce or custody case was determined for each process. Each step was identified, and the amount of time in minutes to conduct each associated step was calculated. The total number of processing steps and total minutes for all steps were added together for an ERP case and for a typical divorce or custody case.

ERP case-processing steps are relatively uniform. There are slight variations depending on whether a case is a divorce with or without children and with or without property. Non-ERP cases can vary depending on the issues in the case and the judge hearing the case, but the typical divorce or custody case often follows a similar case processing pathway. For purposes of this analysis, six cases were assumed to be heard during an ERP hearing. Also, the case-processing steps for the typical divorce and custody group involve the following three courtroom events:

- an initial status conference or trial scheduling conference;
- a trial call or pretrial hearing; and
- a trial/settlement conference.

The analysis assumes no motions are filed requiring additional hearings.

For ERP and typical divorce and custody cases, every step to process a case was identified. This involved tracking a case file from initiation to closing by identifying each step a file takes, including court staff and judge tasks and associated average amount of time in minutes to perform that task. The tasks and time were calculated by observation and self-reporting by appropriate staff and judges.

### **VIII. FINDINGS**

Cases that resolved through ERP compared to the typical trial track had different metrics. Table 1 summarizes the findings. The time to disposition from the answer filing date varied significantly between the cases that settled in ERP compared to those in the control group that resolved before the assigned judge. The mean time to disposition from the answer filing date for ERP cases was 50 days and 172 days for the control group, a statistically significant difference. ERP cases resolved three to four times faster than the control group cases. This difference can be attributed to the ERP process that screens cases as soon as the answer is filed and subsequently schedules a hearing a few weeks later, at which most cases resolve by agreement.<sup>46</sup>

There was also a difference in the number of motions to modify filed within two years of the disposition. This outcome was chosen as a proxy for litigant satisfaction based on the belief that dissatisfied litigants file motions to modify soon after the disposition, essentially as a way to express buyer's remorse to a settlement. ERP cases had .18 motions and the control group cases had .22 motions. There was not a statistically significant difference between the two outcomes. The very low number of motions to modify in both groups indicates that filing one was a relatively rare

**Table 1**  
Overview of Findings

	<i>ERP Case</i>	<i>Control Group</i>
Time to disposition, mean	50 days	172 days
Time to disposition, median	42 days	104 days
Time to disposition, standard deviation	33	199
# of motions to modify	.18	.22
# of motions to modify, standard deviation	.51	.80
	<b><i>ERP Case</i></b>	<b><i>Typical Divorce or Custody Case</i></b>
# Case-processing steps—divorce w/o children (may have property/debt to divide)	28 steps	49 steps
# Case-processing steps—divorce w/children (and no property/debt) and custody between unmarried parents	30 steps	49 steps
# Case-processing steps—divorce w/children and property/debt to divide	30 steps	49 steps
Time to process—divorce w/o children (may have property/debt to divide)	219 minutes	1,038 minutes
Time to process—divorce w/children (and no property/debt) and custody between unmarried parents	260 minutes	1,053 minutes
Time to process—divorce w/children and property/debt to divide	265 minutes	1,053 minutes
Weighted average time to process a divorce or custody case	240 minutes	1,047 minutes

occurrence and most cases did not include a postjudgment motion in the two-year time frame. This result suggests that ERP cases, which resolved significantly more quickly than typical divorce and custody cases, did not result in more dissatisfaction. In other words, any concerns that the ERP process is too quick and parties do not have enough time to think about the issues are not reflected in additional postjudgment motion activity, and fewer motions result.

The number of processing steps and staff time per case varied significantly between ERP cases and typical divorce and custody cases. From filing to disposition, there are 28 or 30 processing steps in ERP cases depending on whether child custody is at issue, taking a total of 240 minutes (4 hours) of staff time. A typical non-ERP divorce or custody case has 49 processing steps which takes 1,047 minutes (17.45 hours). ERP cases have 39 percent fewer processing steps and save greater than 13 hours per case. The ERP process is more efficient than the typical case processing for two main reasons. First, once the staff attorney screens and accepts a case into ERP, the file stays with the attorney, eliminating many case-processing steps that occur in typical cases. Second, there are great efficiencies in scheduling multiple cases during the same ERP hearing block, especially when most cases resolve in one court event.

## IX. CONCLUSIONS

The Early Resolution Program was designed to address many issues of interest to the Alaska Court System—self-representation in family law cases, the need to triage to determine the appropriate resolution approach, the importance of early intervention, and the desire to use a simplified process and a problem-solving approach. This evaluation shows that ERP has been an effective way to resolve newly filed contested divorce and custody cases involving two self-represented parties. It resulted in much faster resolutions for litigants and court staff than similarly situated cases that are resolved in the typical adversarial fashion. ERP cases involve many fewer case-processing steps and

substantially less staff time. ERP cases have similar levels of satisfaction as typical divorce and custody cases, as represented by the number of motions to modify filed within two years of disposition. This evaluation showed that ERP has been an effective and efficient way to resolve newly filed contested divorce and custody cases involving two self-represented parties.

## NOTES

1. In a contested divorce and custody case, the plaintiff starts the case by filing a complaint and other required documents and serving the documents to the defendant. The defendant has 20 days to file an answer to the complaint, responding to each of the plaintiff's requests and also including counterclaims that assert his or her own requests. If the defendant does not file an answer within 20 days, the plaintiff may file an application for a default judgment.

2. Paula Hannaford-Agor, *Civil Justice Initiative: The Landscape of Civil Litigation in State Courts*, Nat'l Ctr. For State Courts iv (2016), <https://www.ncsc.org/~media/Files/PDF/Research/CivilJusticeReport-2015.ashx>.

3. *Id.* at vi.

4. Self-Represented Litigation Network, *SRLN Brief: How Many SRLs?*, <https://www.srln.org/node/548/srln-brief-how-many-srls-srln-2015>.

5. CALIFORNIA ADMINISTRATIVE OFFICE OF THE COURTS, HANDLING CASES INVOLVING SELF-REPRESENTED LITIGANTS, A BENCHGUIDE FOR JUDICIAL OFFICERS, 1–3 (2007).

6. CONFERENCE OF STATE COURT ADMINISTRATORS, POSITION PAPER ON SELF-REPRESENTED LITIGATION 1 (2000).

7. Andrew Schepard, *Tragedy and Hope*, 40 FAM. CT. REV. 5, 6 (2002).

8. *See* HANNAFORD-AGOR, *supra* note 3, at 1–2.

9. Rebecca Love Kourlis, Melinda Taylor, Andrew Schepard, & Marcia Kline Pruett, *IAALS' Honoring Families Initiative: Courts and Communities Helping Families in Transition Arising from Separation or Divorce*, 51 FAM. CT. REV. 351, 354 (2013).

10. Rebecca Aviel, *Counsel for the Divorce*. 55 B.C. L. REV. 1099, 1107 (2014).

11. Kourlis et al., *supra* note 9.

12. Janet Weinstein, *And Never the Twain Shall Meet Again: The Best Interests of Children and the Adversary System*, 52 U. MIAMI L. REV. 79, 132–33 (1997).

13. JANE C. MURPHY & JANA B. SINGER, *DIVORCED FROM REALITY: RETHINKING FAMILY DISPUTE RESOLUTION*, Chapter 2 (2015).

14. Kourlis et al., *supra* note 9, at 360.

15. Aviel, *supra* note 10, at 1108.

16. *Id.* (citing Singer and Murphy).

17. CONFERENCE OF STATE COURT ADMINISTRATORS, POSITION PAPER ON EFFECTIVE MANAGEMENT OF FAMILY LAW CASES 1–2 (2002).

18. *Id.* at 6.

19. *Id.* at 5.

20. *Id.* at 6.

21. Kourlis et al., *supra* note 9, at 362.

22. NAT'L JUDICIAL COLLEGE, *FAIR, TIMELY, ECONOMICAL JUSTICE: ACHIEVING JUSTICE THROUGH EFFECTIVE CASEFLOW MANAGEMENT* 4 (2009).

23. DAVID C. STEELMAN, NAT'L CENTER FOR STATE COURTS, *IMPROVING CASEFLOW MANAGEMENT: A BRIEF GUIDE* 7 (2008).

24. DAVID C. STEELMAN, JOHN A. GOERDT, & JAMES E. MCMILLAN, NAT'L CENTER FOR STATE COURTS, *CASEFLOW MANAGEMENT: THE HEART OF COURT MANAGEMENT IN THE NEW MILLENNIUM* 25 (2004).

25. *Id.* at 3.

26. *Id.* at 43.

27. *Id.* at 49–51.

28. Richard Zorza, *Some First Thoughts on Court Simplification: The Key to Civil Access and Justice Transformation*, 61 DRAKE L. REV. 845, 859–60 (2012).

29. BUREAU OF JUSTICE ASSISTANCE, U.S. DEPARTMENT OF JUSTICE, *DIFFERENTIATED CASE MANAGEMENT: PROGRAM BRIEF* 1 (1993).

30. BUREAU OF JUSTICE ASSISTANCE, U.S. DEPARTMENT OF JUSTICE, *DIFFERENTIATED CASE MANAGEMENT: IMPLEMENTATION MANUAL* 1 (1993).

31. THOMAS M. CLARKE & VICTOR E. FLANGO, *Case Triage for the 21st Century*, in NAT'L CENTER FOR STATE COURTS, *FUTURE TRENDS IN STATE COURTS 2011: A SPECIAL FOCUS ON ACCESS TO JUSTICE* 146 (2011).

32. THOMAS CLARKE, RICHARD ZORZA, & KATHERINE ALTENEDER, *TRIAGE PROTOCOLS FOR LITIGANT PORTALS: A COORDINATED STRATEGY BETWEEN COURTS AND SERVICE PROVIDERS* 1 (2013); *see also* Richard Zorza, *The Access to Justice "Sorting Hat": Towards a System of Triage and Intake That Maximizes Access and Outcomes*, 89 DENV. U. L. REV. 859 (2012) (providing a comprehensive discussion of legal triage).

33. Victor E. Flango & Thomas M. Clarke, *Which Disputes Belong in Court?* 50 JUDGES J. 22, (2011).

34. See CLARKE & FLANGO, *supra* note 31, at 1.

35. See Michael Saini, *Triage in Family Law: Presentation to the Nat'l Center for State Courts*, <https://prezi.com/3ujqwoheap6/saini-2014-triage-in-family-law-presentation-to-the-national-centre-for-state-courts/> (last visited Apr. 11, 2019) (including examples of growing work in this area around the world, in Canada, New Zealand, and Australia); see also HILL USER FRIENDLY JUSTICE, <http://www.hill.org/project/rechtwijzer> (last visited Jan. 4, 2016) (specifically Rechtwijzer 2.0, an interactive online justice application from the Netherlands that was part triage, getting consumers to legal resources, and part dispute resolution from 2014).

36. The CRC blends mediation and negotiation processes with the primary goal of helping the parties reach a resolution. If the parties cannot reach a resolution, a court counselor may direct the process, obtain collateral information relevant to the case, and offer suggestions as well as recommendations. Attorneys are usually present during the CRC.

37. The IFE is a nonconfidential process of evaluating a limited issue impacting a family and/or a parenting plan. The goal is to define and explore the issue causing difficulties for the family, gather information regarding only this issue, and provide a recommendation to the parents and the court regarding a resolution to the dispute. It is limited in scope, involvement, and duration.

38. MARCIA K. PRUETT & MEGAN DURELL, FAMILY CIVIL INTAKE SCREEN AND SERVICES EVALUATION: FINAL OUTCOMES REPORT. CONNECTICUT JUD. BRANCH CT. SUPPORT SERVS. DIV. (2009).

39. *Id.* at 4.

40. Peter Salem, Debra Kulak, & Robin M. Deutsch, *Triaging Family Court Services: The Connecticut Judicial Branch's Family Civil Intake Screen*, 27 PACE L. REV. 741, 758–61 (2006).

41. The volunteer attorney component of ERP transitioned later to be under the auspices of Alaska Legal Services Corporation.

42. Occasionally if one party hires an attorney, that attorney and client agree to participate in ERP and work toward a settlement with a volunteer attorney representing the other side.

43. In 2013, the State Justice Institute funded a project to identify case triage strategies for case types with high numbers of self-represented litigants. See *supra* note 31, Clarke et al. See also THOMAS M. CLARKE, NAT'L CENTER FOR STATE COURTS, BUILDING A LITIGANT PORTAL, BUSINESS AND TECHNICAL REQUIREMENTS (2015) (providing the business and technical requirements for building a litigant portal as a vehicle for case triage); VICTOR FLANGO & THOMAS CLARKE, REIMAGINING COURTS: A DESIGN FOR THE TWENTY-FIRST CENTURY (2015) (discussing triage in the majority of the book).

44. Alaska Statute 25.24.150(g) includes a rebuttable presumption that a parent with a history of domestic violence cannot get anything more than supervised visitation, unless specific time-intensive conditions are met. A history of domestic violence is defined as more than one domestic violence incident or a domestic violence incident resulting in serious physical injury (AS 25.24.150(h)). If it is clear that the presumption applies in a divorce with children or a custody case between unmarried parents, the case is excluded from ERP. The rationale is that there is nothing the parents can negotiate to resolve the custody issue, except for the parent with the domestic violence history agreeing to have supervised visitation and completing the required programs.

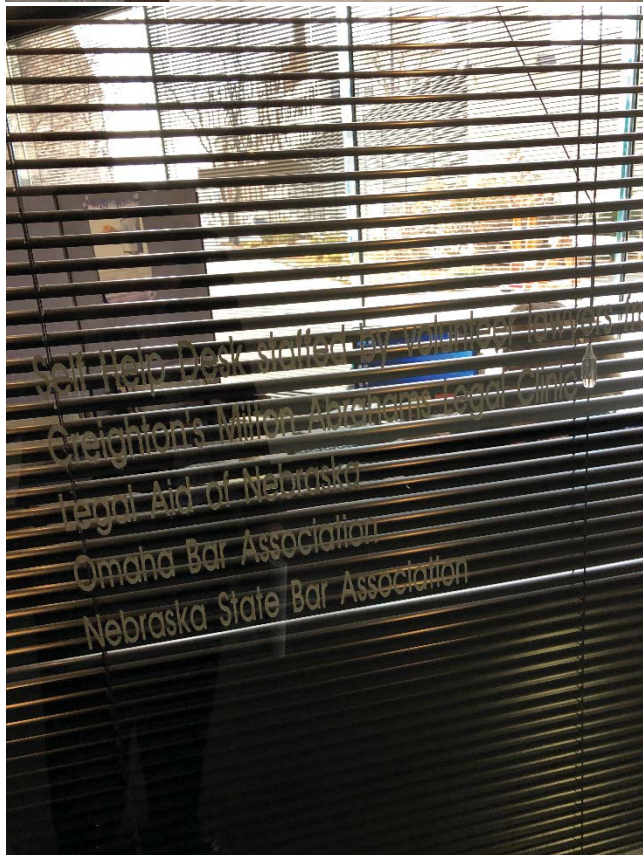
45. It was necessary to determine the sample size needed, so a power analysis was conducted that considered the standard deviations for both the range of numbers in the time to disposition data set and the number of motions to modify data set. The power analysis revealed that at least 100 cases were required to be in the control group to arrive at a valid comparison for the time to disposition, but 200 cases were required to be in the control group to arrive at a valid comparison for the number of motions to modify. Based on the historical screening acceptance rate of 50 to 60% for cases found suitable for inclusion in ERP, close to 400 cases needed to be screened to arrive at a control group of at least 200 cases.

46. Some ERP cases return for a second ERP hearing if they reach an interim agreement and want to see how it goes for a period of time before finalizing it, or if they are making progress but need to gather more information, such as to find out whether a house can be refinanced into one spouse's name before reaching an agreement on the property.

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**Appendix 15 – Additional photos of signage at the Douglas County courthouse**



**Appendix 16 – Center for Court Innovation, If Walls Could Talk: Can Better Court Signs Help Build Public Trust? (2019)**

# If Walls Could Talk: *Can Better Court Signs Help Build Public Trust?*

**“Truth is powerful  
and it prevails.”**  
— SOJOURNER TRUTH

- Please
-  No Phones
  -  No Recording Devices
  -  No Food / Beverages
  -  No Smoking
  -  No Talking
  -  No Hats

## ABOUT THE CENTER FOR COURT INNOVATION

The Center for Court Innovation works to advance procedural fairness through demonstration projects, research, and training and technical assistance to court practitioners nationally. Through support from the State Justice Institute, the Bureau of Justice Assistance, and direct partnerships with localities, staff have trained hundreds of court professionals on procedural fairness and maintain a procedural fairness “speakers’ bureau” of topical experts from around the country who represent a variety of roles in the court system. The Center has developed a number of tools designed to help practitioners engage with the concept and improve their individual and agency-wide practice. Recent examples include:

- “What is Procedural Justice?,” a three-minute animated video introducing the topic, available on the Center’s Procedural Justice YouTube playlist;
- “To Be Fair,” a book of practitioner interviews about procedural justice and its applications in courts;
- “Procedural Justice: Fair Treatment Matters,” training materials that are applicable to a range of court audiences and are accompanied by a facilitator’s guide;
- “Practical Tips for Courts” outlines concrete communication strategies aligned with procedural justice; and
- Procedural Justice YouTube playlist.

[www.courtinnovation.org](http://www.courtinnovation.org)

## ABOUT THE TEXAS MUNICIPAL COURTS EDUCATION CENTER

The Texas Municipal Courts Education Center (TMCEC) strives to advance the fair and impartial administration of justice. In working toward this goal, TMCEC embraces its mission to provide high quality judicial education, technical assistance, and the necessary resource material to assist municipal judges, court support personnel, and prosecutors in obtaining and maintaining professional competence. Funded by the Texas Court of Criminal Appeals, the Center trains over 5,000 individuals each year on substantive legal issues, as well as best practices in court administration, such as the procedural justice initiative in partnership with the Center for Court Innovation.

Texas Municipal Courts Face of Justice: Building Trust and Confidence through Model Court Websites and Signage was funded by the State Justice Institute in 2018-2019, grant number SJI-18-T-033.

[www.tmcec.com](http://www.tmcec.com)

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A complementary product was made under this award: “Building Public Trust and Confidence through Model Court Websites.”

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This toolkit was developed by:

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Center for Court Innovation

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Texas Municipal Court Education Center

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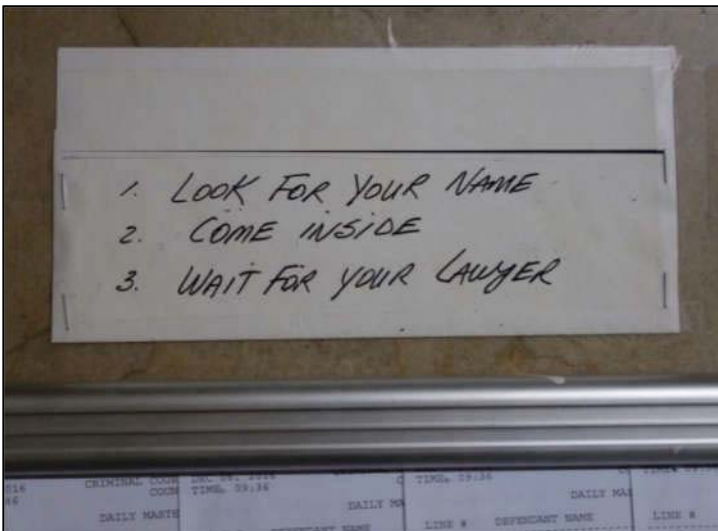
# Making a Case for Better Court Signage

The physical spaces of our country’s courts are varied. Their size, layout, infrastructure, functionality, and décor are as diverse as the communities they serve. Despite this variation, there are common concerns that unite almost all courts. Namely, all courthouses benefit from messaging to those who enter through their doors. Priorities like security and wayfinding are common to both a small rural courthouse in Texas or a large urban courthouse in New York.

Rarely, however, do the courthouse walls – including its signage – support court professionals in conveying to court users the information they need in the most effective and fair means possible. This is certainly not because those court professionals do not care about what the public thinks, but rather that design, aesthetics, and professionalism have often been relegated to something akin to luxury in a system that is constantly asked to do more with less.

Throughout this section are examples of courthouse signage that the Center for Court Innovation staff has collected as part of its work on this topic. In many ways, these examples are not anomalous. Almost every courthouse has its own versions of signs that were created by busy, well-meaning professionals. And yet the messages that these signs convey could be interpreted reasonably by the public as disrespectful, disorganized, confusing, or worse. In short, the signs work against perceptions of trust and confidence.

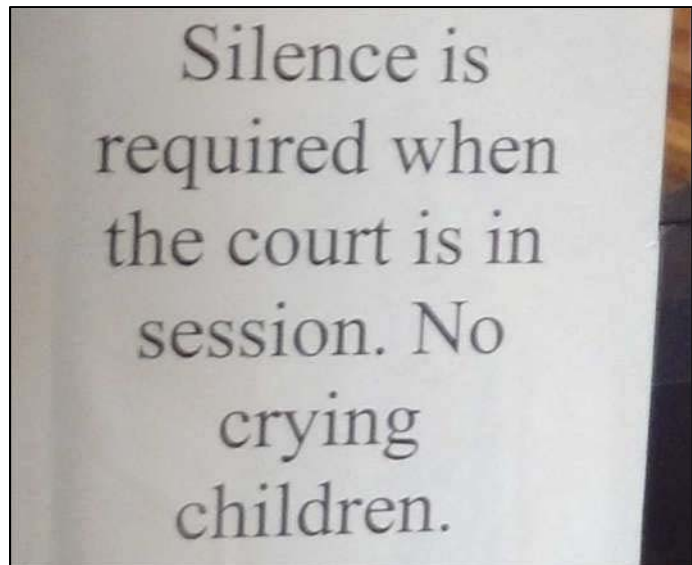
Most of these signs were created by well-intentioned court professionals who are deeply concerned with fairness and the legitimacy of the court. But it is not hard to imagine how the message that court users receive is one of disrespect and lack of fair process. Word choice and tone, format, and general readability all influence how that message is heard.





So, what if signs and the other messages our courthouse walls send could deliver a more targeted, research-informed set of messages – namely, ones of respect, dignity, voice, and neutrality? These are the key components of a concept called procedural justice that helps build trust between courts and the public.

If procedural justice is prioritized, how might court users' perceptions of the process be enhanced by these seemingly superficial changes? Might these changes even improve court staff morale and their sense of professionalism? This project documents an exploration of these questions.



## How to Use This Toolkit

This toolkit was developed to help judges and other criminal court practitioners improve courthouse signage. The end goal is to enhance court users' perceptions of fairness and build (or rebuild) trust and confidence in the justice system. By showing examples of model signage implemented in real courthouses around the country, the hope is that other jurisdictions will be inspired to consider how their built environment can be examined and improved. Some of the samples included are court-specific – such as a building directory – so they do not have utility as an off-the-shelf resource, but rather are intended to give ideas for future, localized designs. But for other signs, such as those that convey typical courtroom rules or notices about court procedures, the samples provided may have direct applicability. As such, high resolution images of those are provided in Appendix A and are available for use and reproduction.

Of course, this toolkit is not a substitute for professional design services. But it may be helpful as a complement when considering signage and other environmental improvements and starting a dialogue with design partners.

The core content of the toolkit is organized by each element of procedural justice: understanding, respect, voice, and neutrality. While messages can certainly enhance more than one element, it is important to consider how signage improvements as a whole are working to improve all four elements. It is not enough to focus on improving understanding alone, for example. So while each individual sign need not incorporate all four elements, ensure that consistent messaging is delivered on all four points throughout the facility.

## Planning a Signage Project

Planning a signage project may not be like any other project the court has implemented. For one, it will need to involve virtually every entity that works in the courthouse, which may be a large and diverse group. It should also incorporate user feedback, as noted below, which may be an unfamiliar process to the court. These tips are outlined to support planning efforts.

### 1. Get user feedback

There is no substitute for direct user feedback about what it's like to visit a courthouse. As justice system professionals who come and go from a space daily, it is easy to forget how navigable and user-friendly the space is and what its limitations are. In fact, many professionals may never have used the public entrance to their courthouse due to the availability of a separate staff entrance. In any case, you'll want to involve the public in assessing needs of the current space and getting feedback on proposed designs.



## 2. Engage system stakeholders

As noted above, involving all stakeholders who are based in and utilize the courthouse is essential. Consider what processes you will use to consult them about the needs of the existing space, as well as to solicit feedback during the planning and design process. This might be achieved through one-on-one meetings with agency leadership or through mixed-level or mixed-agency focus groups or meetings.

Be sure to engage the court's certified interpreters to ensure consistency for any content provided in languages other than English. You might consider which one or two non-English languages are most commonly spoken in the courthouse (evidenced by interpreter requests) and translate all finalized English content at the end of the planning process. Note that any final adjustments to the English language content will obviously need final review and edits at the very end of the project as well.



## 3. Measure the impact

Consider how you will measure the impact of any changes. This could include a simple self-assessment among court personnel to gauge their satisfaction with the planning process and ultimate design. It is also a worthwhile investment to conduct a baseline and follow-up survey among court users to demonstrate any changes perceptions. A sample survey is provided as Appendix B, which can be tailored based on each court's signage improvements. For more information about measuring perceptions of fairness and for a sample Self-Assessment highlighted above, visit [https://www.courtinnovation.org/sites/default/files/documents/P\\_J\\_Evaluation.pdf](https://www.courtinnovation.org/sites/default/files/documents/P_J_Evaluation.pdf).

CENTER FOR COURT INNOVATION

Measuring Perceptions of Fairness:  
An Evaluation Toolkit

### Self-Assessment of Court Practices

To be used with "INSTRUCTIONS: Self-Assessment of Court Practices"

The following statements measure the procedural justice concepts of understanding, voice, respect, neutrality, and helpfulness. Please rate the degree to which most court staff and court practices exhibit these characteristics.

**1. Ensuring Understanding**

Understanding Average: (add all scores)/4 =

	1-Not at all	2-Infrequently	3-Sometimes	4-Almost always
a. At the beginning of court sessions, the court's bench officers provide a summary of what will happen during the appearance.	1	2	3	4
b. At the end of court appearances, the court's bench officers verify that court users understand the court's decision and what is expected of them going forward.	1	2	3	4

## 4. Leverage this work to enhance other trust-building efforts

Signage improvements can be a meaningful way to spur discussions among court personnel about other strategies to improve fairness and build public trust. Anticipate that planning discussions will generate ideas during the design phase that will amount to improvements beyond signage: such as improved communication between stakeholders or announcements to or resources for the public that align with agreed-upon content for new signs. Catalog these ideas and consider relevant planning needs.

## Design & Communications Basics

Below are some basic design principles to keep in mind when beginning a project like this to improve or replace courthouse signage.

- **Font Size and Type:** There are hundreds of fonts to choose from if designing signs yourself. “Sans serif” fonts such as Arial and Helvetica are recommended for signs; avoid “Serif” fonts such as Times New Roman, Garamond, and Georgia. One font type should suffice, as opposed to utilizing multiple fonts on a given sign or throughout the facility. You can use size, bold, and italics to draw attention to different sections of each sign, as needed. Consider what fonts are already in use in the courthouse for signs that will remain and ensure that new signs’ fonts are compatible, if not identical, to what is already in place.
- **Capitalization:** All capital letters should be limited to signage titles and headings (*e.g.*, INFORMATION). Avoid all caps for longer phrases and sentences, as it is more difficult to read.
- **Color and Contrast:** Light text on a darker background or dark text on a lighter background maximizes readability. Consider existing colors in the courthouse so that new signs are consistent with the existing color palate. Consider whether different, complementary colors might be assigned for different types of signs: for example, beige for background for navigational signage and blue for informational signs.
- **Placement Level:** Most signs should be installed at eye level. Seek advice on building code requirements to ensure compliance with accessibility needs (*e.g.*, Braille). Also, consider how signage posted well above eye level may be utilized in congested areas or to identify key locations from a distance. Similarly, consider how signage or other indicators on the floor might be used to assist wayfinding.
- **Printing Materials and Installation:** Unlike many other public spaces, courthouses have unique security concerns that may affect choices in materials and formats used to display new signs. Frequent changes to signage content, as well as the durability needed given where the signs are installed, also affect materials used. Consider how a range of options may be appropriate within a given courthouse. For example, electronic signs or vinyl lettering applied directly to the walls may be a cost-effective option for signs that will need to change frequently. More permanent messages and signs in high-traffic areas may be more appropriate for a plastic, metal, or more durable materials.
- **Clean and De-clutter the Walls:** Start with a clean slate, and whenever possible, remove all existing signs. This will allow for deliberate decisions to be made about all signs that are posted, new and old. During this process, clean the walls – literally. This will help demonstrate respect, as well as improve the installation process.
- **Reading Level:** Signage content should be written at an appropriate reading level for the court’s audience – approximately 6th grade or below (this is the reading level of the average American). Use plain language in place of legal jargon or terms, and when possible limit the number of words per sentence, as well as the use of complex, multisyllabic words.

- **Language Access:** Whenever possible, provide signage content in other commonly spoken languages. It may be untenable to reach every possible audience through every sign, so consider the top handful of commonly spoken languages as a starting place. Consider how signage can direct individuals needing an interpreter to needed services. Any non-English content should be coordinated with the court's certified interpreters to ensure consistency.
- **Accessibility Considerations:** Consult with in-house or external experts as needed to ensure that signs are installed in ways that are compliant with the Americans with Disabilities Act. This may include the addition of braille lettering on certain signs, as well as signage placement.

## Improving Understanding

### *Security procedures & courthouse rules<sup>i</sup>*

Security is paramount in criminal courthouses, underscoring the value of communicating security procedures clearly and respectfully and gaining voluntary compliance from court users.

In some courthouse, rules and procedures are not posted and may be enforced inconsistently by courthouse security staff. Gain consensus around key protocols and procedures and identify opportunities to post these rules in conspicuous places for those entering the courthouse. This may include sandwich boards or other stand-up signs outside the courthouse, as well as security or line barriers immediately inside the courthouse. Using materials that are heavy and sturdy may address concerns that the signs will either blow away or be relocated by unauthorized users.

Courthouse entrances are important locations to note handicap accessibility information, as well as to indicate information in the two or three most commonly used languages. Welcoming language can help to make a good first impression.



### Identifying key offices and resources

Consider whether the courthouse’s most frequented locations – such as the clerk’s office, courtrooms, or cashier – are easily identified upon entry to the building and outside of those rooms. Rules or instructions about accessing services, including hours of operation, can be posted on room identifiers as well. Particularly in areas where court users may need to wait in line, make use of this waiting time by posting information about what materials they will need to provide once they are able to meet with a staff member. These areas are prime locations to post other information, such as how to post bail or contact a lawyer referral service.

# 131

## Arraignment Information Office

Oficina de Información del Juzgado de Control de Garantías

**Enter here for information about recent arrests.**  
Ingrese aquí para obtener información acerca de las personas recién detenidas.

9:00am – 1:00pm  
2:00pm – 1:00am

**Please have ready:**  
Por favor tenga a mano lo siguiente:

-  **Defendant’s full name**  
Nombre completo del imputado
-  **Defendant’s date of birth**  
Fecha de nacimiento del imputado
-  **Defendant’s arrest number (if known)**  
Número de detención del imputado (si lo sabe)



# \$

## Can You Make Bail Today?

¿Puede Pagar Hoy la Fianza?

**If you can pay bail today, tell the lawyer immediately. This may help the defendant be released earlier.**

Si puede pagar hoy la fianza, infórmele al abogado inmediatamente. Esto podría ayudar a que el imputado reciba su libertad con más celeridad.

**Bail payments can be made at the Cashier (weekdays 9:30am – 12:45pm / 2:15pm – 4pm) or Arraignment Information Office in Room 131 (nights 5pm – 1am and weekends).**

Las fianzas se pueden pagar en la Caja (los días hábiles de 9:30 a.m. a 12:45 p.m. y de 2:15 p.m. a 4:00 p.m.) o en la Oficina de Información del Juzgado de Control de Garantías, Sala 131 (por las noches de 5:00 p.m. a 1:00 a.m., y los fines de semana).

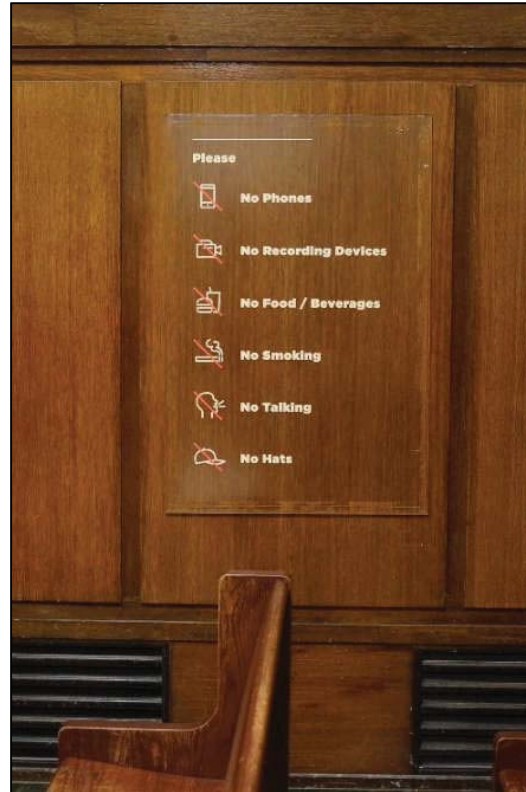


*Courtroom rules & decorum<sup>ii</sup>*

Courtroom management and security is another top priority for many court professionals. How can signage support those priorities? Rules that will be enforced orally should be posted clearly to promote understanding and respect by providing advance notice of the rules and also to demonstrate neutrality that rules will be enforced without bias. Use images and languages other than English to communicate more effectively with court users who may not read English. If there are special procedures concerning signing in for a case or seating, post those rules conspicuously to avoid any appearance of bias.

**Please** | Se prohíbe lo siguiente:

-  **No Phones**  
Teléfonos
-  **No Recording Devices**  
Dispositivos de Grabación
-  **No Food / Beverages**  
Comida / Bebidas
-  **No Smoking**  
Fumar
-  **No Talking**  
Hablar
-  **No Hats**  
Gorros



**NO STANDING**  
**NO SE PARE**

**Please do not stand or talk in this area.**  
Por favor no se pare ni hable en esta área.

-   
-   



### *Providing legal information*

Many court users experience some amount of waiting when accessing the court. Consider how periods of waiting might be converted into opportunities to learn more about a relevant aspect of the court process. Here, the backs of courtroom benches were used for new signs providing legal information about who's who in the courtroom, typical fines and fees, and what to expect. Consider how signage might also clarify for court users – and support court professionals' efforts to deliver a similar message – the line between legal information and legal advice.



## Demonstrating Respect

### Addressing basic human needs

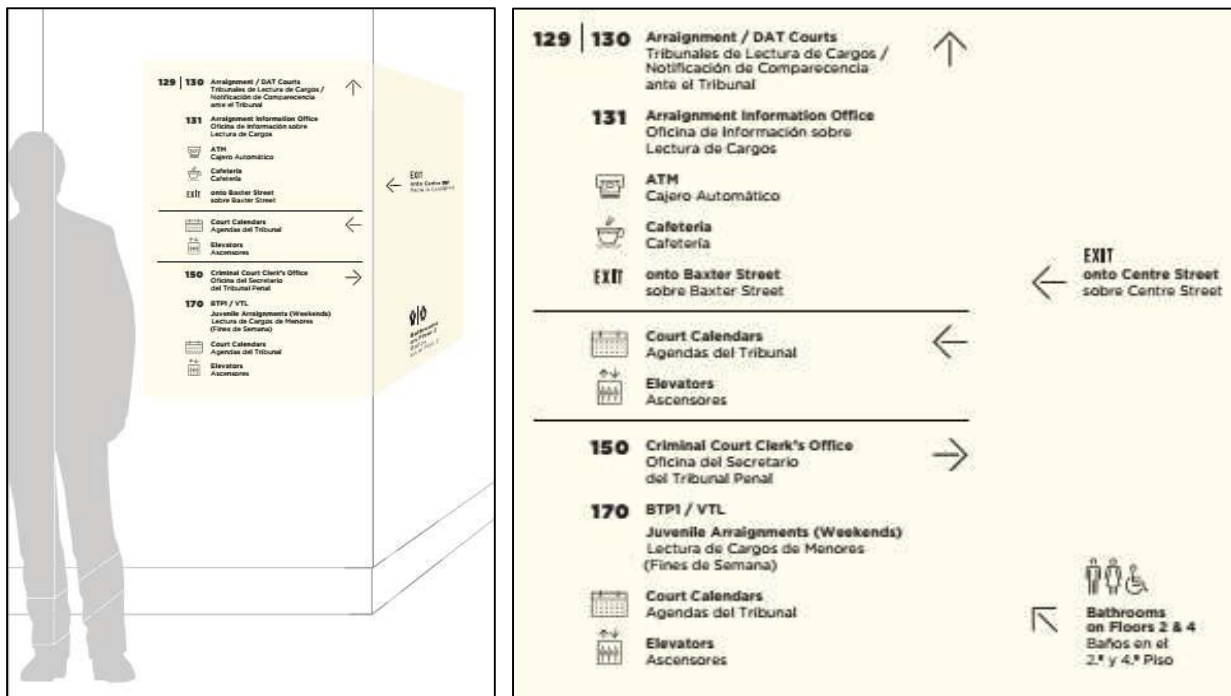
A fundamental aspect of demonstrating respect for court users is acknowledging their basic human needs while accessing any service – namely, access to clean and functioning bathrooms, and ideally, water fountains and food concessions. Directional signage should be clear and noted throughout the building.



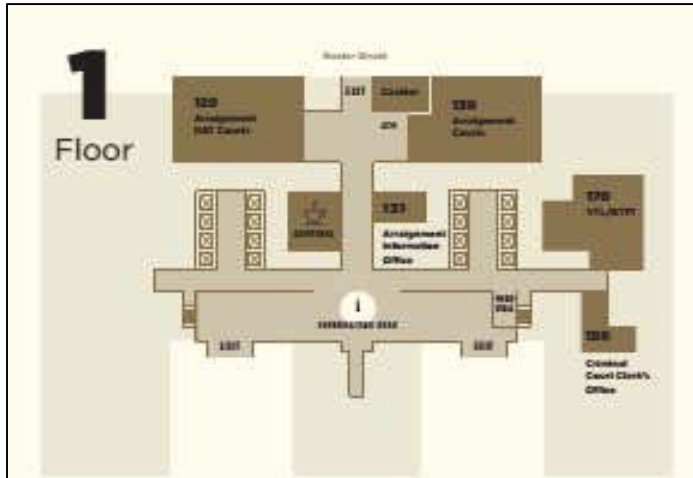
### Building navigation

Clear directories and directional information help to relieve anxiety that many court users have when coming to the courthouse. Efforts should be made to identify facility locations accurately and consistently, while also using plain language. For example, if the appearance docket is referred to by building staff as “AD-1,” consider how signage should reflect both the official room name and number, as well as this colloquial name. Directories and other signage should also guide users to bathrooms and other on-site services.

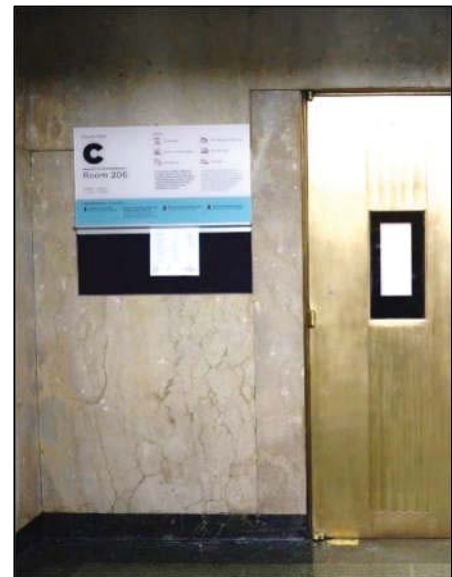
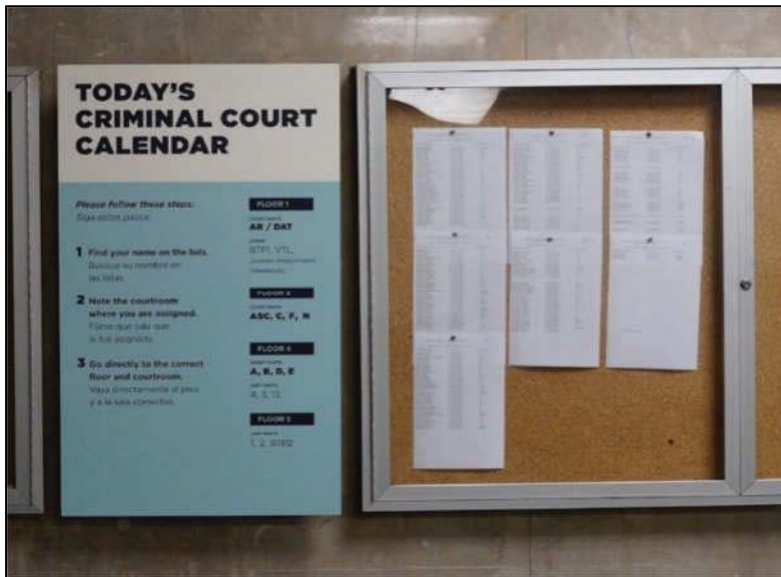
Directories should be easily visible upon entry to the courthouse and posted at eye level.



Maps and directional arrows can assist users with navigation. Use consistent color and font schemes for navigational signs throughout the building. An obvious but often forgotten resource is to post signs for all public exits to help court users efficiently leave when they are done with their court business.

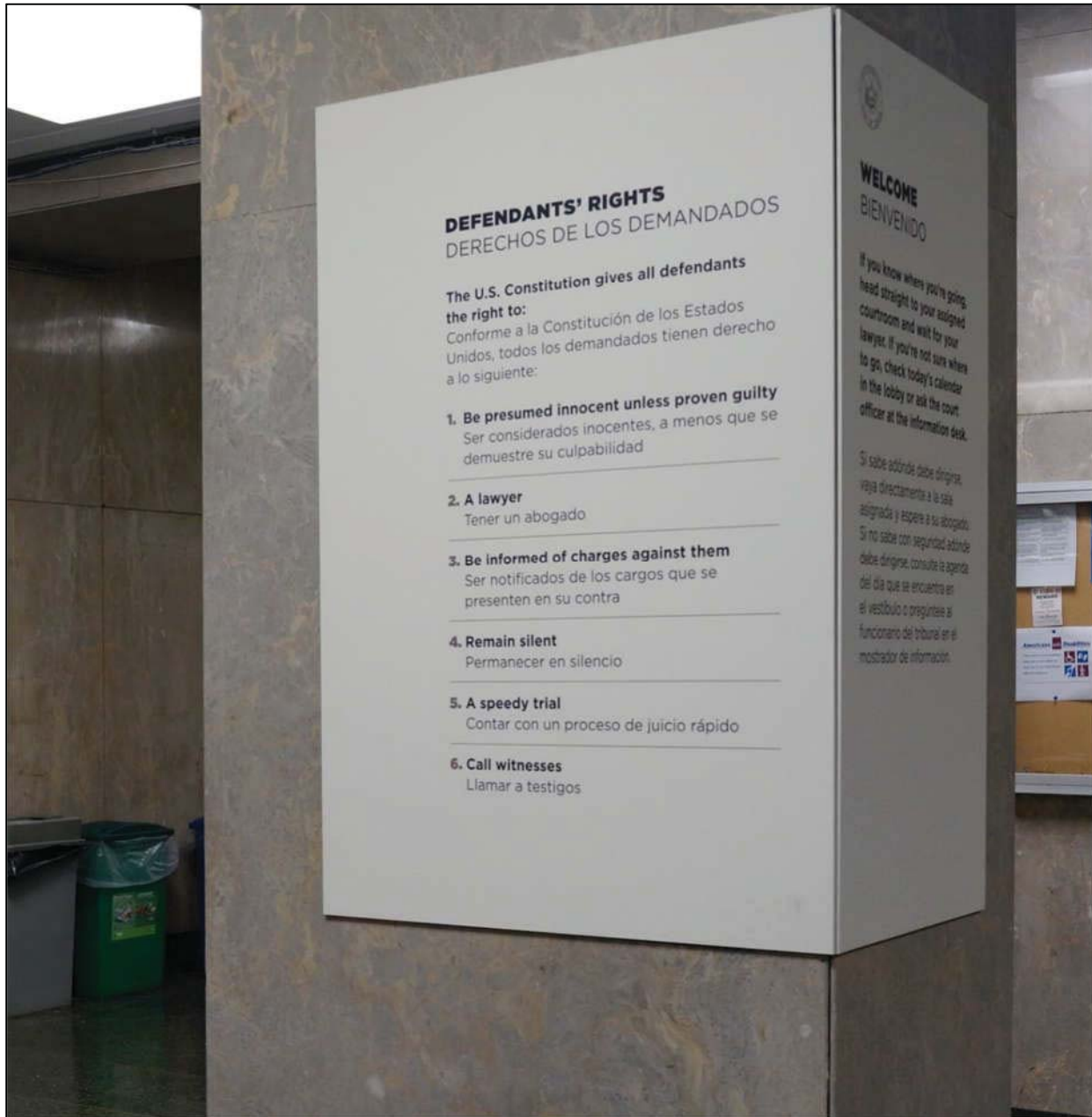


Part of the navigational assistance may include helping court users to find the courtroom in which their case will be heard, which may not be knowable in advance. Legends or instructions to help decipher court calendar print-outs may help users, even in the absence of an overhaul to the calendaring system. Similarly, orientation signage outside of a courtroom can affirm that users found the correct courtroom and alert them to any check-in procedures before entering.



### Legal rights<sup>iii</sup>

Signs can be used to convey more substantive messages of respect, also. Consider how the court can demonstrate its commitment to litigants' rights by posting these rights prominently and strategically within the courthouse. Consider how the messaging towards different users of the court – criminal defendants, witnesses, jurors, and other audiences – may need to be balanced and reconciled.



## Conveying Neutral Decision-making

### Language access

Many high-performing courts have figured out how to provide interpretation services for a multitude of languages, but it can be difficult to ensure that court users who need to access interpretation are aware and connected as early as possible. Consider prominent locations in the courthouse where instructions about accessing interpretation services can be posted in the most commonly requested languages.

For a Court Interpreter, please go to your courtroom and talk to your lawyer or a court officer. For other language assistance, go to Room 150.


Si desea recibir el servicio de un Intérprete del Tribunal, por favor dirijase al juzgado y dígaselo a su abogado o a un agente judicial. Dirijase a la Sala 150 para obtener asistencia lingüística adicional.

如您需要法庭翻譯，請前往法庭告知您的律師或庭警。如需其它方面的語言協助，請前往150室。

بالنسبة إلى مترجم الجلسة الفوري، يرجى الذهاب إلى قاعة المحكمة والتحدث مع محاميك أو أحد مسؤولي المحكمة. بالنسبة إلى المساعدة اللغوية الأخرى، اذهب إلى الغرفة 150.

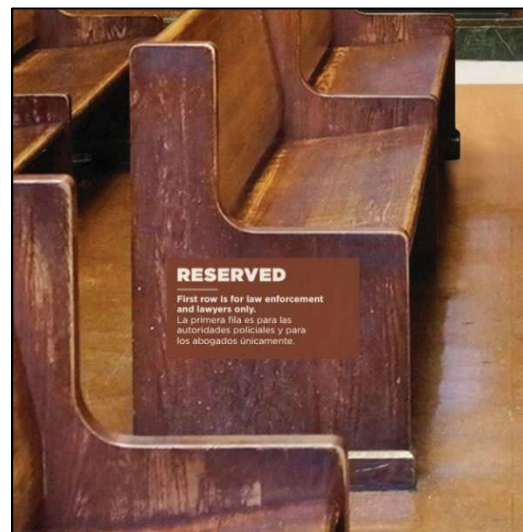
Если вам нужен устный переводчик в суде, пройдите в зал судебных заседаний и обратитесь к своему адвокату или служащему суда. Если вам нужны другие услуги перевода, пройдите в комнату 150.

Pour obtenir l'assistance d'un(e) interprète judiciaire, veuillez-vous rendre à la salle d'audience et vous adresser à votre avocat ou à un(e) auxiliaire de justice. Pour toute autre assistance linguistique, veuillez-vous rendre à la Salle 150.



### Designated seating

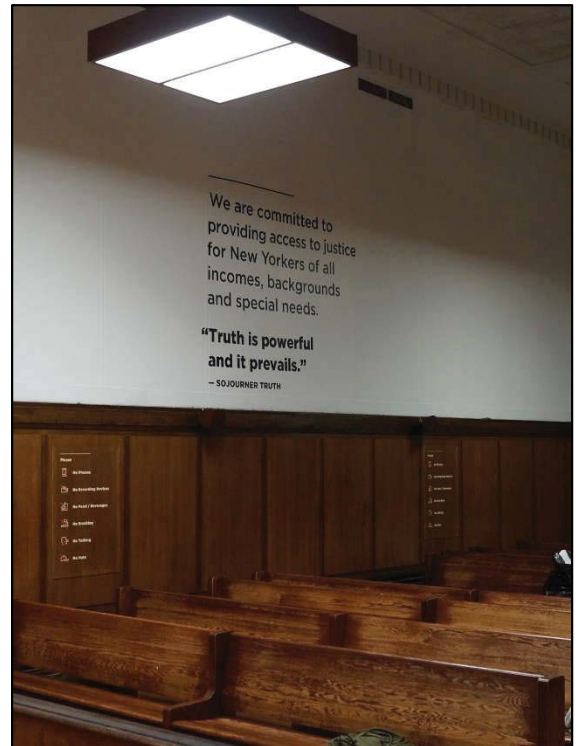
Some courtrooms have designated seating for attorneys or law enforcement. Ensure transparency and neutrality around these rules by posting information in those areas, in addition to oral enforcement that court staff may utilize. This signage may help avoid the perception that rules are applied inconsistently or with bias towards or against certain groups. Consider whether any explanation can be given for these rules to further promote neutrality.



*Assert a commitment to serving all court users*

Perhaps it should go without saying, but it doesn't hurt to state explicitly the court's commitment to serving all members of the public. This statement may already exist as part of the court or jurisdiction's mission or vision statement.

Consider whether there is an inspirational quotation from a justice advocate that could be paired with the mission statement. These words can serve as a powerful complement to other imagery in the courthouse.



## Inviting Voice

Most courthouses are staffed by individuals with dozens of years of expertise and a genuine commitment to listen to and address court users' concerns and questions. Signage can help make clear that staff are available in this way and challenge any misperceptions that staff do not value court users' voice.

### *Information desks*

Some courthouses have an official information desk; others have an informal resource that serves the function of an information desk. In any case, consider whether a centralized area in the courthouse can be labeled clearly to invite questions and concerns of court users (e.g., "INFORMATION"). This could include adding language to security procedure signage to indicate that security officers are in a position to answer questions.



**Questions?  
Our court officers  
are happy to help.**

**For security screening, please  
remove your belt and all contents  
from your pockets (phones,  
wallets, coins).**

**Thank You.**

### *Connecting defendants to legal counsel and support*

Defense attorneys are often central to helping defendants have a voice in the criminal court process. For stages of the process where the right to a lawyer is guaranteed, post clear instructions about the value of legal representation and simple instructions about access. For defendants who are not represented, consider whether there are other staff or resources in the courthouse (e.g., a self-help center) to which they can be directed.

#### **Your Lawyer**

You have the right to a lawyer. If you already have a lawyer, go in the hallway and call or text them to tell them you are here. This may help your case to be heard sooner.

It is important to discuss the details of your case with your lawyer. Your lawyer will be with you when you see the judge.

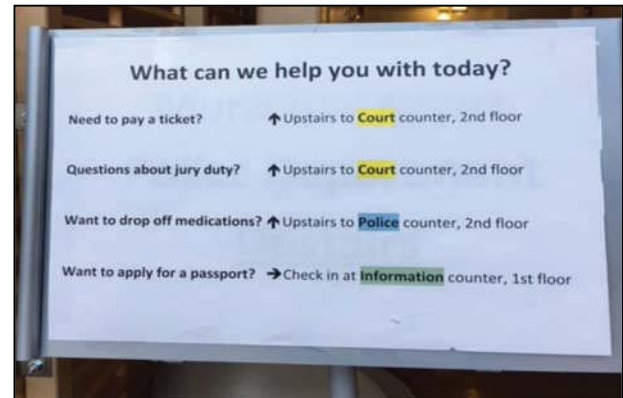
#### **Questions?**

If you have a question, ask your lawyer or wait for a break and ask a court officer.

## Showcase of Promising Examples

There are countless court leaders around the U.S. committed to improving court users' perceptions of fairness, including through improvements to the courthouse environment and its signage. Below is a sampling of images from these courts that have crossed paths with the Center for Court Innovation. To contribute other promising examples, please forward photos and descriptions to [info@courtinnovation.org](mailto:info@courtinnovation.org).

- Signs that improve wayfinding



- Signs that use images and logos to convey information





- Signs (including videos) that invite voice by conveying personable and approachable court leadership



- Signs that indicate court updates



- Signs that assert the court's commitment to fairness



**WELCOME TO THURSTON COUNTY  
FAMILY AND JUVENILE COURT**

**We will be happy to help you if we can. As we must be fair to everyone, we are allowed to help you only in certain ways.**

**We can help you:**

- arrange an interpreter;
- find out where you need to go;
- find court forms and self-help resources;
- give copies of paperwork that you filed to a judge;
- make an Disability Accommodation Request
- find resources about lawyers or legal aid, and
- understand how our court works.

**Please understand, we cannot:**

- give personal opinions about cases;
- research the law for you;
- pass on messages to a judge;
- provide confidential information;
- talk to the judge for you or let you talk to the judge outside of court;
- tell you which lawyer we think is best;
- tell you what words to use in your court paper or whether they are correct;
- tell you whether or not you should bring your case to court; or
- tell you what to say in court.



## Additional Resources

- “Improving Courthouse Signage: Procedural Justice Through Design,” Center for Court Innovation, 2015. Available at <https://www.courtinnovation.org/sites/default/files/documents/Red%20Hook%20OctoberFinal%20Proofed%20REDUCED%20%281%29.pdf>.
- “Retrofit for Fairness,” *Urban Omnibus*, Feb. 2018. Available at <https://urbanomnibus.net/2018/02/retrofit-for-fairness>.
- “Plain Language Guide,” National Association for Court Management, 2019. Available for purchase at <https://nacmnet.org/resources/publications/guides/plain-language-guide>.




## Appendix A: Signage Templates

<sup>i</sup> Courthouse security procedures and rules

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# Welcome / Bienvenido

**Please / Por favor**

-  **Remove everything from your pockets**  
Vacíe sus bolsillos
-  **Close any bags or backpacks**  
Cierre sus bolsos o mochilas
-  **Listen to the officer's instructions**  
Siga las indicaciones del agente judicial

**Scissors, tools, cameras and other items not permitted in the courthouse must be checked at the information desk. Possession of any illegal items, such as narcotics, knives, or other weapons, may result in arrest.**

Al ingresar al tribunal, hay que entregar en el mostrador de información tijeras, herramientas, cámaras u otros artículos prohibidos. La tenencia de artículos ilegales, como estupefacientes, cuchillos u otras armas podría resultar en la privación de su libertad.



**Thank you / Gracias**

<sup>ii</sup> Cell phone policy, English/Spanish

---

**No cell phones, cameras, recording or electronic devices may be used in the courtroom unless expressly authorized by the presiding judge. All devices must be turned off and put away out of sight. Unauthorized use will result in the confiscation of the device.**

---

En el juzgado se prohíbe utilizar teléfonos celulares, cámaras y dispositivos electrónicos o de grabación, a menos que el juez que preside lo autorice expresamente. Todo dispositivo electrónico se debe apagar y guardar de modo que no se vea. El uso no autorizado dará lugar a la confiscación del dispositivo.

<sup>iii</sup> Defendants' Constitutional Rights, English/Spanish

## **DEFENDANTS' RIGHTS** DERECHOS DE LOS IMPUTADOS

**The U.S. Constitution gives all defendants the right to:**

Conforme a la Constitución de los Estados Unidos de América, todo imputado tiene derecho a lo siguiente:

**1. Be presumed innocent unless proven guilty**

Ser considerado inocente, a menos que se demuestre su culpabilidad

---

**2. A lawyer**

Tener un abogado

---

**3. Be informed of charges against them**

Ser notificado de los cargos imputados

---

**4. Remain silent**

Permanecer en silencio

---

**5. A speedy trial**

Contar con celeridad procesal para agilizar la acción

---

**6. Call witnesses**

Citar testigos

---

Appendix B: Sample Procedural Justice Courthouse Environment User Survey

## Procedural Justice Courthouse Environment User Survey

- 1) Today's Date: \_\_\_\_\_
- 2) Court session:  Morning  Afternoon
- 3) Courtroom: \_\_\_\_\_
- 4) Had you been in this courthouse/building before today?
- Yes  
 No
- 5) If yes, what brought you here before? *(select all that apply)*
- My current case  
 A previous case of mine  
 Came for a friend or family member  
 Jury duty  
 Other: \_\_\_\_\_  
 N/A

*On a scale from 1 to 5, please mark how much you trust the following agencies, with 1 being not at all confident and 5 being very confident:*

	<b>1 Not at all</b>	<b>2 A little</b>	<b>3 Neutral</b>	<b>4 Somewhat</b>	<b>5 A lot</b>
6) The police					
7) The prosecutors					
8) The defense attorneys					
9) The judges					
10) Other court employees					
11) The jails					
12) City government overall					

*For the following statements, please indicate whether you strongly agree, somewhat agree, somewhat disagree, or strongly disagree.*

- 13) This municipal court treats defendants with dignity and respect.
- Strongly agree  
 Somewhat agree  
 Somewhat disagree  
 Strongly disagree

14) Overall, this municipality's criminal justice system is fair.

- Strongly agree
- Somewhat agree
- Somewhat disagree
- Strongly disagree

**NAVIGATING THE COURTHOUSE**

15) How did you know where to find your courtroom or other destination in the courthouse once you got inside? *(check all that apply)*

- Had been here before
- Looked at a map or directory
- Looked at a posted list of cases
- Information desk
- Asked a court staff member
- Had it on my court paperwork
- Signs directed me to the right place
- Someone told me in advance where I should go
- Just found my own way
- Other: \_\_\_\_\_

16) Did signs around the courthouse clearly direct you to your courtroom?

- Yes
- No
- N/A

*Mark whether you agree, disagree or are neutral on the following statements about the building.*

	<b>Disagree</b>	<b>Neutral</b>	<b>Agree</b>	<b>N/A</b>
17) Signs outside the building helped me know what to expect today.				
18) The security procedures for entering the building were clear.				
19) I was treated respectfully by the staff as I entered the building.				
20) Court staff seemed happy to answer any questions I had.				
21) I found my way around the courthouse easily.				
22) The building was clean and well maintained.				
23) Signs inside the building were confusing.				
24) I knew who to ask if I needed help finding my way around the building.				



25) What would have made the process of navigating the courthouse easier for you today?

---

---

---

## COURTROOM

26) When you got to the courtroom, how did you let court staff know that you were there?

- I did not let them know
- Followed the posted sign-in instructions
- Told my lawyer
- Told the court officer or other court staff
- Someone called my name
- Other: \_\_\_\_\_

27) Did anyone tell you what the rules were in the courtroom (*i.e.*, what you could and couldn't do while you waited on the benches)?

- Yes, a court officer
- Yes, the judge
- Yes, other court staff
- Yes, my attorney
- Yes, another court user
- No one told me the courtroom rules

28) Did you see courtroom rules posted or listed anywhere in writing today? If yes, where? (*check all that apply*)

- Yes, I saw a sign outside the courtroom door
- Yes, I saw a sign inside the courtroom
- Yes, in a pamphlet or on piece of paper someone gave me
- No, I did not see them posted or listed anywhere
- Other: \_\_\_\_\_

29) Do you feel like you knew what the rules were in the courtroom?

- Yes
- No
- Unsure

30) Do you feel like the signs in the courtroom were written in a respectful tone?

- Yes
- No
- Unsure

31) About how long did you wait in the courtroom before your case was called? \_\_\_\_\_  
 (specify hours or minutes)

**OVERALL EXPERIENCE TODAY**

32) Overall, how do you rate the fairness of your outcome today?

- Very fair
- Somewhat fair
- Somewhat unfair
- Very unfair

33) Was the result of your case favorable or unfavorable for your side of the case?

- Favorable
- Neither
- Unfavorable

34) Were you given any paperwork to remind you what you still need to do for your case?

- Yes
- No

35) Overall, did your experience in court today make you more confident or less confident in the municipal court?

- More confident
- Had no effect
- Less confident

*For the following questions, please mark whether you are likely, unlikely or unsure that you will...*

	Not Likely	Unsure	Likely	N/A
36) ... Comply with your court order?				
37) ... Pay your fine or fees?				
38) ... Appear for your next court date?				
39) ... Obey the law in the future?				
40) ... Report a crime to the police in the future?				
41) ... Tell family members or friends of yours that the criminal justice system is fair.				

**Almost done! Final questions on the next page.**

**DEMOGRAPHICS**

*We're almost done, just a few more questions about you specifically.*

42) How do you identify your gender?

- Male
- Female
- Other (specify): \_\_\_\_\_

43) What is your race/ethnicity? *(Check all that apply.)*

- White (e.g., German, Irish, English, Italian, Polish, French, etc.)
- Hispanic, Latino or Spanish origin (e.g., Mexican, Puerto Rican, Brazilian, etc.)
- Black or African American (e.g., African American, Jamaican, Haitian, Nigerian, etc.)
- Asian (e.g., Chinese, Filipino, Vietnamese, Korean, Japanese, etc.)
- Indian (e.g. East Indian, South Indian, West Indian, Indo-Caribbean etc.)
- Native American or Alaska Native (e.g., Navajo Nation, Blackfoot Tribe, Mayan, etc.)
- Middle Eastern or North African (e.g., Lebanese, Iranian, Egyptian, Moroccan, etc.)
- Native Hawaiian or Other Pacific Islander (e.g., Hawaiian, Samoan, Fijian, etc.)
- Some other race, ethnicity or origin (Specify): \_\_\_\_\_

44) Did you graduate high school or receive a GED?

- Yes
- No

45) If there is one thing you would change about your experience in the court building today (aside from not being required to come here in the first place), what would it be?

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---



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46) Do you have anything else you would like to tell me about how you or other people are treated by the court?

---



---



---

***END OF SURVEY.***

***Thank you so much for your time and input to help improve your local court system!***

## **Appendix 17 – Resources for Free Legal Help in Fulton County State Court**

# Resources for Free Legal Help in Fulton County State Court

## Free Legal Help at the Fulton County Court Courthouse

E-Filing	File court papers electronically
Housing & Money	Help for tenants in eviction cases Help for landlords in eviction cases Help with debt collection cases
Criminal Records	Help to expunge & seal criminal records
Traffic	Help with DUI Court

## Free Help From Home

Fulton County State Court Online



Free Legal Information & Court Papers  
From Your Computer or Mobile Device

Available 24/7



<https://fultonstate.org/self-help-center/>

# Hiring a Lawyer

Atlanta  
Bar Association

<https://www.atlantabar.org/page/Irishhome>

(404) 521-0777

<https://www.atlantabar.org/page/ReferralRequestform>

Atlanta Lawyer  
Referral Modest  
Means  
Program

- [modestmeans@atlantabar.org](mailto:modestmeans@atlantabar.org)
- <https://www.atlantabar.org/page/LRISModestMeans>
- The Modest Means Program is a public service program sponsored by the Atlanta Bar Association's Lawyer Referral and Information Service (LRIS). It is designed to assist Georgia residents who are not financially eligible for Legal Aid, but who also do not have the resources to retain a private attorney at the standard market rate.
- For more information, please call the main referral line at (404) 521-0777.

## Helpful Websites

### Fulton County Clerk Website

<https://www.fultonclerk.org/>

Find court papers & case information

Criminal Division: (404) 613-5085

Civil Division: (404) 613-5040

185 Central Avenue, SW,

Ground Floor, Suite TG-40

[Statecourt.customerservice@fultoncountyga.gov](mailto:Statecourt.customerservice@fultoncountyga.gov)

### Georgia Supreme Court Website

<https://www.gasupreme.us>

## Additional Services in the Fulton County Courthouse

### ADA Accommodations Requests

Request an accommodation for a disability

### Deaf/Hard of Hearing Access

Request a sign language interpreter

### Interpretation

To request a free interpreter at court, ask the clerk in the courtroom for help

### County Law Library

Free access to public computers & legal research tools

Notes: \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

**Appendix 18 – Nebraska Dispute Resolution Office, Nebraska Mediation and  
ADR Handbook for Judges and Court Staff, (February 2006)**

# NEBRASKA MEDIATION & ADR HANDBOOK

FOR JUDGES  
& COURT STAFF

Published by the Nebraska Dispute Resolution Office  
Administrative Office of the Court  
Nebraska Supreme Court

First Published -- January 1993

Updated -- May 2004

Revised -- May 2005

Updated February 2006



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## MEDIATION CENTERS

NEBRASKA MEDIATION CENTERS MAP  
NEBRASKA MEDIATION CENTERS

## Preface

*Nebraska Mediation & ADR Handbook for Judges and Court Staff*  
May 2005 Revision

It is in recognition of the commitment and dedication of the men and women serving as judges, clerk magistrates, district court clerks, and court personnel within the Nebraska court system that the Office of Dispute Resolution offers this revised handbook on mediation and alternative dispute resolution. The judicial branch of government has long stood for fairness, equity, justice . . . where voices are heard and issues are resolved. It is in light of these time-honored principles that the Nebraska justice system has determined that in addition to the traditional adversarial process, other appropriate processes to resolve disputes may be offered to the citizenry to enhance individual and public commonwealth.

For nearly fourteen years, Nebraska's six ODR-approved community mediation centers have provided a significant resource to Nebraska's courts toward this goal. In 2004 alone, over 2,122 mediation and facilitation cases were handled by the centers, of which 41% were domestic relations cases, 20% family group conferencing, 17% community disputes, 10% restorative justice.

As the new director for the Office of Dispute Resolution, Nebraska Court Administrator's Office, it is my hope that the materials and resources enclosed within this handbook will not only be useful, but may stimulate ideas for new and enhanced court-based or court-referred mediation and ADR. This office welcomes inquiries and ideas at any time, and I look forward to meeting and working with many of Nebraska's judges and court personnel.

Debora Brownyard, J.D.  
Director, Dispute Resolution/Rural Court Programs  
402-471-2766; [dbrownya@nsc.state.ne.us](mailto:dbrownya@nsc.state.ne.us)

May 2005

## SECTION 1: INTRODUCTION

This handbook is designed to provide judges and court staff materials regarding the Office of Dispute Resolution and the Nebraska community mediation centers, so that courts can more effectively use the centers to assist litigants and courts. The regional centers in Nebraska primarily use a facilitative, interest-based mediation model and generally follow the same program standards and procedures. Each mediation center has developed programs unique to its geographical area designed to assist the public and courts to access justice for disputes. Judges and court personnel are welcome and encouraged to work with the directors of their respective mediation center to develop programs that will be of assistance to their court.

Some form of informal mediation and ways to resolve disputes has been used in every culture and people throughout history. Mediation has been used by indigenous peoples of the Americas, New Zealand, Australia, and also used by religious orders such as the Quakers and Mennonites. In more recent times, formal systems of rights-based dispute resolution, using primarily an adversarial process, have evolved in Western civilization and have been largely and exclusively used in the United States and many other nations. For the past three decades and more, the informal, more interest-based dispute resolution strategies have begun to be incorporated into the mainstream of the justice system.

In 1965, Nebraska passed the Conciliation Court Act which allowed for alternative dispute resolution methods to be used in divorce matters. Today, Douglas County has a Rule 4-3 and a few other counties have incorporated informal alternative intervention models in custody disputes.

Statewide community-based mediation efforts began in the 1980s in Nebraska. The financial crisis in agriculture in the early 1980s gave rise to the farm crisis hotline in 1984, and in 1988 to the Nebraska Farm Mediation Act. The Farm Mediation Program demonstrated that many problems could successfully be solved consensually, often as an alternative or supplement to the courts. It also showed that statewide programs working in cooperation with institutions, agencies, and local individuals could extend limited resources and provide greater access. As a result, efforts were made to extend the mediation process to other kinds of disputes, and in 1991 the Nebraska Dispute Resolution Act was passed, broadening the use of mediation to all types of civil conflicts.

The Nebraska Mediation and ADR Handbook for Judges and Court Staff was originally funded in part by the National Institute for Dispute Resolution and later revisions supported by the Nebraska Administrative Office of the Court, Office of Dispute Resolution. The opinions expressed herein do not necessarily reflect the position of the Institute. It is hoped that this handbook will encourage a continuing dialogue between the courts and the mediation centers in order to create and sustain a quality partnership.

## SECTION 2: GLOSSARY

**ODR - Office of Dispute Resolution.** The Office of Dispute Resolution is part of the State Court Administrator's Office and under the authority and supervision of the Nebraska Supreme Court. The Office of Dispute Resolution approves and sets mediator and center ethical, training, and related standards for the ODR-approved regional mediation centers to further the use of mediation, ADR, consensus building, and problem solving in the state.

**ADR - Alternative - or Appropriate Dispute Resolution.** Alternative /Appropriate Dispute Resolution (ADR) is the broad umbrella title covering a wide variety of practices and programs designed to find a way to settle disputes outside of the traditional adversarial process. ADR approaches include conciliation, mediation, arbitration, and hybrid programs that include some elements of each. Summary jury trial, mini-trial, and early evaluation are all considered forms of ADR. An emerging ADR application that integrates restorative practices into the court room is known as the problem solving court – including examples such as drug courts, family dependency courts, and domestic violence courts.

**Mediation.** Mediation is a process by which a neutral third party assists two or more people to address issues in conflict in order to give them an opportunity to reach a mutually agreed upon negotiated solution. The mediator uses a variety of skills and techniques to help the parties negotiate but does not make any decisions for them. Some of the more common types of mediation are “interest-based facilitative mediation” and “evaluative mediation.” The type of case, parties’ and attorneys’ preferences, and potential for ongoing future business, family, or community relationships can influence the specific type of mediation selected.

**Arbitration.** Like mediation, arbitration is a process by which a neutral third party assists two or more people to resolve a dispute or controversy. However, the arbitrator, unlike the mediator, has the authority to render a binding or non-binding decision after hearing the parties’ and their attorneys’ arguments and reviewing relevant evidence.

**Court-based/court-connected/court annexed mediation.** Across the nation, a good number of state courts, and most all federal district courts, sponsor mediation programs as part of the established justice system. These mediation programs are managed by court personnel, are funded by and under control of the courts. Terms often used to describe these programs are “court-based, court-connected, court-annexed, or multi-door courthouse.” Mediators come from a variety of sources, including paid court mediation staff and court-maintained private/community mediator rosters, mediators affiliated with agencies and community mediation centers. While court-based or court-connected mediation is still rare in Nebraska state courts, two that are well-

known are the Douglas County, Nebraska Conciliation Court in Omaha that addresses parenting, custody disputes and certain young adult criminal restorative justice cases and the U.S. District Court for the District of Nebraska Mediation Program.

**Court-referred mediation.** Court-referred mediation is the most prevalent type of court involvement with mediation in Nebraska. County, district, juvenile, and tribal courts across the state have, since 1992, referred a variety of civil, juvenile, and criminal disputes to community mediation centers and private mediators. These referrals have been both informally referred and by formal court order, and include small claims cases, probate and estate, business disputes, domestic relations, juvenile, child welfare, and others.

Unlike “court-based or court-connected” cases in which case management and administration is funded by and operated by courts, “court-referred” cases are administered and provided by community mediation centers or private mediators, with costs and fees being paid for by the parties themselves or through specific grants and contracts.

**Community Mediation Centers.** In the United States, there are nearly 500 community mediation centers. Since 1992, the Nebraska Office of Dispute Resolution has annually approved six (6) non-profit regional community mediation centers (“centers”) in Nebraska to serve the public and accept mediation and related problem solving referrals. These referrals come from a variety of sources, including the courts, attorneys, human service agencies, schools, businesses, and private individuals. The centers have partnered in a variety of ways with county, district and juvenile courts to address the needs of litigants and courts alike. A list of the Nebraska mediation centers and contact information is located in the Appendix.

**Conciliation.** Uses a third party to work with parties separately in an attempt to correct misconceptions, reduce unreasonable fears, and improve communication to an extent that will permit direct discussion between the parties and lead ultimately to a voluntary settlement.

**Facilitation.** Facilitation is a process that assists groups of people with goal setting, information gathering, and decision-making. A facilitator helps to design and implement a process that encourages effective communication and key stakeholder participation in order to identify and problem solve around diverse and sometimes complex issues. It is an efficient and effective means for larger numbers of people to manage and implement joint efforts. Facilitation is a practice that is often linked with strategies such as public policy consensus making, collaborative problem solving, strategic planning, and organizational design and decision-making.

**Family Group Conferencing (FGC).** FGC is an intensive facilitative process that brings extended families, friends, service providers, and others into a facilitated discussion to develop a plan to address a variety of familial and community based matters. While FGC can be creatively and effectively used to address a variety of family concerns, the most prevalent use of FGC in Nebraska over the past several years has been to address the specific population of abused or neglected children and for youth involved in status offences and juvenile crime. The mediation centers are the primary providers of Family Group Conferencing and have highly qualified specialists known as FGC coordinators who manage this intensive process.

**Parenting Mediation.** In Nebraska, the community mediation centers, court-connected conciliation programs, and private mediators actively perform parenting mediation pursuant to the Nebraska Parenting Act. The Parenting Act, N.R.S. Sections 43-2901 et seq. was enacted in 1993 to maintain the best interests of a minor child, and to the greatest extent possible, by including the ongoing involvement of both parents in the life of the minor child. The Act states that parents should strive to have continued communications with each other in order to make as many joint decisions in performing such parenting functions as are necessary for the care and healthy development of the minor child. A mediated process for parents to develop a mutually agreed Parenting Plan is provided for under the Act.

**Restorative Justice.** Restorative justice (RJ) is a set of principles which form the paradigm for a court or agency to address crime in which to “restore” or to attempt to make whole is the guiding principle. Three essential principles are (1) victim sensitivity and restoration; (2) offender accountability; and (3) community and public safety. Restorative justice can be contrasted to retributive justice. RJ models include victim/offender dialogue, sentencing circles, victim impact panels, group conferencing, and the various problem solving courts.

**Study Circles.** Study circles are democratic, small-group participatory conversations that offer citizens the chance to get to know one another, consider different points of view, explore disagreements, and find common ground. Study circles on race and diversity have been initiated nationally in the past few years and the ODR system has been actively involved in Nebraska.

**Negotiated Rule Making.** Negotiated rule making is a process designed to involve all stakeholders in the implementation of legislation through active participation in the development of agency regulations. Nebraska has a Negotiated Rule Making statute, N.R.S Sections 84-921 et seq. Particular legislation can prescribe citizen involvement through Technical Advisory Committees (TAC) such as the one to address leaky underground petroleum storage issues that was facilitated by Nebraska ODR-center-affiliated mediators in recent years.

### SECTION 3: BENEFITS OF MEDIATION

Mediation will not solve all the problems of society, and it will not solve all the problems of the courts. However, mediation does provide an avenue for individuals to achieve resolution of disputes in a wide variety of cases. The process, when appropriate and where used effectively, can have many benefits.

Mediation is inherently non-coercive. It seeks to use the value systems of the parties in a normative way to help them to resolve their differences. When an agreement is reached through mediation, it is based upon the parties' own values and needs, and not imposed upon the parties by outside force.

Mediated agreements are self-enforcing. A number of studies have shown that parties who have reached their own agreement are generally more likely to follow through and comply with its terms than those whose agreement has been imposed by a third party decision-maker.

Parties are satisfied with the ADR process. When parties reach an agreement through mediation, they are more likely to be satisfied with the process and to have faith in the process than are litigants at the conclusion of a trial. Even in cases when an agreement is not reached through mediation, the parties who have attempted mediation tend to perceive the opposing party as acting in good faith more often than litigants who go to trial without having attempted mediation.

The process is flexible and comprehensive. Mediation has the added advantage of being able to develop agreements that cover both legal and extra-legal issues. In divorce and custody cases for example, visits with extended family members may be outside the purview of statutory authority, however, the flexible nature of mediation allows the parties to determine the issues that are important to them, as well as resolve the essential legal issues for the divorce.

Mediation both resolves past issues and addresses future needs. Mediation allows parties to come to a resolution of their dispute within the context of their relationship. This is particularly important when the relationship is going to continue, such as the relationship that parents have with one another even after a divorce, the relationship of one business partner to another, the relationship of employer and employee, the relationship of neighbors, etc. Mediation not only resolves the dispute at hand but may set up a framework to more easily resolve future disagreements. Mediated settlements tend to hold over time; and, if the parties do develop a later dispute, they are better equipped to resolve the dispute without resorting to the courts.

Mediation is private. The mediation process is done in private rather than in an open courtroom. The matters discussed in mediation are confidential and preserve the privacy of the parties involved.

## SECTION 4: WHEN MEDIATION IS EFFECTIVE

Generally speaking, mediation should be considered in those situations where a long-term relationship is involved, such as conflicts between family members, employer/employee, landlord/tenant, debtor/creditor, parent/child/school, neighbor/neighbor, business associates, and many others. However, to successfully mediate, parties must be able to:

- Have some desire to work through the problem.
- Be able to communicate on some level.
- Be competent and in control of their actions and behavior, not violent or under the influence of alcohol or drugs.
- Be able to follow some degree of structure (both in the mediation process and any resulting from the agreement).

Some conditions make settlement more easily achievable:

- A previous history of cooperation.
- No long history of dispute, distrust, litigation.
- Reasonable number of issues in dispute.
- Hostility towards each other is moderate or low.
- External pressure to settle (for example, one party faces a time constraint).
- Limited psychological attachment toward each other.
- Adequate resources that can be compromised.

It does not mean that there cannot be successful mediation without these conditions; rather that such types of cases will get settled less frequently.

**Mediation is likely not effective** when the following factors would preclude a referral of a case to mediation:

- When there is a need for public sanctioning of conduct
- When repetitive violations of statutes or regulations need to be dealt with collectively and uniformly
- When it is important to set legal precedent or settle important legal or factual issues for the general public



## SECTION 5: COMMONLY ASKED QUESTIONS

### What does mediation cost?

Mediation centers and private mediators alike set their own rates for mediation, and in Nebraska, these reflect **a range** of rates, **typically from \$25/hour per person to \$150/hour per person**. Nebraska's mediation centers sets rates based upon per person or per group costs, and fees are disclosed prior to commencing mediation. The Dispute Resolution Statute provides that no one is to be denied access to mediation based upon inability to pay; thus, the ODR-approved centers do also have a sliding scale for fees.

### How many times and how long of a session is typical for a full mediation process?

The type of case, the needs of the parties, any court-imposed expectations, and timelines influence the length and number of mediation sessions. Some cases, such as divorce or community disputes, usually require multiple, briefer (2 hour) sessions. Other types of situations, such as pre-litigation civil disputes and cases than involve multiple parties from multi-state venues may be scheduled for a one-time, all day session.

### How long does it take to get to the table to complete the mediation process?

**A range of 10 to 25 days** is the average amount of time between initial contact from a disputant until actually getting to the table to mediate. The initial interviewing and intake, scheduling, and case management process, getting in touch with the second party and engaging their agreement to mediate, finding mutually suitable dates for the mediation session all affects the timeline.

### Who are the mediators?

Mediators come from a variety of backgrounds, including law, counseling, business, education, community, and others. In Nebraska, mediators affiliated with the ODR-approved community mediation centers have successfully completed at least thirty hours of basic mediation training and have apprenticed as a mediator with an experienced mediator. At present (2005), there are no statutory training or educational requirements for private mediators, with the exception of family mediators, who must complete a statutorily required sixty hours of training in basic and family mediation.

Advanced training for center-affiliated and private mediators in such areas as restorative justice, employment, special educational mediation is offered through the NMCA/ODR Training Institute, mediation centers and other regional and national organizations. **Each of the state's mediation centers has an internal mediator credentialing and evaluation process for their affiliated mediators, as well as a grievance process.**

### **Where do mediation referrals to community mediation centers come from?**

ODR statistics reflect that **nearly a third of referrals** to the community mediation centers come **from the legal/justice system**, primarily from attorneys representing clients and judges hearing cases. The next greatest number of referrals comes from human services agencies, with other referrals from schools and individuals themselves. Anyone can refer a case to mediation. The Dispute Resolution Act provides that referrals may be made by a court, an attorney, a law enforcement officer, a social service agency, a school, or any other interested person or agency.

### **If a court wants to refer a case for mediation, how should that be done?**

Judges and court staff who wish to access mediation are encouraged to contact an ODR-approved community mediation center and/or private mediators to become more familiar with the types of cases mediated and other services. A list of the centers is included in the Appendix.

When judges or court staff make a referral to mediation, it is helpful to describe to the parties and lawyers as to why mediation is being encouraged. For some individuals, this may be the first they have heard of mediation. Mediation brochures from the centers and ODR are available for display and distribution by the courts. **Informally, parties and/or attorneys may be given the phone number of the regional mediation center** and may be encouraged to call the centers for more information. The mediation case manager will then further process the case.

**Formally, a judge may also refer a case to mediation by use of a court order**, with a copy of the order faxed or sent to the regional mediation center. The order should state whether the parties or the center are to make initial contact, and how the outcome of the mediation is to be reported back to the court. Courts should establish presumptive deadlines for the mediation process which may be extended by a showing of the parties that a continuation would assist resolution.

Courts may consider and encourage potential litigants to consider mediation as an option prior to filing, as well as during the pendency of the case and after final judgment or order.

### **If a court refers a case to mediation, will it get a report back from the mediator?**

When a court refers a case to a mediation center, the center, the parties, or parties' attorneys generally provide **nominal information to the court as to whether parties participated in the mediation and whether an agreement was reached**. Typically, if mediation is successful in reaching an agreement, the mediated agreement is usually incorporated into a settlement agreement by parties' attorneys and submitted to the court. If the mediation does not result in an agreement, the parties may return to court. The mediator's privilege precludes subsequent reporting to the court as to the communications occurring during the mediation.

### **Are mediated agreements enforceable?**

Generally speaking, mediated agreements are considered as enforceable along the lines of **basic contract principles**.

Mediated agreements tend to be highly self-enforced. Individuals are nearly twice as likely to comply voluntarily with mediated agreements than with court-imposed judgments.

### **Are mediation sessions confidential?**

Mediations conducted by the mediation centers are confidential as provided for under the Nebraska Dispute Resolution Act and the Nebraska Uniform Mediation Act.

### **What is the role of lawyers in mediation?**

**Lawyers have clear and important roles in terms of representing clients who are participating in mediation.** Similar in principle to preparing clients for trial, attorneys will want to prepare their clients for mediation, and understand the nuances and opportunities for resolution that interest-based and other types of mediation afford their clients. Attorneys may decide to attend mediation sessions (or not), advise indirectly outside of sessions, review draft mediation agreements, and complete the legal process following the session.

### **What types of mediation programs are being offered by Nebraska's community mediation centers?**

There are a number of mediation and problem solving programs provided by some or all of Nebraska's community mediation centers. Many of these are done in connection with courts and the legal system. These include:

- Small claims mediation
- Parenting, custody, visitation mediation; full divorce

- Juvenile disputes, delinquency, parent-youth mediation
- Child abuse and neglect family group conferencing
- Probate and estate conferencing
- Restorative justice – victim/offender dialogue, circle sentencing
- Neighborhood and community issues

**If a court wants to propose or explore creating a pilot ADR or mediation project, or to increase the use of court-connected mediation, how should that be done?**

The court may contact the director of the mediation center serving its area (see Appendix), or the director of the Office of Dispute Resolution.

**Can judges and other court personnel attend mediation training?**

**Yes.** Any judge, clerk magistrate, or other court personnel who want to attend the ODR-endorsed 30-hour basic mediation training are encouraged to do so. Even if there is no intention of serving as a mediator, it will benefit the courts, community mediation centers, and the public when judges and other court personnel have an understanding of the process. Additionally, the problem solving and communication skills taught in mediation training are useful in everyday professional and personal settings. Generally, there is a basic training offered by the ODR/NMCA Training Institute every six (6) months, available in different parts of the state. Reduced fees or special ODR-sponsored trainings may be available for judges and court personnel.

Related education for judges and court staff on ADR and mediation may also be available in one or two-day settings. Contact the director of the Office of Dispute Resolution or the center director in your area for more information.

## Nebraska Dispute Resolution Act

**25-2901. Act, how cited.** Sections 25-2901 to 25-2921 shall be known and may be cited as the Dispute Resolution Act.

**25-2902. Legislative findings.** The Legislature finds that:

- (1) The resolution of certain disputes can be costly and time consuming in the context of a formal judicial proceeding;
- (2) Mediation of disputes has a great potential for efficiently reducing the volume of matters which burden the court system in this state;
- (3) Unresolved disputes of those who do not have the resources for formal resolution may be of small social or economic magnitude individually but are collectively of enormous social and economic consequences;
- (4) Many seemingly minor conflicts between individuals may escalate into major social problems unless resolved early in an atmosphere in which the disputants can discuss their differences through a private informal yet structured process;
- (5) There is a need in our society to reduce acrimony and improve relationships between people in conflict which has a long-term benefit of a more peaceful community of people;
- (6) There is a compelling need in a complex society for dispute resolution whereby people can participate in creating comprehensive, lasting, and realistic resolutions to conflicts;
- (7) Mediation can increase access of the public to dispute resolution and thereby increase public regard and usage of the legal system; and
- (8) Nonprofit dispute resolution centers can make a substantial contribution to the operation and maintenance of the courts of this state by preserving the court's scarce resources for those disputes which cannot be resolved by means other than litigation.

**25-2903. Terms, defined.** For purposes of the Dispute Resolution Act:

- (1) Approved center shall mean a center that has applied for and received approval from the director under section 25-2909;
- (2) Center shall mean a nonprofit organization or a court-established program which makes dispute resolution procedures available;
- (3) Council shall mean the Advisory Council on Dispute Resolution;
- (4) Director shall mean the Director of the Office of Dispute Resolution;
- (5) Dispute resolution process shall mean a process by which the parties involved in a dispute voluntarily agree to enter into informal discussion and negotiation with the assistance of a mediator;
- (6) Mediation shall mean the intervention into a dispute by a third party who has no decision-making authority and is impartial to the issues being discussed;
- (7) Mediator shall mean a person trained in the process of mediation who assists parties in dispute to reach a mutually acceptable resolution of their conflict; and
- (8) Office shall mean the Office of Dispute Resolution.

**25-2904. Office of Dispute Resolution; established; director; qualifications; duties.** The Office of Dispute Resolution is hereby established in the office of the State Court Administrator. The director of the office shall be hired by the Supreme Court. The director may but need not be an attorney and shall be hired on the basis of his or her training and experience in mediation. The director shall administer the Dispute Resolution Act and shall serve as staff to the council.

**25-2905. Advisory Council on Dispute Resolution; created; members.** The Advisory Council on Dispute Resolution is hereby created. The council shall be comprised of individuals from a variety of disciplines who are trained and knowledgeable in mediation and selected to be representative of the geographical and cultural diversity of the state and to reflect gender fairness. The council shall consist of eleven voting members. The membership shall include a representative from the Nebraska District Court Judges Association, the Nebraska County Court Judges Association, and the Nebraska State Bar Association. The council shall be appointed by the Supreme Court or a designee. Nominations shall be solicited from the Nebraska District Court Judges Association, the Nebraska County Court Judges Association, the Nebraska State Bar Association, the Nebraska Mediation Coalition, the Public Counsel, social workers, mental health professionals, educators, and other interested groups or individuals. The Supreme Court or its designee shall not be restricted to the solicited list of nominees in making its appointments. Two nonvoting, ex officio members shall be appointed by the council from among the approved centers.

**25-2906. Council; members; terms; vacancy; officers.** The initial members of the council shall be appointed for terms of one, two, or three years. All subsequent appointments shall be made for terms of three years. Any vacancy on the council shall be filled in the same manner in which the original appointment was made and shall last for the duration of the term vacated. Appointments to the council shall be made within ninety days after September 6, 1991. The council shall select a chairperson, a vice-chairperson, and such other officers as it deems necessary.

**25-2907. Council; powers and duties; members; expenses.**

(1) The council shall advise the director on the administration of the Dispute Resolution Act.

(2) The council shall meet at least four times per year and at other times deemed necessary to perform its functions.

Members of the council shall be reimbursed for their actual and necessary expenses as provided in sections 81-1174 to 81-1177.

(3) The council may appoint task forces to carry out its work. Task force members shall have knowledge of, responsibility for, or interest in an area related to the duties of the council.

**25-2908. Director; duties.** Consistent with the purposes and objectives of the Dispute Resolution Act and in consultation with the council, the director shall:

(1) Make information on the formation of centers available statewide and encourage the formation of centers;

(2) Approve centers which meet requirements for approval;

(3) Develop a uniform system of reporting and collecting statistical data from approved centers;

(4) Develop a uniform system of evaluating approved centers;

- (5) Prepare a yearly budget for the implementation of the act and distribute funds to approved centers;
- (6) Develop guidelines for a sliding scale of fees to be charged by approved centers;
- (7) Develop curricula and initiate training sessions for mediators and staff of approved centers and of courts;
- (8) Establish volunteer training programs;
- (9) Promote public awareness of the dispute resolution process;
- (10) Apply for and receive funds from public and private sources for carrying out the purposes and obligations of the act; and
- (11) Develop a uniform system to create and maintain a roster of mediators for juvenile offender and victim mediation, as provided in section 43-245, and centers approved under section 25-2909. The roster shall be made available to courts and county attorneys.

**25-2909. Grants; application; contents; approved centers; reports.**

- (1) The office shall annually award grants to approved centers. It is the intent of the Legislature that centers be established and grants distributed statewide.
- (2) A center or an entity proposing a center may apply to the office for approval to participate in the dispute resolution process pursuant to the Dispute Resolution Act by submitting an application which includes:
  - (a) A plan for the operation of the center;
  - (b) The center's objectives;
  - (c) The areas of population to be served;
  - (d) The administrative organization;
  - (e) Record-keeping procedures;
  - (f) Procedures for intake, for scheduling, and for conducting and terminating dispute resolution sessions;
  - (g) Qualifications for mediators for the center;
  - (h) An annual budget for the center; and
  - (i) Proof of 501(c)(3) status under the Internal Revenue Code or proof of establishment by a court.

The office may specify additional criteria for approval and for grants as it deems necessary.

- (3) Annual reports shall be required of each approved center. The reports shall include the number and types of cases handled in the year and a showing of continued compliance with the act. Any programs existing on September 6, 1991, shall not be included in the act unless they apply and are approved under this section.

**25-2910. Approved center; funding; fees.** An approved center may use sources of funds, both public and private, in addition to funds appropriated by the Legislature. An approved center may require each party to pay a fee to help defray costs based upon ability to pay. A person shall not be denied services solely because of an inability to pay the fee.

**25-2911. Dispute resolution; types of cases; referral of cases.**

- (1) The following types of cases may be accepted for dispute resolution at an approved center:
  - (a) Civil claims and disputes, including, but not limited to, consumer and commercial complaints, disputes between neighbors, disputes between business associates, disputes between landlords and tenants, and disputes within communities;

(b) Disputes concerning child custody and visitation rights and other areas of domestic relations; and

(c) Juvenile offenses and disputes involving juveniles.

(2) An approved center may accept cases referred by a court, an attorney, a law enforcement officer, a social service agency, a school, or any other interested person or agency or upon the request of the parties involved. A case may be referred prior to the commencement of formal judicial proceedings or may be referred as a pending court case. In order for a referral to be effective, all parties involved must consent to such referral. If a court refers a case to an approved center, the center shall provide information to the court as to whether an agreement was reached. If the court requests a copy of the agreement, the center shall provide it.

**25-2912. Dispute resolution process; procedures.** Before the dispute resolution process begins, an approved center shall provide the parties with a written statement setting forth the procedures to be followed.

**25-2913. Mediators; qualifications; compensation; powers and duties.**

(1) Mediators of approved centers shall have completed at least thirty hours of training in conflict resolution techniques, neutrality, agreement writing, and ethics. For disputes involving marital dissolution, mediators of approved centers shall have an additional thirty hours in family mediation. An initial apprenticeship with an experienced mediator shall be required for at least three sessions for all mediators without prior mediation experience.

(2) An approved center may provide for the compensation of mediators or utilize the services of volunteer mediators or both.

(3) The mediator shall assist the parties in reaching a mutually acceptable resolution of their dispute through discussion and negotiation. The mediator shall be impartial, neutral, and unbiased and shall make no decisions for the parties.

(4) The mediator shall officially terminate the process if the parties are unable to agree or if, in the judgment of the mediator, the agreement would be unconscionable. The termination shall be without prejudice to either party in any other proceeding.

(5) The mediator has no authority to make or impose any adjudicatory sanction or penalty upon the parties.

(6) The mediator shall be aware of and recommend outside resources to the parties whenever appropriate. The mediator shall advise participants to obtain legal review of agreements as necessary.

**25-2914. Confidentiality; exceptions.** Any verbal, written, or electronic communication made in or in connection with matters referred to mediation which relates to the controversy or dispute being mediated and agreements resulting from the mediation, whether made to the mediator, the staff of an approved center, a party, or any other person attending the mediation session, shall be confidential. Mediation proceedings shall be regarded as settlement negotiations, and no admission, representation, or statement made in mediation, not otherwise discoverable or obtainable, shall be admissible as evidence or subject to discovery. A mediator shall not be subject to process requiring the disclosure of any matter discussed during mediation proceedings unless all the parties consent to a waiver. Confidential communications and materials are subject to disclosure when all parties agree in writing to waive confidentiality regarding specific verbal, written, or electronic communications relating to the mediation session or the agreement. This section shall not apply if a party brings an



action against the mediator or center, if the communication was made in furtherance of a crime or fraud, or if this section conflicts with other legal requirements.

**25-2915. Immunity; exceptions.** No mediator, staff member, or member of a governing board of an approved center may be held liable for civil damages for any statement or decision made in the process of dispute resolution unless such person acted in a manner exhibiting willful or wanton misconduct.

**25-2916. Agreement; contents; enforceability.** If the parties involved in the dispute reach an agreement, the agreement may be reduced to writing and signed by the parties. The agreement shall set forth the settlement of the issues and the future responsibilities of each party. If a court referred the case, the agreement as signed and approved by the parties may be presented to the court as a stipulation and, if approved by the court, shall be enforceable as an order of the court.

**25-2917. Tolling of statute of limitations; when.** During the period of the dispute resolution process, any applicable statute of limitations shall be tolled as to the parties. The tolling shall commence on the date the approved center accepts the case and shall end on the date of the last mediation session. This period shall be no longer than sixty days without consent of all the parties.

**25-2918. Rules and regulations.** The Supreme Court, upon recommendation by the director in consultation with the council, shall adopt and promulgate rules and regulations to carry out the Dispute Resolution Act.

**25-2919. Application of act.** The Dispute Resolution Act shall apply only to approved centers and mediators of such centers.

**25-2920. Director; report.** The director shall report annually to the Chief Justice, the Governor, and the Legislature on the implementation of the Dispute Resolution Act. The report shall include the number and types of disputes received, the disposition of the disputes, any problems encountered, any recommendations to address problems, and a comparison of the cost of mediation and litigation.

**25-2921. Dispute Resolution Cash Fund; created; use; investment.** The Dispute Resolution Cash Fund is created. The State Court Administrator shall administer the fund. The fund shall consist of proceeds received pursuant to subdivision (10) of section 25-2908 and section 33-155. The fund shall be used to supplement the administration of the office and the support of the approved centers. It is the intent of the Legislature that any General Fund money supplanted by the Dispute Resolution Cash Fund may be used for the support and maintenance of the State Library. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

## Nebraska Parenting Act

**43-2901. Act, how cited.** Sections 43-2901 to 43-2919 shall be known and may be cited as the Parenting Act.

**43-2902. Legislative findings.** The Legislature finds it is in the best interests of a minor child to maintain, to the greatest extent possible, the ongoing involvement of both parents in the life of the minor child. The Legislature further finds that parents should maintain continued communications to make as many joint decisions in performing such parenting functions as are necessary for the care and healthy development of the minor child.

In any proceeding between parents under Chapter 42 involving a minor child, the best interests of the minor child shall be the standard by which the court adjudicates and establishes the individual parental responsibilities. The state presumes the critical importance of the parent-child relationship and the child-parent relationship in the welfare and development of the minor child and that the relationship between the minor child and both parents should be fostered unless otherwise inconsistent with the best interests of the minor child. The best interests of the minor child are served by a parenting arrangement which best serves a minor child's emotional growth, health, stability, and physical care.

The Legislature further finds that the best interests of the minor child are ordinarily addressed when both parents remain active and involved in parenting. It is the policy of this state to assure the right of children, when it is in their best interests, to frequent and continuing contact with parents who have shown the ability to act in the best interests of the children and to encourage parents to share in the rights and responsibilities of raising their children after divorce or separation.

**43-2903. Terms, defined.** For purposes of the Parenting Act:

(1) Minor child shall mean a child under the age of nineteen years;

(2) Parenting functions shall mean those aspects of the parent-child relationship in which the parent makes fundamental decisions and performs fundamental functions necessary for the care and development of the minor child. Parenting functions shall include, but not be limited to:

(a) Maintaining a loving, stable, consistent, and nurturing relationship with the minor child;

(b) Attending to the ongoing needs of the minor child, including feeding, clothing, physical care and grooming, supervision, and engaging in other activities appropriate to the healthy development of the minor child within the social and economic circumstances of the family;

(c) Attending to adequate education for the minor child, including remedial or other special education essential to the best interests of the minor child;

(d) Assisting the minor child in maintaining a positive relationship with both parents and other family members;

(e) Assisting the minor child in developing and maintaining appropriate interpersonal relationships; and

(f) Exercising appropriate support for social, academic, athletic, or other special interests and abilities of the minor child within the social and economic circumstances of the family;

(3) Parenting plan shall mean a plan for parenting the minor child in consideration of the parenting functions, which plan may be incorporated into any final decree or decree of modification in an action (a) for dissolution of marriage, (b) concerning the validity of a marriage, or (c) for legal separation; and

(4) Remediation process shall mean the method established in the parenting plan which provides each parent a means to resolve future circumstantial changes or conflicts regarding the parenting functions or the parenting plan and which minimizes relitigation and utilizes judicial intervention as a last resort.

**43-2904. Proceedings regarding parenting; informational materials provided; State Court Administrator; duties; mediators; screening guidelines.**

(1) In any proceeding under Chapter 30, 42, or 43 in which the parenting of minor children is in issue except any proceeding under the Revised Uniform Reciprocal Enforcement of Support Act or the Uniform Interstate Family Support Act, subsequent to the initial filing or upon filing of an application for modification of a decree, the parties shall receive from the clerk of the court information regarding the divorce process, a divorce time-line, parenting during and after divorce, the parenting plan, the mediation process, and resource materials, as well as the availability of mediation through the conciliation office, other court-based programs, or the state mediation centers as established through the Office of Dispute Resolution. Development of these informational materials and the implementation of this subsection shall be accomplished through the State Court Administrator.

(2) Mediators shall be trained to recognize domestic violence. Screening guidelines and safety procedures for cases involving child abuse, spouse abuse, or both shall be devised by the State Court Administrator. If the case is determined not to involve child abuse, spouse abuse, or both and both parties voluntarily agree to mediation, the case may be scheduled for future mediation sessions.

**43-2905. Mediator; qualifications; standards; conflicts of interest.**

(1) A mediator under the Parenting Act may be a court-based conciliation court counselor, a court-based mediator, a state mediation center mediator as established by the Office of Dispute Resolution, or a mediator in private practice. To qualify as a mediator, a person shall have a minimum of thirty hours of basic mediation training and thirty hours of family mediation training and shall have served as an apprentice to an experienced mediator as defined in section 25-2903.

(2) A mediator who performs mediation in family matters shall also meet the following standards:

(a) Knowledge of the court system and procedures used in contested family matters;

(b) General knowledge of Nebraska family law, especially regarding custody, visitation, and support;

(c) Knowledge of other resources in the state to which parties and children can be referred for assistance; and

(d) General knowledge of child development, clinical issues relating to children, the effects of marriage dissolution on children, parents, and extended families, and the psychology of families.

(3) No mediator who represents or has represented one or both of the parties or has had either of the parties as a client may mediate the case. If such services have been provided to both participants, mediation shall not proceed unless the prior relationship has been discussed, the role of the mediator has been made distinct from the earlier relationship, and the participants have been given the opportunity to fully choose to proceed. All other potential conflicts of interest shall be disclosed and discussed before the parties decide whether to proceed with that mediator.

**43-2906. Court-based mediation; referral.** With the consent of both parties, a court may refer a case to court-based mediation, at no cost to the parties, and may state a date for the case to return to court, but such date shall be no longer than ninety days from the date the order is signed unless the court grants an extension. If the court refers a case to such mediation, the court may, if appropriate, order temporary support in order to meet the Nebraska Supreme Court rules for expedited process or case progression.

**43-2907. Mediator; duties.** The mediator shall facilitate the mediation process. The mediator shall inform the parties of the factors the court will consider. The mediator shall be impartial and shall use his or her best efforts to assist both parties in the development of a parenting plan. The mediator shall assist the parties in assessing their needs and those of the minor child involved in the proceeding and may include the minor child in the mediation process if necessary or appropriate.

**43-2908. Mediation; how conducted; confidentiality.** Mediation under the Parenting Act shall be conducted in private. The mediator shall advise the parties that they should consult with an attorney. Any disclosure of abuse made during the mediation process shall be confidential, except that reports of abuse or neglect as defined in section 28-710 made during the mediation process shall be timely reported to the district judge and an in camera hearing shall be held to determine whether a report should be made pursuant to section 28-711 and if further investigation is merited.

No records, notes, or other documentation, written or electronic, of the mediation process, except the contents of a final agreement between the parties, shall be examined in any judicial or administrative proceeding. Any communications made confidential by the act which become subject to judicial or administrative process requiring the disclosure of such communications shall not be disclosed.

**43-2909. Mediation; termination; when.**

(1) The mediator may terminate mediation if one or more of the following conditions exist:

(a) There is no reasonable possibility that mediation will promote the development of an effective parenting plan;

(b) Allegations are made of direct physical or significant emotional harm to a party or to a minor child that have not been heard and ruled upon by the court. Prior to the commencement of mediation, the parties to mediation shall be notified by the mediator that evidence of abuse or neglect as defined in section 28-710 shall be reported to the district judge who shall hold an in camera hearing to determine whether a report should be made pursuant to section 28-711 and if further investigation is merited; or

(c) Mediation will otherwise fail to serve the best interests of the minor child.

(2) If mediation is not appropriate pursuant to subsection (1) of this section, the mediator shall so inform the court. Any additional statements shall not be prejudicial to either party.

(3) Either party may terminate mediation at any point in the process.

**43-2910. Mediation agreement; report to court.** Any agreement reached by the parties as a result of mediation shall be reported to the court and to counsel for the parties by the mediator prior to the day set for hearing or at such time as is designated by the court. If the parties do not reach agreement as a result of mediation, the mediator shall report that fact to the court on or before the reporting date established by the court.

**43-2911. Costs.** The costs of the mediation process shall be paid by the parties on an equal-share basis according to each party's ability to pay or on a sliding fee scale. If a court refers a case to court-based mediation, there shall be no fee.

**43-2912. Parenting plan; purpose and scope.** At a minimum, the purpose and scope of the parenting plan shall be to:

- (1) Assist in developing a satisfactorily restructured family that meets the needs of all the members;
- (2) Provide for the minor child's physical care;
- (3) Maintain the minor child's emotional stability;
- (4) Provide for the minor child's changing needs as he or she develops, in a manner which minimizes the need for future modifications to the parenting plan;
- (5) Set forth the authority and responsibilities of each party with respect to the minor child;
- (6) Minimize the minor child's exposure to harmful parental conflict;
- (7) Encourage the parties, when appropriate, to fulfill their parenting responsibilities through agreements in the parenting plan rather than by relying on judicial intervention;
- (8) Encourage mutual appropriate participation by both parties in the minor child's activities;
- (9) Provide both parties equal access to the minor child's medical, dental, and school records;
- (10) Encourage remediation prior to litigation; and
- (11) Assist both parties to articulate a visitation schedule which would be acceptable if the other party is awarded custody of the minor child.

**43-2913. Parenting plan; contents.** The parenting plan shall contain custody and visitation arrangements, apportionment of time with each party, and provisions for a remediation process regarding future modifications to such plan as provided in sections 43-2914 to 43-2916. The parenting plan shall address only issues regarding parenting functions. Other issues, including, but not limited to, property division and financial issues or child support, shall be specifically excluded from the parenting plan.

**43-2914. Parenting plan; requirements; emergency medical procedures.** The parenting plan shall encourage mutual discussion of major decisions regarding the minor child's education, health care, and religious upbringing. Regardless of the allocation of decision making in the parenting plan, either party may authorize emergency medical procedures in situations affecting the immediate health of the child.

Each party shall establish procedures for making decisions regarding the day-to-day care and control of the minor child while the minor child is residing with that party.

**43-2915. Parenting plan; schedule of time to be spent with each parent; considerations; decree to include parenting plan.**

(1) The parenting plan shall include a schedule which designates in which party's home the minor child shall reside on given days of the year, including provisions for specified religious and secular holidays, birthdays of family members, vacations, and other special occasions.

(2) In the development of a parenting plan, consideration shall be given to the minor child's age and developmental needs and provision of a healthy relationship between the minor child and each party.

(3) The minimum court-ordered time the minor child shall spend with each parent shall be specified, including, but not limited to, specified religious and secular holidays, birthdays, vacations, and other special occasions.

(4) The decree shall include the parenting plan developed by the parents through mediation and approved by the court pursuant to the Parenting Act.

**43-2916. Remediation process.** When mutual decision-making is agreed upon in the parenting plan but cannot be achieved, the parties shall make a good faith effort to resolve the issue through the remediation process. The remediation process shall minimize the minor child's exposure to parental conflict and encourage mutual agreement without judicial intervention.

**43-2917. Parenting plan; submission; court; powers.** When the parenting plan is agreed to by both parties, it shall be submitted to the parties' legal counsels who shall submit it for inclusion in the decree under section 42-120 or 42-364. The court may, after a hearing and based on the best interests of the minor child, approve the plan, modify and approve the plan as modified, or reject the plan and order the parties to develop a new plan.

**43-2917.01. Parenting education course; when required; costs.** Any party to a divorce action involving minor children or an action involving child custody or visitation may be required by the court to complete a parenting education course pursuant to this section prior to the entry by the court of a final judgment or order modifying the final judgment in such action. The court must approve the course, and participation in the course may be delayed or waived by the court for good cause shown. Failure or refusal by any party to participate in such a course as ordered by the court shall not delay the entry of a final judgment or order modifying a final judgment in such action by more than six months and shall in no case be punished by incarceration.

A parenting education course pursuant to this section shall be designed to educate the parties about the impact of the pending divorce, custody, or visitation action upon their children. The course shall include, but not be limited to, information on the developmental stages of children, adjustment of children to parental separation, dispute resolution and conflict management, guidelines for visitation, stress reduction in children, and cooperative parenting.

Each party shall be responsible for the costs, if any, of attending a court-ordered parenting education course. The court may specifically allocate costs between the parties for their required participation in the course. At the request of any party, the parties shall be allowed to attend separate courses or to attend the same course at different times, specifically if violence has been present in the relationship or one party has threatened the other party with violence.

**43-2918. State Court Administrator; develop rules.** The State Court Administrator shall develop rules to implement the Parenting Act which are consistent with the Dispute Resolution Act. Such rules shall include training and evaluation of mediators used by state mediation centers.

**43-2919. Act; applicability; county attorney or authorized attorney; participation prohibited.** The Parenting Act shall not apply in any action filed by a county attorney or authorized attorney pursuant to his or her duties under sections 42-358, 43-512 to 43-512.18, and 43-1401 to 43-1418, the Income Withholding for Child Support Act, the Revised Uniform Reciprocal Enforcement of Support Act before January 1, 1994, and the Uniform Interstate Family Support Act for purposes of the establishment of paternity and the establishment and enforcement of child and medical support. A county attorney or authorized attorney shall not participate in the development of or court review of a parenting plan under the Parenting Act.

## Nebraska Uniform Mediation Act

**25-2930. Act, how cited.** Sections 25-2930 to 25-2942 shall be known and may be cited as the Uniform Mediation Act.

**25-2931. Terms, defined.** For purposes of the Uniform Mediation Act:

- (1) Mediation means a process in which a mediator facilitates communication and negotiation between parties to assist them in reaching a voluntary agreement regarding their dispute.
- (2) Mediation communication means a statement, whether oral or in a record or verbal or nonverbal, that occurs during a mediation or is made for purposes of considering, conducting, participating in, initiating, continuing, or reconvening a mediation or retaining a mediator.
- (3) Mediator means an individual who conducts a mediation.
- (4) Nonparty participant means a person, other than a party or mediator, that participates in a mediation.
- (5) Mediation party means a person that participates in a mediation and whose agreement is necessary to resolve the dispute.
- (6) Person means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, government, governmental subdivision, agency, or instrumentality, public corporation, or any other legal or commercial entity.
- (7) Proceeding means:
  - (a) a judicial, administrative, arbitral, or other adjudicative process, including related prehearing and post-hearing motions, conferences, and discovery; or
  - (b) a legislative hearing or similar process.
- (8) Record means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form.
- (9) Sign means:
  - (a) to execute or adopt a tangible symbol with the present intent to authenticate a record; or
  - (b) to attach or logically associate an electronic symbol, sound, or process to or with a record with the present intent to authenticate a record.

**25-2932. Scope.**

- (a) Except as otherwise provided in subsection (b) or (c) of this section, the Uniform Mediation Act applies to a mediation in which:
  - (1) the mediation parties are required to mediate by statute or court or administrative agency rule or referred to mediation by a court, administrative agency, or arbitrator;
  - (2) the mediation parties and the mediator agree to mediate in a record that demonstrates an expectation that mediation communications will be privileged against disclosure; or
  - (3) the mediation parties use as a mediator an individual who holds himself or herself out as a mediator, or the mediation is provided by a person that holds itself out as providing mediation.



- (b) The Uniform Mediation Act does not apply to a mediation:
- (1) relating to the establishment, negotiation, administration, or termination of a collective-bargaining relationship;
  - (2) relating to a dispute that is pending under or is part of the processes established by a collective-bargaining agreement, except that the act applies to a mediation arising out of a dispute that has been filed with an administrative agency or court;
  - (3) conducted by a judge who might make a ruling on the case; or
  - (4) conducted under the auspices of:
    - (a) a primary or secondary school if all the parties and the mediator are students; or
    - (b) a correctional institution for youths or a juvenile center if all the parties and the mediator are residents of that institution.
    - (c) If the parties agree in advance in a signed record or a record of proceeding so reflects that all or part of a mediation is not privileged, the privileges under sections 25-2933 to 25-2935 do not apply to the mediation or part agreed upon. However, such sections apply to a mediation communication made by a person that has not received actual notice of the agreement before the communication is made.

**25-2933. Privilege against disclosure; admissibility; discovery.**

- (a) Except as otherwise provided in section 25-2935, a mediation communication is privileged as provided in subsection (b) of this section and is not subject to discovery or admissible in evidence in a proceeding unless waived or precluded as provided by section 25-2934.
- (b) In a proceeding, the following privileges apply:
- (1) A mediation party may refuse to disclose, and may prevent any other person from disclosing, a mediation communication.
  - (2) A mediator may refuse to disclose a mediation communication and may prevent any other person from disclosing a mediation communication of the mediator.
  - (3) A nonparty participant may refuse to disclose, and may prevent any other person from disclosing, a mediation communication of the nonparty participant.
- (c) Evidence or information that is otherwise admissible or subject to discovery does not become inadmissible or protected from discovery solely by reason of its disclosure or use in a mediation.

**25-2934. Waiver and preclusion of privilege.**

- (a) A privilege under section 25-2933 may be waived in a record or orally during a proceeding if it is expressly waived by all parties to the mediation and:
- (1) in the case of the privilege of a mediator, it is expressly waived by the mediator; and
  - (2) in the case of the privilege of a nonparty participant, it is expressly waived by the nonparty participant.
- (b) A person that discloses or makes a representation about a mediation communication which prejudices another person in a proceeding is precluded from asserting a privilege under section 25-2933, but only to the extent necessary for the person prejudiced to respond to the representation or disclosure.
- (c) A person that intentionally uses a mediation to plan, attempt to commit, or commit a crime or to conceal an ongoing crime or ongoing criminal activity is precluded from asserting a privilege under section 25-2933.

**25-2935. Exceptions to privilege.**

- (a) There is no privilege under section 25-2933 for a mediation communication that is:
- (1) in an agreement evidenced by a record signed by all parties to the agreement;
  - (2) available to the public under sections 84-712 to 84-712.09 or made during a session of a mediation which is open, or is required by law to be open, to the public;
  - (3) a threat or statement of a plan to inflict bodily injury or commit a crime of violence;
  - (4) intentionally used to plan a crime, attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity;
  - (5) sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediator;
  - (6) except as otherwise provided in subsection (c) of this section, sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice filed against a mediation party, nonparty participant, or representative of a party based on conduct occurring during a mediation; or
  - (7) sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation in a proceeding in which a child or adult protective services agency is a party.
- (b) There is no privilege under section 25-2933 if a court, administrative agency, or arbitrator finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, that there is a need for the evidence that substantially outweighs the interest in protecting confidentiality, and that the mediation communication is sought or offered in:
- (1) a court proceeding involving a felony; or
  - (2) except as otherwise provided in subsection (c) of this section, a proceeding to prove a claim to rescind or reform or a defense to avoid liability on a contract arising out of the mediation.
- (c) A mediator may not be compelled to provide evidence of a mediation communication referred to in subdivision (a)(6) or (b)(2) of this section.
- (d) If a mediation communication is not privileged under subsection (a) or (b) of this section, only the portion of the communication necessary for the application of the exception from nondisclosure may be admitted. Admission of evidence under subsection (a) or (b) of this section does not render the evidence, or any other mediation communication, discoverable or admissible for any other purpose.

**25-2936. Prohibited mediator reports.**

- (a) Except as required in subsection (b) of this section, a mediator may not make a report, assessment, evaluation, recommendation, finding, or other communication regarding a mediation to a court, administrative agency, or other authority that may make a ruling on the dispute that is the subject of the mediation.
- (b) A mediator may disclose:
- (1) whether the mediation occurred or has terminated, whether a settlement was reached, and attendance;
  - (2) a mediation communication as permitted under section 25-2935; or
  - (3) a mediation communication evidencing abuse, neglect, abandonment, or exploitation of an individual to a public agency responsible for protecting individuals against such mistreatment.
- (c) A communication made in violation of subsection (a) of this section may not be considered by a court, administrative agency, or arbitrator.

**25-2937. Confidentiality.** Unless subject to sections 84-712 to 84-712.09 or 84-1408 to 84-1414, mediation communications are confidential to the extent agreed by the parties or provided by other law or rule of this state.

**25-2938. Mediator's disclosure of conflicts of interest; background.**

(a) Before accepting a mediation, an individual who is requested to serve as a mediator shall:

(1) make an inquiry that is reasonable under the circumstances to determine whether there are any known facts that a reasonable individual would consider likely to affect the impartiality of the mediator, including a financial or personal interest in the outcome of the mediation and an existing or past relationship with a mediation party or foreseeable participant in the mediation; and

(2) disclose any such known fact to the mediation parties as soon as is practical before accepting a mediation.

(b) If a mediator learns any fact described in subdivision (a)(1) of this section after accepting a mediation, the mediator shall disclose it as soon as is practicable.

(c) An individual who is requested to serve as a mediator shall disclose the mediator's qualifications to mediate a dispute.

(d) A person that violates subsection (a), (b), or (g) of this section is precluded by the violation from asserting a privilege under section 25-2933.

(e) Subsections (a), (b), (c), and (g) do not apply to an individual acting as a judge.

(f) The Uniform Mediation Act does not require that a mediator have a special qualification by background or profession.

(g) A mediator must be impartial, unless after disclosure of the facts required in subsections (a) and (b) of this section to be disclosed, the parties agree otherwise.

**25-2939. Participation in mediation.** An attorney may represent, or other individual designated by a party may accompany the party to, and participate in a mediation. A waiver of representation or participation given before the mediation may be rescinded.

**25-2940. Relation to federal Electronic Signatures in Global and National Commerce Act.** The Uniform Mediation Act modifies, limits, or supersedes the federal Electronic Signatures in Global and National Commerce Act, 15 U.S.C. 7001 et seq., but the Uniform Mediation Act does not modify, limit, or supersede 15 U.S.C. 7001(c) or authorize electronic delivery of any of the notices described in 15 U.S.C. 7003(b).

**25-2941. Uniformity of application and construction.** In applying and construing the Uniform Mediation Act, consideration must be given to the need to promote uniformity of the law with respect to its subject matter among states that enact it.

**25-2942. Application to existing agreements or referrals.**

(a) The Uniform Mediation Act governs a mediation pursuant to a referral or an agreement to mediate made on or after August 31, 2003.

(b) On or after January 1, 2004, the Uniform Mediation Act governs an agreement to mediate whenever made.

(c) The Uniform Mediation Act is intended to address issues of privilege and does not diminish any other mediation requirements of the statutes of Nebraska.

# APPENDIX

## ADVISORY COUNCIL ON DISPUTE RESOLUTION (2006)

### Members:

Term Expires December 31

James E. Gordon	12-07
Michael Baumfalk	12-08
Carl Eskridge	12-08
Honorable Curtis H. Evans	12-08
Robert Kirby	12-06
Honorable Patricia Lamberty	12-06
Linda Sanchez-Masi	12-07
Rick Thomas	12-06
Joe W. Wright	12-07

### Ex Officio Members:

Mary Lee Brock	12-06
Rae Ann Schmitz	12-06

Debora Brownyard, J.D., Director  
Office of Dispute Resolution  
Administrative Office of the Courts/Probation  
P.O. Box 98910  
Lincoln, NE 68509-8910  
(402) 471-2766; [dbrownya@nsc.state.ne.us](mailto:dbrownya@nsc.state.ne.us)

## Nebraska Mediation Centers

### **Center for Conflict Resolution**

Rae Ann Schmitz, Executive Director  
1524 Broadway  
P.O. Box 427  
Scottsbluff, NE 69363-0427  
Phone: (308) 635-2002 and (800) 967-2115  
[raschmitz@conflictresolutioncenter.com](mailto:raschmitz@conflictresolutioncenter.com)

Counties covered by Center for Conflict Resolution: Arthur, Banner, Box Butte, Cheyenne, Dawes, Deuel, Garden, Grant, Hooker, Keith, Kimball, Lincoln, Logan, McPherson, Morrill, Scotts Bluff, Sheridan, Sioux, Thomas

### **Central Mediation Center**

Lynne Favinger, Executive Director  
204 East 25<sup>th</sup> Street, Suite 5  
P.O. Box 838  
Kearney, NE 68848-0838  
Phone: (308) 237-4692 and (800) 203-3452  
[info@centralmediationcenter.com](mailto:info@centralmediationcenter.com)

Counties covered by Central Mediation Center: Adams, Blaine, Buffalo, Chase, Clay, Custer, Dawson, Dundy, Franklin, Frontier, Furnas, Garfield, Gosper, Greeley, Hall, Hamilton, Harlan, Hayes, Hitchcock, Howard, Kearney, Loup, Merrick, Nuckolls, Perkins, Phelps, Red Willow, Sherman, Valley, Webster, Wheeler

### **Concord Center**

Mary Lee Brock, Executive Director  
3861 Farnam Street, Suite B  
Omaha, NE 68131  
Phone: (402) 345-1131  
[mlbrock@concord-center.com](mailto:mlbrock@concord-center.com)

Counties covered by Concord Center: Douglas and Sarpy

**Nebraska Justice Center**

Kristin Ostrom, Executive Director  
Dodge County Court House, 3<sup>rd</sup> Floor  
P.O. Box 1062  
Fremont, NE 68026-1062  
Phone: (402) 753-9415 and (866) 846-5576  
Kristinostrom@qwest.net

Counties covered by Nebraska Justice Center: Antelope, Boone, Boyd, Brown, Burt, Cedar, Cherry, Colfax, Cuming, Dakota, Dixon, Dodge, Holt, Keya Paha, Knox, Madison, Nance, Pierce, Platte, Rock, Stanton, Thurston, Washington, Wayne

**The Resolution Center**

Judy Pingel, Executive Director  
5109 W. Scott Road, Suite 414  
Beatrice, NE 68310  
Phone: (402) 223-6061 or (800) 837-7826  
[TRC@bvca.net](mailto:TRC@bvca.net)

Counties covered by The Resolution Center: Butler, Cass, Fillmore, Gage, Jefferson, Johnson, Nemaha, Otoe, Pawnee, Polk, Richardson, Saline, Saunders, Seward, Thayer, York

**The Mediation Center****Resources for Collaborative Decision Making**

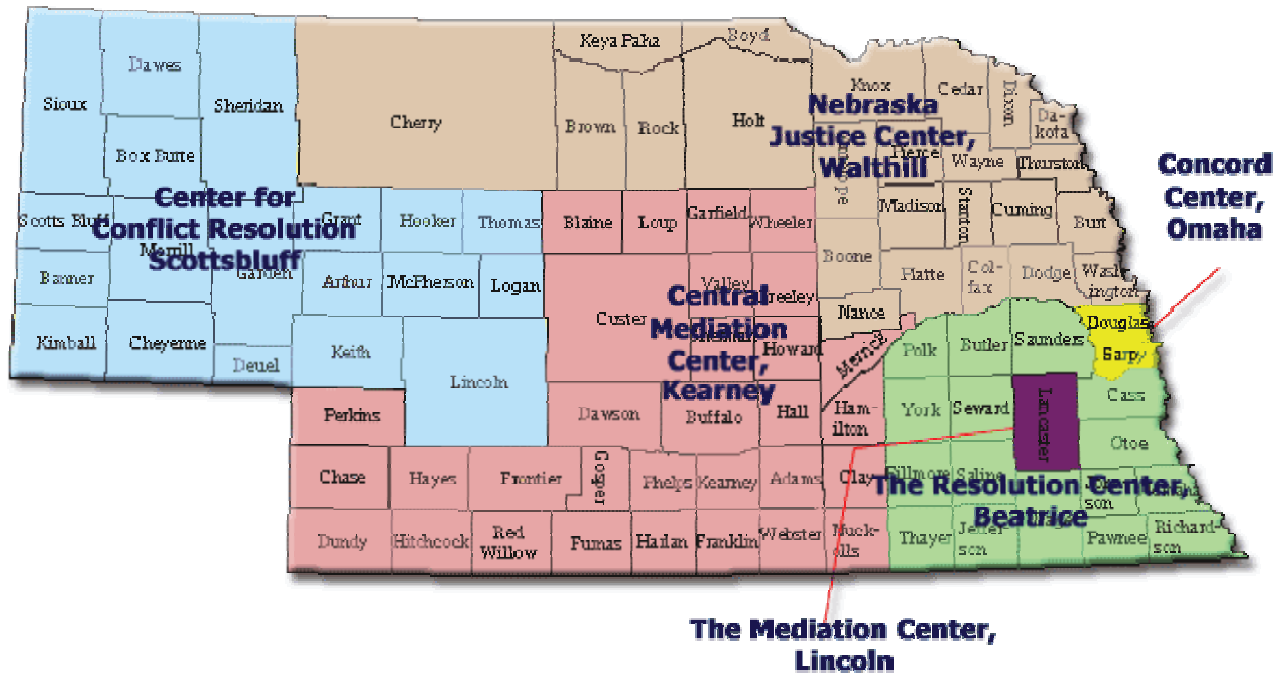
Kelly Phipps, Executive Director  
610 "J" Street, Suite 100  
Lincoln, NE 68508-3919  
Phone: (402) 441-5740  
[info@themediationcenter.org](mailto:info@themediationcenter.org)

County covered by The Mediation Center: Lancaster





## Nebraska Mediation Centers



**Appendix 19 – Douglas County District Court Notice of Intent to Dismiss**

**NOTICE OF INTENT TO DISMISS**

IN THE DISTRICT COURT OF Douglas COUNTY, NEBRASKA

State of Nebraska Obo v. Maruice L Coleman Jr

Case ID: CI 10 9055299

Old Case ID: 1045026

Pursuant to Rule 4-10, this notice is sent to inform each party that, within thirty (30) days from the date of this notice, you must submit a Proposed Scheduling Order (PSO) indicating: a) Date of Scheduling Conference b) Trial Scheduled/Trial Held date, or, c) Request that a Pretrial conference be held and necessary discovery deadlines set, or the above-captioned case will be dismissed for lack of prosecution.

Procedural Process to Avoid Dismissal

Pursuant to Rule 4-10(A), one original Proposed Scheduling Order shall be presented to the District Court Administrator for review to ensure that all information required by these rules has been provided. The District Court Administrator-approved Proposed Scheduling Order will be forwarded for review by the judge to whom the case is assigned. The parties may also request a scheduling conference, which must be held prior to the case dismissal date. Either of the above-mentioned events shall remove the case from the case progression dismissal list. The Court will not consider motions or stipulations to extend or excuse the filing of a Joint Proposed Scheduling Order.

Case Progression Dismissals

Pursuant to Rule 4-10(C), when a case has been dismissed for lack of prosecution, the judge to whom the case is assigned has the discretion to reinstate the case. However, a case can be reinstated only upon (1) the showing of good cause for reinstatement, (2) the contemporaneous submission of a PSO; and (3) the filing of a Signed Scheduling Order. [If a PSO does not accompany the request for reinstatement of the dismissed case, the case will automatically be dismissed as soon as it has been reinstated.]

If you have any questions or concerns about this notice, please contact District Court Administrator Doug Johnson either by email ([djohnson@dc4dc.com](mailto:djohnson@dc4dc.com)) or by telephone (402-444-7004). The Proposed Scheduling Order can be found on the District Court website [www.dc4dc.com](http://www.dc4dc.com).



District Court Administrator

Date: September 30, 2019

**Appendix 20 – Douglas County District Court Notice of Intent to Dismiss  
(Revised)**

NOTICE OF INTENT TO DISMISS

IN THE DISTRICT COURT OF DOUGLAS COUNTY, NEBRASKA

State of Nebraska Obo v. \_\_\_\_\_

Case ID: \_\_\_\_\_

**NOTICE AND INSTRUCTIONS**

Pursuant Fourth District Court Local Rule 4-10, this notice is sent to inform each party that, within thirty (30) days from the date of this notice, one of the parties **must submit a completed Proposed Scheduling Order (PSO) form to the District Court Administrator** for review and approval. The Court Administrator will send the approved PSO to the Court assigned the case for final review and entry of the order. The Court will not consider motions or stipulations to extend or excuse the filing of the Order.

Complete the PSO form by choosing one (1) of the following and signing and dating the form:

- Part A. Contact the office of the Judge assigned to your case to get a date for a scheduling conference. One signature required.**
- Part B. Indicate the Trial or Final Hearing date, or the Trial held date if a decision is pending. One signature required.**
- Part C. Parties agree to pretrial deadlines and provide pretrial information or request a pretrial conference.**

IF A PSO IS NOT SUBMITTED BY ONE OF THE PARTIES, THE ABOVE-CAPTIONED CASE WILL BE DISMISSED FOR LACK OF PROSECUTION.

**FIND THE FORM**

The form, "Proposed Scheduling Order", is online at [www.dc4dc.com](http://www.dc4dc.com). Paper copies are also available in the District Court Administrators Office, 1701 Farnam Street, Suite 500.

**FOR ALL CASES INVOLVING CHILDREN:**

To avoid dismissal, submit a PSO to the District Court Administrator AND, both parties **must report to Douglas County Conciliation Court** at 1701 Farnam Street Suite 155 or contact the office by phone at 402-444-7169 to comply with Fourth District Court Local Rule 4-3D.

**CHILD SUPPORT CASES**

Please be advised, if your case is dismissed, all previous orders for child support will remain in full force and effect. Any temporary orders entered as part of the current action will be dismissed, if the proposed scheduling order is not submitted in the allotted time frame.

**IF A CASE IS DISMISSED**

Fourth District Court Local Rule 4-10(C) states that the Court assigned the case may, in its discretion, reinstate the case. To reinstate the case, submit the following forms to the office of the Judge assigned to the case: (1) a motion to reinstate the case stating good cause why it should be reinstated; (2) a completed PSO; (3) an order to reinstate for the Judge to sign. If the Judge finds that the case shall be reinstated, an order to reinstate and a scheduling order are filed. Forms are available in the Law Library Room H08 Hall of Justice 1701 Farnam Street and online at [www.dc4dc.com](http://www.dc4dc.com).

If you have any question or concerns about this notice, please contact District Court Administrator, Doug Johnson, either by email ([djohnson@dc4dc.com](mailto:djohnson@dc4dc.com)) or by telephone (402-444-7004).

Date: \_\_\_\_\_

\_\_\_\_\_

District Court Administrator