

Vision Statement: **Vision of the Nebraska's Self-Represented Litigant 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.

## **Self-Represented Litigation Strategic Planning**

### **Supplemental Materials**

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Nebraska Strategic Planning Conference Work Summary and Affiliated Materials:

- **Makeup of Small Group and Summary of Work** (A through H)
- **Limited Practice Rule for Limited License Legal Technicians** (Washington State 2015)
- **ORIGIN, EVOLUTION, AND BEYOND: A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation** (2015 Report to the Self-Represented Litigant Strategic Planning Committee)

Nebraska Research Materials:

- **Inventory of Resources for Self-Represented Litigants in Nebraska** (Legal Aid 2015)
- **Nebraska Justice Gap: An Assessment of the Unmet Civil Legal Needs of Low and Moderate Income Nebraskans** (March 2015)
- **Survey of Judges and Clerks—Self Represented Litigation in Nebraska** (Committee on Self-Representation and Legal Aid 2015)



## Supplemental Materials

Nebraska Strategic Planning Conference Work Summary and Affiliated Materials:

- **Small Group Reports (A through H)**

**Nebraska Supreme Court Committee on Self-Represented Litigation  
Strategic Planning Conference  
March 19-20, 2015**

**Small Group Reports**

- Group A:** Legal information concerning rights and remedies and procedural requirements
- Group B:** Forms produced through document assembly software
- Group C:** Assistance for self-represented litigants in the use of information and forms in pursuing a remedy
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- Group E:** Personal assistance for persons with disabilities or language access needs
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- Group G:** An accommodating courtroom environment in which to present the case
- Group H:** Legal representation for persons unable to self-represent because of the complexity of the case or their lack of personal capability

## Group A

**NEED: Legal information concerning rights and remedies and procedural requirements**

### Group Members:

- ❖ **GROUP LEADER: Katelyn Cherney** (Rural Access to Justice Project, Legal Aid of Nebraska)
- ❖ **Judge Russell Harford** (County Court Judge – 12<sup>th</sup> Judicial District)
- ❖ **Jean McNeil** (Director of Legal Services, Nebraska State Bar Association)
- ❖ **Shela Shanks** (Director of Admissions, Nebraska State Bar Commission Counsel, Commission on Unauthorized Practice of Law)

### TASK STATEMENT A:

**Ensure that websites set forth the elements of every routine legal remedy**

Too broad – websites will set forth elements of legal remedies

- 1 prioritize areas of law using survey of judges and clerks for guidance  
(county → consumer, housing, family)  
(district → family, housing)
- 2 build in survey for feedback from users (i.e. SRLs)
- 3 enlist community stakeholders, clerks (include NSBA sections, judges, legal aid)

### Obstacles:

- What website? What kind of approval? Who will update?
- What is the mechanism for approval?
- User friendly with accurate information

### TASK STATEMENT B:

**Create a merits analysis tool(s) suitable for non-lawyers to use to assess the merits of their case or to prepare for a hearing or trial**

Modify to: Case Preparation Outline and Tool

- 1 Create a tool for SRL to best present their case (i.e., address issues raised in survey: How to present evidence and call witnesses)
- 2 & 3 Subcommittee engage stakeholders' expertise and their links to larger entities  
Promote limited scope representation by identifying discrete tasks (e.g., how to/orgetting help with service and subpoenaing witnesses)

### Obstacles:

- Challenging for SRLs to understand and execute
- Must include disclaimers we are creating a \*guide\*

### TASK STATEMENT C:

**Ensure that websites set forth flowcharts and other information showing the ordinary steps required to obtain a legal remedy**

**TASK STATEMENT D:**

**Break those flowcharts into “just-in-time” information presentations that can be given to self-represented litigants to guide them through the next step of a legal process**

- 1 Create an interactive tool with the framework and timeline
- 2 Look at other state’s tools
- 3 Replicate process for forms development and approval to achieve uniformity and consistency

**Obstacles:**

- Need a distinct entity rather than forms subcommittee
- User friendly
- Updating
- Making sure we have enough formats for maximum accessibility; poverty – computer access, disabilities, geographic, etc.

**TASK STATEMENT E:**

**Ensure that these materials are widely available to the public in an understandable format so that Nebraskans understand their legal rights and remedies**

- 1 UPL rule change to provide limited exception for court personnel
- 2 Printed materials, language versions
- 3 Computer access locations and links to resources
- 4 Training for resource staff that is not court affiliated

**Obstacles:**

- Stocking, printing, distributing printed materials
- Limited internet access
- Limited personnel
- Language barriers

**WHAT:**

- 1 **Create LEGAL INFO Subcommittee (modeled after Forms Subcommittee) within SRL Committee within three months. Responsibilities to include:**
  - Prioritizing substantive areas
  - Identify, pursue expertise for creation of resources
  - Review, approve materials
  - Responsible for maintenance
  - Active participation
  - Craft UPL rule change
- 2 **Create self-help section on NSC website**  
Challenge: District variations/local court rules ?? ① L.I.S. build template, send to districts for modification
- 3 **Create case progression tool**
  - Online modules and checklists from clerks eFiling
  - Identify discrete tasks for limited scope representation

## Group B

**Need: Forms produced through document assembly software**

**Group Members:**

- ❖ **GROUP LEADER: Janet Bancroft** (Public Information Officer, AOC)
- ❖ **Doris Huffman** (Executive Director, Nebraska State Bar Foundation and Nebraska Lawyers Trust Account Foundation)
- ❖ **Robert Sanford** (Legal Director, Nebraska Coalition to End Sexual and Domestic Violence)
- ❖ **Mary Jo Ryan** (Communications Coordinator, Nebraska Library Commission)

### TASK STATEMENT A:

Ensure that all court forms can be created in a “TurboTax” environment; the user answers questions and the software inserts the information into the appropriate form(s).

### TASK STATEMENT B:

Position Nebraska to accept the information created by this process as data for reuse in the court process.

**What are we going to do?**

- Develop new relationships → partner with Innovation Campus, Legislature, etc.
- Secure funding (state, grants, etc.)
- Dedicated staff (\*long term goal)
- Create three levels of forms using HotDocs
  - A2J level forms
  - HotDocs forms
  - Super easy fill-in-blanks

**How are we going to do it?**

- Single set of forms created/maintained by single organization with funding to build and maintain
  - Everyone uses same forms
  - Court/Judge approved – updated on a regular basis according to law changes (legislative) and court opinions
  - Automated forms connect to limited scope list of attorneys

**Who needs to be involved?**

Choices to host forms doc assembly:

- Legal Aide ↓ income 125%
- Supreme Court ↓ neutral forms
- Separate organization designed to build forms and work with
  - Innovation campus
  - Public policy

**Timeframe - 0/18 Months:**

- Single dedicated staff to develop forms for self-represented litigants to use

- Partner with tech to host on website
  - Public portal (Nebraska Library Commission?)
- Forms to automate

**Obstacles:**

- Lack of centralization
- Lack of human and financial resources
- Lack of buy-in of legal community
- Forms not static
- Different priorities of each organization
  - Do not have understanding of programming → programming complex and limited
- Need good forms as base
- Eliminate problem of notary signature

## Group C

**Need:** Assistance for self-represented litigants in the use of information and forms in pursuing a remedy

### Group Members:

- ❖ **GROUP LEADER: Ann Borer** (Research Director, 4<sup>th</sup> District Court)
- ❖ **Stefanie Pearlman** (Professor of Law Library and Reference Librarian , UNL College of Law)
- ❖ **Marian Petersen** (Bailiff Lancaster County District Court – 3<sup>rd</sup> Judicial District)
- ❖ **Marie Wiechman** (State Law Librarian)

### TASK STATEMENT A:

Develop both court-based and other services for helping persons use the materials developed in 1 and 2 above.

### TASK STATEMENT B:

Ensure that court staff understand the full extent of services they can render without giving legal advice.

Info.		What
SC Web	→	Class/YouTube
Pamphlets	←	PORTAL – state court
Scripts/forms		- library
Apps		point and click
		TRAINING
		w/forms          refresh 1 hr.
		uniformity – clerk, court staff, req. SRL
		Sample Docs v. Forms    verbally explain
		limit scope
		reasonable expectations
		flow chart
		coordinate with drafters regarding instructions
		Sensitivity training
		Scheduling models -    liaison
		Pro bono

### Obstacles:

- Literacy
- Language barriers
- Cooperation of all
- Time \$

- Point and click mentality
- Who can fill out forms
- Clarify role

#### What

SRL's need info about legal problem

#### Forms

- find
- use

#### How

- 1 Portal
- 2 Video
- 3 Scheduling models
- 4 Scripts
- 5 Training
  - Court mandatory
  - Sensitivity

#### Obstacles:

- Literacy
- Language
- Cooperation
- Time, personnel, \$ confinement
- Is helping complete forms legal advice?

#### How

- 1 Portal

- 2 Video

- 3 Call center
  - Calls →
  - Emails →
  - Live chat →

- 4 Training
  - Mandatory 1/8
  - Sensitivity

- 5 Limited Scope

- 6 Retired Bar and Gov. Employees

#### Resources

ALL (NE Library Commission)

Partner with State  
Guardian  
Law Clinics  
Mandatory testing rules – state or local

Current software  
Libraries/Supreme Court  
Partner with district court clerks  
UPL training  
2 FTE – retired volunteers

Supreme Court  
JBE

NSBA/List  
Local Bar  
List  
Training

Advocate  
Call Center  
Limited Scope  
VLP  
Rule change?

## Group D

**Need:** Legal advice to understand the legal intricacies of the case and the best strategy to pursue; legal assistance for discrete tasks

### Group Members:

- ❖ **GROUP LEADER: Liz Neeley** (Executive Director, Nebraska State Bar Association)
- ❖ **Michelle Chaffe** (Director of the Office of Public Guardian – AOC)
- ❖ **Marsha Fangmeier** (Private Practice Attorney, Kearney, NE)
- ❖ **April Faith-Slaker** (Manager of Research and Evaluation, Legal Aid of Nebraska)

### TASK STATEMENT A:

*Develop a plan for encouraging many members or the Nebraska bar to provide limited scope representation, both in the form of initial case assessment and specific representation tasks for persons who are representing themselves.*

### TASK STATEMENT B:

*Develop a plan for informing the public about the availability and desirability of limited scope representation and linking interest persons with lawyers willing to provide services*

### TASK STATEMENT C:

*Develop a plan for deploying technology to support the delivery of limited scope legal services in the most cost-efficient manner*

- Include information to notify court of language and disability needs on JUSTICE generated forms
  - Education and support for bilingual staff
  - Require courts to maintain a minimum level of technology for access
- 1 Define LSR for attorneys for public
    - access/menu of options → public target
      - Available through LSR
    - cost/benefit analysis
  - 2 Educate lawyers
    - Articles
      - menu of options
    - CLE – family law section
      - cost/benefit
    - General practice section
    - Other sections?
    - NebDocs
    - Encourage attorneys to market themselves as providing LSR
  - 3 Populate the list – where? Court? NSBA?
    - Identify central location for the list
    - Mechanism for identifying attorneys willing to do LRS
      - CLE needed to be on the list
    - Encourage attorneys to market themselves as providing LRS (possible peer pressure)

- 4 Coordinated Referral Process
  - All stakeholders working from the same list, offering definition/menu of LRS options
  - Link to existing online resources
- 5 Technology
  - Limited scope list serve
  - Document assembly program linked with opportunity to consult with attorney for review (case or form)
  - Virtual law practice concept
  - Algorithm to automate referral to perfect
- 6 Virtual self-help desk
  - Limited Scope Pro bono?
  - LSC \$ available to develop limited scope Pro bono?

**Timeline:**

Immediately →

- Education on meeting needs of SRL with disability and language needs and cultural differences
- Update website to list resources to use – advocacy groups?
- Video of court process
- Rewrite court facility handbook to include accessibility requirements
- Hire someone to administer Spanish language forms and web resources
- Need funding

## Group E

**Need:** Personal assistance for persons with disabilities or language access needs

### Group Members:

- ❖ **GROUP LEADER: Sheryl Connolly** (Trial Court Services Director, AOC)
- ❖ **Adriana Hinojosa** (Interpreter Coordinator, AOC)
- ❖ **Cathy Reiman** (County Clerk Magistrate – 8<sup>th</sup> Judicial District)
- ❖ **Mick Wagoner** (Executive Director, Legal Aid of Nebraska)

### TASK STATEMENT A:

*Determine how to identify persons with special needs and how to provide lawyer or non-lawyer supportive services to provide the services required.*

### TASK STATEMENT B:

*Develop a plan for deploying technology to deliver some or all of these services*

### Courtroom Procedure

- Explanation of courtroom procedures in needed languages
- Notices and Orders in needed languages
- Recognition of cultural differences – education
- Sufficient notice of needs to provide correct interpreters

### Interpreters needed for Court-ordered/required

- Mediation/Parenting Plan
- Guardian training
- Evaluations

\* Statutory change to allow authority and funding

### Language Access Needs

Staff – through on-call interpreter

Bilingual staff

Language line

ID language through “I speak” card

### What are we going to do!

- Educate staff
- Provide technology – computers – speaker phone for remote interpreter
- Provide education and support to interpreters/bilingual staff

## **Persons with Physical Disability**

Resource – Advocacy Organization(s)

### Deaf

- Signage
- Access to relay services
- Personal support for access

### Blind

- Audio instruction
- Braille signage
- Personal support for access

### Wheelchair

- Access to office and courtroom
- Counter height
  - \* county is responsible
- Cognitive
  - ? How to ID

## **Forms and Instructions**

- Provide available translations
- Provide translations for all forms and instructions
- Provide document assembly software in other languages
- Provide attorney and self-help desk with support in languages needs

## **OBSTACLES**

**Lack of funding and staff !!!!!**

## Group F

**Need:** Proactive court case management to ensure that cases move through the court process

### Group Members:

- ❖ **GROUP LEADER: Marlene Vetick** (Clerk of District Court – 5<sup>th</sup> Judicial District)
- ❖ **Annette Farnan** (Deputy Director, Legal Aid of Nebraska)
- ❖ **Judge Timothy Hoeft** (County Court Judge – 10<sup>th</sup> Judicial District)
- ❖ **Carole McMahon-Boies** (Director of Attorney Services, AOC)

### TASK STATEMENT A:

*Develop a process, using the JUSTICE system, for identifying cases involving self-represented litigants that are not progressing at an appropriate pace through the process.*

### TASK STATEMENT B:

*Develop a process for providing litigants with the help they need to move their cases to a just resolution.*

### Resources:

#### Needs

- Programming funding for JUSTICE
- Course development funding – JBE
- Staff development to creation/updating

#### Have

- Programmers in place = need additional staff
- JBE = staff in place = need additional staff

**\*\* “Aha moment”** – Need SRL input for their suggestions – how/what they need for case progression assistance

Progression code standard is currently being written

Cases are currently marked as “SRL” in JUSTICE

    ↘ is someone that has filed or answered (ANY PLEADING/“LTR”)

Develop process to help SRL get help they need

- Video Instructions
- Automatically generated notices/instructions as reminded based on case age and program
- Where? On summons “get attorney or visit *www*.”

Progression order/hearing (form? Report?)

## Group G

**Need:** An accommodating courtroom environment in which to present the case

### Group Members:

- ❖ **GROUP LEADER:** Judge Teresa Luther (District Court Judge – 9<sup>th</sup> Judicial District)
- ❖ Tracy Hightower-Henne (Private practice attorney)
- ❖ Judge John Irwin (Nebraska Court of Appeals and Minority Justice Task Force)
- ❖ Jennifer Kirkpatrick (Domestic Violence Programs Service Specialist, AOC)

### TASK STATEMENT A:

*Develop authoritative guidance for Nebraska trial judges on appropriate techniques for neutral engagement with self-represented litigants and on the judge's duty to use those techniques to elicit the information to render a fair judgment*

### TASK STATEMENT B:

*Design educational materials and programs to train Nebraska judges in the use of these materials*

### What:

Need solution for judges to issue orders/decrees for SRL

### Time frame: 12-18 months

- Form generator/template
  - "docket"
  - Current SRL forms (Supreme Court website)
  - Intranet for judges
    - types of cases
      - Domestic relations
- Develop authoritative guidance for judges on techniques for neutral engagement with SRL and on judge's duty to elicit information to render judgement

### What:

Develop protocols for instructing SRLs on procedures for trial/hearing

### Time frame: 6-12 months

- General
- Protection orders
- Contempts
- Temporary hearings
- Trials

Have forms available in courtroom if SRL forgets script or decree

### How:

#### Bench Book

- 1 Include protocols
  - District/County judges' education committee and bench book committee 12 -14 months

## 2 JBE

- Develop specific education curriculum for protocols/scripts for judges
  - New judges training – ongoing
  - Annual meeting
- Education on
  - Training staff
  - Techniques for neutral engagements – ongoing

### **OBSTACLE:**

#### **Institutional resistance**

#### **Time Frame: 6-12 months**

- Write scripts for staff
- Judges prepare decrees, orders, judgments (pro se both sides)
- Develop curriculum for educating judge on techniques for conveying “neutral engagement”
- Develop procedures/script for court staff to determining if all requirements are met prior to setting hearing
  - Paper work
  - Jurisdiction
  - Exhibits
  - Parenting plan
  - Parenting class
  - C.S. calc/aff
  - Real estate
  - Retirement

### **OBSTACLES:**

- **Hardware/software for District Court**
- **\$\$**
- **Training**

### Feedback from SRL

#### **Survey**

- **Timing**
  - Immediately after hearing
    - Face-to-face
  - Selection of SRL closed
    - Mailing survey
- **Who will administer?**
  - Social science students
  - Law school students
- **How**
  - SRLN
  - Grant
  - National Center for State Courts
- **By when**

## OBSTACLES

### Tim said

1 → Judges

- funding
- coordination
- who is in charge of
  - creation
  - maintaining
  - sustaining

### Marlene said

2 → Clerks

3 \$\$

4 Time to develop

1 Triage

Bar -

needs representation

legal service providers

Legal Aid

Limited assistance

Information

Forms

2 Bring together

3 Partners/collaborations

- Court
- Private bar
- Legal services providers
- Libraries
- Law schools

## Group H

**SRL Need:** Legal representation for persons unable to self-represent because of the complexity of the case or their lack of personal capability

### Group Members:

- ❖ **GROUP LEADER: Jen Gaughan** (Director of Litigation and Advocacy, Legal Aid of Nebraska)
- ❖ **Jeff Eastman** (Managing Attorney, Legal Aid)
- ❖ **James Mowbray** (Nebraska Commission on Public Advocacy)
- ❖ **Corey Steel** (Nebraska State Court Administrator, AOC)

### TASK STATEMENT A:

**Develop a process for identifying persons needing representation because they will be unable to represent themselves successfully**

### TASK STATEMENT B:

**Assist Nebraska Legal Services to use this as a major factor in allocating scarce legal representation resources**

### TASK STATEMENT C:

**Identify mean for obtaining representation for persons in this category who cannot be served by legal services**

Develop screening tool

Training used by clerk of courts

↙                      ↘  
SRL info web portal    Refer to Legal Aid  
+  
Legal Aid  
+  
Other places where people access services – senior centers, etc.

- Above poverty but can't self-represent
  - Private bar
  - Partner with supportive services to assist client with case and help the lawyer
  - Connecting client with services and lawyers

Who and how?



## Supplemental Materials

Nebraska Strategic Planning Conference Work Summary and Affiliated Materials:

**Limited Practice Rule for Limited License Legal Technicians**  
(Washington State 2015)

**APR 28**

**LIMITED PRACTICE RULE FOR LIMITED LICENSE LEGAL TECHNICIANS**

**A. Purpose.** The Civil Legal Needs Study (2003), commissioned by the Supreme Court, clearly established that the legal needs of the consuming public are not currently being met. The public is entitled to be assured that legal services are rendered only by qualified trained legal practitioners. Only the legal profession is authorized to provide such services. The purpose of this rule is to authorize certain persons to render limited legal assistance or advice in approved practice areas of law. This rule shall prescribe the conditions of and limitations upon the provision of such services in order to protect the public and ensure that only trained and qualified legal practitioners may provide the same. This rule is intended to permit trained Limited License Legal Technicians to provide limited legal assistance under carefully regulated circumstances in ways that expand the affordability of quality legal assistance which protects the public interest.

**B. Definitions.** For purposes of this rule, the following definitions will apply:

- (1) “APR” means the Supreme Court’s Admission to Practice Rules.
- (2) “Board” when used alone means the Limited License Legal Technician Board.
- (3) “Lawyer” means a person licensed and eligible to practice law in any United States jurisdiction.
- (4) “Limited License Legal Technician” (LLLT) means a person qualified by education, training and work experience who is authorized to engage in the limited practice of law in approved practice areas of law as specified by this rule and related regulations. The legal technician does not represent the client in court proceedings or negotiations, but provides limited legal assistance as set forth in this rule to a pro se client.
- (5) “Paralegal/legal assistant” means a person qualified by education, training, or work experience; who is employed or retained by a lawyer, law office, corporation, governmental agency, or other entity; and who performs specifically delegated substantive law-related work for which a lawyer is responsible.
- (6) “Reviewed and approved by a Washington lawyer” means that a Washington lawyer has personally supervised the legal work and documented that supervision by the Washington lawyer’s signature and bar number.
- (7) “Substantive law-related work” means work that requires knowledge of legal concepts and is customarily, but not necessarily, performed by a lawyer.
- (8) “Supervised” means a lawyer personally directs, approves; and has responsibility for work performed by the Limited License Legal Technician.
- (9) “Washington lawyer” means a person licensed and eligible to practice law in

Washington and who is an active or emeritus pro bono member of the Washington State Bar Association.

(10) Words of authority:

- (a) “May” means “has discretion to,” “has a right to,” or “is permitted to.”
- (b) “Must” or “shall” means “is required to.”
- (c) “Should” means “recommended but not required.”

**C. Limited License Legal Technician Board**

- (1) *Establishment.* There is hereby established a Limited License Legal Technician Board. The Board shall consist of 13 members appointed by the Supreme Court of the State of Washington, nine of whom shall be active Washington lawyers, and four of whom shall be nonlawyer Washington residents. At least one member shall be a legal educator. The members shall initially be appointed to staggered terms of one to three years. Thereafter, appointments shall be for three year terms. No member may serve more than two consecutive full three year terms.
- (2) *Board Responsibilities.* The Board shall be responsible for the following:
  - (a) Recommending practice areas of law for LLLTs, subject to approval by the Supreme Court;
  - (b) Processing applications and fees, and screening applicants;
  - (c) Administering the examinations required under this rule which shall, at a minimum, cover the rules of professional conduct applicable to Limited License Legal Technicians, rules relating to the attorney-client privilege, procedural rules, and substantive law issues related to one or more approved practice areas;
  - (d) Determining LLLT Continuing Legal Education (LLLT CLE) requirements and approval of LLLT CLE programs;
  - (e) Approving education and experience requirements for licensure in approved practice areas;
  - (f) Establishing and overseeing committees and tenure of members;
  - (g) Establishing and collecting examination fees, LLLT CLE fees, annual license fees, and other fees in such amounts approved by the Supreme Court as are necessary to carry out the duties and responsibilities of the Board; and

- (h) Such other activities and functions as are expressly provided for in this rule.
- (3) *Rules and Regulations.* The Board shall propose rules and regulations for adoption by the Supreme Court that:
  - (a) Establish procedures for grievances and disciplinary proceedings;
  - (b) Establish trust account requirements and procedures;
  - (c) Establish rules of professional and ethical conduct; and
  - (d) Implement the other provisions of this rule.
- (4) *Administration and Expenses of the Board.* The Washington State Bar Association shall provide reasonably necessary administrative support for the Board. Members of the Board shall not be compensated for their services but shall be reimbursed for actual and necessary expenses incurred in the performance of their duties according to the Washington State Bar Association's expense policies. Funds accumulated from examination fees, annual fees, and other revenues shall be used to defray the expenses of the Board. All anticipated expenses and anticipated revenues shall be submitted on a proposed budget for approval by the Washington State Bar Association's Board of Governors.

**D. Requirements for Applicants.** An applicant for licensure as a Limited License Legal Technician shall:

- (1) *Age.* Be at least 18 years of age.
- (2) *Moral Character and Fitness to Practice.* Be of good moral character and demonstrate fitness to practice as a Limited License Legal Technician.
- (3) *Education.* Have the following education, unless waived by the Board through regulation:
  - (a) An associate level degree or higher;
  - (b) 45 credit hours of core curriculum instruction in paralegal studies as approved by the Board with instruction to occur at an ABA approved law school or ABA approved paralegal education program; and
  - (c) In each practice area in which an applicant seeks licensure, instruction in the approved practice area, which must be based on a curriculum developed by or in conjunction with an ABA approved law school. For each approved practice area, the Board shall determine the key concepts or

topics to be covered in the curriculum and the number of credit hours of instruction required for admission in that practice area.

- (d) For the purposes of satisfying APR 28(D)(3), one credit hour shall be equivalent to 450 minutes of instruction.
- (4) *Application.* Execute under oath and file with the Board an application, in such form as the Board requires. An applicant's failure to furnish information requested by the Board or pertinent to the pending application may be grounds for denial of the application.
- (5) *Examination Fee.* Pay, upon the filing of the application, the examination fee and any other required application fees as established by the Board and approved by the Supreme Court.

**E. Licensing Requirements.** In order to be licensed as a Limited License Legal Technician, all applicants must:

- (1) *Examination.* Take and pass the examinations required under these rules;
- (2) *Experience.* Acquire 3,000 hours of substantive law-related work experience supervised by a licensed lawyer. The experience must be acquired no more than three years prior to licensure and no more than three years after passing the examination;
- (3) *Annual License Fee.* Pay the annual license fee;
- (4) *Financial Responsibility.* Show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted by these rules. The proof of financial responsibility shall be in such form and in such amount as the Board may by regulation prescribe; and
- (5) Meet all other licensing requirements set forth in the rules and regulations proposed by the Board and adopted by the Supreme Court.

**F. Scope of Practice Authorized by Limited Practice Rule.** The Limited License Legal Technician shall ascertain whether the issue is within the defined practice area for which the LLLT is licensed. If it is not, the LLLT shall not provide the services required on this issue and shall inform the client that the client should seek the services of a lawyer. If the issue is within the defined practice area, the LLLT may undertake the following:

- (1) Obtain relevant facts, and explain the relevancy of such information to the client;
- (2) Inform the client of applicable procedures, including deadlines, documents which must be filed, and the anticipated course of the legal proceeding;

- (3) Inform the client of applicable procedures for proper service of process and filing of legal documents;
- (4) Provide the client with self-help materials prepared by a Washington lawyer or approved by the Board that contain information about relevant legal requirements, case law basis for the client's claim, and venue and jurisdiction requirements;
- (5) Review documents or exhibits that the client has received from the opposing party, and explain them to the client;
- (6) Select, complete, file, and effect service of forms that have been approved by the State of Washington, either through a governmental agency or by the Administrative Office of the Courts or the content of which is specified by statute; federal forms; forms prepared by a Washington lawyer; or forms approved by the Board; and advise the client of the significance of the selected forms to the client's case;
- (7) Perform legal research;
- (8) Draft legal letters and documents beyond what is permitted in paragraph (6), if the work is reviewed and approved by a Washington lawyer;
- (9) Advise a client as to other documents that may be necessary to the client's case, and explain how such additional documents or pleadings may affect the client's case;
- (10) Assist the client in obtaining necessary documents or records, such as birth, death, or marriage certificates.

**G. Conditions Under Which A Limited License Legal Technician May Provide Services**

- (1) A Limited License Legal Technician must have a principal place of business having a physical street address for the acceptance of service of process in the State of Washington;
- (2) A Limited License Legal Technician must personally perform the authorized services for the client and may not delegate these to a nonlicensed person. Nothing in this prohibition shall prevent a person who is not a licensed LLLT from performing translation services;
- (3) Prior to the performance of the services for a fee, the Limited License Legal Technician shall enter into a written contract with the client, signed by both the client and the Limited License Legal Technician, that includes the following provisions:
  - (a) An explanation of the services to be performed, including a conspicuous

statement that the Limited License Legal Technician may not appear or represent the client in court, formal administrative adjudicative proceedings, or other formal dispute resolution process or negotiate the client's legal rights or responsibilities, unless permitted under GR 24(b);

- (b) Identification of all fees and costs to be charged to the client for the services to be performed;
  - (c) A statement that upon the client's request, the LLLT shall provide to the client any documents submitted by the client to the Limited License Legal Technician;
  - (d) A statement that the Limited License Legal Technician is not a lawyer and may only perform limited legal services. This statement shall be on the first page of the contract in minimum twelve-point bold type print;
  - (e) A statement describing the Limited License Legal Technician's duty to protect the confidentiality of information provided by the client and the Limited License Legal Technician's work product associated with the services sought or provided by the Limited License Legal Technician;
  - (f) A statement that the client has the right to rescind the contract at any time and receive a full refund of unearned fees. This statement shall be conspicuously set forth in the contract; and
  - (g) Any other conditions required by the rules and regulations of the Board.
- (4) A Limited License Legal Technician may not provide services that exceed the scope of practice authorized by this rule, and shall inform the client, in such instance, that the client should seek the services of a lawyer.
  - (5) A document prepared by an LLLT shall include the LLLT's name, signature, and license number beneath the signature of the client.

**H. Prohibited Acts.** In the course of dealing with clients or prospective clients, a Limited License Legal Technician shall not:

- (1) Make any statement that the Limited License Legal Technician can or will obtain special favors from or has special influence with any court or governmental agency;
- (2) Retain any fees or costs for services not performed;
- (3) Refuse to return documents supplied by, prepared by, or paid for by the client, upon the request of the client. These documents must be returned upon request even if there is a fee dispute between the Limited License Legal Technician and

the client;

- (4) Represent or advertise, in connection with the provision of services, other legal titles or credentials that could cause a client to believe that the Limited License Legal Technician possesses professional legal skills beyond those authorized by the license held by the Limited License Legal Technician;
- (5) Represent a client in court proceedings, formal administrative adjudicative proceedings, or other formal dispute resolution process, unless permitted by GR 24;
- (6) Negotiate the client's legal rights or responsibilities, or communicate with another person the client's position or convey to the client the position of another party, unless permitted by GR 24(b);
- (7) Provide services to a client in connection with a legal matter in another state, unless permitted by the laws of that state to perform such services for the client;
- (8) Represent or otherwise provide legal or law related services to a client, except as permitted by law, this rule or associated rules and regulations;
- (9) Otherwise violate the Limited License Legal Technician Rules of Professional Conduct.

#### **I. Continuing Licensing Requirements**

- (1) *Continuing Education Requirements.* Each Limited License Legal Technician annually must complete the Board-approved number of credit hours in courses or activities approved by the Board, provided that the Limited License Legal Technician shall not be required to comply with this subsection during the calendar year in which he or she is initially licensed.
- (2) *Financial Responsibility.* Each Limited License Legal Technician shall annually provide proof of financial responsibility in such form and in such amount as the Board may by regulation prescribe.
- (3) *Annual Fee.* Each Limited License Legal Technician shall pay the annual license fee established by the Board and approved by the Supreme Court.

**J. Existing Law Unchanged.** This rule shall in no way modify existing law prohibiting nonlawyers from practicing law or giving legal advice other than as authorized under this rule or associated rules and regulations.

#### **K. Professional Responsibility and Limited License Legal Technician-Client Relationship**

- (1) Limited License Legal Technicians acting within the scope of authority set forth in this rule shall be held to the standard of care of a Washington lawyer.
- (2) Limited License Legal Technicians shall be held to the ethical standards of the Limited License Legal Technician Rules of Professional Conduct, which shall create an LLLT IOLTA program for the proper handling of funds coming into the possession of the Limited License Legal Technician.
- (3) The Washington law of attorney-client privilege and law of a lawyer's fiduciary responsibility to the client shall apply to the Limited License Legal Technician-client relationship to the same extent as it would apply to an attorney-client relationship.

**L. Confidentiality and Public Records**

- (1) GR 12.4 shall apply to access to Board records.
- (2) Unless expressly authorized by the Supreme Court or by the applicant, all application records, including related investigation files, documents, and proceedings, for the limited admission to the practice of law as an LLLT are confidential and shall be privileged against disclosure, except as necessary to conduct an investigation, hearing, appeal, or review pursuant to these rules.
- (3) Unless expressly authorized by the Supreme Court, all examination questions, scoring keys, and other examination data used by the Board to administer the LLLT licensing examinations are not subject to public disclosure.
- (4) Unless expressly authorized by the Supreme Court or the LLLT, the following Board and Bar records are exempt from public access: personal information in Board and Bar records for LLLTs and Board members to the extent that disclosure would violate their right of privacy, including home contact information (unless such information is their address of record), Social Security numbers, driver's license numbers, identification or security photographs held in Board and Bar records, and personal data including ethnicity, race, disability status, gender, and sexual orientation. LLLT license status, license number, dates of admission or licensing, addresses of record, and business telephone numbers, facsimile numbers, and electronic mail addresses (unless there has been a request that electronic mail addresses not be made public) shall not be exempt, provided that any such information shall be exempt if the Chair of the Board approves the confidentiality of that information for reasons of personal security or other compelling reasons, which approval must be reviewed annually.

[Adopted effective September 1, 2012; amended effective August 20, 2013; February 3, 2015.]

**APPENDIX APR 28**  
**REGULATIONS OF THE APR 28 LIMITED LICENSE LEGAL TECHNICIAN**

## **BOARD**

### **REGULATIONS 1. IN GENERAL**

Every person desiring to be licensed and to maintain licensure as a Limited License Legal Technician (LLLT) pursuant to Admission to Practice Rule (APR) 28 shall satisfy all of the requirements of APR 28 and Appendix APR 28.

To facilitate prompt administration of APR 28 and these regulations, designated staff of the Washington State Bar Association (Association) may act on behalf of the LLLT Board under APR 28 and these regulations.

### **REGULATION 2. PRACTICE AREAS-SCOPE OF PRACTICE AUTHORIZED BY LIMITED LICENSE LEGAL TECHNICIAN RULE**

In each practice area in which an LLLT is licensed, the LLLT shall comply with the provisions defining the scope of practice as found in APR 28 and as described herein.

#### **A. Issues Beyond the Scope of Authorized Practice.**

An LLLT has an affirmative duty under APR 28(F) to inform clients when issues arise that are beyond the authorized scope of the LLLT's practice. When an affirmative duty under APR 28(F) arises, then the LLLT shall inform the client in writing that:

1. the issue may exist, describing in general terms the nature of the issue;
2. the LLLT is not authorized to advise or assist on this issue;
3. the failure to obtain a lawyer's advice could be adverse to the client's interests; and,
4. the client should consult with a lawyer to obtain appropriate advice and documents necessary to protect the client's interests.

After an issue beyond the LLLT's scope of practice has been identified, an LLLT may prepare a document related to the issue only if a lawyer acting on behalf of the client has provided appropriate documents and written instructions for the LLLT as to whether and how to proceed with respect to the issue. The LLLT may proceed in this manner only if no other defined prohibitions apply.

#### **B. Domestic Relations.**

1. Domestic Relations, Defined. For the purposes of these Regulations, domestic relations shall include only: (a) child support modification actions, (b) dissolution actions, (c) domestic violence actions, except as prohibited by Regulation 2(B)(3), (d) committed intimate domestic relationship actions only as

they pertain to parenting and support issues, (e) legal separation actions, (f) major parenting plan modifications when the terms are agreed to by the parties before the onset of the representation by the LLLT, (g) minor parenting plan modifications, (h) parenting and support actions, (i) paternity actions, and (j) relocation actions, except as prohibited by Regulation 2(B)(3).

2. Scope of Practice for Limited License Legal Technicians – Domestic Relations. LLLTs in domestic relations may provide legal services to clients as provided in APR 28(F), except as prohibited by APR 28(H) and Regulation 2(B)(3). Unless an issue beyond the scope arises or a prohibited act would be required, LLLTs may advise and assist clients (1) to initiate and respond to actions and (2) regarding motions, discovery, trial preparation, temporary and final orders, and modifications of orders.
3. Prohibited Acts. In addition to the prohibitions set forth in APR 28(H), in the course of dealing with clients or prospective clients, LLLTs licensed to practice in domestic relations:
  - a. shall not represent more than one party in any domestic relations matter;
  - b. shall not provide legal services:
    - i. in defacto parentage or nonparental custody actions; and
    - ii. if 25 U.S.C. Chapter 21, the Indian Child Welfare Act, or RCW 13.38, the Washington State Indian Child Welfare Act, applies to the matter;
  - c. shall not advise or assist clients regarding:
    - i. division of owned real estate, formal business entities, or retirement assets that require a supplemental order to divide and award, which includes division of all defined benefit plans and defined contribution plans;
    - ii. bankruptcy, including obtaining a stay from bankruptcy;
    - iii. disposition of debt and assets if one party is in bankruptcy or files a bankruptcy during the pendency of the proceeding unless: (a) the LLLT's client has retained a lawyer to represent him/her in the bankruptcy, (b) the client has consulted with a lawyer and the lawyer has provided written instructions for the LLLT as to whether and how to proceed regarding the division of debts and assets in the domestic relations proceeding, or (c) the bankruptcy has been discharged;

- iv. anti-harassment orders, criminal no contact orders, anti-stalking orders, and sexual assault protection orders in domestic violence actions;
  - v. jointly acquired committed intimate relationship property issues in committed intimate domestic relationship actions;
  - vi. major parenting plan modifications unless the terms were agreed to by the parties before the onset of the representation by the LLLT;
  - vii. the determination of Uniform Child Custody Jurisdiction and Enforcement Act issues under RCW 26.27 or Uniform Interstate Family Support Act issues under RCW 26.21(A) unless and until jurisdiction has been resolved.
  - viii. objections to relocation petitions, responses to objections to relocation petitions, or temporary orders in relocation actions;
  - ix. final revised parenting plans in relocation actions except in the event of default or where the terms have been agreed to by the parties.
- d. shall not appear or participate at the taking of a deposition; and
  - e. shall not initiate or respond to an appeal to an appellate court.

### **REGULATION 3. EDUCATION REQUIREMENTS FOR APPLICANTS**

An applicant for licensure shall satisfy the following education requirements:

**A. Core Curriculum.** An applicant for licensure shall have earned the following course credits at an ABA approved law school or ABA approved paralegal program:

- 1. Civil Procedure, minimum 8 credits;
- 2. Contracts, minimum 3 credits;
- 3. Interviewing and Investigation Technique, minimum 3 credits;
- 4. Introduction to Law and Legal Process, minimum 3 credits;
- 5. Law Office Procedures and Technology, minimum 3 credits;
- 6. Legal Research, Writing and Analysis, minimum 8 credits; and

7. Professional responsibility, minimum 3 credits.

The core curriculum courses in which credit is earned shall satisfy the curricular requirements approved by the Board and published by the Association. If the required core curriculum courses completed by the applicant do not total 45 credits as required by APR 28(D)(3)(b), then the applicant may earn the remaining credits by taking legal or paralegal elective courses at an ABA approved law school or ABA approved paralegal program.

**B. Practice Area Curriculum.** An applicant for licensure in a defined practice area shall have completed the prescribed curriculum and earned course credits for that defined practice area, as set forth below and in APR 28(D)(3)(c). Each practice area curriculum course shall satisfy the curricular requirements approved by the Board and published by the Association.

1. Domestic Relations.
  - a. Prerequisites: Prior to enrolling in the domestic relations practice area courses, applicants shall complete the following core courses: Civil Procedure; Interviewing and Investigation Techniques; Introduction to Law and Legal Process; Legal Research, Writing, and Analysis; and Professional Responsibility.
  - b. Credit Requirements: Applicants shall complete five credit hours in basic domestic relations subjects and ten credit hours in advanced and Washington specific domestic relations subjects.

#### **REGULATION 4. LIMITED TIME WAIVERS**

**A. Limited Time Waiver, Defined.** For the limited time between the date the Board begins to accept applications and December 31, 2016, the Board shall grant a waiver of the minimum associate-level degree requirement and/or the core curriculum education requirement set forth in APR 28(D)(3) if an applicant meets the requirements set forth in Regulation 4(B). The Board shall not grant waivers for applications filed after December 31, 2016. The Board shall not waive the practice area curriculum requirement. The limited time waiver application will be separate from the application process for licensure set forth in these regulations.

**B. Waiver Requirements and Applications.** To qualify for the limited time waiver, an applicant shall pay the required fee, submit the required waiver application form, and provide proof, in such form and manner as the Board requires, that he/she has:

1. Passed a Board approved national paralegal certification examination.
2. Active certification from a Board approved national paralegal certification organization; and
3. Completed 10 years of substantive law-related experience supervised by a licensed lawyer within the 15 years preceding the application for the waiver.

Proof of 10 years of substantive-law related experience supervised by a licensed lawyer shall include the following:

- a. the name and bar number of the supervising lawyer(s),
- b. certification by the lawyer that the work experience meets the definition of substantive law-related work experience as defined in APR 28, and
- c. the dates of employment or service.

**C. Review of Limited Time Waiver Application.** The Association shall review each limited time waiver application to determine if the application meets the waiver requirements. Any application that does not meet the limited time waiver requirements as established by this Regulation shall be denied by the Association on administrative grounds, with a written statement of the reason(s) for denial.

**D. Review of Denial.** An applicant whose application for waiver has been denied by the Association may request review by the Board chair. Such request shall be filed with the Association within 14 days of the date of the notification of denial. The applicant shall be provided with written notification of the chair's decision, which is not subject to review.

**E. Expiration of Limited Time Waiver Approval.** Approval of the limited time waiver application shall expire December 31, 2018. After expiration of the approval, any subsequent application for licensure by the applicant shall meet all of the standard requirements for licensure without waiver.

## **REGULATION 5. APPLICATIONS**

**A. Fees.** All applications shall be accompanied by the required examination and application fee.

**B. Application for Licensure.** An applicant for licensure as an LLLT shall complete and file with the Association:

1. a completed application for licensure in a form and manner described by the Board;
2. evidence in a form and manner prescribed by the Board demonstrating completion of
  - a. at a minimum, an associate level degree, except applicants who have been approved for a limited time waiver pursuant to Regulation 4,
  - b. the core curriculum required pursuant to Regulation 3(A), except applicants who have been approved for a limited time waiver pursuant to Regulation 4, and

- c. the practice area curriculum required pursuant to Regulation 3B,
3. original proof of passing the Core Curriculum Examination as required by Regulation 8; and
4. a signed and notarized Authorization, Release, and Affidavit of Applicant.

**C. Application for Additional Practice Area.** An LLLT seeking licensure in an additional practice area must complete and file with the Association:

1. a completed practice area application in a form and manner prescribed by the Board;
2. evidence in a form and manner prescribed by the Board demonstrating completion of the practice area curriculum required under Regulation 3(B); and
3. a signed and notarized Authorization, Release and Affidavit of Applicant.

**D. Background Check.** Each applicant for licensure shall submit a fingerprint card to the Federal Bureau of Investigation (FBI) for a criminal history record check and provide to the FBI a release for the results of the criminal history check to be sent directly to the Association. A Washington LLLT applying for licensure in an additional practice area shall not be required to submit a fingerprint card, unless it has been more than two years since the LLLT was last issued a license.

The applicant shall furnish whatever additional information or proof may be required in the course of investigating the applicant, and failure to furnish such information may be grounds for denial of licensure.

## **REGULATION 6. APPROVAL OR DENIAL OF APPLICATION ON ADMINISTRATIVE GROUNDS**

**A. Review of Application.** The Association shall review each application to determine if the application meets the criteria for licensure established in APR 28. Any application that does not meet the initial criteria for licensure as established by APR 28 shall be denied by the Association on administrative grounds, except for those applications where there is a substantial question as to the applicant's good moral character or fitness to practice. The applicant will be notified whether the application has been approved or denied. If the application has been denied, the applicant will be notified of the grounds for the denial and the review process.

**B. Review of Denial.** Every applicant who has been denied licensure under APR 28 on administrative grounds may request review by the Board chair. To request review, an applicant shall submit a written request within 14 days of the date the denial of application was issued and state the reason for the request.

**C. Procedure for Review.** The Board chair shall consider the request for review on the written record only and shall hear no oral arguments. The chair shall enter a written decision which may affirm or reverse the denial of the application or direct further investigation.

## **REGULATION 7. CHARACTER AND FITNESS HEARINGS**

**A. Question of Character and Fitness.** Each applicant for licensure as an LLLT shall establish good moral character and fitness to practice as defined in APR 21 and APR 22(a). When considering an applicant's good moral character and fitness to practice, the Board, Association staff, and Bar Counsel shall apply the factors set forth in APR 24.2. If there is a substantial question as to the good moral character or fitness to practice of an applicant for admission or admission after disciplinary revocation then the application will be referred to the Character and Fitness Committee of the Board for hearing.

**B. Character and Fitness Committee.** The Character and Fitness Committee shall be made up of three members of the Board appointed by the Board Chair. The Board Chair shall designate one member of the Board to act as chair of the Committee.

The Character and Fitness Committee shall have the power and authority to accept referrals from the Association concerning matters of character and fitness of applicants, order further investigation of matters relevant to the applications, conduct hearings, perform such other functions as are necessary and proper to carry out its duties, and make appropriate recommendations.

**C. Association Review.** The Association shall review each application to determine whether any of the factors set forth in APR 24.2 are present. The Association shall review the material evidence in a light most favorable to the Association's obligation to recommend the licensing or admission to the limited practice of law only those persons who possess good moral character and fitness to practice.

**D. Service.** Service of papers and documents shall be made by first class postage prepaid mail to the applicant's, LLLT's, or his or her counsel's last known address on record with the Association. If properly made, service by mail is deemed accomplished on the date of the mailing. Any notice of change of address shall be submitted in writing to the Association.

**E. Duty of Applicant.** It shall be the duty of every applicant to cooperate in good faith and furnish whatever additional information or documentation may be required in the course of investigating the applicant. Failure to furnish such information may be grounds for denial of the application. Applicants shall not have direct contact with any member of the Character and Fitness Committee or Board from the date of filing the application with the Association until the matter is resolved by the Board or Supreme Court, except to the extent direct contact is required during the hearing.

**F. Hearings.** APR 24.3 shall apply equally to character and fitness hearings conducted pursuant to this Regulation and is incorporated herein by reference, except that the Character and Fitness Board as referenced in APR 24.3 shall mean the Character and Fitness Committee

of the LLLT Board. Reference to the chair or chairperson in APR 24.3, as applied in this rule, shall mean the Character and Fitness Committee Chair. Applicants shall appear in person at any hearing before the Character and Fitness Committee, unless the Committee waives the applicant's presence for good cause shown.

**G. Decisions and Recommendation of Character and Fitness Committee.**

1. *Findings of Character and Fitness Committee.* The Character and Fitness Committee will timely file with the Association written findings of fact, conclusions of law, and a recommendation or direct further investigation for the reasons stated in the written findings.
2. *Action on Recommendation.*
  - a. If the Committee recommends admission, the record, recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.
  - b. If the Committee recommends against licensure, the record and recommendation shall be retained in the office of the Association unless the applicant submits a written request for review by the Board within 15 days of service of the recommendation. If the applicant so requests, the Committee will transmit the record, recommendation, and all exhibits to the Board for a recommendation. No additional evidence, materials, or argument shall be considered by the Board.

**H. Review by the Board.**

1. *Decision of the Board.* After receipt of the record, the Board will enter a written decision and may affirm or reverse the findings of the Character and Fitness Committee or direct further investigation for the reasons stated in the written decision.
2. *Action on Recommendation.*
  - a. If the Board recommends admission, the record, recommendation, and all exhibits shall be transmitted to the Supreme Court for disposition.
  - b. If the Board recommends against admission, the record and recommendation shall be retained in the office of the Association unless the applicant requests that it be submitted to the Supreme Court by filing a Notice of Appeal with the Board within 15 days of service of the recommendation of the Board. If the applicant so requests, the Board will transmit the record, including the transcript, exhibits, and recommendation to the Supreme Court for review and disposition. The applicant must pay to the Supreme Court any fee required by the Court in connection with appeal and review.

**I. Action on Supreme Court's Determination.**

1. *Application Approved.* If the application is approved by the Supreme Court, admission shall be subject to the applicant's taking and passing of the licensing examination and complying with all other requirements for licensure.
2. *Application Denied.* If the application is denied by the Supreme Court, the Board shall maintain a record of the application, hearing, and appeal in the Association records.

**J. Reapplication.**

No application for admission may be filed within a period of one year after a final decision of the Character and Fitness Committee, Board, or Supreme Court recommending against admission.

**REGULATION 8. EXAMINATIONS.  
NOTIFICATION OF RESULTS**

**A. Administration of Examinations.** The examinations will be administered at such times and locations as the Board may designate.

An applicant for initial licensure shall pass a core curriculum examination, a practice area examination, and a professional responsibility examination.

An LLLT who applies for licensure in an additional practice area shall be required to take only the qualifying practice area examination in the practice area for which he or she is seeking licensure.

**B. Core Curriculum Examination.** The core curriculum examination shall be satisfied by passing a national certifying paralegal examination as approved by the Board.

**C. Practice Area Examination.** The practice area examination will test applicants on one specific practice area and knowledge of LLLT scope specific to the practice area. All practice area examinations shall be comprised of three parts: a multiple choice section, an essay section, and a performance section. The duration, form, and manner of the exam shall be as prescribed by the Board. The passing standard for the practice area examination is a score of 75 percent for each section of the exam. A failing grade in one section shall result in failure of the exam, in which case grading of any remaining sections shall not be completed.

**D. Professional Responsibility Examination.** The professional responsibility examination will test applicants on LLLT ethical duties as set forth in APR 28, the LLLT Rules of Professional Conduct, and knowledge of the LLLT scope of practice as set forth in APR 28(F) and (H). The professional responsibility examination shall be comprised of one multiple choice section. The duration, form, and manner of the exam shall be as prescribed by the Board. The

passing standard for the professional responsibility examination is a score of 75 percent.

**E. Results.** Each applicant will be notified of the applicant's practice area and professional responsibility examination results. An applicant who fails the practice area examination may request a copy of the essay and performance sections. An applicant who passes the practice area exam will not receive a copy of the exam. An applicant may not request a copy of the professional responsibility exam.

An applicant who passes the practice area examination but fails the professional responsibility examination or vice versa may retake the failed exam at the next two administrations of the exam. The passing score shall be valid for one year from the date the applicant is notified of the exam results. If the applicant does not pass the failed exam within one year of such notification, the applicant shall be required to retake the exam he or she passed.

#### **REGULATION 9. SUBSTANTIVE LAW-RELATED WORK EXPERIENCE REQUIREMENT.**

Each applicant for licensure as a limited license legal technician shall show proof of having completed 3,000 hours of substantive law-related work experience supervised by a licensed lawyer as required by APR 28(E)(2). The experience requirement shall be completed within three years before or after the date the applicant is notified of passing both the practice area and professional responsibility qualifying examinations. The proof shall be provided in such form as the Board requires, but shall include at a minimum:

1. the name and bar number of the supervising lawyer;
2. certification that the work experience meets the definition of substantive law-related work experience as defined in APR 28;
3. the total number of hours of substantive law-related work experience performed under the supervising lawyer; and
4. certification that the requisite work experience was acquired within the time period required by APR 28(E)(2).

#### **REGULATION 10. CERTIFICATION OF RESULTS TO SUPREME COURT; OATH**

**A. Recommendation for Licensure.** The board shall recommend to the Washington State Supreme Court the licensure of all applicants who have met all licensing requirements set forth in APR 28 and these regulations, including good moral character and fitness to practice. All recommendations of the Board shall be accompanied by the application for licensure and any other documents deemed pertinent by the Board or requested by the Supreme Court. The recommendation and all accompanying documents and papers shall not be public record.

**B. Prelicensure Requirements.** Before an applicant who has passed the qualifying examinations may be licensed, the applicant shall:

1. furnish proof of completion of the requisite hours of substantive law-related work experience supervised by a licensed lawyer as required by Regulation 9;
2. furnish proof of financial responsibility as required by Regulation 12;
3. pay the annual license fee and any assessments for the current year as required by Regulation 11;
4. file any and all licensing forms required for active limited license legal technicians; and
5. take the Oath of Limited License Legal Technician.

The precicensure requirements shall be completed within three years of the date the applicant is notified of the practice area examination results. If an applicant fails to satisfy all the requirements for licensure within this period, the applicant shall not be eligible for licensure under APR 28 without submitting a new application for licensure and retaking the practice area and professional responsibility examination.

**C. Additional Practice Area Precicensure Requirements. An LLLT who is seeking licensure in an additional practice area shall:**

1. Take and pass the additional practice area examination;
2. pay the annual license fee as stated in the fee schedule; and
3. file any and all licensing forms required for active LLLTs.

The requirements above shall be completed within one year of the date the applicant is notified of the practice area examination results. If an LLLT fails to satisfy all the requirements for licensure in an additional practice area within this period, the LLLT shall not be eligible for licensure in the additional practice area without submitting a new application and retaking the practice area examination.

**D. Oath of Limited License Legal Technician.** The Oath of Limited License Legal Technician shall be taken before an elected or appointed judge, excluding judges pro tempore, sitting in open court in the State of Washington.

**E. Contents of Oath.** The oath which all applicants shall take is as follows:

**OATH OF LIMITED LICENSE LEGAL TECHNICIAN**

STATE OF WASHINGTON

COUNTY OF

I, \_\_\_\_\_, do solemnly declare:

1. I am fully subject to the laws of the State of Washington, the laws of the United States, Rule 28 of the Admission to Practice Rules, and APR 28 Regulations adopted by the Washington State Supreme Court and will abide by the same;
2. I will support the constitutions of the State of Washington and of the United States of America;
3. I will abide by the Limited License Legal Technician Rules of Professional Conduct approved by the Supreme Court of the State of Washington;
4. I will confine my activities as a Limited License Legal Technician to those activities allowed by law, rule and regulation and will only utilize documents approved pursuant to APR 28;
5. I will faithfully disclose the limitations of my services and that I am not a lawyer;
6. I will maintain the confidence and preserve inviolate the secrets of my client and will accept no compensation in connection with the business of my client unless this compensation is from or with the knowledge and approval of the client or with the approval of the court;
7. I will abstain from all offensive personalities and advance no fact prejudicial to the honor or reputation of a party or witness unless required by the justice of the cause with which I am charged;
8. I will never reject, from any consideration personal to myself, the cause of the defenseless or oppressed, or delay unjustly the cause of any person.

\_\_\_\_\_  
Signature Limited License Legal Technician

Subscribed and sworn to before me this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

\_\_\_\_\_  
JUDGE

**F. Order Admitting to Limited Practice as LLLT.** After examining the recommendation and accompanying documents transmitted by the Board, the Supreme Court may enter such order in each case as it deems advisable. For those applicants it deems qualified, the Supreme Court shall enter an order admitting them to limited practice as LLLTs. Applicants shall be admitted under APR 28 only after the order has been entered by the Supreme Court.

**G. Order Admitting LLLT to Limited Practice in Additional Practice Area.** After

examining the recommendation and accompanying documents transmitted by the Board, the Supreme Court may enter such order in each case as it deems advisable. For those LLLTs it deems qualified, the Supreme Court shall enter an order admitting them to limited practice in the additional practice area.

#### **REGULATION 11. ANNUAL LICENSE FEES**

**A.** Except as set forth in subsection B of this Regulation, every LLLT shall pay an annual license fee in an amount set by an established fee schedule approved by the Board and the Supreme Court. The annual license fee is due August 1, of each year and shall cover the annual license period of July 1 to June 30. Annual license fees paid after August 1 shall be subject to a late fee equal to one half of the annual license fee.

**B.** LLLTs who pass the qualifying examination after January 1 but before July 1 and who request active status prior to July 1 of that same calendar year shall pay a prorated annual license fee of one half the amount of the annual license fee. LLLTs shall pay the annual license fee set forth in Regulation 11(A) to retain their active status after June 30 of the calendar year of their licensure

**C.** An LLLT shall provide his or her residential and business addresses telephone number, and business e-mail address to the Board at the time of payment of the annual license fee. An LLLT whose address, telephone number or e-mail address changes shall notify the Association within 10 days after the change.

#### **REGULATION 12. FINANCIAL RESPONSIBILITY**

**A. Insurance Requirement.** Each LLLT shall show proof of ability to respond in damages resulting from his or her acts or omissions in the performance of services permitted under APR 28 by:

1. submitting an individual professional liability insurance policy in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit;
2. submitting a professional liability insurance policy of the employer or the parent company of the employer who has agreed to provide coverage for the LLLT's ability to respond in damages in the amount of at least \$100,000 per claim and a \$300,000 annual aggregate limit; or
3. submitting proof of indemnification by the LLLT's government employer.

**B. Continuing Requirement.** Each active LLLT shall certify annually by August 1 financial responsibility in a form and manner as prescribed by the Board. Each LLLT shall notify the board of any cancellation or lapse in coverage.

#### **REGULATION 13. TRUST ACCOUNT DECLARATION**

Rules 15.4(a) and (b) and 15.7 of the Rules for Enforcement of Lawyer Conduct (ELC) shall apply to LLLT IOLTA (Interest on Lawyer Trust Account) accounts. Annually, each active LLLT shall certify compliance with Rules 1.15A and 1.15B of the Limited License Legal Technician Rules of Professional Conduct. Such declaration shall be filed by August 1 in a form and manner as prescribed by the Board and shall include the bank where each account is held and the account number.

#### **REGULATION 14. CONTINUING EDUCATION**

**A. Minimum Requirement.** An LLLT shall complete a minimum of 10 hours of approved continuing education each license year by June 30. A newly licensed LLLT shall be exempt for the first license year. The education must relate to the LLLT's area of practice, scope of practice, or the subject matter covered in the required LLLT core curriculum and shall include a minimum of two hours in legal ethics and professional responsibility per license year.

Each continuing education course shall be approved in accordance with the procedures set forth in continuing education policies approved by the Board.

**B. Proof of Compliance.** An LLLT shall certify annually by August 1 compliance with the continuing education requirements in a form and manner as prescribed by the Board.

**C. Policies and Fees.** The Board shall establish continuing education policies for the efficient administration of this regulation and shall include, but not be limited to, standards for approval of continuing education courses, procedures for reporting attendance, and sponsor duties. The Board shall determine and adjust fees to defray the reasonably necessary costs of administering this regulation.

#### **REGULATION 15. ADMINISTRATIVE SUSPENSION FROM LIMITED PRACTICE**

**A. Basis for Suspension from Limited Practice.** The Board shall request that the Supreme Court suspend an LLLT from limited practice upon:

1. notification from the Department of Social and Health Services that an LLLT is more than six months delinquent in noncompliance with a valid and enforceable order entered by a court of competent jurisdiction requiring the LLLT to pay child support; or
2. failure of an LLLT to comply with licensing requirements under APR 28 and these Regulations. This includes but is not limited to an LLLT's:
  - a. failure to pay the annual license fee as set forth in Regulation 11(A);
  - b. failure to comply with financial responsibility requirements as set forth in Regulation 12;
  - c. failure to file an annual trust account declaration as set forth in

Regulation 13;

- d. failure to comply with continuing education requirements as set forth in Regulation 14; and
- e. failure to timely notify the Association of a change of address, telephone number, or email address pursuant to Regulation 11(C).

**B. Notice and Order of Suspension.** The Board shall provide at least 30 days' written notice of intent to seek suspension to an LLLT at the LLLT's address of record with the Board. Written notice shall be sent by certified mail. The Board shall establish procedures consistent with these Regulations. An LLLT shall have a right to submit proof that the grounds for suspension do not or no longer exist. After such notice, the Court may enter an order suspending the LLLT from limited practice.

**C. Change of Status after Suspension Pursuant to This Regulation.** An LLLT who has been administratively suspended under this rule shall have a right to submit proof in a manner and form prescribed by the Board that the grounds for suspension no longer exist. The Court may enter an order changing status upon determination said proof is satisfactory and so long as the LLLT meets all other requirements for limited practice under APR 28 and these regulations.

#### **REGULATION 16. INACTIVE STATUS**

An LLLT may request transfer to inactive status after being admitted. An LLLT who has been transferred to inactive status shall continue to meet all continuing requirements under APR 28 and these regulations except for the financial responsibility and trust account declaration requirements.

An LLLT on inactive status may return to active status by filing an application to return to active status with the Board. To be granted active status, the LLLT shall be current on all licensing requirements, including payment of the annual fees, the continuing education requirements, and the financial responsibility requirements.

#### **REGULATION 17. VOLUNTARY CANCELLATION OF LICENSE**

**A. Voluntary Cancellation of LLLT License.** Any LLLT may request to voluntarily surrender the LLLT license by notifying the Board in writing of the desire to cancel the LLLT license. The Board may deny requests for voluntary cancellation from any LLLT who is the subject of a pending disciplinary investigation or proceeding. After entry of the cancellation order by the Supreme Court, the former LLLT shall not accept any new clients or engage in work as an LLLT in any matter. The Board will notify the LLLT of the effective date of the cancellation if approved. The former LLLT shall then promptly notify by registered or certified mail, return receipt requested, all clients in pending matters of the license cancellation and the consequent inability to act as an LLLT.

**B. Voluntary Cancellation of Single Practice Area License.** An LLLT licensed in two or

more practice areas may request to voluntarily surrender a single practice area license by notifying the Board in writing of the desire to cancel the LLLT single practice area license. The Board may deny requests for voluntary cancellation of a single practice area license from any LLLT who is the subject of a pending disciplinary investigation or proceeding. After entry of the cancellation order by the Supreme Court, the LLLT shall not accept any new clients or engage in work as an LLLT in any matter in the voluntarily cancelled practice area. The Board will notify the LLLT of the effective date of the cancellation if approved. The former LLLT shall then promptly notify by registered or certified mail, return receipt requested, all clients with pending matters in the voluntarily cancelled practice area of the license cancellation and the consequent inability to act as an LLLT in the specific practice area.

**C. Reinstatement after Voluntary Cancellation.** In order to be reinstated, an LLLT who voluntarily cancels his or her license must reapply, pass the certifying examinations, and complete all other requirements for licensure pursuant to APR 28 and these Regulations.

#### **REGULATION 18. REAPPLICATION FOR LICENSURE AFTER DISCIPLINARY REVOCATION**

No application for licensure after disciplinary revocation shall be filed within a period of five years after revocation or within one year after an adverse decision of the Supreme Court on a former application, or within one year after an adverse recommendation of the Board on a former application when that recommendation is not submitted to the Supreme Court. If prior to revocation the LLLT was suspended on an interim basis pending disciplinary proceedings, the period of suspension shall be credited toward the five years referred to above.

#### **REGULATION 19. NOTICE AND FILING**

All notices and filings required by these Regulations, including applications for licensure as a LLLT, shall be delivered to the headquarters of the Association.

#### **REGULATION 20: AMENDMENT AND BOARD POLICIES**

These Regulations may be altered, amended, or repealed by vote of the Board on approval of the Supreme Court. The Board has ongoing authority to adopt policies for the administration of the LLLT program consistent with APR 28 and these Regulations.

[Adopted effective August 20, 2013; amended effective September 3, 2013; March 31, 2015.]



## Supplemental Materials

Nebraska Strategic Planning Conference Work Summary and Affiliated Materials:

**ORIGIN, EVOLUTION, AND BEYOND: A brief history of the Nebraska  
Supreme Court Committee on Self-Represented Litigation**

(2015 Report to the Self-Represented Litigant Strategic Planning  
Committee)

## **ORIGIN, EVOLUTION, AND BEYOND: A brief history of the Nebraska Supreme Court Committee on Self-Represented Litigation**

Nebraska's assistance of self-represented litigants began in November 1999 when then Chief Justice John Hendry appointed a team consisting of Nebraska Court of Appeals Judge Richard D. Sievers, District Judge Teresa Luther, former Nebraska State Bar Association President John Guthery, and Judith Leach of the Lancaster County Clerk's office, to attend the first nationwide conference on assistance to self-represented litigants sponsored by the American Judicature Society. Thereafter, Judges Sievers and Luther assembled a committee of approximately 25 lawyers and judges to study the issue and write a comprehensive report to the Nebraska Supreme Court with recommendations for action. A report was submitted to the Nebraska Supreme Court in March 2000 recommending, among other things, that the Court appoint a committee to study the matter of self-represented litigation in Nebraska. In September 2001, the Supreme Court formed the Nebraska Supreme Court Committee on Pro Se Litigation, whose purpose was:

To study the nature and extent of pro se litigation in Nebraska's Courts, to identify challenges created by pro se litigation for court staff, judges, opposing counsel, and the barriers to the self-represented litigant which the judicial system presents and to propose innovations and solutions to the Supreme Court which insure equal access to the courts while maintaining the impartiality, dignity and efficiency of the judicial process.

The charge to this committee was to be accomplished within three years. On November 22, 2002, the "Report of Nebraska Supreme Court Committee on Pro Se Litigation" was formally submitted to the Nebraska Supreme Court. This report is contained on the Judicial Branch website: [supremecourt.ne.gov>Programs and Services>Self-Represented Litigation Committee>History](http://supremecourt.ne.gov/Programs%20and%20Services/Self-Represented%20Litigation%20Committee/History). This comprehensive report identified the vast work performed by the committee during its brief existence; and included a needs assessment, discussed existing resources for a pro se litigant in Nebraska, identified the extent of pro se litigation in Nebraska, and contained the following recommendations, as summarized:

1. Development of a court staff manual for county and district courts to provide uniform and specific guidance to court clerks and staff about information and assistance that can be properly provided to a self-represented litigant;
2. Placement on the Nebraska Judicial Branch of uniform pleadings and instructions for a "simple" divorce and distribution of such materials in hard copy;
3. Make the Pro Se Litigation Committee a permanent committee;
4. Have bar association dues statement include a simple additional form asking each lawyer to signify their willingness to engage in pro bono representation, reduced fee representation, or both, and compilation of such information by the NSBA for use by appropriate organizations such as the Volunteer Lawyer Project;
5. Include in educational curriculum for judges methods of managing cases involving self-represented litigants with emphasis on ethical issues;

6. The Supreme Court, consistent with ethical constraints, and the NSBA, support increased funding of civil legal aid providers to the poor as the primary means of expanding access to legal representation for underserved people.

As recognized in the 2002 report, this committee's core belief was that ultimately the best justice system is one in which everyone who needs counsel has counsel, however, recognizing the reality of the increase in pro se litigation, that there is an obligation of the judiciary and the organized bar to respond to the need of pro se litigants.

Most of the initial recommendations of the "early" committee have been accomplished. On February 26, 2003, the Supreme Court created the permanent committee – which became the Nebraska Supreme Court Implementation Committee on Pro Se Litigation. Judge Sievers was appointed the chair of the committee, with Judge Luther as vice-chair. Since its inception, the committee has included representatives of various stakeholders; including the bar association leadership, Legal Aid of Nebraska, the civil clinic directors at both the University of Nebraska and Creighton law colleges, law libraries, judges and court clerks, and various bar committee leaders and lawyers.

The purpose statement of this permanent committee as adopted by the Court is:

To engage in continuing analysis and study of the challenges which pro se 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 Pro Se Committee which the Nebraska Supreme Court approves.

The committee authored and distributed a resource and training manual entitled "Working with Pro Se Litigants: a Manual for Nebraska Court Employees." This manual is disseminated to all clerks of the trial courts in Nebraska, and is used in new judge and employee orientation by Judicial Branch Education.

The committee has greatly expanded the Nebraska Online Legal Self-Help Center on the judicial branch website which contains valuable information for self-represented litigants. The website offers prepared forms and instructions for a simple divorce (both with and without children), as well as other proceedings in which parties frequently represent themselves such as small claims and protection orders. The "forms and instructions" subcommittee is continually active in updating forms and instructions on the judicial branch website, with the most recent being the addition of parenting plans for use by self-represented litigants.

In approximately 2006, a subcommittee was formed to study the subject of limited scope representation or "unbundling" of legal services; which is the provision of legal services by an attorney for a defined and limited task, usually in a litigation setting, as opposed to the traditional model of legal representation during the entire case – from start to finish. This type of service

allows parties with limited means to get a discrete task accomplished with appropriate legal advice and assistance. In 2008, the Nebraska Supreme Court adopted the committee's proposed amendments to the Nebraska Rules of Professional Conduct relating to limited scope representation. See Rules §§ 3-501.2 and 3-504.2 The judicial branch website has a section on Limited Scope Representation for both the public and lawyers. The "limited scope representation" subcommittee has held various CLEs to promote the use of limited scope representation among lawyers and is working on establishing lists of lawyers who are willing to provide legal services on a limited scope basis.

Also in 2006, the committee voted to undertake the establishment of a pilot project for a self-help center for pro se litigants in Lancaster County. A subcommittee was formed and engaged in substantial study of other self-help centers around the country. This resulted in the first self-help center opening in Lancaster County in July 2007, with the pilot period extending 18 months. Both the NSBA and Legal Aid of Nebraska were instrumental in organizing the self-help center, with the assistance of volunteer lawyers. Not only did the pilot succeed and the Lancaster County self-help center remain open for business on a permanent basis, but over the ensuing years, additional self-help centers were opened around the state. We currently have self-help centers in Omaha, Lincoln, Grand Island, Madison, Kearney, and Scottsbluff which are coordinated by the NSBA Director of Legal Services. Our "self-help" subcommittee continues to work closely with the bar association.

In 2011, the committee had the good fortune to receive a grant from the Nebraska Library Commission which allowed our library subcommittee to travel around to various public libraries and promote the available resources relating to the judicial branch. While the grant period has expired, we have formed good relationships with various public libraries around the state, recognizing the importance of these entities in disseminating information to the general public, including those who must navigate the legal system on their own. We continue to maintain a "Library Partners" subcommittee, which remains committed to the education of and support of librarians across the state.

This committee has engaged in all of these activities essentially without any monetary resources allocated to it or any formal budget. We have been able to utilize staff from the Administrative Office of the Courts to accomplish many of these tasks, along with countless volunteer hours from members of the committee and other stakeholders. We believe that it will be necessary to explore means to obtain solid financial resources in the future to be able to take the work of this Committee beyond its present confines.

In 2012, Judge Richard Sievers "retired" as Chair of this committee. Without his hard work and dedication, we would not be where we are today. He was passionate in his desire to improve the court system as it related to self-represented litigants. As Judge Sievers so aptly stated:

*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.*

The Nebraska Lawyer, June 2007.

Most recently, our committee applied for, and received, a grant from the National Center on State Courts to hold this strategic planning conference. With the invaluable assistance of our consultant, John Greacen, many members of this committee and our partners at Legal Aid have spent countless hours preparing for this conference. As we approached this project, we asked the Supreme Court for permission to change the name of our committee, which permission was given. We are now officially the Nebraska Supreme Court Committee on Self-Represented Litigation.

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, we are excited for this opportunity to develop a strategic plan to take us beyond our origin and into the future with a clear action plan.

Thank you all for your commitment to our mission!

Respectfully,

Frankie J. Moore

Chair, Nebraska Supreme Court Committee on Self-Represented Litigation



## **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

### **Contact**

Janet Bancroft, Public Information Officer  
1213 State Capitol  
1445 K Street/P.O Box 98910  
Lincoln, NE 68509  
402-471-3730  
[Janet.Bancroft@nebraska.gov](mailto:Janet.Bancroft@nebraska.gov)

### **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’ Compensation

Procedural

- 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

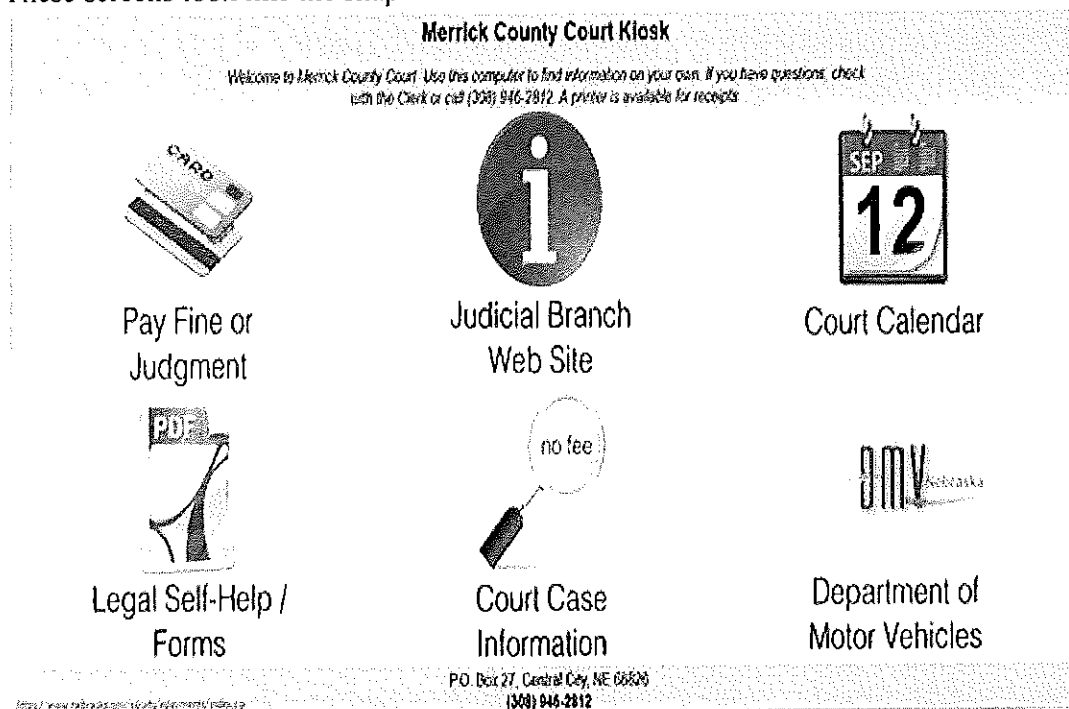
1. Brief description of services.

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  
[jmcneil@nebar.com](mailto:jmcneil@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 [jmcneil@nebar.com](mailto:jmcneil@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.
 

<u>A2J-Omaha</u> Gendler Foundation Mutual of Omaha Foundation Private donor Scott Foundation Weitz Family Foundation	<u>A2J-Lincoln</u> Wells Fargo Woods Charitable Fund A2J Lincoln
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  - 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 FDLF.
  - 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](mailto: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>



## Supplemental Materials

Nebraska Research Materials:

- **Nebraska Justice Gap: An Assessment of the Unmet Civil Legal Needs of Low and Moderate Income Nebraskans (March 2015)**

# **The Nebraska Justice Gap: An Assessment of the Unmet Civil Legal Needs of Low and Moderate Income Nebraskans**

**March 2015**

*The Nebraska Justice Gap* is prepared to inform members and colleagues of the Nebraska Supreme Court's Committee on Self-Represented Litigation of the unmet civil legal needs of low and moderate income Nebraskans. It contains the following segments:

- Demographic information of low-income Nebraskans
- Access to Justice movement background
- Gap Analysis
- Summary of Gap Analysis and Conclusion

## **Nebraska's Poverty Profile**

"To access the courts, citizens generally need adequate financial resources to pay for legal representation and court costs. The financial crisis of 2007 to 2008 and the ensuing economic downturn created new groups of individuals facing difficult circumstances and reinforced the vulnerabilities of some groups who historically lived in poverty. The challenge for the courts has been to provide access to justice when citizens have inadequate financial resources."<sup>1</sup>

– Dr. Anne Dannerbeck Janku, Missouri Office of State Courts Administrator

The information below addresses the characteristics of financially vulnerable Nebraskans and what we know about their legal needs. We know their need for legal assistance often stems from their financial problems and, for many Nebraskans, a choice is sometimes necessary between paying for an attorney and paying for basic necessities.

## **Income**

Nebraska's 2014 population is estimated to be 1,881,503.<sup>2</sup> The median household income is \$51,672.<sup>3</sup> 2012 Census data<sup>4</sup> indicates that 13% (233,973) of Nebraskans live at or below Federal Poverty Level (FPL).<sup>5</sup> In 2012, FPL for a 1 person household was \$11,170 per year, and for a 4 person household was \$23,050 per year.

Legal Aid of Nebraska (LAN) is the largest non-profit law firm in the state that provides free legal

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<sup>1</sup> Anne Dannerbeck Janku, "Poverty and Legal Problems: Examining Equal Access to Justice in Missouri," National Center for State Courts' Report on Trends in State Courts (2013 Print Edition), *available at* <http://www.ncsc.org/~media/Microsites/Files/Future%20Trends%202013/06212013-Poverty-and-legal-problems-Examining-Equal-Access-to-Justice-in-Missouri.ashx>.

<sup>2</sup> US Census Data found at <http://quickfacts.census.gov/qfd/states/31000.html>

<sup>3</sup> Id.

<sup>4</sup> In 2012 the population in Nebraska was 1,855,525.

<sup>5</sup> Food Research and Action Center data found at <http://frac.org/wp-content/uploads/2010/07/ne.pdf>

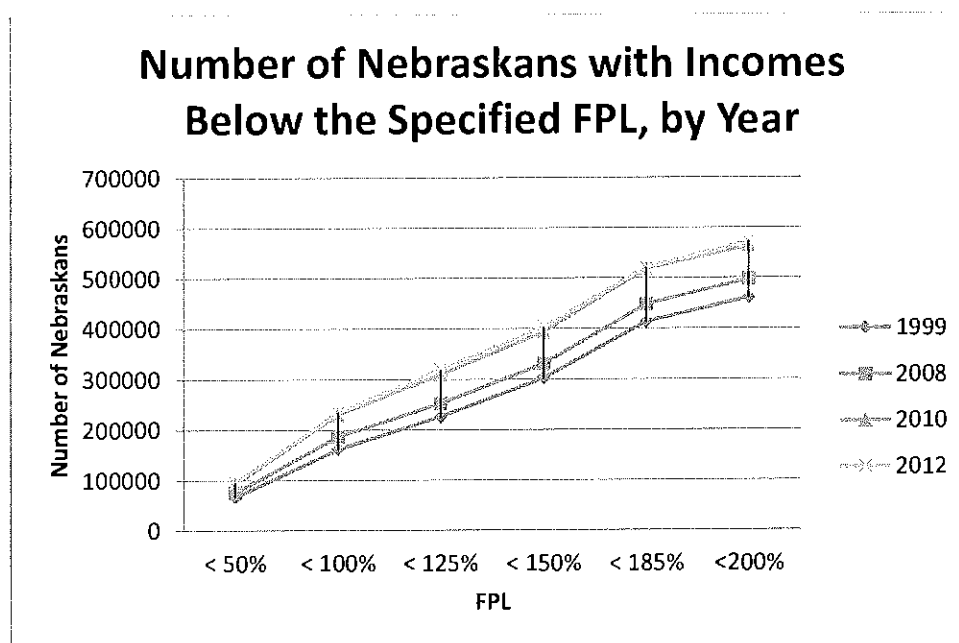
representation to underprivileged citizens. To qualify for LAN's services, individuals must be at or below 125% of FPL<sup>6</sup> or they must have income below 200% of poverty and have certain allowable deductions (e.g. rent, daycare expenses for employment) that place them at or below 125% of FPL.<sup>7</sup>

Both the number and proportion of low-income Nebraskans has been rising over the past decade. In 2000, approximately 225,545 or 13.5% of Nebraskans had incomes below 125% of the Federal Poverty Level (FPL). As of 2012, U.S. Census information indicates that 319,000 (approximately 17% of Nebraskans live at or below 125% of FPL) and potentially 573,000 (approximately 31% of Nebraskans live at or below 200% of FPL) Nebraskans qualify for Legal Aid's services.

As poverty continues to rise, more and more Nebraskans find that they cannot afford to hire an attorney.

Although many people have little to no interaction with the courts, many low-income and modest-income Nebraskans require legal assistance for divorce, child custody and visitation, guardianships, landlord-tenant disputes, debt collection defense, and healthcare and probate issues, among others. For people who cannot pay a private attorney, and who are unable to get help through a free legal services provider or pro bono attorney, the only option available is to represent themselves in court.

Below is a chart that represents the growth in the poverty population between 1999 and 2012.



<sup>6</sup> In 2015 125% for a household of 1 is \$14,713 and for a household of 4 is \$30,313. 200% of poverty for a household of 1 is \$23,540 and for a household of 4 is \$48,500. [http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=&r=PART&n=45y4.1.3.11.12#ap45.4.1611\\_19.a](http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&SID=&r=PART&n=45y4.1.3.11.12#ap45.4.1611_19.a)

<sup>7</sup> See 45 C.F.R. Part 1611 et seq. found at <http://www.ecfr.gov/cgi-bin/retrieveECFR?gp=&n=45y4.1.3.11.12&r=PART&ty=HTML>

### ***Available Legal Aid representation***

LAN has approximately 75 full-time employees, including 42 attorneys (4 Administration, 4 Accessline®, and 34 litigation attorneys) located in 6 offices across the state. In 2014, LAN received approximately 17,321 requests for assistance. 11,787 were provided some level of legal assistance. 1,852 of those received extended representation or extensive service.

As of 2012, the number living at or below poverty is approximately 233,973. With 42 Legal Aid attorneys, that is 1 attorney for every 5,570 poor people. There are approximately 319,000 Nebraskans living at or below 125% of poverty. That is 1 Legal Aid attorney for every 7,595 people. Nebraska has approximately 5,350 attorneys with active law licenses, or 1 attorney for every 350 Nebraskans.

### **Other financial vulnerabilities<sup>8</sup>**

While 13% of Nebraskans live at or below FPL, even more are financially vulnerable.

- 18.5% of Nebraskans are asset poor, meaning they lack the financial resources – money in the bank, or assets such as a home or car – to cover basic household expenses if they experience a financial crisis such as a job loss, medical crisis or other financial emergency.
- Even more Nebraskans, 25.4%, are liquid asset poor, meaning they do not have enough in liquid savings to cover basic expenses for three months.
- 10.2% of households have zero or a negative net worth, meaning they have no financial cushion to help in a financial crisis or invest in their future.
- 5.7% of Nebraskans have no bank accounts at all.
- 20.1% (1 in 5) are underbanked, meaning that although they have a mainstream bank account, they have used costly financial services for basic transaction and credit needs within the past 12 months, including check cashing services, payday loans, rent-to-own services and pawn shops.
- Nationally, 27.7% of families with income less than \$15,000 are unbanked and 22.4% are underbanked (total 50.1%). 11.4% of families with incomes between \$15,000 and \$30,000 are unbanked and 25% are underbanked (total 36.4%). 5.1% of families with incomes between \$30,000 and \$50,000 are unbanked and 23.3% are underbanked (total 28.4%).<sup>9</sup>
- The average individual credit card debt is \$6,424<sup>10</sup> (not households or families which may contain two or more individuals with credit cards).
- It has been estimated nationally that 60- 95% of debt collection lawsuits result in defaults.<sup>11</sup>

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<sup>8</sup> Corporation for Enterprise Development Asset and Opportunity Scorecard found at <http://scorecard.assetsandopportunity.org/latest/state/ne>

<sup>9</sup>2013 FDIC National Survey of Unbanked and Underbanked Households page 17 found at <https://www.fdic.gov/householdsurvey/2013report.pdf>

<sup>10</sup> See FN8

<sup>11</sup> Federal Trade Commission Repairing a Broken System Protecting Consumers in Debt Collection Litigation and Arbitration page 7 (July 2010) found at [http://www.ftc.gov/sites/default/files/documents/public\\_events/life-debt/debtcollectionreport\\_0.pdf](http://www.ftc.gov/sites/default/files/documents/public_events/life-debt/debtcollectionreport_0.pdf); Center for Responsible Lending Debt Collection and Debt Buying page 13 (April 2014) found at <http://www.responsiblelending.org/state-of-lending/reports/11-Debt-Collection.pdf>

## **Housing**<sup>12</sup>

Having a home allows for stability and homeownership provides a means to build wealth through equity.

- 66% of Nebraska households are homeowners.
- 1.6 times as many white households are homeowners compared to households of color.
- 23.3% are cost-burdened, meaning 30% or more of household income is consumed by the costs of owning a home (e.g. mortgage payments, property taxes, utilities, etc.). This increases risks of foreclosure and homelessness.
- For renting households, 44.5% of Nebraska renting households are cost burdened. This increases risks of eviction and homelessness.
- 26% (119,000) of children live in households with a high housing cost burden.<sup>13</sup>
- 52% (98,000) of low-income children live in households with a high cost burden.<sup>14</sup>

## **Healthcare**<sup>15</sup>

Health insurance protects a household's assets by reducing expenses incurred from a medical emergency or the treatment of a chronic illness that might otherwise require a family to spend savings, or go into debt. Also, it encourages preventive care and treatment, thereby minimizing the impact of an individual's ability to earn income. One serious illness or accident can result in financial insecurity for the uninsured or their household.

- In 2013, 13% of Nebraskans under 65 had no health insurance.
- 2.3 times as many people of color are uninsured compared to white people.
- The uninsured rate for individuals in the bottom income bracket in Nebraska is 6 times higher than for people in the top income bracket. Nebraska ranks last in the United States in its uninsured rates by income, displaying the highest disparity in insurance rates by income.
- 8.9% of low-income children (18 years or younger living at or below 200% of FPL) in Nebraska are uninsured.
- The total number of Nebraskans under 65 without health insurance is estimated at 208,578.<sup>16</sup>

## **Education**<sup>17</sup>

Compared to those without college degrees, individuals with a four-year degree are more likely to experience income and asset growth over the course of their lifetimes.

- 62% of Nebraska college students graduate with student loan debt.

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<sup>12</sup> See FN8

<sup>13</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/7244-children-living-in-households-with-a-high-housing-cost-burden?loc=29&loc=2#detailed/2/29/false/36,868,867,133,38/any/14287,14288>

<sup>14</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/71-children-in-low-income-households-with-a-high-housing-cost-burden?loc=29&loc=2#detailed/2/29/false/36,868,867,133,38/any/376,377>; low-income household is a household with income less than 200% of poverty.

<sup>15</sup> See FN8

<sup>16</sup> See 2013 American Community Survey 1 Year Estimates

<sup>17</sup> See FN8

- The average four-year public and private non-profit college graduate debt is \$26,490.
- 7.7% of Nebraskans with student loans are in default.
- In Nebraska, four-year degrees are 4.9 times more prevalent among the richest 20% of adults than among the lowest 20% of adults.
- White non-Hispanics are nearly two times more likely than people of color to have at least a 4-year degree.

## **Women and children**

- 50.2% (944,515) of the population are females.<sup>18</sup>
- 236,129 females will experience domestic violence at some point during their lifetime.<sup>19</sup>
- 24.9% of the population are children under 18.<sup>20</sup>
- The estimated number of households in 2013 was 730,579<sup>21</sup>
- 29.2% of families with a female head of household live below poverty.<sup>22</sup>
  - 36.7% with related children under 18 years live in poverty.
  - 54.7% with related children under 5 live in poverty.
- In 2013, 81,000 (18%) children under 18 live in families with incomes below FPL.<sup>23</sup>
- 20% (1 in 5) of children under 5 live in poverty.<sup>24</sup>
- 189,000 (42%) of children live in families with incomes less than 200% of poverty.<sup>25</sup>
- 35,000 (8%) children live in extreme poverty (families with incomes less than 50% of FPL).<sup>26</sup>
- In 2012, 44% of students were eligible to receive free/reduced meals.<sup>27</sup>
- The average number of free and reduced school lunch meals served daily 133,972.<sup>28</sup>
- 91,240 children 18 and under received food stamp benefits in 2013.<sup>29</sup>
- 15,554: average number of monthly participants (2,886 adults and 12,668 children) in Temporary Assistance for Needy Families (TANF).<sup>30</sup>
- \$364: Maximum TANF benefit for single parent family of 3 (FY2011).<sup>31</sup>

<sup>18</sup> See US Census data found at <http://quickfacts.census.gov/qfd/states/31000.html>

<sup>19</sup> 1 in 4 women over 18 have been the victim of severe physical violence by an intimate partner in their lifetime. See Center for Disease Control Data found at <http://www.cdc.gov/violenceprevention/intimatepartnerviolence/consequences.html>

<sup>20</sup> See FN8

<sup>21</sup> See 2013 American Community Survey 1 Year Estimates

<sup>22</sup> See 2013 American Community Survey 1 Year Estimates

<sup>23</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/43-children-in-poverty-100-percent-poverty?loc=29&loct=2#detailed/2/29/false/36,868,867,133,38/any/321,322>

<sup>24</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/2043-children-under-age-5-in-poverty?loc=29&loct=2#detailed/2/any/false/867,133,38,11,1/any/4290>

<sup>25</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/47-children-below-200-percent-poverty?loc=29&loct=2#detailed/2/29/false/36,868,867,133,38/any/329,330>

<sup>26</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/45-children-in-extreme-poverty-50-percent-poverty?loc=29&loct=2#detailed/2/29/false/36,868,867,133,38/any/325,326>

<sup>27</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/2053-percentage-of-students-eligible-for-free-reduced-meals?loc=29&loct=2#detailed/2/any/false/868,867,133,38,35/any/4310>

<sup>28</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/2052-average-number-of-free-reduced-school-lunch-meals-served-daily?loc=29&loct=2#detailed/2/any/false/868,867,133,38,35/any/4308,15004>

<sup>29</sup> Kids Count Data Center data found at <http://datacenter.kidscount.org/data/tables/2050-food-stamp-participation-children-ages-18-and-under?loc=29&loct=2#detailed/2/any/false/36,868,867,133,38/any/4304>

<sup>30</sup> Food Research and Action Center data found at <http://frac.org/wp-content/uploads/2010/07/ne.pdf>

<sup>31</sup> Id.

### **Nebraskans with Other Access Needs**

- 180,422 (10.5%) of people over 5 years of age speak a language other than English at home.<sup>32</sup>
- 196,273 (10.8%) have a disability.<sup>33</sup>

### **Computers and Internet Use**<sup>34</sup>

- 83.2% (607,942) households have a computer.
- 72.9% (532,757) households have a broadband internet subscription.

### **Rural Attorney Shortage**

While Douglas County is home to 2594 attorneys, 12 of Nebraska's 93 counties have **no** lawyers. Currently, five of these counties are also among Nebraska's poorest. When lawyers are few and far between, access to justice becomes acutely limited for rural Nebraskans.

#### *10 Poorest Nebraska Counties and Number of Attorneys*<sup>35</sup>

<b>County</b>	<b>% Poverty</b>	<b># in Poverty</b>	<b># Attorneys</b>
Thurston	30.5%	2073	6
Keya Paha	19.4%	153	0
Blaine	18.0%	87	0
Dawes	17.5%	1443	13
Loup	16.7%	96	0
Sioux	16.5%	217	2
Sheridan	16.0%	823	6
Wheeler	16.0%	121	0
Garden	15.9%	297	2
Thomas	15.5%	108	0
Douglas	15.2%	80032	2594
Pawnee	15.2%	404	6
Rock	15.2%	209	1
Scottsbluff	15.2%	5490	73

<sup>32</sup> American Community Survey 5-Year Estimates 2009-20-13

<sup>33</sup> Id.

<sup>34</sup> 2013 American Community Survey 1-Year Estimates

<sup>35</sup> University of Missouri data found at <http://mcde.missouri.edu/data/saipe/pov2013charts/pov2013ne/charts.html> and NSBA information

### **Custody Court Filings in Nebraska**<sup>36</sup>

In May 2013, Nebraska's Office of Dispute Resolution & Special Court Programs conducted a study of JUSTICE closed court files to provide the Legislature, the Judicial Branch and the public with a factual report of custody, parenting time, and related court decisions from 2002-2012.

#### ***Plaintiffs' legal representation***

In a vast majority of cases, plaintiffs were represented by an attorney at the time of filing of the complaint (88.3%). Some plaintiffs opted to file without first obtaining legal representation (10.2%). There were six cases found not applicable (1.5%).

Also in a vast majority of the cases, plaintiffs were represented by an attorney at the time of the final order or decree (84.6%). In some cases, representation at the time of the final order or decree was deemed not applicable, either because the plaintiff was the State of Nebraska or because the case was dismissed without prejudice.

#### ***Defendants' legal representation***

In slightly more than half of the cases (50.8%), defendants were represented by an attorney at the onset of their entry into the case. At the time of the final order or decree, 47.2% of defendants were represented by counsel while 51.8% were not. Legal counsel was not applicable in the remaining 1% of cases.

Table 3 shows the percent of plaintiffs and defendants represented by attorneys at both the onset of the case and at the final order or decree. Plaintiffs were statistically more likely to be represented by attorneys at both the onset and at the final order or decree.

**Table 3: Legal representation for both plaintiff and defendant**

	<b>Represented at onset of case</b>	<b>Represented at final order of decree</b>
Plaintiff	88.3%	84.6%
Defendant	50.8%	47.2%

Data from this study shows that in Nebraska, defendants, as compared to plaintiffs, are less likely to retain legal representation during the court process. Lack of access to courts, particularly by self-represented parents going through dissolution and custody matters, is a growing concern in many states and countries.<sup>37</sup>

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<sup>36</sup> Nebraska Office of State Court Administrator, Office of Dispute Resolution & Special Court Programs, "Nebraska 2002-2012 Custody Court File Research Study, December 31, 2013," available at <https://supremecourt.nebraska.gov/sites/supremecourt.ne.gov/files/reports/courts/2002-2012-custody-court-file-research-study.pdf>.

<sup>37</sup> *Id.*

## The Access to Justice Movement

“[A]ccess success stories are counter-balanced by access challenges. A major challenge is the number of people needing or choosing to represent themselves in court. Self-represented litigants are often unfamiliar with the law and court processes and frequently find themselves at a disadvantage when navigating the court system.”

“Our judges and our court ... staff remain committed to the American values of equal protection, due process of law, and equal access to justice...”

– Chief Justice Michael G. Heavican, *State of the Judiciary 2015*

The Center on Court Access to Justice for All is an initiative of the National Center for State Courts. The Center offers resources and technical assistance to help judges and courts advance access to justice, especially for poor and low-income individuals. The core concept behind the “access to justice” movement is state courts partnering with other stakeholders to expand access to civil justice by sharing and coordinating resources and information. At a minimum, this collaboration should include the courts, the private bar, and legal services organizations.

One of the biggest challenges in the court system is the increasing number of self-represented litigants. As the number of self-represented litigants in civil cases continues to grow, courts are responding by coordinating and improving service-delivery strategies and making courts more user-friendly. The goal is not only to effectively equip self-represented litigants to resolve their legal problems and to assist courts in efficiently processing cases involving self-represented litigants, but to improve the public’s trust and confidence in the courts.

## Gap Analysis

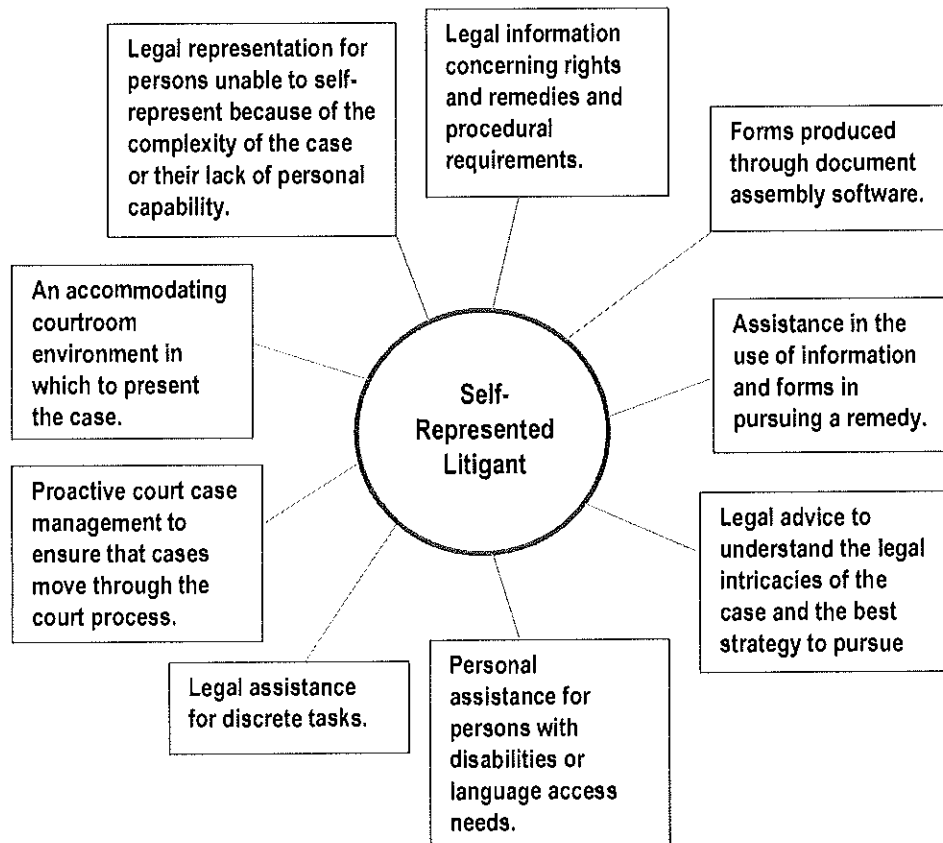
The Center on Court Access to Justice for All recently awarded the Nebraska Supreme Court Committee on Self-Represented Litigation a grant to conduct strategic planning and facilitate the Self-Represented Litigation Strategic Planning Conference.

To prepare for the conference, the strategic planning subcommittee conducted a “gap analysis” through surveys and needs assessment. After gathering narrative and statistical data about the state’s legal needs, the subcommittee identified what programs already exist to meet those needs.

This analysis categorizes existing services and gaps in relation to John Greacen’s *Taxonomy of Needs of Self-represented Litigants* (below). This classification scheme provides a framework to identify the services self-represented litigants need in order to effectively resolve their cases, the services currently available to self-represented litigants in Nebraska, and the current gaps in those services. The gap analysis aims to demonstrate the disparities that exist between Nebraska’s current and ideal system of responding to self-represented litigants. It does not provide an action plan, but a base awareness necessary to create one.

The “Inventory of Resources for Self-Represented Litigants in Nebraska” provides a profile of each of the entities listed on the Gap Analysis Chart. Please refer to the Inventory for a more complete picture of available services and resources.

**Greacen Associates, LLC**  
**Taxonomy of needs of self-represented litigants**



**DISCLAIMER:** This analysis is limited. It was conducted 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 authors.

## Gap Analysis Chart

SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<p><b>1. Access to legal information concerning rights and remedies and procedural requirements.</b></p> <ul style="list-style-type: none"> <li>❖ <i>Causes of action and their elements.</i></li> <li>❖ <i>Available defenses and their elements, including identifying procedural defects in notice and service.</i></li> <li>❖ <i>Links to forms, statutes, and procedural rules at appropriate places in the discussion of a particular legal topic.</i></li> <li>❖ <i>Live chat to clarify material and answer questions.</i></li> <li>❖ <i>Guides specific to each stage of the case rather than massive procedural guides.</i></li> <li>❖ <i>The information provided needs to lead them to specific decisions about what to do.</i></li> <li>❖ <i>Handbooks, pamphlets, flow charts to describe court process.</i></li> </ul>	<ul style="list-style-type: none"> <li>• Nebraska Supreme Court (NSC) Online Legal Self-Help Center</li> <li>• NSC Website and Forms</li> <li>• NSC County Court Information Specialists</li> <li>• Volunteer Lawyers Project (VLP) Self-Help Desks</li> <li>• Legal Aid of Nebraska (LAN)</li> <li>• Law libraries (provide legal research assistance)</li> <li>• Nebraska Appleseed (child welfare, healthcare access, economic justice, immigration; does not typically handle individual representation cases)</li> <li>• Nebraska Area Agencies on Aging (provides legal education programming and some individual legal assistance to seniors)</li> <li>• Disability Rights Nebraska (offers a Law-in-Brief online Information Series)</li> <li>• Justice for Our Neighbors (immigration assistance)</li> <li>• Catholic Charities Immigration Legal Assistance</li> <li>• ACLU Nebraska (individual rights)</li> <li>• Military Legal Assistance Offices (basic legal assistance to active duty members, their dependents, and retired personnel. No court representation, document preparation, or information regarding business decisions.)</li> <li>• NE Department of Health and Human Services (some forms and information available on website)</li> </ul>	<ul style="list-style-type: none"> <li>• No central information repository.</li> <li>• Limited handbooks, pamphlets, and other literature to describe court process or case requirements.</li> <li>• Information available on websites needs regular upkeep to avoid outdated content, link rot, etc.</li> <li>• Legal information is not available for all substantive areas.</li> <li>• ESL/LEP concerns – in how many different languages is information made available?</li> <li>• Written text has limits – how much reading comprehension do we expect, and what alternative forms can be made available?</li> <li>• Law school clinics are generally limited to full scope representation rather than brief services.</li> <li>• Limited assistance from court staff due to concerns about giving legal <i>advice</i> rather than providing legal information.</li> </ul>

SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<b>2. Access to forms produced through document assembly software.</b> <ul style="list-style-type: none"> <li>❖ <i>TurboTax® like systems to walk them through completing the forms by asking simple questions.</i></li> <li>❖ <i>Interviews, instructions, and forms written in plain language at a target level of 5th – 7th grade.</i></li> <li>❖ <i>Forms in multiple languages</i></li> <li>❖ <i>Accessible forms (Section 508 compliant)</i></li> <li>❖ <i>Live chat assistance</i></li> </ul>	<p>LAN offers LawHelp Interactive (LHI) automated court forms in these areas:</p> <ul style="list-style-type: none"> <li>▪ Criminal Conviction Set Asides</li> <li>▪ Divorce, with children</li> <li>▪ Divorce, no children</li> <li>▪ Protection for Domestic Abuse and Harassment</li> </ul>	<ul style="list-style-type: none"> <li>• <u>Only</u> LAN uses document assembly software, and only in limited areas.</li> <li>• No live chat assistance.</li> <li>• No comprehensive set of automated forms for all legal matters commonly pursued by self-represented litigants.</li> <li>• Current LAN forms are only available in English.</li> </ul>
SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<b>3. Assistance in the use of information and forms in pursuing a remedy.</b> <ul style="list-style-type: none"> <li>❖ <i>Obtain help with forms completion and review, and assistance with hearing preparation.</i></li> </ul>	<ul style="list-style-type: none"> <li>• LAN</li> <li>• VLP Self-Help Centers</li> <li>• NSC Guardian /Conservator Specialists (email-based contact for self-represented litigants)</li> <li>• NSC County Court Information Specialists (phone and email-based contact person for self-represented litigants)</li> <li>• Some Nebraska attorneys are providing limited scope representation to self-represented litigants.</li> <li>• Some courthouses will provide information to self-represented litigants.</li> </ul>	<ul style="list-style-type: none"> <li>• Litigants sometimes find their paperwork being refused with no explanation of the problem or how to fix it, or no referral to someone who could help.</li> <li>• Clerks in some districts offer information but this practice is not consistent statewide.</li> <li>• All the available forms on the Supreme Court website do not include instructions.</li> <li>• Existing instructions are often ignored and readability could be improved.</li> <li>• Unfamiliarity and hesitation among the private bar towards providing limited scope representation.</li> <li>• Existing services providers have significant staffing and eligibility limitations.</li> <li>• Nebraska's rural attorney shortage means access to legal services in rural areas is alarmingly limited.</li> </ul>

SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<p><b>4. Legal advice to understand the legal intricacies of the case and the best strategy to pursue.</b></p> <p>❖ <i>Such legal advice cannot be provided by court staff, whether or not they are attorneys.</i></p> <p>❖ <i>SRLs need access to lawyers who will provide them with legal advice as an unbundled service that they can afford.</i></p>	<ul style="list-style-type: none"> <li>• LAN</li> <li>• VLP Self-Help Centers</li> <li>• Some Nebraska attorneys are providing limited scope representation.</li> <li>• Some legal services providers offer brief legal advice and referral services, limited to their organization's substantive focus areas.</li> </ul>	<ul style="list-style-type: none"> <li>• Law school clinics and most of the other nonprofit legal services providers are limited to full scope representation and do not provide self-help or unbundled services.</li> <li>• No statewide, integrated referral system – courts and service providers are unsure where to send SRLs for legal advice.</li> <li>• Unfamiliarity and hesitation among the private bar towards providing limited scope representation.</li> <li>• Nebraska's rural attorney shortage means access to legal advice in rural areas is alarmingly limited.</li> <li>• Limited scope representation has not been added to lawyer referral services – difficult to connect SRLs with lawyers willing to provide this service.</li> <li>• LAN and VLP have significant staffing limits.</li> <li>• Limited regional availability of LAN offices and VLP Self-Help Desks.</li> <li>• Nebraska has not implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements.</li> <li>• Nebraska has not implemented pro bono rules waiving some of the normal licensing requirements for retired, inactive, or out-of-state attorneys agreeing to limit their practice to volunteer service.</li> </ul>

SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<b>5. Personal assistance for persons with disabilities or language access needs.</b> <ul style="list-style-type: none"> <li>❖ <i>Physical access</i></li> <li>❖ <i>Interpreters</i></li> <li>❖ <i>Courtroom assistance</i></li> <li>❖ <i>More intense preparation assistance for persons with mental or language limitations.</i></li> <li>❖ <i>Personal companion or advocate to assist/accompany a SRL needing special assistance.</i></li> </ul>	<ul style="list-style-type: none"> <li>• NSBA Pilot Project to provide on-call interpreter services for attorneys.</li> <li>• Interpretation and Language Line services are offered through LAN.</li> <li>• Most of the nonprofit legal services providers have Spanish-speaking or other multilingual staff.</li> <li>• Interpreters are available for court proceedings and for probation services.</li> <li>• If court staff have a problem communicating with a court patron, court employees have a variety of resources, including multilingual signs and language identification cards (so patrons can point to the language that they speak).</li> <li>• Some courts have bilingual staff and every court has access to the Language Line.</li> <li>• Court resources are outlined in the 2014 Nebraska Judicial Branch Language Access Plan: <a href="http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/report%20s/courts/language-access-plan.pdf">http://supremecourt.ne.gov/sites/supremecourt.ne.gov/files/report s/courts/language-access-plan.pdf</a></li> </ul>	<ul style="list-style-type: none"> <li>• Not all programs are able to provide interpreters or multilingual staff to accommodate non-English speakers. Few programs offer interpretation or Language Line services.</li> <li>• Disability Rights Nebraska, the protection and advocacy system in Nebraska, is only able to accept a very limited amount of cases. They do not assist people to fill out paperwork.</li> <li>• Our needs assessment did not consider the extent to which persons with disabilities are able to obtain appropriate assistance.</li> </ul>
SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<b>6. Legal assistance for discrete tasks.</b> <ul style="list-style-type: none"> <li>❖ <i>Assisting with filling out forms and preparing responsive pleadings</i></li> <li>❖ <i>Help with understanding case management</i></li> <li>❖ <i>Coaching on courtroom conduct and strategies</i></li> <li>❖ <i>Representation at key hearings</i></li> </ul>	<ul style="list-style-type: none"> <li>• LAN</li> <li>• VLP Self-Help Desks</li> <li>• Some Nebraska attorneys are providing limited scope representation.</li> </ul>	<ul style="list-style-type: none"> <li>• Legal services organizations are only able to provide representation for a fraction of the persons who qualify for services.</li> <li>• Law school clinics and other services providers are generally limited to full scope representation, not brief services.</li> <li>• Unfamiliarity and hesitation</li> </ul>

<p>❖ <i>Educational materials and instructional videos</i></p>		<p>among the private bar towards providing limited scope representation.</p> <ul style="list-style-type: none"> <li>• Nebraska's rural attorney shortage means access to legal services in rural areas is alarmingly limited.</li> <li>• Nebraska has not implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements. Nebraska has not implemented pro bono rules waiving some of the normal licensing requirements for retired, inactive, or out-of-state attorneys agreeing to limit their practice to volunteer service.</li> </ul>
SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<p><b>7. Proactive court case management to ensure that cases move through the court process.</b></p> <p>❖ <i>Identification of cases that have stalled.</i></p> <p>❖ <i>Appropriate prompting concerning next steps.</i></p> <p>❖ <i>Assistance as needed to accomplish each procedural step.</i></p> <p>❖ <i>Preparation of court orders and final decrees or judgments – major problem for litigants and for courts.</i></p>	<ul style="list-style-type: none"> <li>• JUSTICE has a “pro se” identifier to designate a party as self-represented, and court staff are uniformly instructed to so designate a party.</li> <li>• <i>Emerging Practice:</i> Draft 2015 revised definitions and guidelines to designate parties as SRL is underway.</li> <li>• Individual courts have developed a SRL tracking process, including correspondence with SRLs to remind them of hearings, submission of documents, etc.</li> <li>• Nebraska Supreme Court Rules: § 6-101: time for disposition of cases in district and county courts; § 6-103: implementation assistance (2) provide information and education on effective case management.</li> <li>• Nebraska County Court / District</li> </ul>	<ul style="list-style-type: none"> <li>• Lack of clear definition as to when a party should be designated as a self-represented litigant within JUSTICE; lack of consistency statewide.</li> <li>• Absence of statewide uniform SRL tracking process used by every trial court.</li> <li>• Absence of instruction to judges as to how to consider self-represented litigant's case management needs within Nebraska Supreme Court Rules' Chapter 6: Trial Courts. (NOTE: current web-based Rule format does not allow for “searching” terminology, so presence or absence of the term “pro se” or “self-represented litigant” is, at this writing, not clearly known.)</li> </ul>

	<p>Court Procedures Manual:</p> <ul style="list-style-type: none"> <li>✓ Checklist for how to indicate a Limited Representation Attorney: <a href="https://supremecourt.nebraska.gov/procedure-manuals/12905/miscellaneous-checklist-2b-limited-representation-attorney">https://supremecourt.nebraska.gov/procedure-manuals/12905/miscellaneous-checklist-2b-limited-representation-attorney</a></li> <li>✓ Guidelines for Caseflow Management: for both county court and district court: <a href="https://supremecourt.nebraska.gov/procedure-manuals/11773/i-caseflow-management">https://supremecourt.nebraska.gov/procedure-manuals/11773/i-caseflow-management</a></li> <li>✓ Checklists on how to request a pending detail report: <a href="https://supremecourt.nebraska.gov/procedure-manuals/12107/checklist-3-how-request-pending-detail-report">https://supremecourt.nebraska.gov/procedure-manuals/12107/checklist-3-how-request-pending-detail-report</a></li> </ul>	<ul style="list-style-type: none"> <li>• Absence of procedures as to how court staff can assist self-represented litigants with case management within the Nebraska County Court / District Court Procedures Manual.</li> </ul>
SRL NEED	EXISTING SERVICES	GAPS IN SERVICES
<p><b>8. An accommodating courtroom environment in which to present the case.</b></p> <ul style="list-style-type: none"> <li>❖ <i>Understanding what is happening.</i></li> <li>❖ <i>Understanding what is expected of them in the court.</i></li> <li>❖ <i>Made as easy as possible to do what is expected by proactive management of the proceeding by the judge.</i></li> <li>❖ <i>Be encouraged in their efforts.</i></li> <li>❖ <i>Be protected against being undermined.</i></li> <li>❖ <i>Understand what has happened and what is expected of them next.</i></li> </ul>	<ul style="list-style-type: none"> <li>• Court case information is provided to SRLs upon filing specific case types, for example: <ul style="list-style-type: none"> <li>○ Small claims brochure</li> <li>○ Parenting Act Information Brochure</li> <li>○ Guardian / Conservator: how to carry out your duties; timelines</li> </ul> </li> <li>• Web-based information on Online Self Help Center regarding steps in the filing and court process <ul style="list-style-type: none"> <li>○ How to appeal a small claims decision: <a href="https://supremecourt.nebraska.gov/self-help/7227/appealing-or-setting-aside-small-claims-judgment">https://supremecourt.nebraska.gov/self-help/7227/appealing-or-setting-aside-small-claims-judgment</a></li> <li>○ How to make a motion for continuance: <a href="https://supremecourt.nebraska.gov/self-help/7219/filing-verified-motion-continuance-court-hearing">https://supremecourt.nebraska.gov/self-help/7219/filing-verified-motion-continuance-court-hearing</a></li> <li>○ What to bring to court and what</li> </ul> </li> </ul>	<ul style="list-style-type: none"> <li>• Not all case types have information printed regarding how to conduct oneself in court in pursuing the case.</li> <li>• Not all case types have information available on the web as to how to conduct oneself in court or pursue court proceedings.</li> <li>• There are no explicitly designated court staff to assist self-represented litigants.</li> <li>• Some judges and court staff continue to be reluctant at best and resistant at the extreme in providing assistance to self-represented litigants due to several factors, including uncertainty about violating ethical standards, unauthorized practice of law, unequal</li> </ul>

	<p>to say in a divorce hearing:  <a href="https://supremecourt.nebraska.gov/self-help/7235/filing-divorce-nebraska-children-no-custody-disputes-visitation-disputes-or-property">https://supremecourt.nebraska.gov/self-help/7235/filing-divorce-nebraska-children-no-custody-disputes-visitation-disputes-or-property</a></p> <ul style="list-style-type: none"> <li>• Every courthouse has a Public Access Screen (some with printers): this is a consumer-friendly terminal for SRLs to access court information, the world-wide web, JUSTICE, Online Self Help, etc.</li> <li>• Clerks of District Court: elected officials focused on customer service</li> <li>• Clerk Magistrates: court employees focused on customer service; this also includes a Live Chat with County Court Information Specialists through online or 800 number.</li> <li>• Judicial Branch Education: periodic educational forums for judges and court staff on serving SRLs.</li> </ul>	<p>assistance to SRLs vs. attorneys, long-standing adversarial mindset.</p>
<b>SRL NEED</b>	<b>EXISTING SERVICES</b>	<b>GAPS IN SERVICES</b>
<p><b>9. Legal representation for persons unable to self-represent because of the complexity of the case or their lack of personal capability.</b></p> <ul style="list-style-type: none"> <li>❖ <i>Need a recommendation that they seek full representation.</i></li> <li>❖ <i>Need to know of their options for representation such as the likelihood they will qualify for legal services, a pro bono attorney, or will need to pay for representation.</i></li> <li>❖ <i>Need contact information for each of these options.</i></li> <li>❖ <i>Need to allocate full</i></li> </ul>	<ul style="list-style-type: none"> <li>• VLP Direct Case Placement</li> <li>• LAN (screens for case complexity but measured against rights/benefits at stake)</li> <li>• The Abrahams Legal Clinic - Creighton University (Douglas County residents only)</li> <li>• UNL Civil Clinic (limited number of cases)</li> <li>• Nebraska Area Agencies on Aging (contracts with private attorneys and LAN to provide legal assistance)</li> <li>• Disability Rights Nebraska (only for individuals with disabilities)</li> <li>• Justice for Our Neighbors (only for low-income immigrant individuals)</li> </ul>	<ul style="list-style-type: none"> <li>• No statewide, integrated referral system.</li> <li>• Legal services organizations are only able to provide representation for a fraction of the persons who qualify for services.</li> <li>• Nebraska's rural attorney shortage means access to legal representation in rural areas is alarmingly limited.</li> <li>• Unknown whether/how legal services programs currently allocate their representation services based on case complexity and/or personal capability of clients. Cases involving domestic violence</li> </ul>

<p><i>representation services based on case complexity and/or personal capability of clients.</i></p>	<ul style="list-style-type: none"> <li>• Catholic Charities Immigration Legal Assistance (only for low-income immigrant individuals)</li> </ul>	<p>are often prioritized.</p> <ul style="list-style-type: none"> <li>• Nebraska has not implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements.</li> <li>• Nebraska has not implemented pro bono rules waiving some of the normal licensing requirements for retired, inactive, or out-of-state attorneys agreeing to limit their practice to volunteer service.</li> </ul>
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## Summary of Gap Analysis and Conclusion

The courts, the private bar, law libraries, and legal services organizations are the major stakeholders in the access to justice movement, along with law schools, public libraries, mediation centers, and nonprofit advocacy organizations. While each of these entities has made significant contributions to improving self-representation in Nebraska, there still remain gaps across the state to provide effective assistance to self-represented litigants.

As noted in the above chart, the gaps that still need to be addressed include some of the following.

### Gaps in Legal Services

*“The major problem in achieving meaningful access to a full range of high-quality legal assistance programs is the lack of programs with sufficient funding to provide the legal advice, brief service, and extended representation necessary to meet the legal needs of low-income persons.”<sup>38</sup>*

The most extensive assistance available to self-represented litigants in Nebraska comes from Legal Aid of Nebraska. However, LAN’s services are limited to clients who are income-eligible, and LAN is only able to provide representation for a fraction of the persons who qualify for services. Other legal services providers face similar eligibility and capacity limitations. Legal services organizations do not have sufficient funding to hire the staff necessary to serve all the people who need their services. *Most* who qualify are turned away.

Throughout the state, there is a lack of attorneys providing free or discounted legal services. Despite the general unavailability of one-on-one assistance and individual representation, most legal services providers have not developed comprehensive guides, handbooks, and instructions for legal matters commonly pursued by self-represented litigants.

Additionally, the accessibility of services is hindered by the lack of coordination among services providers. Although LAN has some formal referral systems in place, all Nebraska’s legal services providers need a coordinated, integrated referral system to ensure self-represented litigants can access all available resources currently in existence. The Nebraska Immigration Legal Assistance Hotline (NILAH) and the LAN-VLP Centralized Intake process are successful models currently in operation.

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<sup>38</sup> CIVIL LEGAL AID IN THE UNITED STATES: AN UPDATE FOR 2013, Alan W. Houseman, Senior Fellow, Center for Law and Social Policy, November 2013, <http://www.clasp.org/resources-and-publications/publication-1/CIVIL-LEGAL-AID-IN-THE-UNITED-STATES-3.pdf>

**Nebraska Immigration Legal Assistance Hotline (NILAH)**

Several Nebraska nonprofit organizations partnered to implement a centralized intake and referral services for immigration legal services. As a result, NILAH was created as a centralized immigration intake and referral service in order to add efficiency to Nebraska's immigration legal service organizations as well as eliminate uncertainty among applicants for immigration legal services. Direct referrals are made to participating immigration legal service organizations, including Catholic Charities (CC), Center for Legal Immigration Assistance (CLIA), Justice for Our Neighbors-Nebraska (JFON), Lutheran Family Services (LFS) and Women's Center for Advancement (WCA).

**LAN-VLP Centralized Intake**

LAN and the Volunteer Lawyers Project now have a coordinated intake process. The VLP is not currently accepting phone calls from individuals requesting legal assistance. Rather, an automated message refers every person requesting legal assistance to LAN to complete an application. LAN currently provides up to 40 completed applications for services (intakes) monthly to the VLP for potential placement with private attorneys. It is important to note the cases being referred to the VLP are those that cannot be handled by LAN due to a lack of staffing and resources. VLP is a program of last resort.

*Gaps in Court Services*

One of the preeminent gaps in the court system is the inability to accurately identify the presence of a self-represented litigant in a court case. Presently, the statewide court data management system, JUSTICE, does not capture whether a party is self-represented. This is in major part a result of the traditional legal process in which each party had been represented by an attorney.

There is an extensive and defined JUSTICE process to identify attorneys by bar number for each party. A few years ago, in recognition of a growing number of self-represented litigants, JUSTICE staff created a "self-represented litigant" data field. However, because there is an absence of a clear definition as to *when* a court clerk should designate a party as a self-represented litigant within JUSTICE, this code is not being used effectively.

A long-standing dilemma for most court staff, and hence a gap, is the limited assistance that they can offer a self-represented litigant. The limited assistance stems from lack of time, lack of court resources, and reluctance to offer procedural and case-related assistance due to ongoing uncertainty of violating the unauthorized practice of law. Indeed, while there has been judicial branch education as well as court procedures adopted on the do's and don'ts of assistance to self-represented litigants, the gap still exists as to the amount of and level of legal assistance provided.

Equally as long-standing, is the limited amount of judicial assistance that can be offered to a self-represented litigant. This is based upon historical and ethical parameters of the judge's role. Again, as with court staff, there has been periodic judicial branch education on this topic given to Nebraska judges, including a seminar by the notable self-represented litigation advocate, Richard Zorza. This role identification as well as absence of clear guidelines for judges results in a gap of judicial assistance to

self-represented litigants attempting to pursue their case in and out of the courtroom. Nebraska's Code of Judicial Conduct has been updated in accordance with the model ABA Code, but judges are often unsure of how far they can or should go in explaining procedure or accommodating the lack of knowledge of a lay person.

The Nebraska Supreme Court's Online Self-Help website has been built up over the past several years to include more forms and instructions in a variety of legal matters and, in some cases, provide instructions on how to conduct oneself in court. There still remains a gap for the self-represented litigant to truly understand which forms to use when, how to fill out the forms, when to ask for court dates, how to provide service on other parties, what papers to bring to court, and how to conduct themselves in the court room.

Written instructions and forms, while laudable, and while filling a gap of basic forms and information, still leave the gap of personal assistance. There are at least two gaps here: (1) in most courts, there are no designated court staff to assist self-represented litigants; and (2) constant changes in divorce forms/process have consumed much of the Committee's time while many areas such as garnishment and guardianship have gone untended.

As reflected in the 2014 surveys of county and district court judges and clerks, self-represented litigation services are often being delivered in a discouraging environment. Self-represented litigants are sometimes perceived as a burden or inconvenience. Institutional resistance from the bench, and bar, on both local and state levels, may create an unfavorable environment for self-represented litigants attempting to resolve their own legal problems. And, as statistics show, the successful resolution of a legal issue can have life-altering consequences for so many financially vulnerable Nebraskans.

#### Gaps in Private Bar Services

While a number of attorneys take pro bono cases through the Volunteer Lawyers Project, Nebraska does not require mandatory tracking of pro bono hours, and so we do not know how many attorneys are providing pro bono services in Nebraska. Many states currently offer incentives for attorneys to represent low- and moderate-income clients by permitting attorneys to obtain CLE credits for performing pro bono training and representation. Nebraska has not implemented rules that permit attorneys who take pro bono cases to earn credit toward mandatory CLE requirements. Nebraska has also not implemented pro bono rules waiving some of the normal licensing requirements for retired, inactive, or out-of-state attorneys agreeing to limit their practice to volunteer service.

#### **Continue educating and providing resources for lawyers on providing Limited Scope Representation.**

Few attorneys appear to be providing Limited Scope Representation. This may be due to unfamiliarity with the concept and hesitation that doing so is in violation of the Rules of Professional Conduct.

The lack of a statewide or local directory of attorneys willing to take limited scope representation cases makes it difficult to connect Self Represented Litigants with potential attorneys.

Currently, the Nebraska State Bar Association's Volunteer Lawyers Project offers Self-Help Desks for self-represented litigants in six counties: Lancaster, Douglas, Madison, Buffalo, Hall and Scotts Bluff. Expanding Self-Help Desks to additional counties may require additional resources, coordination and

cooperation from the local courts and local attorneys.

Nebraska faces a rural attorney shortage. Chief Justice Heavican has identified the lack of attorneys as one factor contributing to the increase in self-represented litigation in many rural communities. Currently, across Nebraska's 93 counties, there are 12 counties without an attorney and 22 others with 3 or fewer attorneys.

### Technology Gaps

Nebraska has been slow to utilize and develop innovative technologies to increase access to justice.

The Supreme Court's Committee on Self-Represented Litigation and LAN continue to develop forms and instructions to assist self-represented litigants. However, these forms can be made simpler, and can be enhanced through the use of document assembly software. We also need to expand the legal forms available online to include all the legal matters commonly pursued by self-represented litigants, and ensure they remain current.

If our purpose is to provide and ensure *effective* assistance, proactive case management and outcome tracking must be prioritized. In addition to SRL case tracking, new innovations and programs require follow-up with individual self-represented litigants and follow-up with the courts. It is unknown whether current services providers have established mechanisms to evaluate the impact of their services and innovations.

Technology should be utilized to offer remote service delivery as one solution to the rural attorney shortage. Teleconferencing, live chat, and hotline services are all means of leveraging the oversupply of urban attorneys.

### A Coordinated Response

Nebraska may need to establish a designated entry point for all self-represented litigants needing legal information or assistance. There is a broad referral network among service providers and the courts, including both informal and formalized collaborations, but it falls short of an integrated model of service delivery. To improve access to justice, the courts need to interact regularly with services providers and the private bar, and coordinate their programs to maximize services for self-represented litigants. The courts, private bar, libraries and legal services providers need to make appropriate referrals to one another and to appropriate social services agencies.

The gap analysis reveals a need to improve existing legal programs, develop both straightforward and more innovative solutions, and explore other ways to meet the needs of Nebraskans unable to afford an attorney. To best address these gaps, Nebraska needs a designated entity to coordinate statewide efforts to provide equal access to civil justice. A central entity can best coordinate and represent the various interests and efforts involved in the provision of legal services to the poor. Going forward, we need to identify the most appropriate "hub" of Nebraska's network of services for self-represented litigants. Given the current leadership and strategic planning of the Nebraska Supreme Court Committee on Self-Represented Litigation, and the recommendations of our consultant, a court-based solution may be the best fit for Nebraska.





## Supplemental Materials

Nebraska Research Materials:

- **Survey of Judges and Clerks—Self Represented Litigation in Nebraska**  
(Committee on Self-Representation and Legal Aid 2015)



# Self-Represented Litigation in Nebraska: A Survey of Judges and Clerks

# **Self-Represented Litigation in Nebraska:**

## **A Survey of Judges and Clerks**



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



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## LITERATURE ON SELF REPRESENTATION

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The growing presence of self-represented litigants (SRLs) in courts across the country has been the subject of much discussion and concern in recent years. While there are no comprehensive national statistics to quantify the problem, there is evidence from state and local courts, as well as empirical observations from judges and court staff suggesting that this problem is significant and persistent. In 2010, the American Bar Association (ABA) Coalition for Justice conducted a survey of approximately 1200 state trial judges on the topic of self-represented litigation. The results showed that an increasing number of litigants are representing themselves.<sup>1</sup> A number of jurisdiction-specific studies have also found that SRLs are present in a significant proportion of cases, especially in family law cases such as divorce, custody, child support, and paternity. For example, two out of three family court filings in California are submitted by SRLs<sup>2</sup>; 70% of family cases in Maryland involve at least one SRL at some point in the case<sup>3</sup>; and in Phoenix, AZ and Washington, DC, nearly 90% of divorce cases involve at least one SRL<sup>4</sup>.

The impact of self-representation is not yet fully understood, but extant literature on the topic suggests that there are significant access to justice concerns for those who reach the courtroom without a lawyer. The judges in the 2010 ABA study indicated that litigants are generally doing a poor job of representing themselves.<sup>5</sup> Of the judges that believed self-representation was associated with worse case outcomes, 94% said that failure to present necessary evidence was the most common problem. Other common problems included procedural errors, ineffective witness examinations, failure to properly object to evidence, and ineffective arguments. Results of Julie Macfarlane's work from Canada suggest that one of the most consistent complaints unrepresented litigants have is difficulty reading and understanding the forms due to confusing and complex language.<sup>6</sup> And, although self-help resources do exist in many jurisdictions – whether in person or online – they generally do not fully mitigate the absence of formal legal assistance.

In addition to its impact on the litigants, the SRL phenomenon potentially compromises the efficiency of the court system. Challenges courts have been facing as a result of SRLs include docket-management issues, threats to judicial impartiality, and increased costs. Seventy-eight percent of the judges in the ABA study indicated that self-representation negatively impacts the courts. Of these judges, 90% indicated that court procedures were slowed, 71% said SRLs use

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<sup>1</sup> ABA Coalition for Justice (July 2010) Report on the Survey of Judges on the Impact of the Economic Downturn on Representation in the Courts. Available at

[http://www.americanbar.org/content/dam/aba/migrated/JusticeCenter/PublicDocuments/CoalitionforJusticeSurveyReport\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/JusticeCenter/PublicDocuments/CoalitionforJusticeSurveyReport_authcheckdam.pdf)

<sup>2</sup> Judicial Council of California (December 2014) Fact Sheet: Programs for Self-Represented Litigants. Available at

<http://www.courts.ca.gov/documents/proper.pdf>

<sup>3</sup> Maryland Judiciary (August 2007). Clearing a Path to Justice: A Report of the Maryland Judiciary Work Group on Self-Representation in the Maryland Courts. Available at <http://www.mdcourts.gov/publications/pdfs/selfrepresentation0807.pdf>

<sup>4</sup> Jona Goldschmidt et al (1998) Meeting the Challenge of Pro Se Litigation: A Report and Guidebook for Judges and Court Managers. Chicago: American Judicature Society.

<sup>5</sup> ABA Coalition for Justice (July 2010) Report on the Survey of Judges on the Impact of the Economic Downturn on Representation in the Courts.

<sup>6</sup> Julie Macfarlane (2013) The National Self-Represented Litigants Project: Identifying and Meeting the Needs of Self-Represented Litigants Final Report. Available at <http://www.representingyourselfcanada.files.wordpress.com/2014/02/reportm15-2.pdf>

more staff time to assist them, and 56% cited a lack of fair presentation of relevant facts. It has been estimated that the presence of SRLs can cause the courts to spend up to four times as much time on a case.<sup>7</sup>

Meanwhile, other research has suggested a more complex dynamic in the courtroom. While SRLs have been shown to slow down the process for probate, non-motor vehicle tort, and habeas corpus, there is some evidence that the presence of SRLs may actually speed up the proceedings in family law and small claims cases.<sup>8</sup> On the one hand, SRLs may take up more time in the courtroom due to their lack of understanding of court procedures and paperwork requirements; on the other hand, SRLs are less likely to utilize time-consuming tactics common among lawyers. It also might be the case that people are more likely to self-represent on less complicated, and therefore less time consuming cases. Further research is needed to flesh out all of these factors.

As the legal profession develops procedures for appropriately responding to the growth of SRLs, judges are concerned that providing guidance to individuals who are representing themselves may compromise judicial impartiality<sup>9</sup> and court staff are concerned that assistance may amount to the unauthorized practice of law. While in Canada, judges have an *obligation* to provide assistance to SRLs in both civil and criminal cases, there is no such mandate here in the United States. Only the ABA Model Code of Judicial Conduct Rule 2.2 contains minimal guidance, buried in the commentary. It reads: “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>10</sup> Currently, 47% of states do not yet guide judges to assist SRLs.<sup>11</sup>

## SELF REPRESENTATION IN NEBRASKA

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According to the Justice Index created in 2014 by the National Center for Access to Justice to measure state-based justice systems, Nebraska received a score of 67.57 on a scale from 0-100 (where 100 is the best possible score) for support provided to SRLs. The score was based on a review of state court websites, conversations with state court administrators, surveys of secondary sources, and reviews of state access to justice sites, all to determine the amount of support provided to SRLs. The national median was 58.6 and scores ranged from 13.5 (Mississippi) to 93.2 (Hawaii).

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<sup>7</sup> John M. Greacen (2002) Self Represented Litigants and Court and Legal Services Responses to Their Needs: What we Know. Center for Families, Children & the Courts, California Administrative Office of the Courts. Available at [http://lri.lsc.gov/sites/lsc.gov/files/LRI/pdf/02/020045\\_selfrep\\_litigants\\_whatweknow.pdf](http://lri.lsc.gov/sites/lsc.gov/files/LRI/pdf/02/020045_selfrep_litigants_whatweknow.pdf) accessed March 10, 2015.

<sup>8</sup> Beth M. Henschen (December 2001) Lessons from the Country: Serving Self-Represented Litigants in Rural Jurisdictions. American Judicature Society.

<sup>9</sup> In the 2010 ABA Study, of the 78% of judges that said that the court is negatively impacted by parties not well represented, 42% recognized that the court's impartiality may be compromised.

<sup>10</sup> Jona Goldschmidt (2007) Judicial Ethics and Assistance to Self-Represented Litigants. The Justice System Journal. Vol. 28, No. 3:324-328.

<sup>11</sup> National Center for Access to Justice at Cardozo Law School, the Justice Index. <http://www.justiceindex.org/> accessed March 10, 2015.

State attributes that contributed positively to Nebraska's score included:

- A person or office in the state court system responsible for initiatives pertaining to unrepresented people
- A statute, rule of professional conduct, or other state wide guidance document authorizing the provision of unbundled or limited scope legal services (Rule 501.2b-e, Rule 504.2)
- A statute, rule of judicial conduct, or other state wide guidance document authorizing or encouraging judges to take steps to ensure that unrepresented people are fairly heard (Revised Code of Judicial Conduct §5-302.2, comment 4)
- A statute, rule or other state wide guidance document instructing court staff to provide informational assistance to unrepresented persons
- That the state provides (or courts allocate) funding for court-based programs (self-help centers or other structures) to assist unrepresented people
- The availability of forms or links to forms on the state court website, along with instructions to accompany the forms.

State attributes that contributed negatively to Nebraska's score included:

- Court staff do not receive training on this subject;
- There is no statute, rule or other state wide guidance document requiring that websites, electronic filing systems and other advanced technology used by courts be accessible to unrepresented people; and
- There is no statute, rule or other state wide document establishing the obligation of the court to communicate with people who have little or low literacy in one or more types of cases.

While the Justice Index serves as a useful tool for comparing states and gaining a basic understanding of the strengths and weaknesses of a state's justice system, a number of caveats are worth noting. First, the scores are meant to capture state-level information and do not account for within-state variation. Second, the scores are based in part on subjective reports of stakeholders in each state and therefore do not capture information regarding how programs or legal mandates have been implemented let alone how they are experienced by SRLs. Third, the questions asked of each state to compile information regarding support for self-representation focused on court efforts and therefore missed some of the very valuable support being provided by Legal Aid of Nebraska and the Nebraska State Bar Association. And finally, without knowing more about the *need* for SRL support in Nebraska, it is difficult to ascertain the extent to which those needs are being met.

## SURVEY OVERVIEW

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### *A. Objectives*

In an effort to gain more information about the SRL landscape in Nebraska, this survey of judges and clerks was conducted. The following specific objectives were defined for the data collection and analysis presented in this report:

1. To quantify the amount of self-representation that is taking place in Nebraska;
2. To identify the characteristics of self-representation cases;
3. To identify factors which either encourage or discourage self-representation;
4. To determine the impact of self-representation on individuals in the courtroom;
5. To determine the impact of self-representation on the court process; and
6. To assess the effectiveness of current resources available to self-represented litigants.

The results of this survey will be instrumental in identifying strategies to better support self-represented litigants as well as improve the court process. In addition to understanding the general trends, it is also important to understand whether there are noticeable differences based on case types or region. Therefore, statistically significant differences between types of cases (area of law), respondent locations (urban vs. rural), and court level (district vs. county)<sup>12</sup> are presented and discussed.

### *B. Methodology*

The survey instrument was distributed to district court and county court judges<sup>13</sup> throughout the state of Nebraska, as well as clerk magistrates and clerks of the district courts<sup>14</sup>, amounting to 114 judges and 169 clerks. An email containing the link to the online survey was sent by Frankie J. Moore, Chief Judge of the Nebraska Court of Appeals on December 9, 2014 and the judges and clerks were given 10 days to complete the survey.

The response rate was 75% for the judges and 63% for the clerks, for an overall response rate of 68%. These response rates are well above the rate of 30-50% identified in the literature as

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<sup>12</sup> In noting court level differences, it is important to consider the types of cases typically heard by district vs. county courts. Although district courts have concurrent jurisdiction with county courts, they primarily handle divorce, child support and visitation order enforcement, protection orders, name changes and powers of attorney. County courts handle guardianships/conservatorships, garnishments, notice of exemptions, setting aside criminal convictions, forcible entry and detainer (evictions), probate and small estate transfers, and fence disputes.

<sup>13</sup> Specifically, the survey was distributed to 56 General Jurisdiction District Court Judges and 58 Limited Jurisdiction County Court Judges. The district court judges can be found here: <https://supremecourt.nebraska.gov/dc/judges>. The county court judges can be found here: <https://supremecourt.nebraska.gov/cc/judges>

<sup>14</sup> Specifically, the survey was distributed to the 76 clerk magistrates and 93 clerks of district courts. Information on the clerks can be found here: <https://supremecourt.nebraska.gov/cc/clerks>

acceptable for online surveys.<sup>15</sup> Consequently, 44.4% of the sample is made up of judges and 55.6% is made up of clerks. Of the judges, about half are from rural counties and half are district court as opposed to county court judges. Of the clerks, 73.1% are from rural counties, while about half are district court as opposed to county court clerks. Below is a table of response rates broken down by judicial district.

Judicial District	Clerk Response Rate	Judge Response Rate	Total Response Rate
First	72.2%	100%	79.2%
Second	33.3%	75%	57.1%
Third	33.3%	66.7%	61.1%
Fourth	66.7%	63%	63.3%
Fifth	71.4%	77.8%	73.3%
Sixth	84.6%	85.7%	85%
Seventh	42.9%	60%	47.4%
Eighth	48%	100%	56.7%
Ninth	75%	50%	58.3%
Tenth	64.3%	20%	52.6%
Eleventh	44.8%	88.9%	55.3%
Twelfth	70%	66.7%	67%

<sup>15</sup> See Lozar Manfreda, K., M. Bosnjak, J. Berzelak, I. Haas, and V. Vehovar (2008) Web surveys versus other survey modes: A meta-analysis comparing response rates. *International Journal of Market Research* 50(1):79-104. Also see Shih, T.H., and X. Fan (2008) Comparing response rates from Web and mail surveys: A meta-analysis. *Field Methods* 20(3):249-271.

## SURVEY RESULTS

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### *A. Quantifying Self Representation in Nebraska*

#### *1. Five Year Trends*

In his 2011 State of the Judiciary Address, Nebraska Chief Justice Michael Heavican asserted that “one of the major challenges that our courts and judges face as we proceed into the 21<sup>st</sup> Century is the rapid increase of self-represented parties.” Eighty-four<sup>16</sup> percent of the judges surveyed indicated that they agree with this statement. When asked to reflect on whether they believe the percentage of self-represented litigants has increased over the past 5 years, 73% of judges and clerks agreed, and of these, just over half indicated that they believe the increase has been dramatic.<sup>17</sup>

There were some notable differences by region and court level.<sup>18</sup> Greater increases were reported among respondents in urban counties and district courts.<sup>19</sup> Almost 80% of urban county respondents believed there had been a slight or dramatic increase over the past 5 years compared to 36% of rural county respondents (see Fig. 1).

Meanwhile, approximately 89% of district court respondents believed there had been a slight or dramatic increase over the past 5 years, compared to 56% of county court respondents (see Fig. 2). A brief note about the difference between the types of cases heard by the district and county courts is worth considering here and throughout this report. Specifically, even though district courts have concurrent jurisdiction with county courts, when it comes to civil cases, divorce and custody are primarily heard in the district courts, while the county courts hear civil cases involving \$52,000 or less, small claims cases, probate, guardianship, conservatorship and adoption proceedings. It is therefore the county courts which have historically been more likely to experience self-representation, whereas this is likely to be a new phenomenon for district court staff.

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<sup>16</sup> JQ4: In his 2011 State of the Judiciary Address, Chief Justice Michael Heavican asserted that “one of the major challenges that our courts and judges face as we proceed into the 21<sup>st</sup> Century is the rapid increase of self-represented parties.” Do you agree? (Response options included Yes, No, and Unsure). Throughout this report the questions from the survey will be provided with a J preceding the question number for the questions asked of the judges and a C preceding the question number for the questions asked of the clerks.

<sup>17</sup> JQ6/CQ12: Please complete the following sentence: Compared to 5 years ago, the percentage of people representing themselves has... (Response options included decreased dramatically, decreased slightly, stayed about the same, increased slightly, increased dramatically, and I don't know). Only 17.5% said that they thought there has been no change in the past 5 years and 9.5% indicated that they did not know.

<sup>18</sup> A logistic regression was performed to ascertain the effect of urban/rural, district/county, and urban/rural on reported belief of an increase in SRLs over the past 5 years. The regression model was statistically significant and explained 22% (Nagelkerke R squared) of the variance in SRL increase reports. The district/county variable more strongly predicted the response than urban/rural, and judge/clerk was not a significant predictor. All significant results noted throughout this report are at the 95 percent confidence level.

<sup>19</sup> Counties were categorized as either urban or rural based on a value-added analysis of the 2010 Census urban/rural data, compiled by David Drizd, UNO Center for Public Affairs Research, 4-20-2012. Note that this categorization is at the county level.

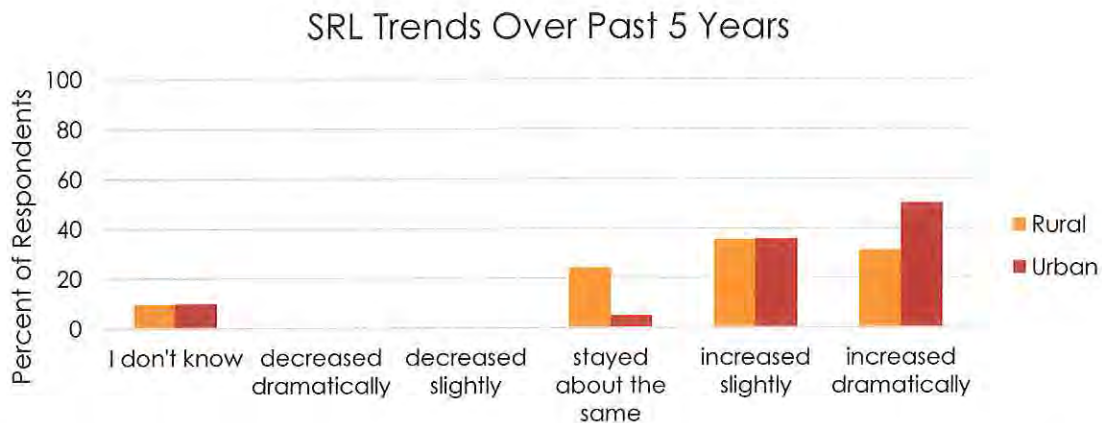


Figure 1. Percent of clerks and judges indicating specified growth trends for SRLs over the past 5 years, by urban and rural counties.

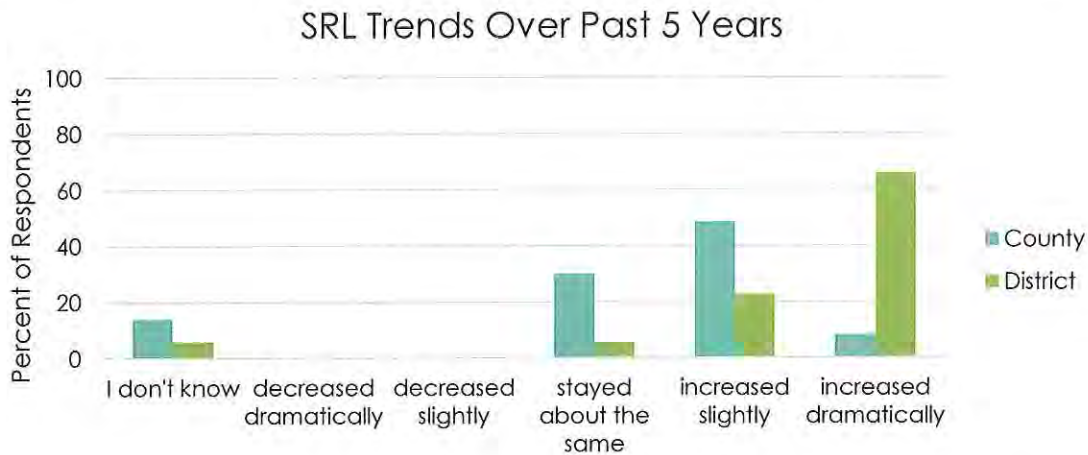


Figure 2. Percent of clerks and judges indicating specified growth trends for SRLs over the past 5 years, by county or district court.

## 2. Current Estimates

When asked to approximate the current percent of self-represented litigants in their courtrooms, there was a great deal of variation in the responses.<sup>20</sup> Approximately 36% estimated that only one party has an attorney in 0-20% of their cases, followed by 36% estimating that only one party has an attorney in 21-40% of their cases. Some judges and clerks indicated that their courts are experiencing significantly higher numbers of SRLs: 11% estimated that only one party has an attorney in 61-80% of their cases. A significant number (almost 20% of the respondents) indicated that both parties are SRLs in 21-40% of their cases (see Fig. 3).

<sup>20</sup> JQ5/CQ11: Please provide your best approximation of the number of self-represented litigants in the categories below. Do not include small claims or traffic cases. (Response options include 0-20%, 21-40%, 61-80%, and 91-100%)

Both judges and clerks agreed that a higher percentage of cases involve SRLs as defendants rather than SRLs as petitioners (see Fig. 3). Judges tended to believe that a higher percent of cases are defended by SRLs than did clerks, with 51% of judges indicating that over 20% of their cases are defended by SRLs compared to 31% of clerks.



Figure 3. Estimated percent of cases filed and defended by SRLs, as well as cases for which one party has an attorney or both parties are SRLs. Colored regions represent the estimated percent of cases. The x-axis and numbers in the chart refer to the percent of respondents.

Court level differences were apparent as well, with district court respondents experiencing a significantly higher percent of cases filed by SRLs as well as cases where both parties are SRLs. Specifically, regarding cases filed by SRLs, 53.6% of district court respondents indicated that 0-20% of their cases were filed by SRLs and an additional 41.7% indicated that 21-40% of their cases were filed by SRLs. Meanwhile, almost all of the county court respondents (92%) indicated that their cases were filed by SRLs in 0-20% of their cases. See Fig. 4.

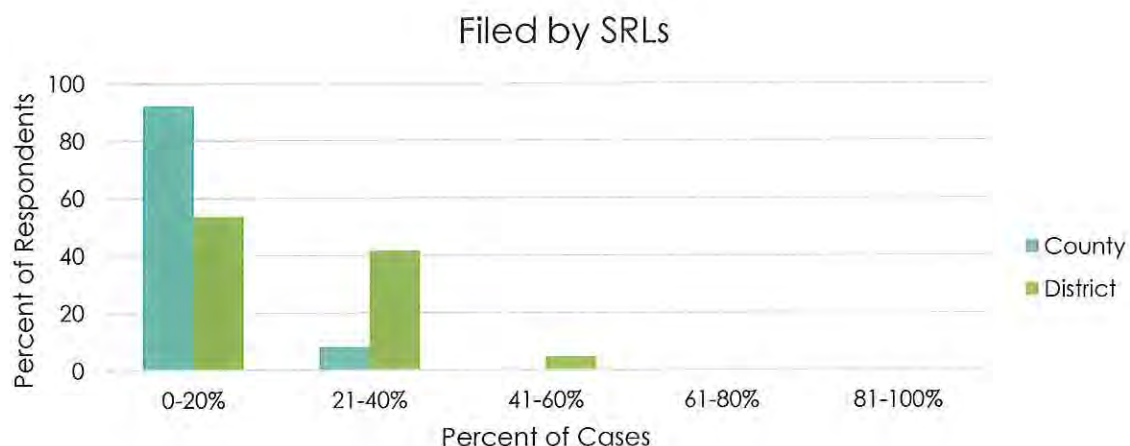


Figure 4. Percent of cases filed by SRLs.

There were court level differences for estimates of the percent of cases for which both parties are SRLs as well. Almost 65% of district court respondents indicated that both parties are SRLs in 0-20% of their cases, leaving almost 32% of district court respondents indicating that both parties as SRLs in 21-40% of their cases. Meanwhile, most (92%) of county respondents indicated that both parties are SRLs in 0-20% of their cases. See Fig. 5.

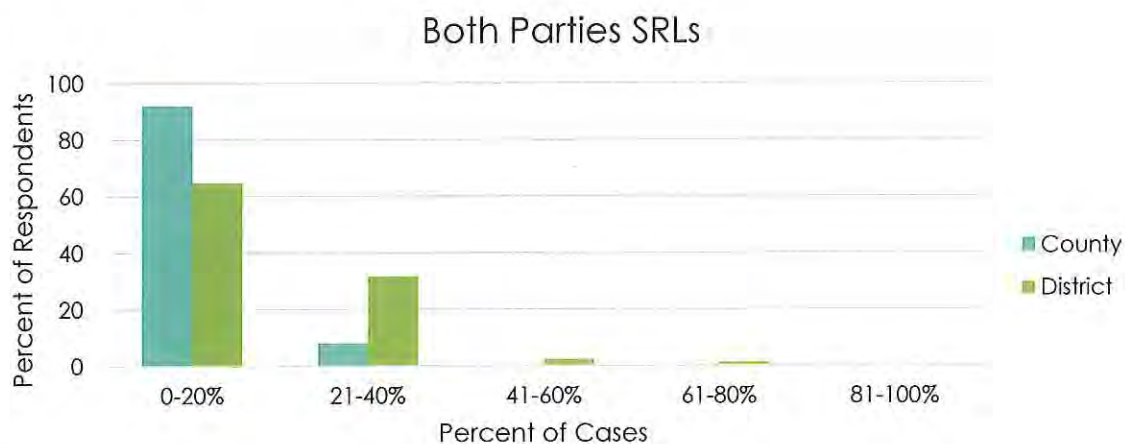


Figure 5. Percent of cases for which both parties are SRLs

An analysis of estimated percentages of cases with SRLs at the county-level showed some notable trends. The counties along the very western part of the state are experiencing a higher rate of SRLs as compared to other rural areas. And, in the district courts, there appeared to be higher rates of SRLs along the very south-eastern part of the state. See Figure 23 in the appendix for more detailed information by county.

### 3. Estimates by Area of Law

Part of the variability in estimates of how many SRLs are appearing in court can be explained by differences from one area of the law to another. Judges and clerks were asked to indicate the area of the law in which they observed the most SRLs.<sup>21</sup> Over half (60.2%) indicated that family law cases had the most SRLs as compared to the other response options provided. Almost 25% indicated that consumer law cases had the most SRLs, followed by housing law cases (12.9%). Other response options included health/medical, individual/civil rights, juvenile law, public benefits, employment, education, and wills and estates. See Fig. 6.

Among those who chose family law as having the most SRLs, almost half (45.6%) cited divorce cases specifically. Another 19.4% of those who chose family law indicated that domestic abuse cases had the most SRLs. See Fig. 6.

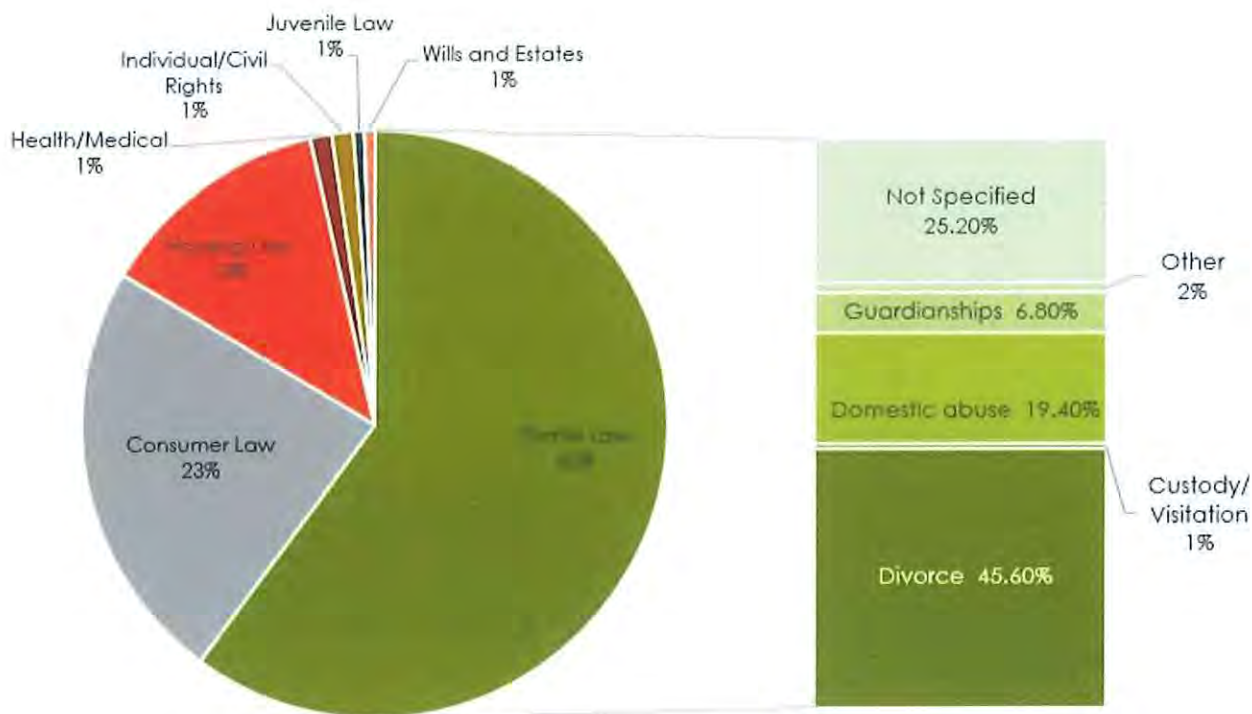


Figure 6. Percent of respondents indicating specified area of law with the most SRLs.

<sup>21</sup> JQ7/CQ13: Please provide the following information regarding self-represented litigation and substantive areas of the law. Area with the most self-represented litigants. (Area of law response options were provided in a drop-down menu).

#### 4. Differences by Region and Court Level

As expected, given that cases such as divorce, protection orders, and child support/visitation enforcement orders are heard in the district courts specifically, there were significant differences by court level in terms of the area of law selected as having the most SRLs. Almost all (98.9%) of the district court judges and clerks indicated that the most SRLs appeared in family law cases. Meanwhile, county court judges and clerks provided more variability in their responses, with 18.5% indicating family law, 48.1% indicating consumer law, and 25.9% indicating housing law as the area with the most SRLs. See Fig. 7.

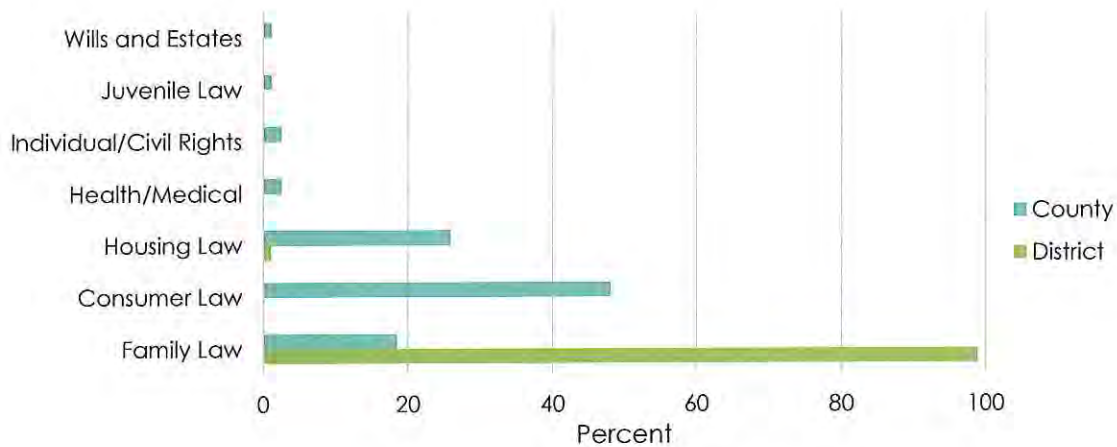


Figure 7. Area of law with the most SRLs, by court level.

Meanwhile, rural county respondents provided more variable responses than did urban county respondents in terms of the area of law with the most SRLs. Almost 68% of urban county respondents indicated that family law, followed by 21% indicating housing law and the remaining 11.3% indicating consumer law as the area with the most SRLs. Among the rural county respondents, however, 55.9% indicated family law, followed by 30.3% consumer law, 8.3% housing law, almost 2% health/medical, almost 2% civil rights, 1% juvenile and 1% wills and estates as the area with the most SRLs. See Fig. 8. Also see Figure 25 in the appendix for more detailed information by county.

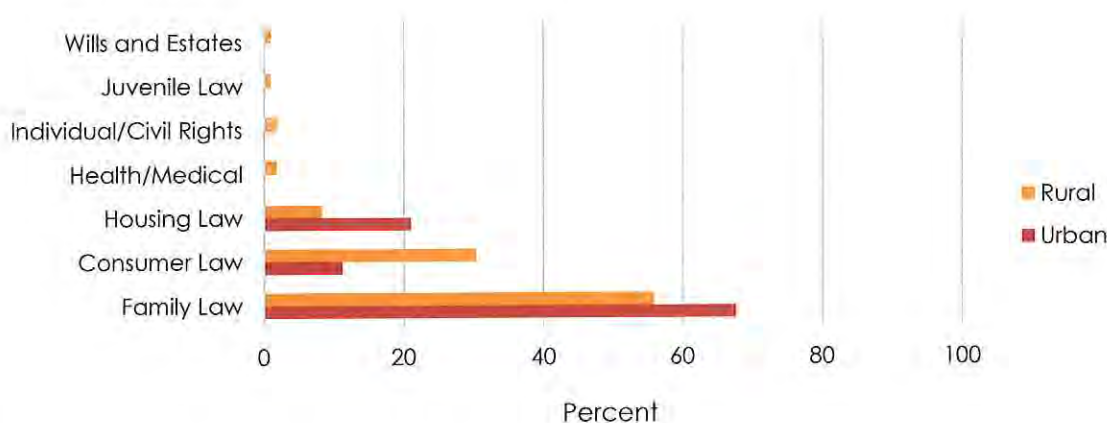


Figure 8. Area of law with the most SRLs, by rural or urban county.

## ***B. The Needs of Self Represented Litigants***

### *1. Top Reasons for Self Representing*

When asked to provide the top three reasons they believe people choose to represent,<sup>22</sup> the surveyed judges provided the following:

1. Lack of financial resources: in the top three for 85.6%, the top reason for 63.23%;
2. The belief that relying on a lawyer will increase the time and cost of resolving the dispute: in the top three for 65.8%, the top reason for 11.8%; and
3. The belief that the problem can be handled without a lawyer: in the top three for 68.4%, the top reason for 11.8%.

There were two other response options that, while they did not rank as high as the above reasons, had significant responses nonetheless. Almost 35% believed that limited understanding of the costs and benefits of representation was one of the top three reasons people choose to self-represent (2.6% believed it was the top reason) and 22.4% believed that the availability of self-help resources significantly deters litigants from seeking legal assistance (7.9 believed it was the top reason for self-representation).

There were notable geographic differences as well (see Fig. 9). Rural respondents were more likely than urban respondents to include in their top three choices the belief that a lawyer will increase the cost and time of resolving a dispute (78% of rural vs. 51.4% of urban) and the belief that the problem can be handled without a lawyer (73.2% of rural vs. 62.9% of urban). Meanwhile, urban respondents were more likely to indicate that SRLs have a limited understanding of the costs and benefits of legal representation (48.6% urban vs. 31.7% rural) and

<sup>22</sup> JQ8: Choose the top three reasons you believe people may choose to represent themselves. Response choices were as shown in Figure 9.

that the availability of self-help resources deter litigants from seeking legal assistance (28.6% urban vs. 17.1% rural).

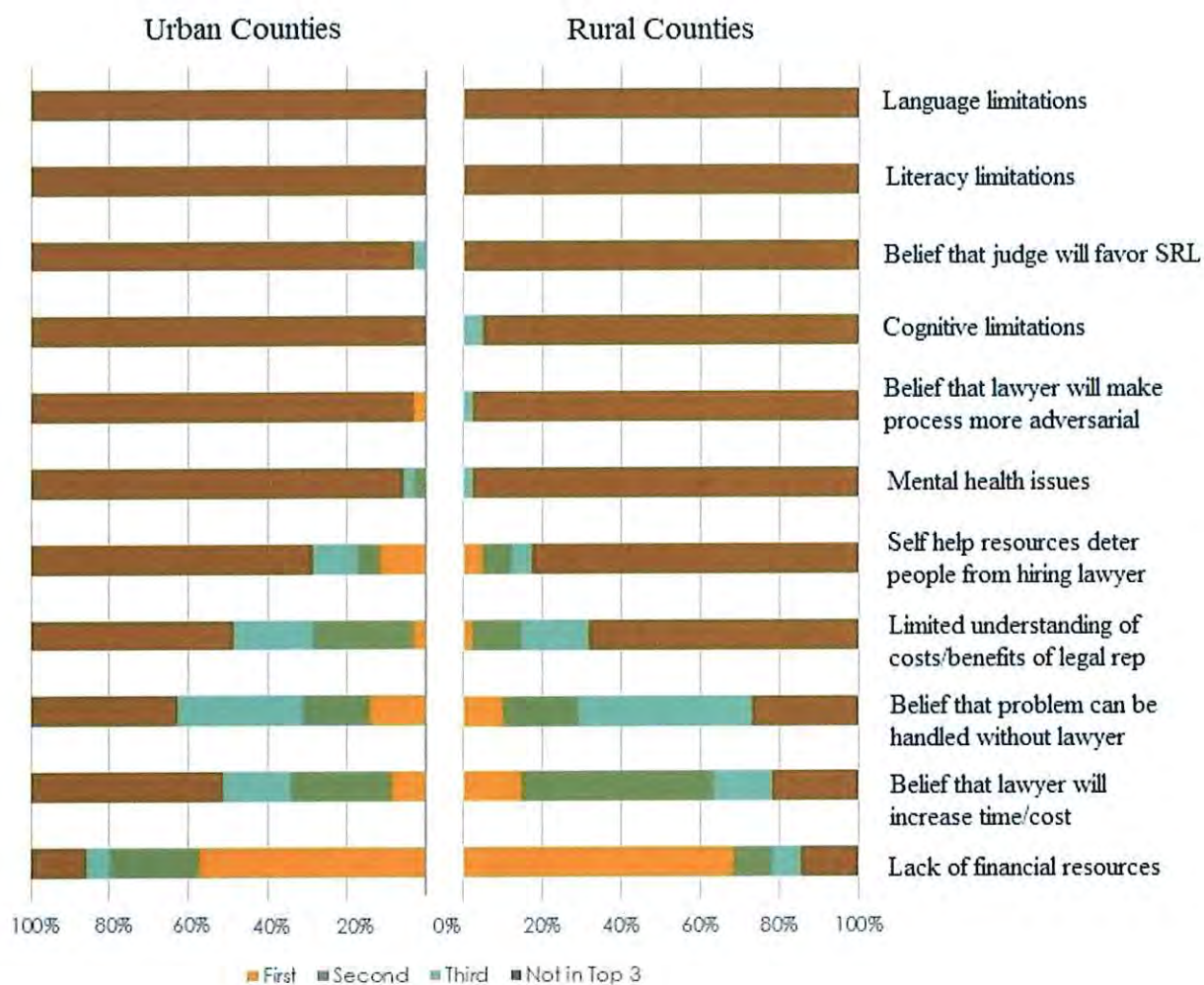


Figure 9. Top three reasons for self-representation, by urban vs rural county residency.

## 2. Frequency of Assistance Needed

Clerks were asked to estimate how often SRLs approach them for assistance.<sup>23</sup> More than a third of the clerks (36%) estimated that SRLs approach them for assistance several times a week. This response was followed by estimates of once a week (18%) and daily (17%). Clerks in urban

<sup>23</sup> CQ4: How often are you approached by a self-represented litigant seeking assistance? Response choices included never, less than once per month, 1-2 times per month, once per week, several times a week, and daily.

counties experienced a greater frequency of SRLs seeking assistance, with 42.3% estimating that SRLs approach them on a daily basis (compared to 8.1% in rural counties) and 42.3% indicating that SRLs approach them several times a week (compared to 33.8% in rural counties). Clerks in rural counties provided more variable responses to this question. See Fig. 10.

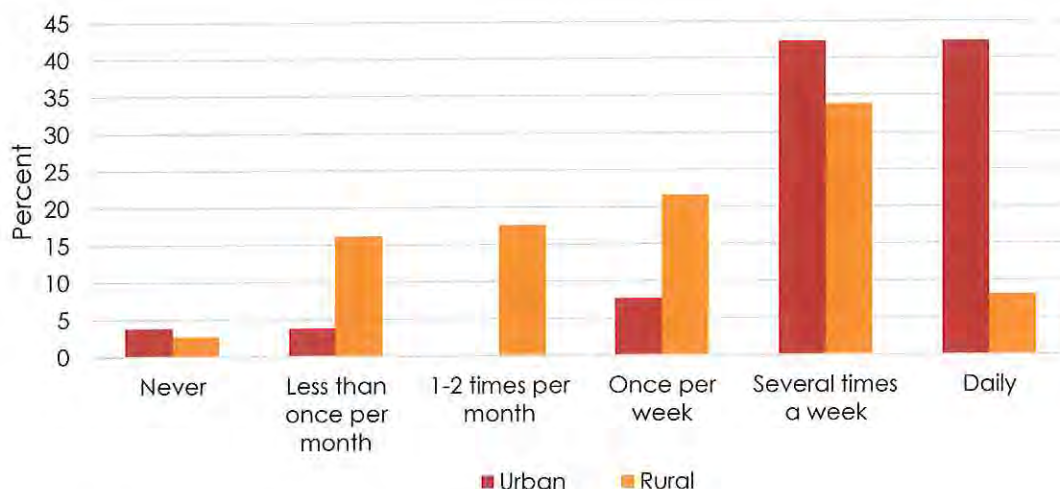


Figure 10. Clerks' estimates of the frequency with which SRLs seek assistance.

### 3. Type of Assistance Needed

When approaching court staff for assistance, the most common request by SRLs is for help filing the correct forms for their type of case.<sup>24</sup> Almost 55% of the clerks indicated that they *often* receive these requests. The second most common request for assistance is for help filling out legal forms (51% indicated they *often* receive these requests). And, the third most common request is for information regarding hearing dates (44.5% indicated they *often* receive these requests). See Fig. 11.

<sup>24</sup> CQ5: How often do you encounter the following requests for assistance from self-represented litigants?

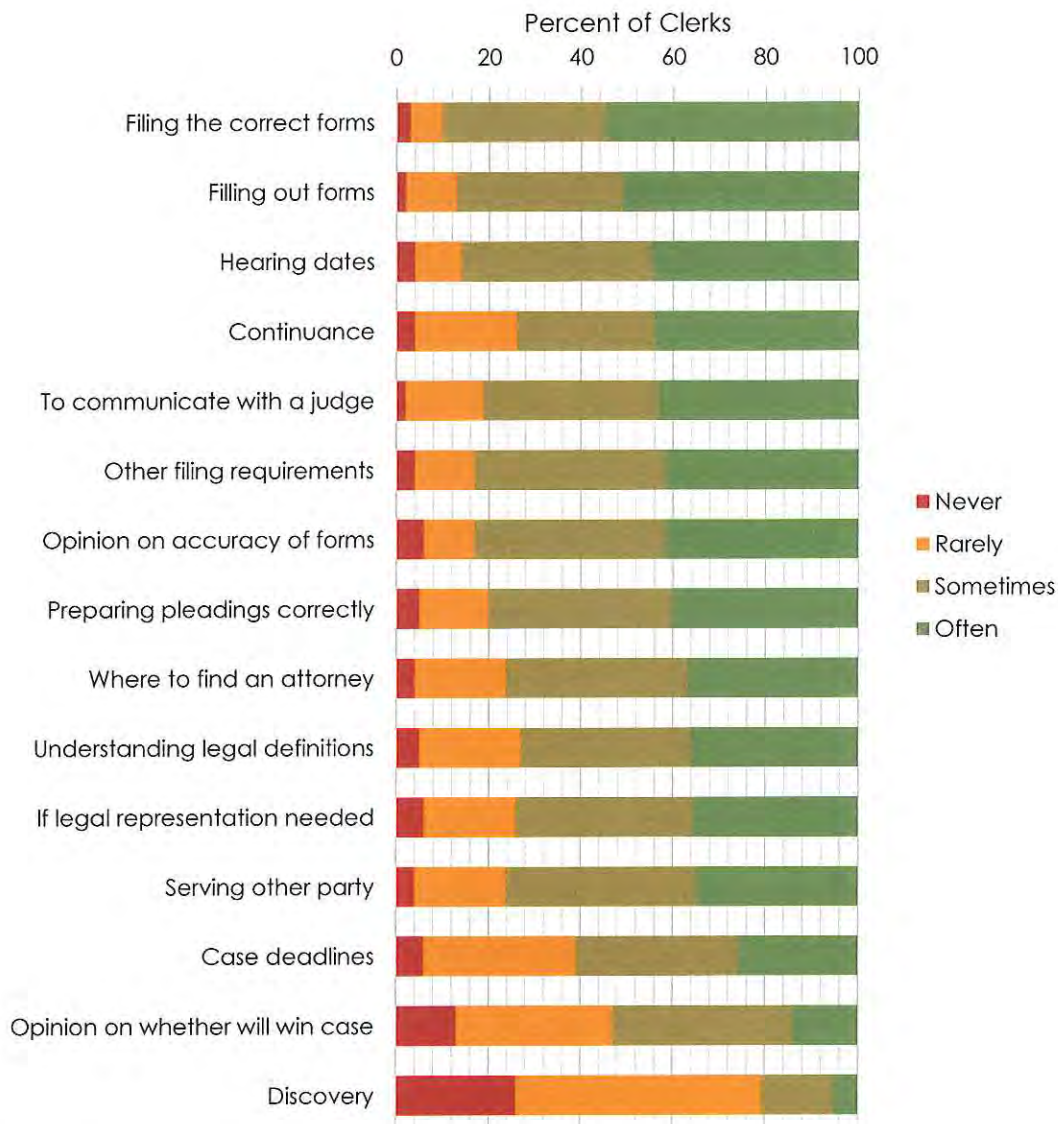


Figure 11. Clerk estimates of how often requests are made for specific types of assistance.

There were some notable court level and geographic differences in the types of request clerks typically receive. First, urban county respondents were more likely than rural county respondents to report that they often received requests for help with filing the correct forms for their case type (84.6%), serving the other party (54%), preparing pleadings correctly (64%), understanding legal definitions (56%), whether or not their matter requires legal representation (51.9% often) and solicit the clerk's opinion regarding whether or not they would be successful (26.9% often).

District court respondents were more likely than county court respondents to report that they often received requests for help filing the correct forms for their case type (71.4%) and serving the other party (51%). Meanwhile county court respondents were more likely than district court respondents to report that they often received requests for a continuance (58.8%).

Because of the fact that what SRLs believe they need help with and what they actually need help with might be very different, clerks and judges were asked to indicate how often SRLs effectively represent themselves with regard to a list of specific court activities.<sup>25</sup> The activities most clerks and judges believe that SRLs are either never or rarely able to do include: adequately call witnesses (73.7%), adequately present evidence (72.3%), follow court procedural rules (53.4%), and have realistic expectations about the likely outcome of their cases (50%). See Fig. 12.

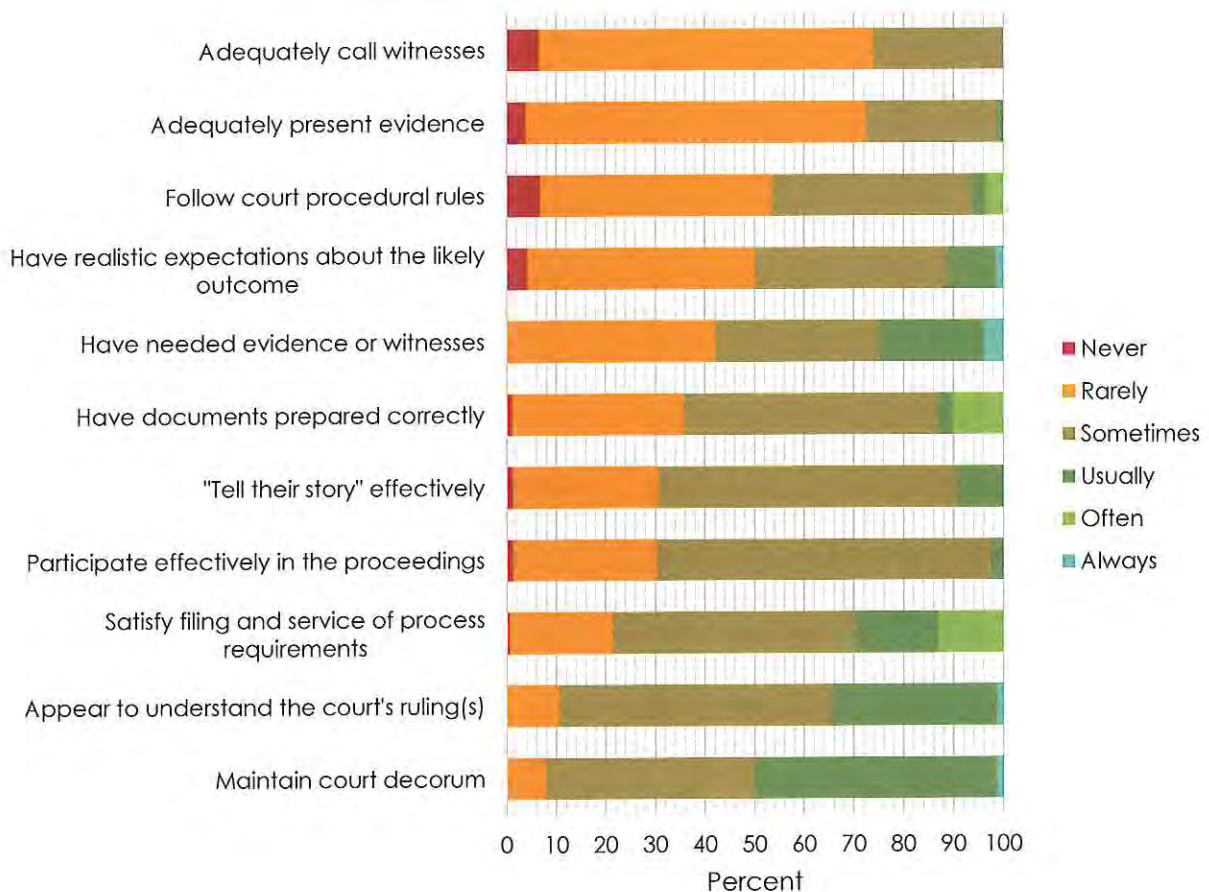


Figure 12. Indicators of how often SRLs are able to do the specified court process activities

<sup>25</sup> JQ10/CQ6: In your experience, how often do self-represented litigants... (Response choices were as they appear in Figure 13. Note that judges were asked about all of the response choices; clerks were only asked if SRLs satisfied filing and service of process requirements, have documents prepared correctly, and follow court procedural rules.

According to the judges and clerks, SRLs need more assistance with cases filed in district courts, and with cases in urban areas. Specifically, in terms of the need for assistance completing the hearing, 23.1% of district court respondents indicated that SRLs *always* need assistance. Meanwhile, in the county courts, none of the respondents indicated that SRLs always need assistance completing the hearing (though 53.8% did say that SRLs *usually* need assistance). In the district courts, 64.8% of respondents indicated that SRLs usually, often, or always look to them for legal advice, compared to 44.8% of the county respondents.

In urban areas, respondents were more likely to indicate that SRLs look to them for legal advice and/or advocacy, with 72.2% indicating this happens usually, often or always, compared to 46.2% of rural respondents. Urban respondents were also more likely to indicate that SRLs never or rarely maintain proper court decorum (14.3% of the urban respondents vs. 2.4% of rural respondents).

### ***C. Consequences of Self Representation***

#### ***1. Consequences for SRLs***

In an effort to determine if there are types of cases for which SRLs need additional attention or support, judges and clerks were asked to indicate the areas of the law in which they believed SRLs were most and least successful.<sup>26</sup> Overall, 67% of the respondents indicated that SRLs were *most* successful in the area of family law, followed by 18% indicating consumer law, and 11.6% indicating housing law. When asked to indicate the areas of the law in which SRLs were *least* successful, curiously, 57% also indicated family law (followed by 17.6% consumer law and 14.4% housing law), suggesting that indicators regarding when SRLs are most and least successful likely require an analysis at a level more specific than area of law.

There were some expected differences by court level, given the types of cases heard by district vs. county courts, with the vast majority of district court respondents (over 90%) indicating that SRLs were both the most successful as well as the least successful within the area of family law (see Fig. 13). Meanwhile, county court respondents provided more variation in their responses, with the most successful areas being consumer law (39.6%), family law (30.2%) and housing (22.6%) and the least successful areas being consumer law (34.5%), housing (29.3%) and family law (17.2%). See the Figure 26 and Figure 27 in the appendix for more detailed information by county.

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<sup>26</sup> JQ7/CQ13: Please provide the following information regarding self-represented litigation and substantive areas of the law. Area of law response options were provided in a drop-down box. Small claims and traffic cases were excluded.

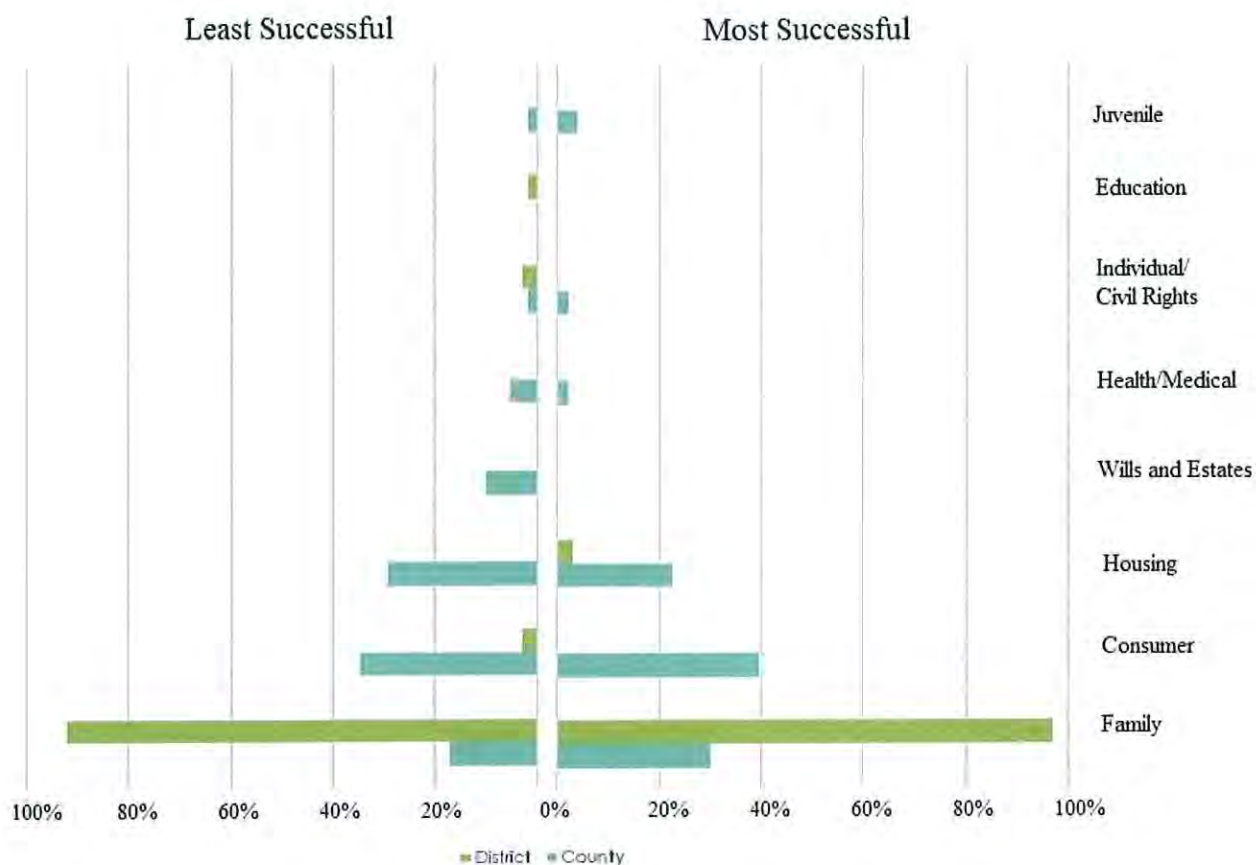


Figure 13. Areas of the law for which SRLs are most and least successful, by district vs county court

Some clarity on how the same area of the law could be determined to have the most and least successful clients comes from the breakdown of legal problems *within* family law. Out of those who indicated that respondents were most successful in the area of family law, 58% cited divorce specifically. Meanwhile, out of those who indicated that respondents were least successful in the area of family law, 45.1% cited custody/visitation cases specifically.

As expected, given the different types of cases heard, there were striking differences by court level in terms of observations regarding when SRLs are most and least successful. District court respondents overwhelmingly indicated that SRLs are most successful in divorce cases and least successful in custody or domestic abuse cases. County court respondents were essentially split between selecting guardianships as the most successful case type and least successful case type. See Fig. 14.

Responses regarding whether SRLs were successful in domestic abuse cases were quite variable. Overall, of the respondents who chose family law as the area for which SRLs were most successful, 12.3% selected domestic abuse. Of the respondents who chose family law as the least

successful area, 18.3% selected cases involving domestic abuse. Differences appeared to be county-specific, however. See Figure 28 in the appendix for more detailed information by county.

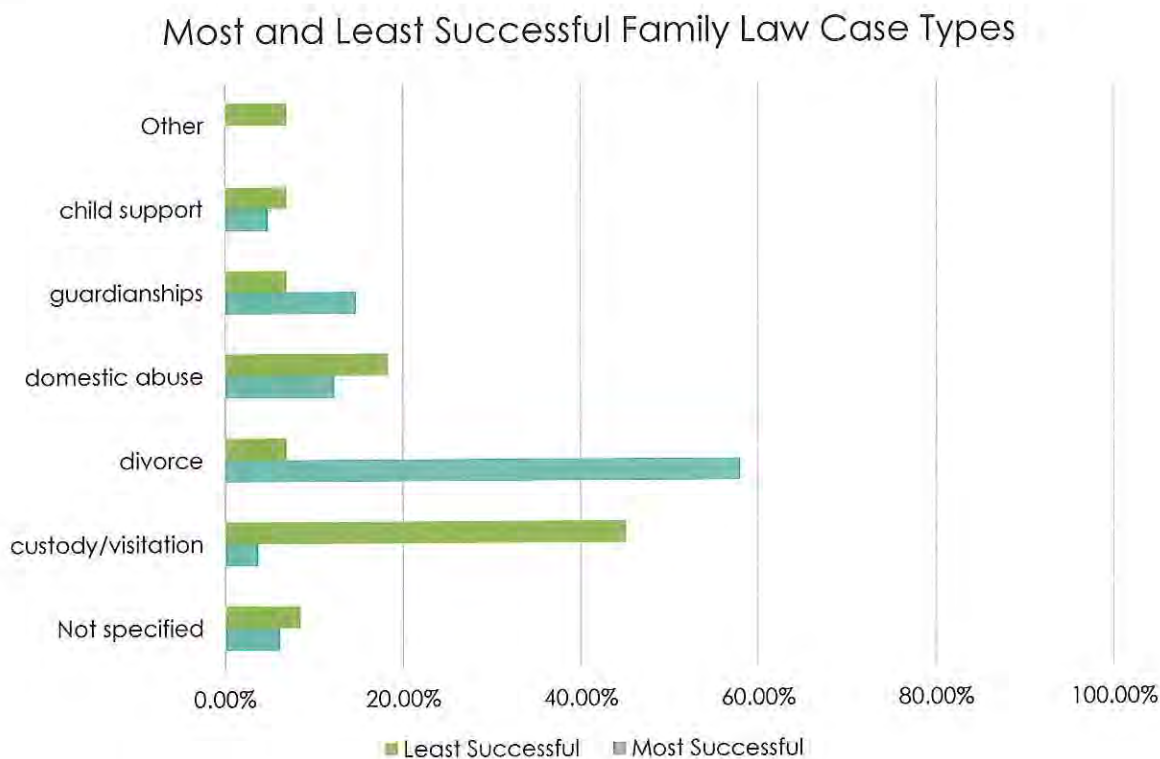


Figure 14. Family law case types for which SRLs are most and least successful

## 2. Consequences for the Court Process

It was clear from the survey responses that clerks and judges are expending additional time and energy assisting SRLs. Approximately 65% of respondents indicated that SRLs usually, often or always need assistance to complete the hearing. And approximately 55% indicated that SRLs usually often or always look to them for legal advice and/or advocacy. When asked to estimate how the presence of SRLs in the courtroom impacts the length of time spent on the case, 61.9% of respondents indicated that SRLs usually, often or always take more time than represented litigants.<sup>27</sup> See Fig. 15. Urban respondents were 45% more likely to indicate that SRLs usually, often or always take longer than represented litigants.<sup>28</sup>

<sup>27</sup> JQ10/CQ6: In your experience, how often do self-represented litigants... (Response choices were as they appear in Figure 12. Note that judges were asked about all of the response choices; clerks were only asked if SRLs looked to them for legal advice and/or advocacy.

<sup>28</sup> 74.3% of urban county respondents indicated that SRLs usually, often or always take longer than represented litigants compared to 51.2% of rural respondents.

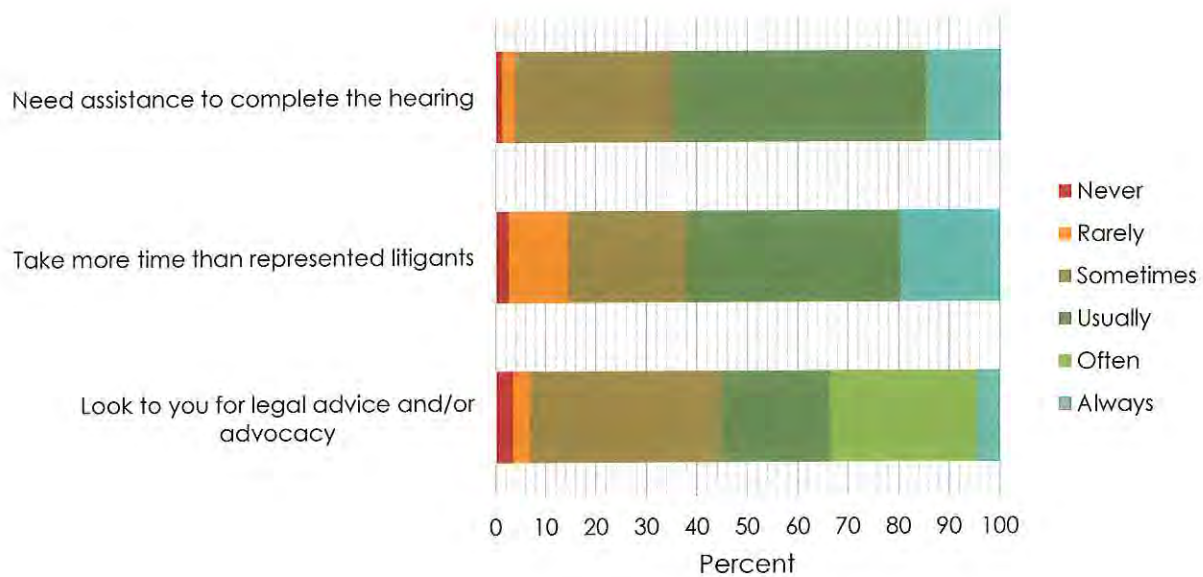


Figure 15. Indicators of specific consequences of the presence of SRLs on the court process

More specifically, judges tended to agree that the presence of SRLs results in more contested hearings because there are fewer settlements (69.7% agreed) and that SRLs cause progression delays (68.9% agreed). Approximately half of the judges agreed that SRLs compromise judicial neutrality due to an increased pressure on the judge to provide assistance (52.6% agreed) and that SRLs lead to more case dismissals (51.3% agreed).<sup>29</sup> See Fig. 16.

When asked if they believed that SRLs improve the process because they reduce the number of lawyers in the courtroom, the overwhelming majority disagreed (97.3%).

<sup>29</sup> JQ9: Rate your agreement with the following statements about pro se litigation. Response choices were as shown in Figure 15.

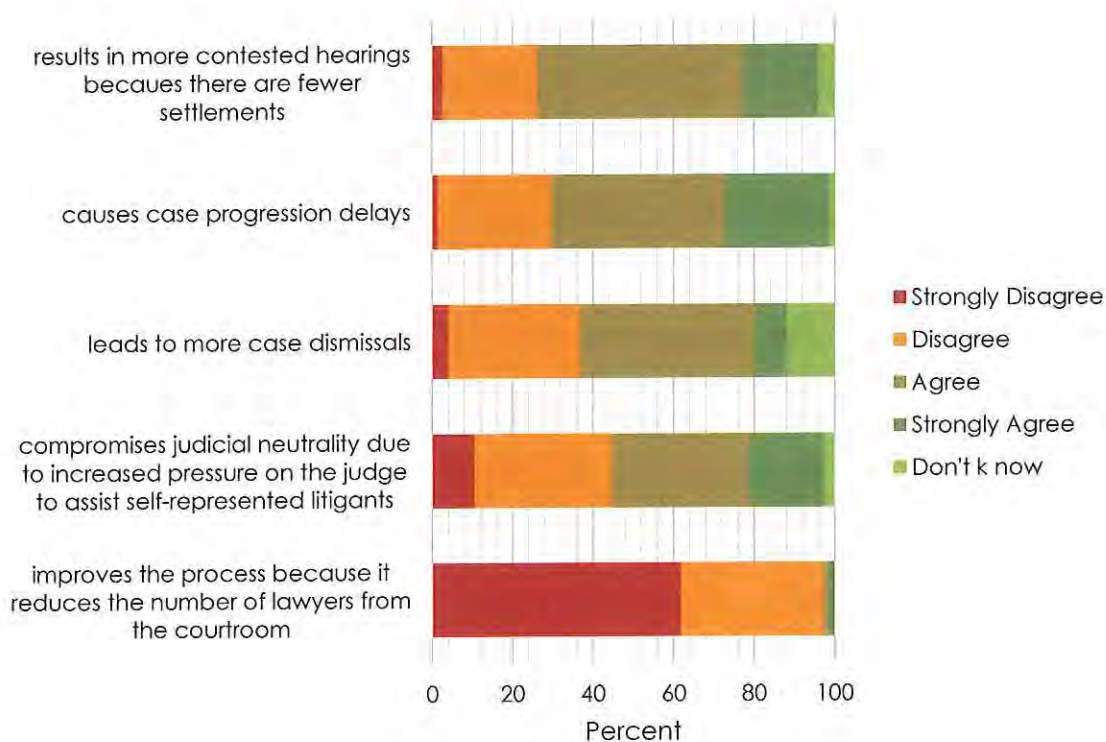


Figure 16. Judges' agreement with statements regarding the impact of SRLs in the courtroom.

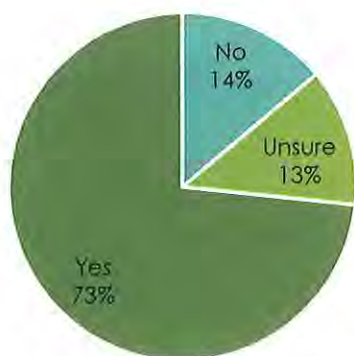
One consequence to clerks specifically comes in the form of being put in the position of having to distinguish between legal information and legal advice. As previously noted in this report, it is common for SRLs to ask for not only information but advice and advocacy as well, and clerks must be careful to not cross the line from information to advice. Most (73%) of the clerks indicated that they have received written guidance and/or training on this topic<sup>30</sup> and 77% indicated that they either always or usually feel confident in their ability to distinguish requests for legal information from requests for legal advice.<sup>31</sup> About a quarter (23%) indicated that they were sometimes confident that they could distinguish between requests for legal information and requests for legal advice. See Fig. 17. County court respondents were 32% more likely than district court respondents to indicate that they had been trained on this distinction.<sup>32</sup>

<sup>30</sup> CQ9: Have you received written guidance and/or training on the difference between legal information and legal advice? Response choices were Yes/No/Unsure.

<sup>31</sup> CQ10: Are you confident that you are able to distinguish requests for legal information from requests for legal advice? Response choices were never, rarely, sometimes, often, and always.

<sup>32</sup> 82.7% of county respondents said they had been trained (9.6% unsure, 7.7% not trained) compared to 62.5% of district court respondents (16.7% unsure, 7.7% not trained).

### Trained on Difference Between Legal Information and Legal Advice



### Confidence in Ability to Distinguish Requests for Legal Information vs Legal Advice

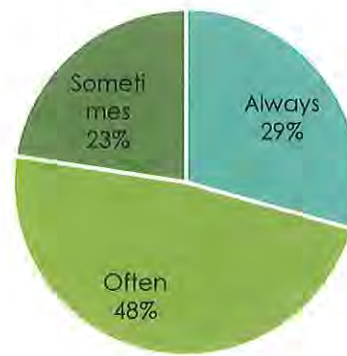


Figure 17. Clerks reported training on and confidence in ability to distinguish between legal information and legal advice.

Judges and clerks were asked to describe what they believed to be the most and least frustrating aspects of working with self-represented litigants.<sup>33</sup> Many respondents described SRLs' lack of knowledge or understanding of court procedures as the most frustrating aspect, with 48% of judges and 26% of clerks providing this type of response. The second most frustrating aspect described was that SRLs tend to have unrealistic expectations (18% of judges and 21% of clerks referred to this). Among the judges only, the third most frustrating aspect indicated was the impact on court time and resources (17% of judges provided this response).

There were some responses that were unique to, yet pervasive among the clerks. Having to explain that the court has to be impartial was referred to by one fifth of the clerks. And, another fifth expressed frustration with the fact that many SRLs would prefer to not put in the effort in figuring out what forms to use and how to complete them. Other themes revealed in the answer to this question included: that SRLs are often frustrated, trying to balance being impartial while being helpful, access to justice concerns, the abuse of self-representation by litigants who could afford to hire an attorney, that self-help resources are insufficiently helpful, and that self-help resources seem to increase the numbers of SRLs.

<sup>33</sup> JQ12/CQ14: What is the most frustrating aspect of working with self-represented litigants? JQ13/CQ15: what is the most frustrating aspect of working with self-represented litigants? Both questions prompted respondents to provide a narrative response. Thematic content analysis was applied to reveal patterns in the qualitative data.

Both judges and clerks agreed that one of the most rewarding aspects of working with SRLs is when the litigants are actually able to successfully navigate the system and achieve the outcome they were looking for. Almost 1/3 of the clerks indicated that being able to help people was very rewarding, followed by receiving expressions of appreciation from the SRLs (19%). Many judges, however, did not provide an answer for this question, or provided an answer that suggested that there were no rewarding aspects of working with SRLs. Other themes revealed in the answer to this question included: access to justice, having direct communication with litigants, seeing the SRLs learn about the process, that SRLs listen, that SRLs are more likely to reach an agreement, and that SRL testimony provides a more complete picture of the issues.

#### ***D. Resources and Support for SRLs***

In the final section of the surveys to both judges and clerks, a series of questions asked about the use and effectiveness of specific support and resources currently provided to SRLs. Judges and clerks responded to questions about resources for helping individuals find a lawyer as well as the prevalence of limited scope representation. Additionally, questions covered support provided by the courthouse itself, by Legal Aid of Nebraska, and by the Nebraska State Bar Association's Volunteer Lawyers Project (VLP).

##### ***1. Sources for Finding Legal Advice or Representation***

First, clerks were asked to indicate where they *typically* direct individuals who are seeking legal advice and/or representation.<sup>34</sup> Most commonly, clerks indicated that they typically directed SRLs to the Supreme Court website (32.3%) and to Legal Aid of Nebraska (30.3%). An additional 12% indicated that they typically refer SRLs to local attorneys. There were some notable differences according to whether the clerks were in rural or urban counties: it was more typical for rural clerks to refer SRLs to the Supreme Court Website (35.6%), Legal Aid of Nebraska (31.5%), and local attorneys (15.1%). Urban clerks were more likely than rural clerks to refer SRLs to a Nebraska State Bar Association VLP Self-Help desk. See Fig. 18.

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<sup>34</sup> CQ7: Where do you typically direct self-represented litigants seeking legal advice and/or representation? Response choices were as shown in Figure 17.

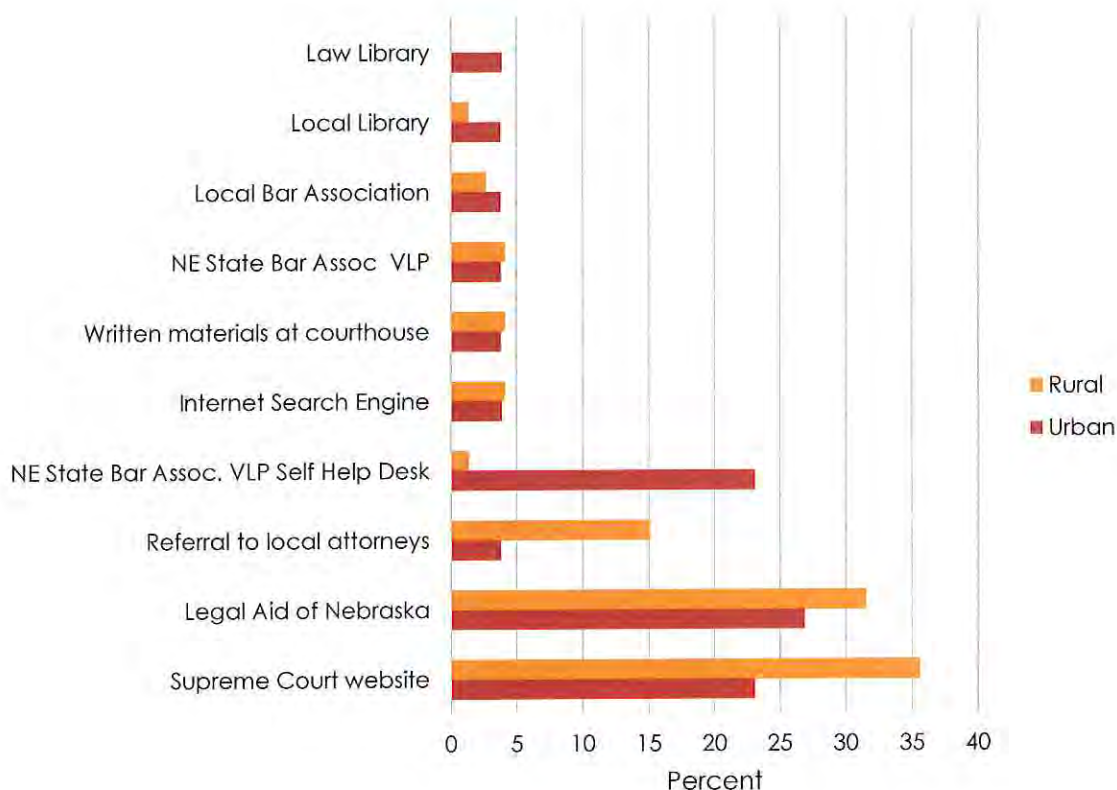


Figure 18. Percent of clerks referring individuals to specific sources for help finding legal representation or advice.

## 2. *Limited Scope Representation*

The use of limited scope representation by SRLs to help with very specific aspects of their cases appears to be occasional, rather than the norm. When SRLs did use limited scope representation services, most commonly they retain a lawyer for preparing documents; 43% of the judges indicated they sometimes see this.<sup>35</sup> The second most common use of limited scope representation was for legal advice during the process (28.9% of judges sometimes see this). See Fig. 19.

<sup>35</sup> JQ11: How often do you deal with self-represented litigants who have retained counsel for limited scope representation for the following.... Response choices were as shown in Figure 18.

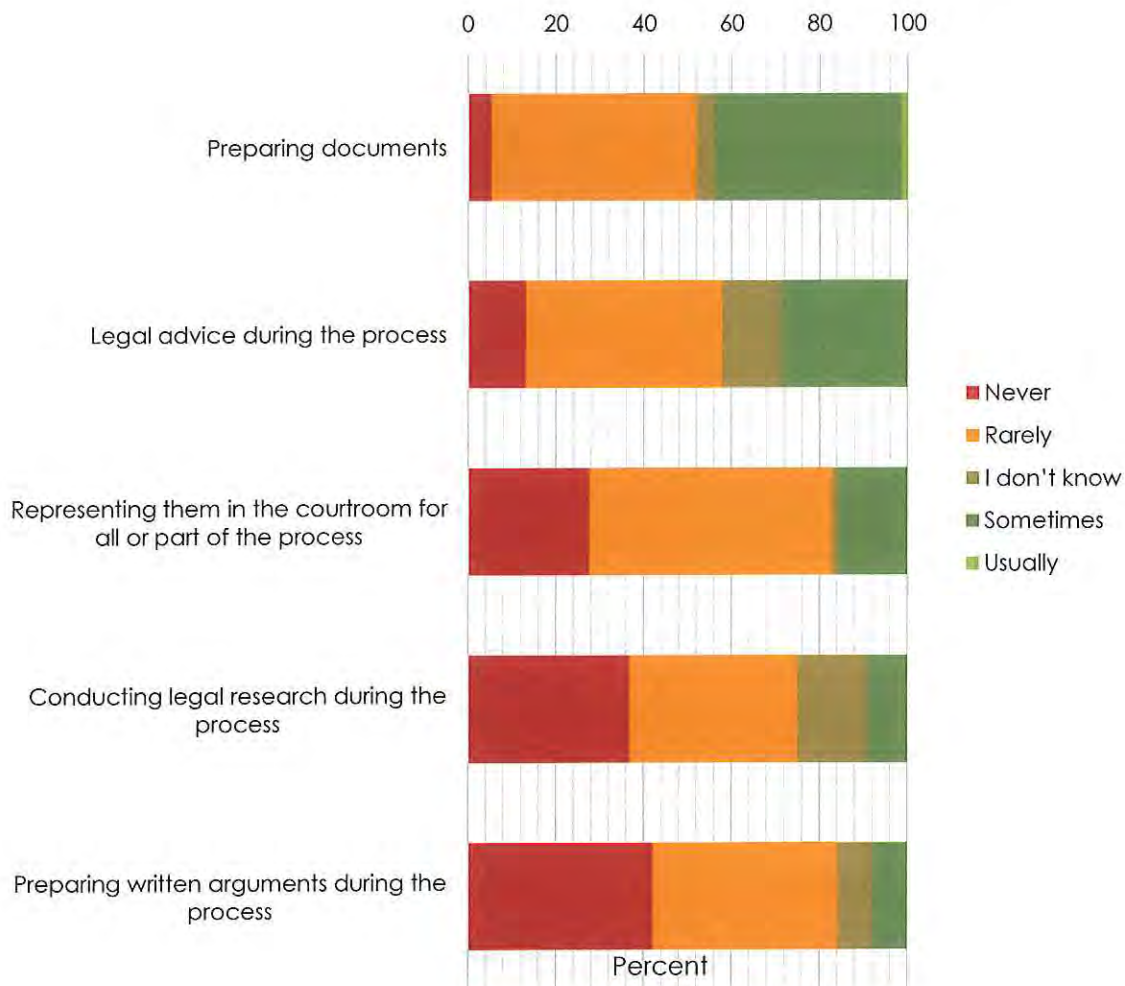


Figure 19. Use of limited scope representation by SRLs

#### 4. Courthouse Resources and Online Interactive Court Forms

When asked about resources developed by the courthouse to help assist SRLs, the most common resource developed and offered was a self-help desk, followed by written materials and online resources.<sup>36</sup> Urban clerks were more likely to indicate having a self-help desk (50%), whereas rural clerks were more likely to indicate having written material (31.8%) and online resources (31.8%).

<sup>36</sup> CQ8: Has your courthouse developed any of the following resources to assist self-represented litigants? Check all that apply. Due to an error, the survey only allowed one answer, rather than multiple answers to this question and therefore percentages are not presented.

Over the past few years, the Supreme Court Pro Se Committee partnered with Legal Aid of Nebraska to develop online interactive court forms. Forty-two percent of the respondents indicated that they had seen an increased use of these forms and 43% indicated they had not.<sup>37</sup> Additionally, 75% reported that they have seen a noticeable difference between SRLs who use forms from the court website and those who use do-it-yourself forms from other sources.<sup>38</sup> See Fig. 20.

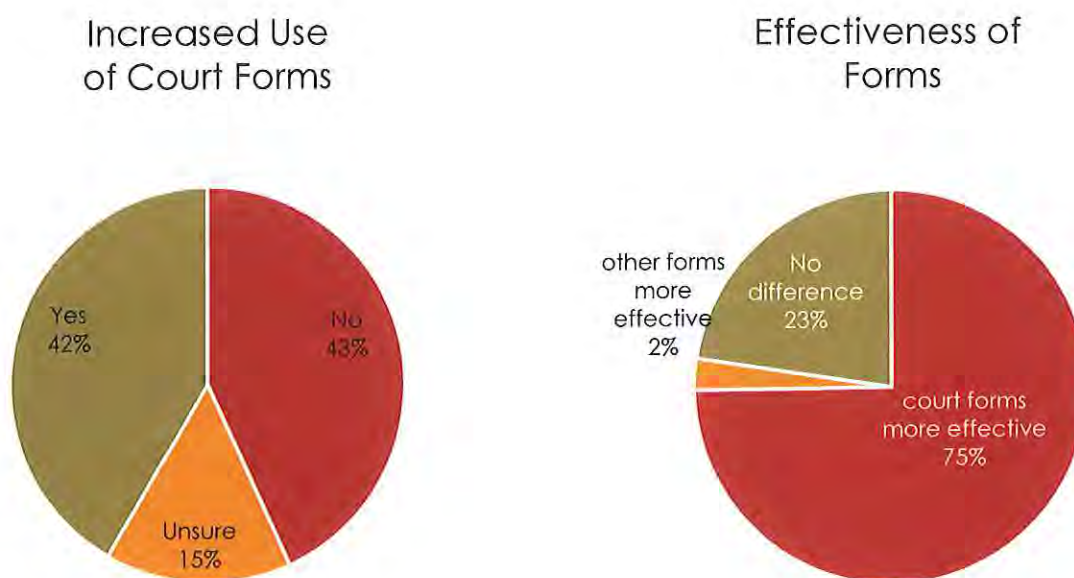


Figure 20. Use and effectiveness of court and other forms

### 5. Nebraska State Bar Association's Volunteer Lawyers Project Self-Help Desks

In addition to the availability of online court forms, SRLs in specific counties<sup>39</sup> have access to courthouse self-help desks, run by the Nebraska State Bar Association's Volunteer Lawyers Project (VLP). Approximately 1/3 of the respondents indicated that they had a VLP desk in their judicial district. Another 1/3 indicated they did not and 1/3 indicated they were unsure.<sup>40</sup> There

<sup>37</sup> JQ14/CQ16: Over the past few years, the Supreme Court Pro Se Committee partnered with Legal Aid of Nebraska to develop online interactive court forms (identified with a logo with "A2J" and scales). Have you seen an increased use of these forms? Response choices included Yes/No/Unsure.

<sup>38</sup> JQ15/CQ17: Is there a noticeable difference in self-represented litigants who use the forms from the Judicial Branch Website and those who use do-it-yourself forms from other sources? Response choices were as shown in Figure 19.

<sup>39</sup> The VLP coordinates self-help desks in Buffalo, Douglas, Hall, Lancaster, Madison, and Scottsbluff Counties.

<sup>40</sup> JQ16/CQ18: Is there a VLP Self-Help Desk in your Judicial District? Response options were Yes/No/Unsure.

were some significant differences by location, with rural respondents being 70% less likely than urban respondents to report having a VLP self-help desk in their judicial district.<sup>41</sup> See Fig. 21.

Of those who reported that they had a VLP desk in their district, the majority (60%) indicated that they believe the desk has improved self-represented litigation, followed by 1/3 reporting being unsure whether or not the desks were resulting in improvements.<sup>42</sup> Almost 67% of the clerks indicated that the VLP desks were specifically easing the burden on them to provide assistance to SRLs.<sup>43</sup> Of those who reported that they did not have or were unsure if they have a VLP self-help desk, 61.2% indicated that they perceived a need for one.<sup>44</sup> See Fig. 21.

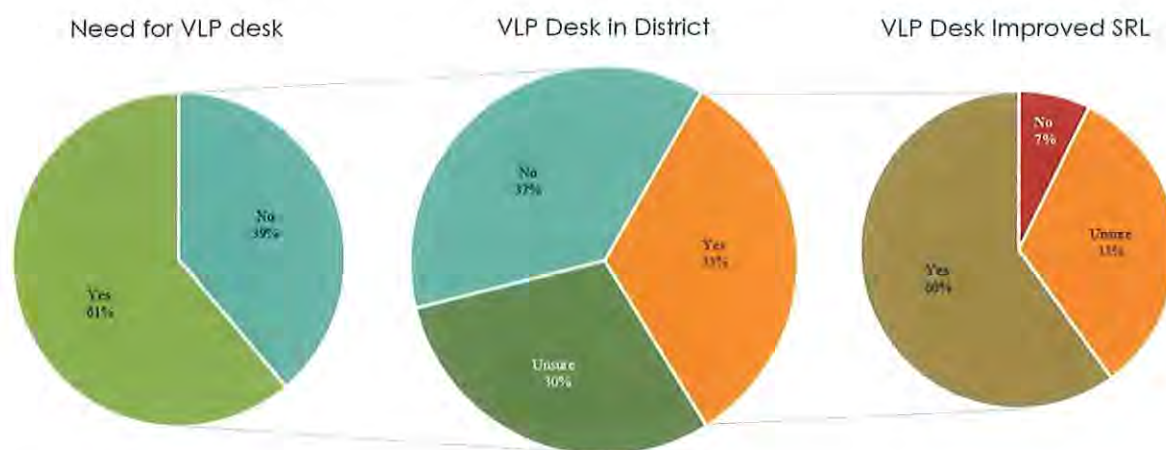


Figure 21. Prevalence, effectiveness and need for VLP desks

Urban respondents were more likely to indicate that the VLP desks were helpful (70.3%), whereas rural respondents were more likely to indicate that they were unsure (55.6%).<sup>45</sup>

In open-ended sections for the questions about the VLP Self-Help desks,<sup>46</sup> respondents expressed a common concern about the limited hours of operation for self-help desks. Overall judges and clerks expressed that the self-help desks were helpful when they were operating, and that expanding the hours would be a great benefit. However, simultaneously there were concerns about there being enough lawyers to staff the self-help desks. Additionally, some comments

<sup>41</sup> 60% of urban county respondents reported having a VLP desk compared to 18% of rural respondents.

<sup>42</sup> JQ17/CQ19: Do you think the VLP Self-Help Desk has improved self-represented litigation in your judicial district (correct use of forms, court preparedness, case success, etc.)? Response choices included Yes/No/Unsure.

<sup>43</sup> CQ20: Has the VLP Self-Help Desk eased the burden on clerks to provide assistance to self-represented litigants? Response choices included Yes/No/Unsure.

<sup>44</sup> JQ19/CQ22: Do you perceive a need for a VLP Self-Help Desk in your judicial district and/or courthouse? Response choices included Yes/No.

<sup>45</sup> Note that because of the distance to the nearest self-help desk, many rural county respondents would not have first-hand knowledge or experience with the self-help desk in their jurisdiction.

<sup>46</sup> JQ18/CQ21: What problems do you perceive with the VLP self-help desks?

expressed concern about the expertise of the lawyers volunteering at the self-help desks, suggesting that specific training might be helpful.

### 6. *Legal Aid of Nebraska*

Given that Legal Aid of Nebraska provides a range of statewide services for SRLs - including advice and counsel over the phone, online resources, informational sessions and in-person assistance at self-help centers in Lincoln and Omaha - judges and clerks were asked to indicate which type of assistance they believed to be the most effective.<sup>47</sup> The majority of respondents felt that Legal Aid could most effectively assist SRLs by providing advice and counsel regarding the court process (66.3%) and court forms, along with assistance in completing them (61%). About 1/3 of the respondents also believed that Legal Aid could most effectively assist SRLs by providing information sessions or guides on the court process and/or online interactive court forms. See Fig. 22.

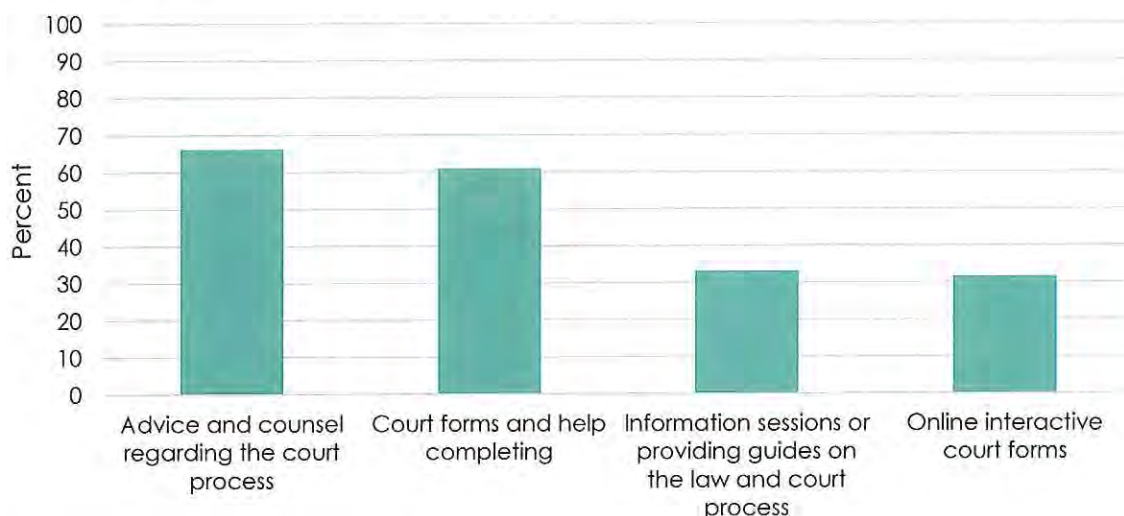


Figure 22. Most effective Legal Aid services to SRLs.

<sup>47</sup> JQ20/CQ23: In your experience, how can Legal Aid most effectively assist self-represented litigants (check all that apply). Response choices were as shown in Fig. 22.

## **V. Conclusion and Discussion**

Although the results of this survey can neither be a substitute for the collection of actual numbers of SRLs appearing in Nebraska courts nor self-reports of the experiences of SRLs, the impressions of the people who are in the courtrooms with them on a day to day basis are certainly extremely valuable in their own right. The surveyed judges and clerks are in the unique position of being present – interacting and observing – while litigants self-represent as well as being the most knowledgeable about the nuances of the court system. Their descriptive and normative reactions to self-representation are therefore a necessary contribution to any attempt to really meaningfully address access to justice issues for this population.

While some variation in responses was inevitable, there was also significant agreement throughout the survey suggesting that current supports and resources available to SRLs are not meeting the growing demand. Self-representation has become common in approximately 1/5<sup>th</sup> of the cases, and is even more common in the area of family law, in urban areas and most significantly in district courts. This explosion of self-representation in the district courts is one of the more noteworthy findings in this survey, as institutional supports for addressing this problem are less likely to be in place there, as compared to the county courts where self-representation is likely to have been more common in recent history.

Although support in the form of online court forms, assistance over the phone, and self-help desks are available across the state, these resources are subject to a number of limitations, including availability depending on the type of case, client eligibility, location and time of day. Everywhere, resources are stretched thin, but this survey shows that this is even more likely to be the case in the Nebraska district courts. Meanwhile, the clerks in the district courts were less likely to have been trained on the distinction between legal information and legal advice than clerks in the county courts.

The brunt of this mismatch between the needs of SRLs and the availability of resources is inevitably taken on by the court staff. With many clerks and judges painstakingly tip toeing around impartiality issues, doing their best to walk right up to that line between information and advice without crossing it, while SRLs are faced with the daunting task of navigating a system that, without some kind of assistance, is much too complex for even highly educated citizens. One thing is clear: the court system was not designed for this.

In an ideal world, each SRL unable to afford a lawyer would be provided one free of charge, and no litigant would ever again be faced with the loss of a home, a life savings, or custody of a child without access to a fair trial. But the reality of resource availability in an already economically beleaguered system precludes even entertaining the idea of a world like that. Instead, determining the most efficient and effective way to use the limited resources that we do have is the task now before us.

The solution for how to best allocate resources to address the problem of self-representation would be more clear were there more agreement regarding the cause of the problem. The crux of the disagreement involves the answer to the question of what these litigants would do as an alternative to self-representation: somehow find the funds to seek assistance from a lawyer or simply not go to court at all. Or, in other words, is the rise in self-representation a choice, driven by a broadening cultural acceptance of a do-it-yourself attitude towards the court process or is it the result of financial pressures and the lack of alternatives? The answer to this question is believed to be essential in determining where responsibility for this problem lies.

Although a thorough analysis of the causes of the increase in self-representation is beyond the scope of this survey, the opinions here expressed by the judges and clerks suggest that a dichotomous approach to asking and answering this question might be misleading. While many agree that finances are the leading reason for self-representation and that self-help resources need to be expanded and made more available, 1/3 of the respondents indicated that many SRLs actually do not really understand the costs and benefits of having a lawyer and 1/4<sup>th</sup> indicated that the availability of self-help resources deters some litigants from seeking legal assistance.

One might interpret these results to mean that there is a subset of court staff that are simply and categorically hostile towards SLRs. An alternative view, however is that the diversity of responses reflects the fact that the SRL population is complex and dynamic. Some self-represent because they have no choice (and in fact much of the literature suggests this<sup>48</sup>), while others self-represent because it is the *best* choice. Considering the SRL population not as one homogenous group, but as a diverse group with variable motivations, financial resources, and abilities to self-represent suggests that there is not one solution, but many to this problem.

Certainly, for the many who self-represent because they have no choice, expanded self-help resources (not only providing court forms, but assistance filling them out) is absolutely necessary. But, for those who self-represent because it is their *best* choice, making lawyers more accessible by expanding limited scope representation and reduced fee lawyering would go a long way in making sure that the self-help resources are used for those who need it the most. The clerks and judges in this survey agreed that limited scope representation is underutilized and the preliminary results of a statewide survey of Nebraska attorneys shows that only 2% of lawyers have provided limited scope representation in a pro bono case. In that same survey, only 31% indicated that they had provided legal services for a reduced fee. Clearly, the legal profession is still clinging to an antiquated model of lawyering.

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<sup>48</sup> See, for example John M. Greacen (2014) Self-Represented Litigants, The Courts, and the Legal Profession: Myths and Realities. Family Court Review 52(4):662-669.

This is a situation that requires more than band-aid solutions, as the landscape has so significantly changed that now a systemic and holistic response is required if we want to preserve equal access to justice in Nebraska.<sup>49</sup>

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<sup>49</sup> The editorial sections of this report represent the views of Legal Aid of Nebraska and not the views of the Nebraska Supreme Court Committee on Self-Represented Litigation.

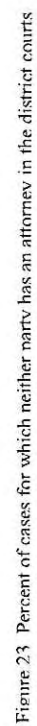






Figure 25 Area of law with most SRI's

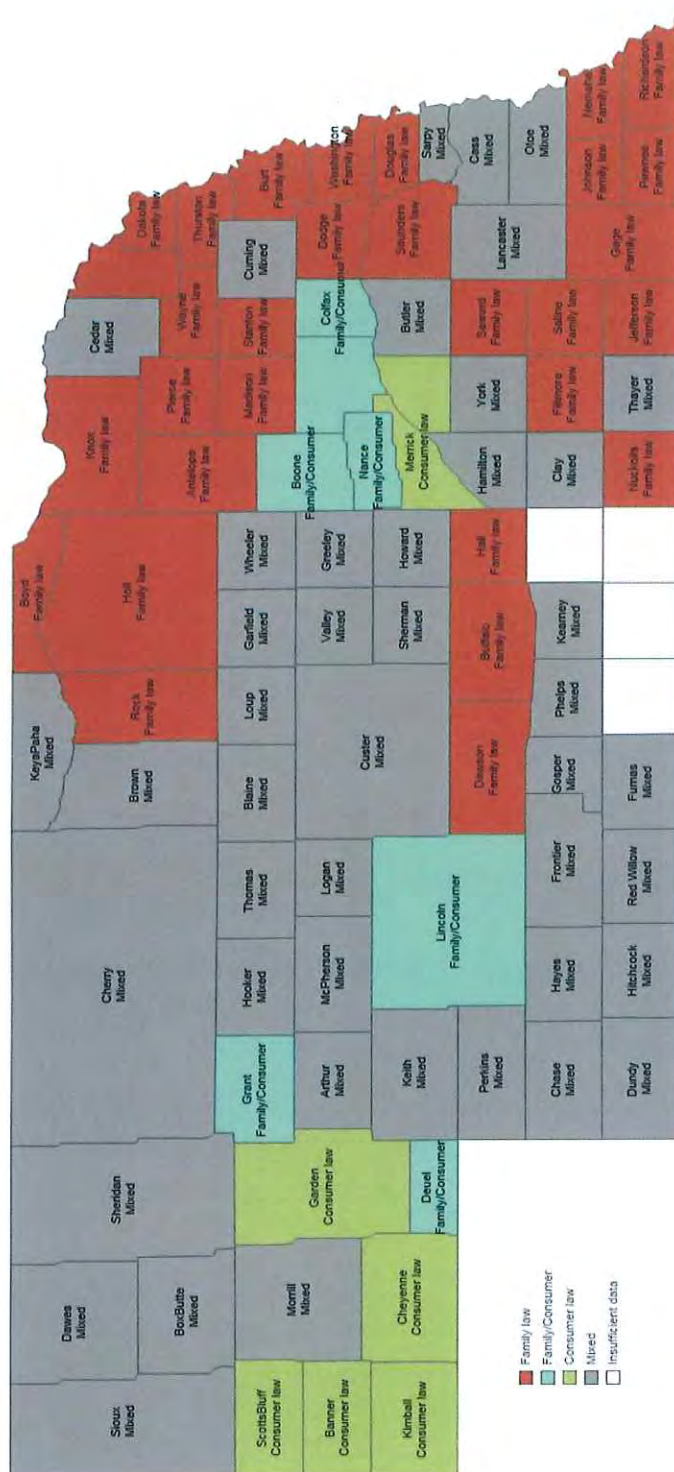


Figure 26 Most successful Area of law

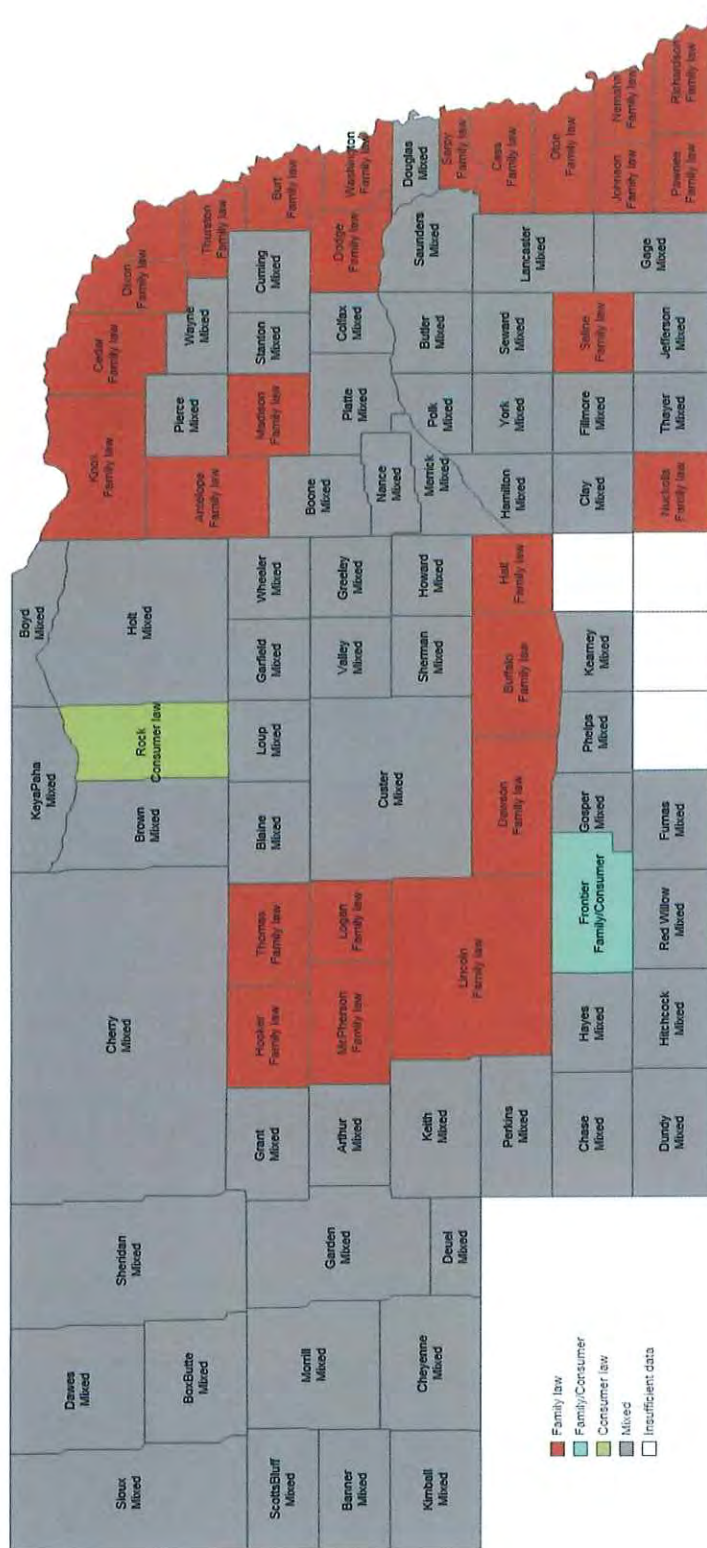


Figure 27 T east successful Area of law

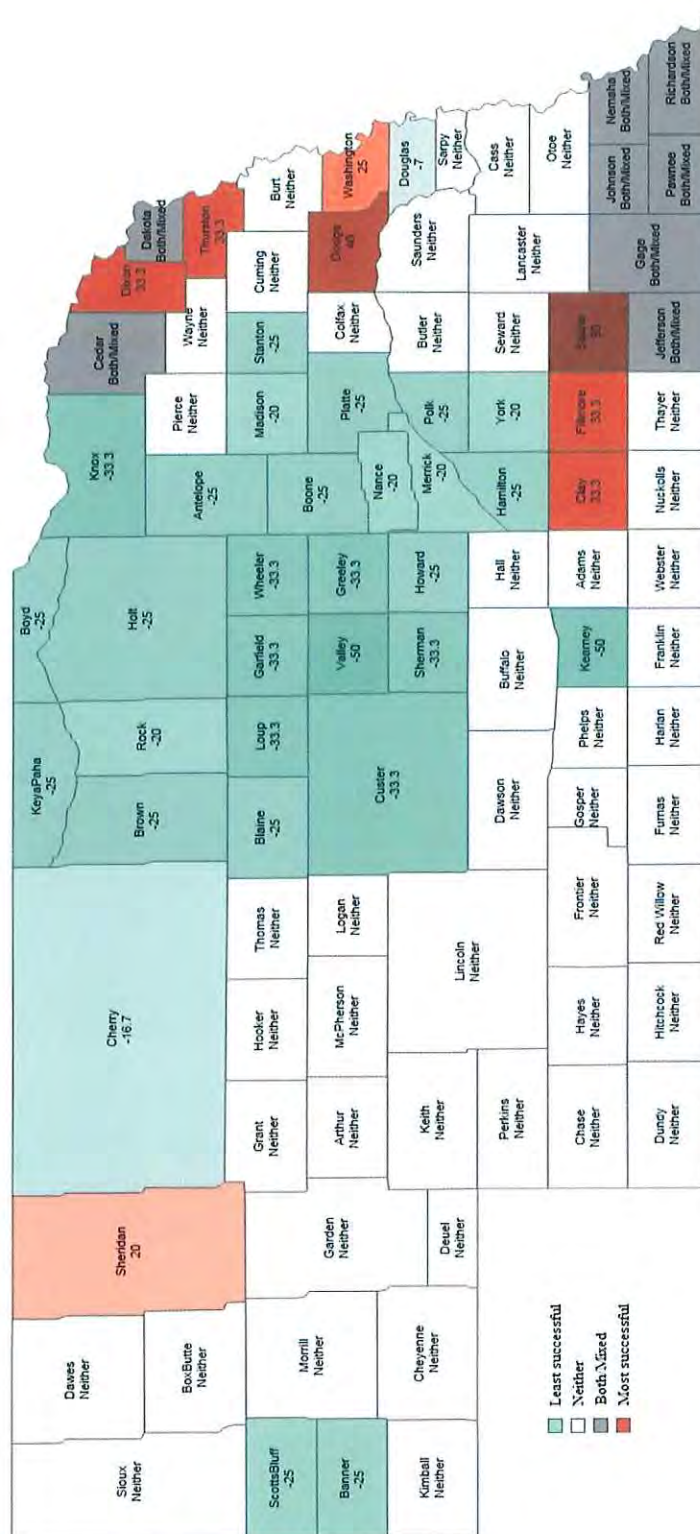


Figure 28. Estimations of success in domestic violence cases, by county. Numbers were calculated according to average responses, where stronger negative numbers indicate a stronger agreement that DV cases were least successful and higher positive numbers indicate a stronger agreement that DV cases were most successful.

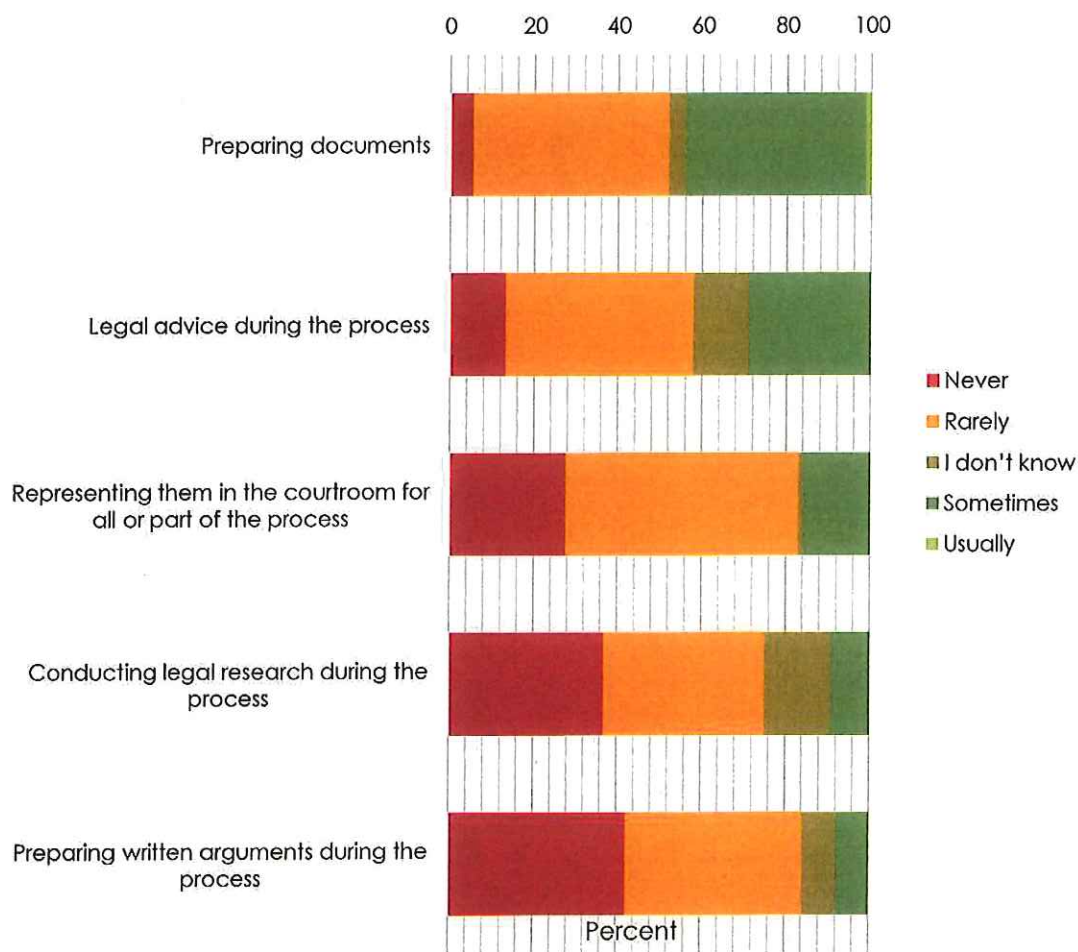


Figure 19. Use of limited scope representation by SRLs

#### 4. Courthouse Resources and Online Interactive Court Forms

When asked about resources developed by the courthouse to help assist SRLs, the most common resource developed and offered was a self-help desk, followed by written materials and online resources.<sup>36</sup> Urban clerks were more likely to indicate having a self-help desk (50%), whereas rural clerks were more likely to indicate having written material (31.8%) and online resources (31.8%).

<sup>36</sup> CQ8: Has your courthouse developed any of the following resources to assist self-represented litigants? Check all that apply. Due to an error, the survey only allowed one answer, rather than multiple answers to this question and therefore percentages are not presented.

Over the past few years, the Supreme Court Pro Se Committee partnered with Legal Aid of Nebraska to develop online interactive court forms. Forty-two percent of the respondents indicated that they had seen an increased use of these forms and 43% indicated they had not.<sup>37</sup> Additionally, 75% reported that they have seen a noticeable difference between SRLs who use forms from the court website and those who use do-it-yourself forms from other sources.<sup>38</sup> See Fig. 20.

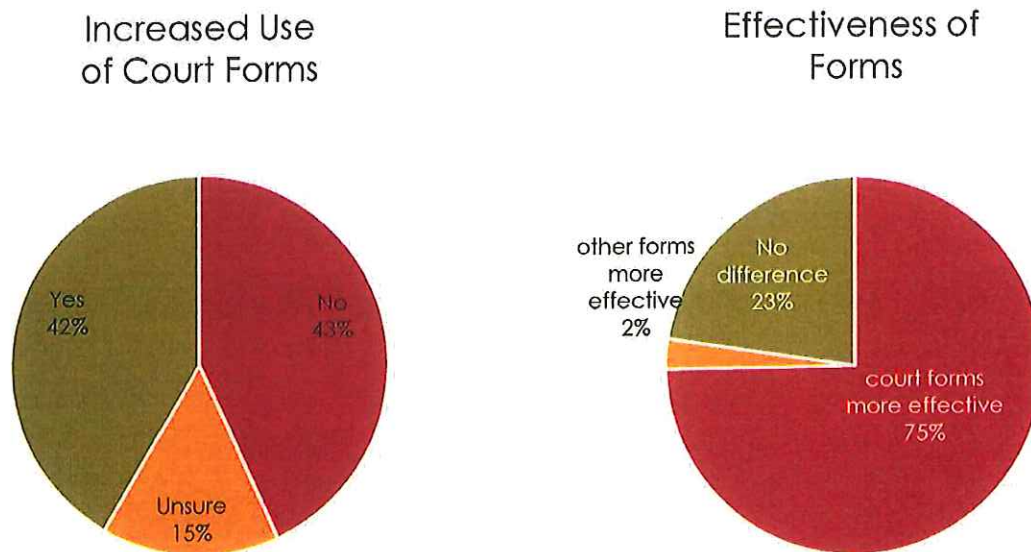


Figure 20. Use and effectiveness of court and other forms

### 5. Nebraska State Bar Association's Volunteer Lawyers Project Self-Help Desks

In addition to the availability of online court forms, SRLs in specific counties<sup>39</sup> have access to courthouse self-help desks, run by the Nebraska State Bar Association's Volunteer Lawyers Project (VLP). Approximately 1/3 of the respondents indicated that they had a VLP desk in their judicial district. Another 1/3 indicated they did not and 1/3 indicated they were unsure.<sup>40</sup> There

<sup>37</sup> JQ14/CQ16: Over the past few years, the Supreme Court Pro Se Committee partnered with Legal Aid of Nebraska to develop online interactive court forms (identified with a logo with "A2J" and scales). Have you seen an increased use of these forms? Response choices included Yes/No/Unsure.

<sup>38</sup> JQ15/CQ17: Is there a noticeable difference in self-represented litigants who use the forms from the Judicial Branch Website and those who use do-it-yourself forms from other sources? Response choices were as shown in Figure 19.

<sup>39</sup> The VLP coordinates self-help desks in Buffalo, Douglas, Hall, Lancaster, Madison, and Scottsbluff Counties.

<sup>40</sup> JQ16/CQ18: Is there a VLP Self-Help Desk in your Judicial District? Response options were Yes/No/Unsure.

were some significant differences by location, with rural respondents being 70% less likely than urban respondents to report having a VLP self-help desk in their judicial district.<sup>41</sup> See Fig. 21.

Of those who reported that they had a VLP desk in their district, the majority (60%) indicated that they believe the desk has improved self-represented litigation, followed by 1/3 reporting being unsure whether or not the desks were resulting in improvements.<sup>42</sup> Almost 67% of the clerks indicated that the VLP desks were specifically easing the burden on them to provide assistance to SRLs.<sup>43</sup> Of those who reported that they did not have or were unsure if they have a VLP self-help desk, 61.2% indicated that they perceived a need for one.<sup>44</sup> See Fig. 21.

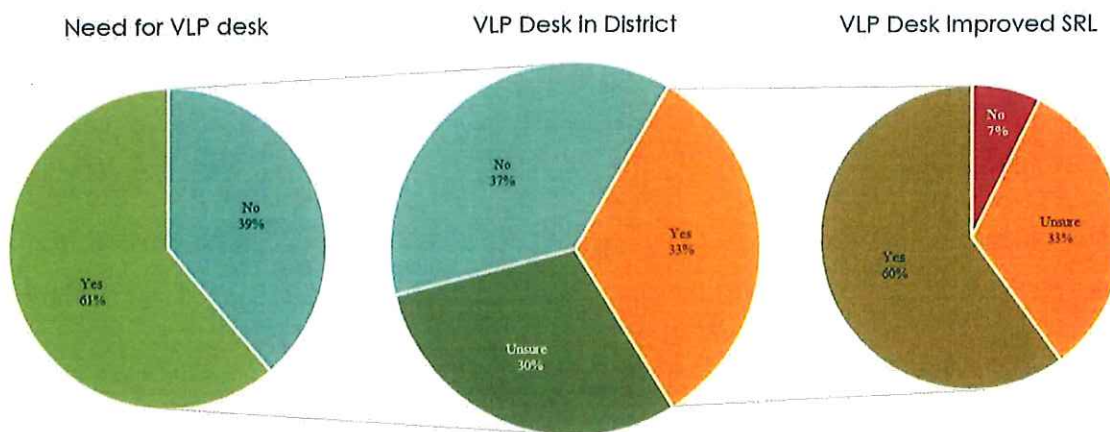


Figure 21. Prevalence, effectiveness and need for VLP desks

Urban respondents were more likely to indicate that the VLP desks were helpful (70.3%), whereas rural respondents were more likely to indicate that they were unsure (55.6%).<sup>45</sup>

In open-ended sections for the questions about the VLP Self-Help desks,<sup>46</sup> respondents expressed a common concern about the limited hours of operation for self-help desks. Overall judges and clerks expressed that the self-help desks were helpful when they were operating, and that expanding the hours would be a great benefit. However, simultaneously there were concerns about there being enough lawyers to staff the self-help desks. Additionally, some comments

<sup>41</sup> 60% of urban county respondents reported having a VLP desk compared to 18% of rural respondents.

<sup>42</sup> JQ17/CQ19: Do you think the VLP Self-Help Desk has improved self-represented litigation in your judicial district (correct use of forms, court preparedness, case success, etc.)? Response choices included Yes/No/Unsure.

<sup>43</sup> CQ20: Has the VLP Self-Help Desk eased the burden on clerks to provide assistance to self-represented litigants? Response choices included Yes/No/Unsure.

<sup>44</sup> JQ19/CQ22: Do you perceive a need for a VLP Self-Help Desk in your judicial district and/or courthouse? Response choices included Yes/No.

<sup>45</sup> Note that because of the distance to the nearest self-help desk, many rural county respondents would not have first-hand knowledge or experience with the self-help desk in their jurisdiction.

<sup>46</sup> JQ18/CQ21: What problems do you perceive with the VLP self-help desks?

expressed concern about the expertise of the lawyers volunteering at the self-help desks, suggesting that specific training might be helpful.

#### 6. *Legal Aid of Nebraska*

Given that Legal Aid of Nebraska provides a range of statewide services for SRLs - including advice and counsel over the phone, online resources, informational sessions and in-person assistance at self-help centers in Lincoln and Omaha - judges and clerks were asked to indicate which type of assistance they believed to be the most effective.<sup>47</sup> The majority of respondents felt that Legal Aid could most effectively assist SRLs by providing advice and counsel regarding the court process (66.3%) and court forms, along with assistance in completing them (61%). About 1/3 of the respondents also believed that Legal Aid could most effectively assist SRLs by providing information sessions or guides on the court process and/or online interactive court forms. See Fig. 22.

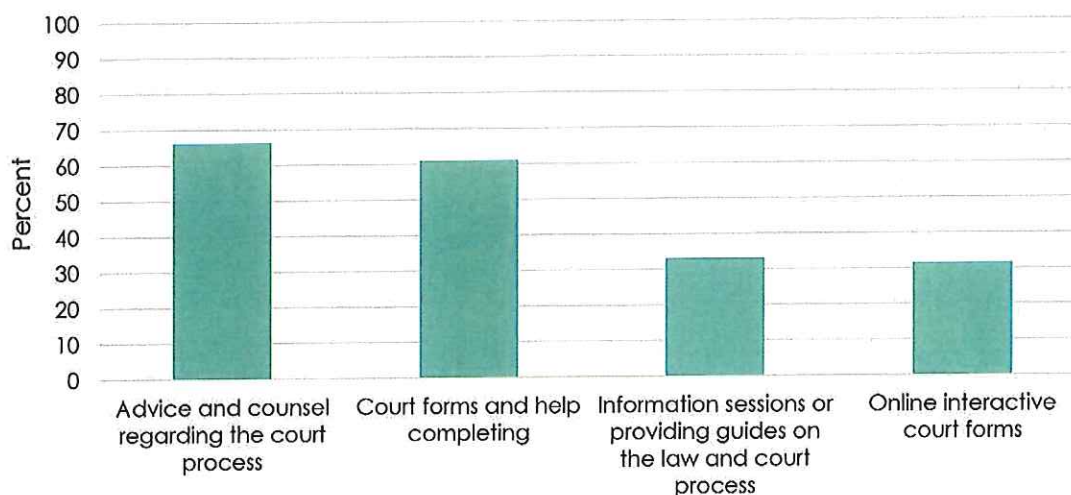


Figure 22. Most effective Legal Aid services to SRLs.

<sup>47</sup> JQ20/CQ23: In your experience, how can Legal Aid most effectively assist self-represented litigants (check all that apply). Response choices were as shown in Fig. 22.

## V. Conclusion and Discussion

Although the results of this survey can neither be a substitute for the collection of actual numbers of SRLs appearing in Nebraska courts nor self-reports of the experiences of SRLs, the impressions of the people who are in the courtrooms with them on a day to day basis are certainly extremely valuable in their own right. The surveyed judges and clerks are in the unique position of being present – interacting and observing – while litigants self-represent as well as being the most knowledgeable about the nuances of the court system. Their descriptive and normative reactions to self-representation are therefore a necessary contribution to any attempt to really meaningfully address access to justice issues for this population.

While some variation in responses was inevitable, there was also significant agreement throughout the survey suggesting that current supports and resources available to SRLs are not meeting the growing demand. Self-representation has become common in approximately 1/5<sup>th</sup> of the cases, and is even more common in the area of family law, in urban areas and most significantly in district courts. This explosion of self-representation in the district courts is one of the more noteworthy findings in this survey, as institutional supports for addressing this problem are less likely to be in place there, as compared to the county courts where self-representation is likely to have been more common in recent history.

Although support in the form of online court forms, assistance over the phone, and self-help desks are available across the state, these resources are subject to a number of limitations, including availability depending on the type of case, client eligibility, location and time of day. Everywhere, resources are stretched thin, but this survey shows that this is even more likely to be the case in the Nebraska district courts. Meanwhile, the clerks in the district courts were less likely to have been trained on the distinction between legal information and legal advice than clerks in the county courts.

The brunt of this mismatch between the needs of SRLs and the availability of resources is inevitably taken on by the court staff. With many clerks and judges painstakingly tip toeing around impartiality issues, doing their best to walk right up to that line between information and advice without crossing it, while SRLs are faced with the daunting task of navigating a system that, without some kind of assistance, is much too complex for even highly educated citizens. One thing is clear: the court system was not designed for this.

In an ideal world, each SRL unable to afford a lawyer would be provided one free of charge, and no litigant would ever again be faced with the loss of a home, a life savings, or custody of a child without access to a fair trial. But the reality of resource availability in an already economically beleaguered system precludes even entertaining the idea of a world like that. Instead, determining the most efficient and effective way to use the limited resources that we do have is the task now before us.

The solution for how to best allocate resources to address the problem of self-representation would be more clear were there more agreement regarding the cause of the problem. The crux of the disagreement involves the answer to the question of what these litigants would do as an alternative to self-representation: somehow find the funds to seek assistance from a lawyer or simply not go to court at all. Or, in other words, is the rise in self-representation a choice, driven by a broadening cultural acceptance of a do-it-yourself attitude towards the court process or is it the result of financial pressures and the lack of alternatives? The answer to this question is believed to be essential in determining where responsibility for this problem lies.

Although a thorough analysis of the causes of the increase in self-representation is beyond the scope of this survey, the opinions here expressed by the judges and clerks suggest that a dichotomous approach to asking and answering this question might be misleading. While many agree that finances are the leading reason for self-representation and that self-help resources need to be expanded and made more available, 1/3 of the respondents indicated that many SRLs actually do not really understand the costs and benefits of having a lawyer and 1/4<sup>th</sup> indicated that the availability of self-help resources deters some litigants from seeking legal assistance.

One might interpret these results to mean that there is a subset of court staff that are simply and categorically hostile towards SLRs. An alternative view, however is that the diversity of responses reflects the fact that the SRL population is complex and dynamic. Some self-represent because they have no choice (and in fact much of the literature suggests this<sup>48</sup>), while others self-represent because it is the *best* choice. Considering the SRL population not as one homogenous group, but as a diverse group with variable motivations, financial resources, and abilities to self-represent suggests that there is not one solution, but many to this problem.

Certainly, for the many who self-represent because they have no choice, expanded self-help resources (not only providing court forms, but assistance filling them out) is absolutely necessary. But, for those who self-represent because it is their *best* choice, making lawyers more accessible by expanding limited scope representation and reduced fee lawyering would go a long way in making sure that the self-help resources are used for those who need it the most. The clerks and judges in this survey agreed that limited scope representation is underutilized and the preliminary results of a statewide survey of Nebraska attorneys shows that only 2% of lawyers have provided limited scope representation in a pro bono case. In that same survey, only 31% indicated that they had provided legal services for a reduced fee. Clearly, the legal profession is still clinging to an antiquated model of lawyering.

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<sup>48</sup> See, for example John M. Greacen (2014) Self-Represented Litigants, The Courts, and the Legal Profession: Myths and Realities. Family Court Review 52(4):662-669.

This is a situation that requires more than band-aid solutions, as the landscape has so significantly changed that now a systemic and holistic response is required if we want to preserve equal access to justice in Nebraska.<sup>49</sup>

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<sup>49</sup> The editorial sections of this report represent the views of Legal Aid of Nebraska and not the views of the Nebraska Supreme Court Committee on Self-Represented Litigation.

## APPENDIX

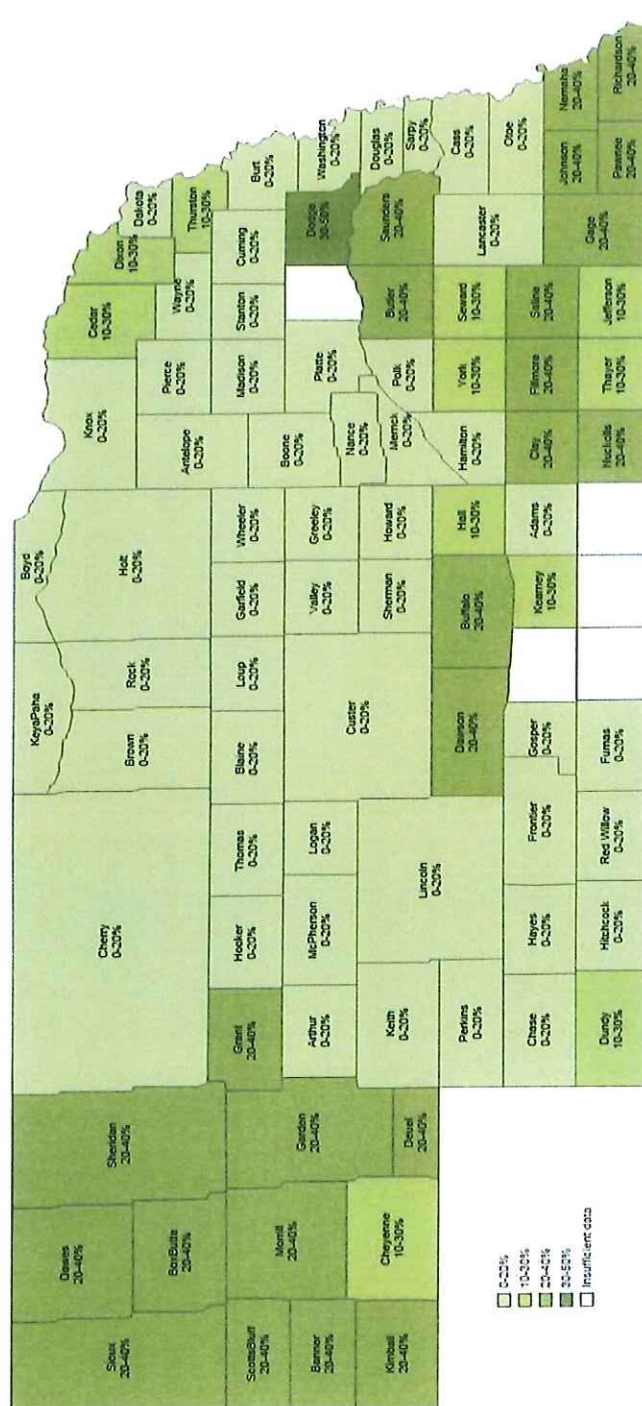


Figure 23 Percent of cases for which neither party has an attorney in the district courts

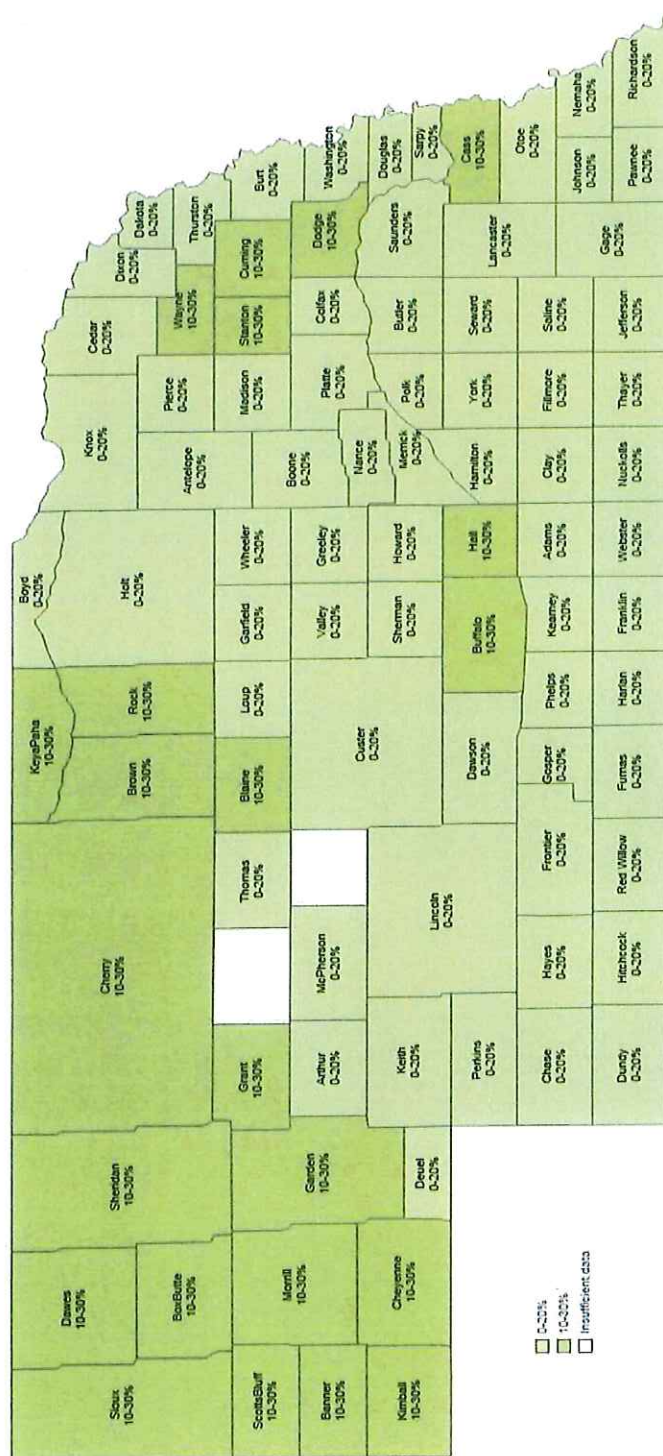


Figure 24 Percent of cases for which neither party has an attorney in the county courts



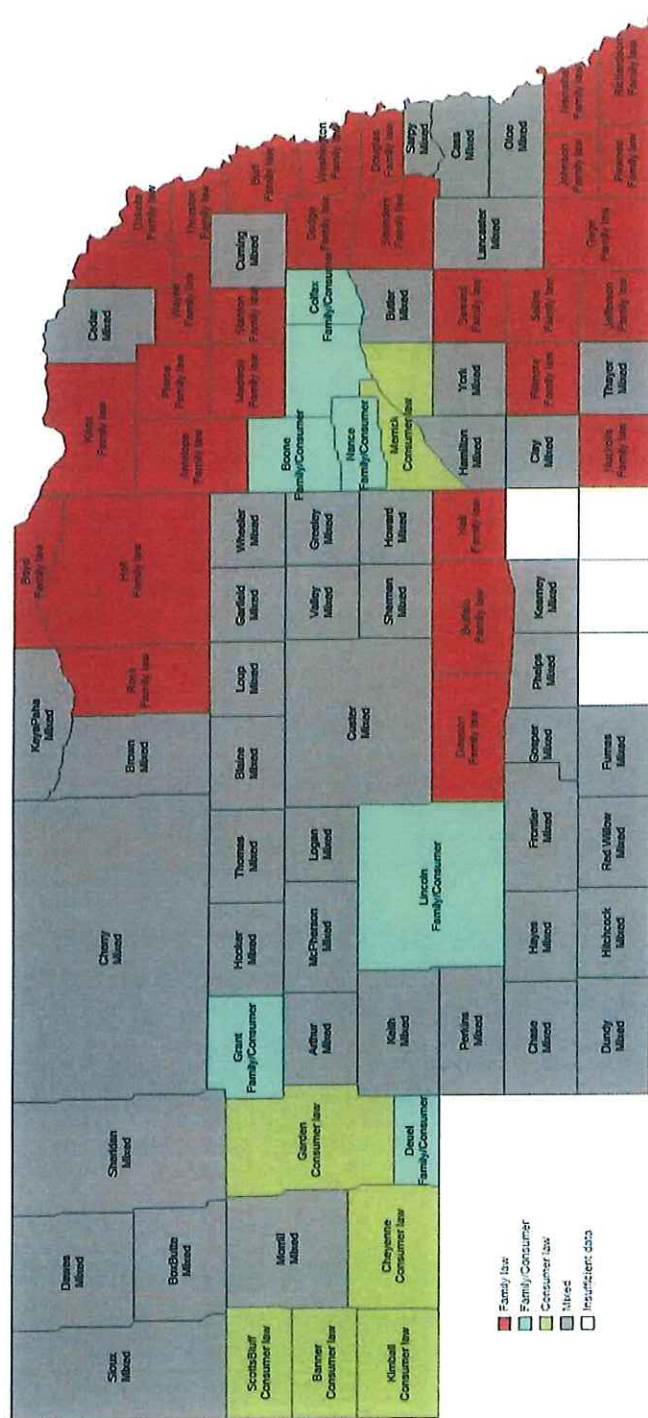


Figure 26 Most successful Area of law

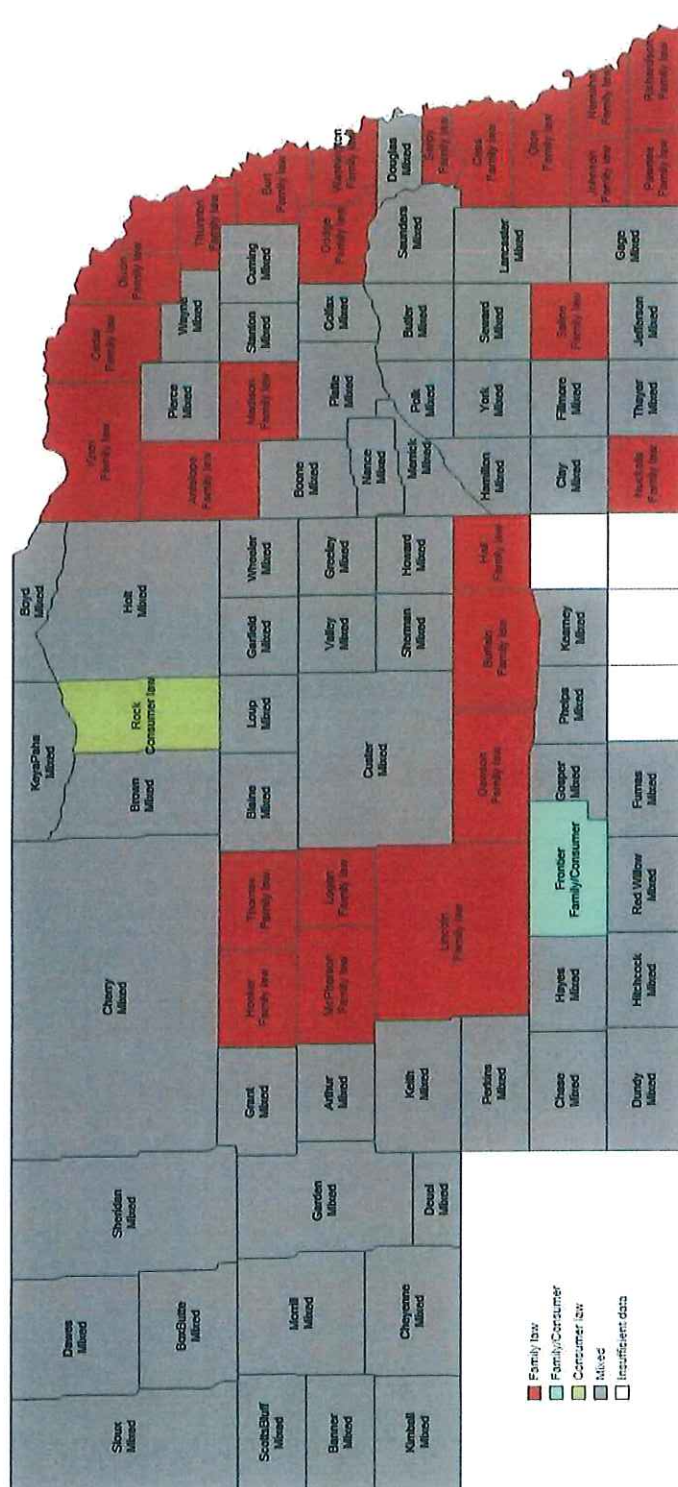


Figure 27 Least successful Area of law





# **Self-Represented Litigation Strategic Planning Supplemental Materials**

**Nebraska Supreme Court Committee**

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