



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
- Group D:** Legal advice to understand the legal intricacies of the case and the best strategy to pursue; legal assistance for discrete tasks
- Group E:** Personal assistance for persons with disabilities or language access needs
- Group F:** Proactive court case management to ensure that cases move through the court process
- 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 – 12th 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, 4th District Court)
- ❖ **Stefanie Pearlman** (Professor of Law Library and Reference Librarian , UNL College of Law)
- ❖ **Marian Petersen** (Bailiff Lancaster County District Court – 3rd 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
 - o Calls →
 - o Emails →
 - o Live chat →

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

- 4 Training
 - Mandatory 1/8
 - Sensitivity

Supreme Court
JBE

- 5 Limited Scope

NSBA/List
Local Bar
List
Training

- 6 Retired Bar and Gov. Employees

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 – 8th 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 – 5th Judicial District)
- ❖ **Annette Farnan** (Deputy Director, Legal Aid of Nebraska)
- ❖ **Judge Timothy Hoeft** (County Court Judge – 10th 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

Haves

- 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 – 9th 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 -

legal service providers

needs representation

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?