

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_and_Services/Self-Represented_Litigation_Committee/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