

COURT ANNEXED PRO SE ASSISTANCE IN DIVORCE CASES:

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THE SEMINOLE COUNTY EXPERIENCE

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FOREWORD

This discussion of pro se assistance efforts in Seminole County would not have been possible without the assistance of many persons. I will try to thank a few of them here. Sue Ropp, pro se coordinator for her observations on the needs of the family litigants. The judges of Seminole County for their recognition of the needs of unrepresented litigants. The directors and staff of the family court programs throughout Florida for their valuable suggestions. To my wife Dara and my daughter Elaine. Their love, encouragement and support is appreciated more than they will ever know. Finally, to the litigants themselves, with the hope that this discussion of the Seminole County's pro se assistance program will suggest better ways to provide assistance.

One final word. The thoughts and opinions expressed in this paper unless specifically indicated otherwise are the author's and do not necessarily represent the views of the judges of the 18th Judicial Circuit.

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I. INTRODUCTION

The purpose of this paper is to describe the program the Seminole County Courts developed to address the “pro se problem” as it relates to divorce cases. The reader will first learn of the problems the program was designed to address and the court’s programmatic response. Next, the impact of the program in addressing the problems will be assessed. Finally, the key issue of what the court should be doing to address the problem in the future will be considered.

This assessment was undertaken principally to provide some insight as to whether the program was effectively addressing the needs of the local court. It is hoped that this discussion will provide some guidance to courts considering developing a pro se assistance program.

This discussion has been developed after an extensive review of the literature and discussions with many persons involved in delivering service to pro se litigants throughout Florida including family court judges. Although, litigants were observed as they went through the process from walk-in to final hearing, it is safe to say that customer satisfaction is not fully measured by such an ad hoc approach. A survey of the litigants themselves to ascertain whether they felt satisfied with the process and services provide by the court would be an excellent project. Due to time limitations, litigants were not surveyed to determine whether they felt their needs were met. Use of the Court2Court, an internet bulletin board sponsored by the National Center for State Courts, and contact

with the National Center for State Courts and other sources did not identify a survey instrument specifically designed for this purpose. However, several surveys which addressed similar issues were obtained and are being reviewed to develop such a survey over the next few months. A survey sample is found in Appendix A.

Florida has been one of the leaders nationwide in the establishment of family courts. During the tenure of former Florida Supreme Court Chief Justice Rosemary Barkett, the court issued *In Re: Report of the Commission on Family Courts*, 588 So.2d 586 and *In Re: Report of the Commission on Family Courts*, 633 So.2d 14. (See Appendix B). In the first opinion, the court articulated the goal of establishing a family division in each judicial circuit to ensure that all family cases affecting a family are coordinated preferably through one judge. The court advised the Florida Legislature of staffing needs to ensure that case management, mediation and other services are available for the courts. The opinion also directed each circuit to develop and submit a plan to accomplish these objectives. In the second opinion, issued just before the 1994 legislative session, the court further articulated a structure to ensure that family divisions continue to develop and established the Supreme Court Family Courts Steering Committee to provide this assistance. During the 1994 legislative session, the court requested and received funding from the Legislature in the form of a \$25 surcharge on the marriage license fee to help provide resources to spur the development of family court programs.

Each of the twenty circuit courts was allocated funding to be used at its discretion to address its priority family court needs. The judges of Seminole County determined that the most pressing need was to provide assistance to the pro se divorce litigant. Many of the pro se assistance programs throughout the state of Florida were initiated with this funding including the Seminole County Pro Se Program.

Seminole County is one of two counties within the 18th Judicial Circuit of Florida. Seminole County is a large rapidly urbanizing county located just northeast of Orlando. According to the U.S. Census Bureau, Seminole County is the fastest growing large county (counties with over 250,000 persons) in Florida. In 1980, there were 179,752 persons within Seminole County. In 1996, 333,173 persons called Seminole County home, an 85.4% increase. Case filings especially family case filings have also grown markedly. In the last 10 years, family filings have increased by 98%. With this population increase, the number of pro se litigants appearing before the court also increased.

The program began in February, 1995 with the goals to:

1. Keep the judges from practicing law during the hearings.
2. Ensure that cases are disposed expeditiously without additional hearings being required to allow litigants time to cure defects in pleadings.

II. METHODOLOGY

It is important to note that the author is a court administrator and not a professional researcher. Because Seminole County is a fast growing county, resources including management staff to completely manage, develop and improve programs can lag behind the need. Therefore, this project was selected so that additional time beyond the normal workday could be focused on the issue of pro se assistance with an initial look at assessing the day to day operations and how they could be improved immediately and in the future.

This discussion is of an actual ongoing program. As a participant in the assessment process, the researcher may have influenced the process. Surveys of persons already known to the surveyor may digress into informal conversations. Likewise, working with staff to collect data is an educational process for staff and since staff are very dedicated, changes to improve the process often occur before a detailed measurement of the problem was complete. This can complicate data gathering. Many of the suggestions contained in this report were implemented. Some were implemented to identify information about the litigants and others are in the process of being implemented as this is being read.

Given these limitations, this program assessment was conducted with the implicit recognition that the needs of the pro se litigant are important and that pro se assistance will continue to be in one form or another an integral part of the family division. The

experience of the pro se litigant may be one of the few and perhaps the only time that the person comes before the court. Given that this is an important service several questions are suggested as a starting point to determine the effectiveness of the program.

1. Is the program accomplishing its goals of assisting the judges in expeditiously conducting final hearings and disposing cases?
2. How much service is the program providing and how is it providing this service?
3. Are there trends or issues which will affect the ability of the program to address the requests of the pro se litigant?
4. Are there other approaches or program changes which the court should consider immediately and in the future?

III. THE PRO SE PROBLEM

A key reason to initiate this research was the impression that the number of pro se family cases was increasing. The literature was reviewed to determine what the scope of the problem might be. Although hard statistics are difficult to find, the number of pro se litigants appears to be increasing nationally and in Seminole County. One of the first studies to attempt to measure rates of pro se litigation was Divorce Courts: Case Management Characteristics and the Pace of Litigation in 16 Urban Jurisdictions (Goerdts,

John, 1994) showed figures ranging from less than 1% to as high as 48% where both parties are unrepresented with an average of 18%. Some reports in Florida suggests that 50 to 80% of family cases involve pro se litigants. (Office of State Courts Administrator: Circuit Profiles). A closer look at the statistics does reveal the scope of the problem and suggests that pro se participation is increasing.

The pro se cases of most concern to the court are divorce cases. There are several reasons for this concern. The first reason is that the number of these cases seems to be increasing. The second reason is that these cases can be complex. The third reason is that the pro se phenomenon is recent and within the past five to ten years. Therefore there is not a significant body of knowledge and experience in how to address this problem.

In 1995, there were 1,739 petitions for divorce filed in Seminole County. Until October 1996, accurate statistics on the number of pro se divorce petitions filed with the court were not maintained. Since, an automated system was not available to fully capture extensive details and historical information, a manual counting system was developed to identify the number of cases where both parties were unrepresented.

In the first four months of statistics maintenance, a total of 478 divorces were filed. Of these, 135 or 29% of the cases were filed pro se. There are many other cases where the respondent was unrepresented. Perhaps, in 50% or more of the cases at least one party is pro se.

Figure I: Pro Se Divorces Filed in Seminole County
10/96 through 1/97

Month	# Divorce Filings	# Pro Se Cases	% Pro Se
October	131	25	19
November	120	33	27
December	110	34	31
January	117	43	37
Total	478	135	29%

The pro se figures reflect the first data collection since the program began. This data, although collected for only four months suggests that the numbers coming before the court may be increasing.

IV. THE PRO SE ASSISTANCE PROGRAM

The current system has been in place for approximately two years without any essential changes. Typically, litigants contact the court for assistance after they have petitioned the court for divorce of marriage. When they arrive at the Clerk's office and have filed the petition pro se they are advised to contact the pro se coordinator in about a week to allow time for the coordinator to review the file for completeness. The Clerk's office does not

advise the parties whether the pleadings are correct. They are required to accept all papers that are submitted.

The pro se coordinator is the gatekeeper for the system and alone determines whether a person receives a final hearing. When the person calls in or in some instances walk-ins, they are advised whether the pleadings are complete and what additional information may be required to make the case file adequate to bring forward to a final hearing. When the forms are complete the hearing is scheduled by the pro se coordinator. It is reported that virtually all persons who file pro se reach disposition within 45 days. This fast processing time is thought to be typical of other program's experience.

There is currently no secretarial or receptionist support for this position. On an occasional basis, a social service referral may be made where the need is demonstrated. Phone calls by pro se litigants are not handled in the individual judicial suites. These also are referred to the pro se coordinator. The program does not advertise its existence or encourage persons to proceed pro se. The program could be described as providing principally an audit function which is consistent with the initial program goals.

V. PRO SE ASSISTANCE PROGRAMS IN FLORIDA

In Florida, approaches to address the issue of pro se litigants are varied. Of the 20 circuits in Florida, at least 18 have devoted court staff to the provision of services to assist pro se.

This assistance is principally in the area of family cases. Review of an Office of the State Courts Administrator Circuit Profiles (1995) manual followed up by phone calls to several pro se assistance programs around the state suggests that the local circuits are using staff and resource materials to meet the needs of the pro se litigants. Staff are used primarily to sell forms or to direct litigants to forms, perform file audits to verify that all of the required forms are filed and are complete. Some programs sponsor or assist pro bono attorneys with pro se clinics. A few have staff attorney or paralegals who assist litigants directly in completing forms.

Information handouts include brochures about their programs or legal aid, various pleading forms. Some programs have recorded telephone messages on various family topics. Others are using the internet to provide forms and other information, including the ability to file on-line.

There are two basic philosophies which guide the choice of service approaches used by courts throughout the state in assisting pro se litigants. These approaches vary based on the geographical service area of the program, available financial resources and local custom of each circuit. These two basic philosophies have been described by several Family Court directors as “hands on vs hands off” (Family Court Director’s Meeting). The “hands off“ philosophy is demonstrated in courts which provide minimal service such as only providing access to the simplified forms as adopted by the Supreme Court. In these courts, form packets are available with instructions. These forms may be available from the court or at an adjacent law library. This philosophy is only found

within a few jurisdictions and probably reflects the judicial culture of that individual court in regards to the pro se litigant.

The “hands on” philosophy is demonstrated in courts which are more service rich. In these courts, pro se litigants are advised and encouraged to pursue their case pro se. In many instances, litigants may receive an orientation from the court and receive actual assistance from court staff in completing the forms. These staff may be attorneys or paralegals. Often these programs review pleadings to ensure completeness and schedule the final hearing with the judge or general master, although one court has actually developed a procedure where no “final hearing” is required to finalize uncontested divorces (20th Circuit). This seemed to be the dominant philosophical model.

Programs characterized as hands on tend to be found in larger urban areas. No example of any court smaller than Seminole could be found which could be categorized as “hands on”. Program directors and others involved in the process described their role is “....To make sure the pleadings are right to keep our judges happy” and “..To address an onslaught of persons who are not about to go away ... because people cannot afford attorneys.”

Of the several programs directly contacted, most pointed out that they considered their support as procedural as opposed to substantive and felt that this may be the dividing line between practicing law. All of the programs that provided direct assistance in completing forms have the participants execute a form indicating they understand that they are not

receiving legal advice and where attorneys are involved that they have not engaged the individual in an attorney-client relationship. These include the few programs that directly offered clinics on various family law issues.

Over the past several years, Congress reduced funding to legal aid organizations and thus impacted the level of family services they can provide. In response to diminishing funding, these organizations have reduced service or confined service to the most critical needs. Some have developed pro se divorce clinics to meet this need to address the needs of persons. Many of these legal aid clinics were formed pre Family Courts Initiative (1994) and the development of court sponsored pro se programs. This method was discussed extensively in Florida Pro Se Divorce Clinics: Representation for the Poor (Stremler and Shehan) . A couple key conclusions of that study suggest that only about 70% of persons who participate in a clinic finish the process and ultimately get divorced. Further, it was considered to be fairly expensive to deliver service in this manner.

It is very useful to note that larger programs tended to use clinics. The mechanics of these clinics varied. While several courts have legal aid societies which provide this assistance, the larger programs offer classes in some cases weekly on the topic of divorce, contempt and modifications. Often these were conducted by pro bono attorneys although in some cases they were done by staff.

VI. JUDICIAL PERCEPTION OF PROGRAM

Judges were asked several questions to determine whether the programs was meeting their expectations and to open discussion to determine their knowledge of the pro se program and encourage them to share whatever observations they cared to about the challenges of working with pro se litigants and what should we be doing. They were advised that they could speak freely as their responses would be reported collectively and not individually.

1. What were the goals of the program and are they being met?
2. What would you estimate is the percent of persons proceeding pro se?

Then the judges were asked a fairly leading question- Since we operate basically a file audit system how do we ensure that significant issues relating to emergency and temporary matter are addressed?

One of the judges was not on the bench when the program began and could not speak to how the program developed. He did point out that people seemed to come into court prepared and with the appropriate documents and only on rare occasions did the ..”forms require more work” The other explained that there has been a huge improvement. “5 minute hearings no longer gets extended to 35 minutes without resolution” “No longer need to reschedule one or more times to dispose of case”.

Both judges seem satisfied and were not aware that the program provided no written documentation to litigants when they file about the program so that the litigant’s

expectations could be managed. Both agreed that further paperwork should be devised available at filing which advises litigants of the program.

In Florida, paralegals usually work under the direction of a practicing attorney and are often found as family court staff members. In some instances, paralegals setup shop and sell and prepare forms for unrepresented litigants. Both judges volunteered some concerns about paralegals as did the family directors and virtually everyone I spoke with on the pro se issue. The judges feel that the paralegals make many mistakes and often use inappropriate forms and charge people too much. The judges also feel that the paralegals sometimes blame the judges and tell their clients that the judges are expressly against them and want them to use lawyers. One judge offered to a litigant that”.. we are not against you proceeding without a lawyer, rather we are against approving incomplete work. If a plumber came to your house and did not connect the pipes to the shower would you pay for it and consider it complete? We cannot therefore bless the incomplete work of the paralegal.”

Both judges were asked to address the issue that since we only address when the files are complete and accurate how can we address whether their rights are protected or whether emergency remedies to which they are entitled are addressed. They both expressed the concern that this was difficult to address and a shortcoming of proceeding pro se.

At that point, the pro se coordinator who attended one of the meetings pointed out that there appears to some confusion and perhaps the impression that the court staff's job is to

“help them get divorced.” Rather, the goal is to be certain that the forms are legally sufficient to accomplish the divorce, not necessarily optimize the legal interests of the parties. She also pointed out that the number of pro se contested cases appears to also be increasing. So that not only is the total number of pro se case increasing, so is the complexity of the cases.

The judges differed somewhat on their perception of the percent of persons who filed pro se in divorce cases. One judge estimated 20%, the other 45%. The actual number is in the middle and apparently increasing.

A new judge who had been on the bench only two months was also interviewed to determine the judge’s thoughts about the pro se program. This judge shared a different perspective and was not asked the questions that the other two were asked. Rather the judge was asked if she saw problems. She said that the program was certainly helpful, but the program may have missed the point. She has begun looking at how the Bar could establish a low income panel to provide reduced cost legal representation to persons so that would not need to proceed pro se. She expressed doubts that this approach could be of assistance with more complicated contested cases. It was also possible that the attorneys who would be willing to serve for a reduced fee may not be as experienced as some other attorneys.

VII. ANALYSIS AND DISCUSSION

This assessment has identified thus far several issues which merit further discussion to identify how they might be addressed. These include:

1. Increasing caseload of pro se divorce cases
2. Temporary motions and more complex cases
3. Availability of affordable legal services

Increasing caseloads of pro se cases seems to be an issue to many programs partly because the number of pro se litigants is increasing; and in part because more pro se litigants are finding the court sponsored program either by word of mouth or by judicial direction. To plan for the future, the appropriate level of staffing of a pro se program is an issue. As programs differed on the types of services they provided, programs differed on the number of pro se cases they handled per staff person. In one urban program, which has several staff person including a director and a receptionist, three pro se coordinators are able to audit and review 4,500 pro se cases per year. Another smaller program where there is less staff was able to handle about 250 cases per year. As this second program is providing service across several counties it is difficult to determine what their program capacity might be in the future. In another large program, the program was able to process 750 persons per coordinator.

The program that was able to handle 1,500 cases did offer some advice. They felt that it was best to find ways to minimize the personal contact with the litigants. This was

accomplished by having a receptionist and by indicating filing problems by mail in writing.

As an initial step in Seminole County, litigants interested in filing a modification are now being referred directly to the library for the appropriate form and one judge has directed the pro se coordinator to send case file deficiencies in writing as opposed to having them come into the office to remedy file problems. Also, each litigant who comes into the office is given a form checklist as a reminder of those forms required in the file to make it complete.

It is not clear what is the maximum number of cases a coordinator can handle with the file audit system used in Seminole County. Programs that handle more than the approximately 500 cases handled by the Seminole program tended to use brochures, had support staff to answer the phone and tended to discourage personal contact.

Conversations with the pro se coordinator confirm that program capacity has not yet been reached. However, without some changes, it is expected that we are approaching the maximum. There is no accepted caseload per coordinator standard. It can be said that in the Seminole program, that 60 cases per month (the figure for March, 1997) was not seen by the coordinator as the program maximum.

The program can maximize the number served by using program brochures and by further simplifying the existing forms. Many programs used brochures and written materials to assist persons and to explain the role of the court. Some used the internet to explain the

program and provide assistance regarding frequently asked questions. It was found for example in the Sedro Wooley Municipal Court when this was done that there was a significant reduction (65%) in the questions asked of staff. The court is in the process of receiving documentation from several programs to develop appropriate brochures (See Appendix D).

Simplified (court approved) forms have been available for use in Florida for several years. Some courts have elected to simplify them even further with their own form versions. Litigants use either the simplified forms or received assistance from paralegal in completing their forms. The percentage of persons who receive forms from paralegals and the percent who use simplified forms is not known. Forms provided by paralegals are a problem. Often these forms are completed incorrectly or the forms are incorrect and are not consistent with the simplified forms.

The number of cases with temporary motions is increasing as is overall case complexity. As the pro se coordinator is not an attorney, there is some hesitance to suggest to litigants how to specifically address temporary child support and primary custody or become more "hands on". A part of this reluctance to address the temporary issues is that pro se cases tend to move through the system quickly making these temporary motions less necessary. Evenso, the contested cases are becoming an issue and involve more pleadings and possibly more mistakes. Strategies to address this issue must be developed.

The availability of affordable legal services in the community is a cause of the pro se problem. It is clear that provision of service through the court to pro se litigants cannot and should not be seen as a substitute for assistance from a licensed attorney trained to act as an advocate or representative of a client's interest. In the American Bar Association seminal study (Responding to the Needs of the Self-Represented Divorce Litigant, 1994), the Standing Committee on the Delivery of Legal Services found that lack of funds was the chief reason litigants elect to go pro se. This conclusion has been backed up by the court's experience and confirmed also by a recent report from Maryland (Gilfrich, Natalie, Granat, Richard and Millemann, Michael. (1996, June 14) Report on the University of Maryland School of Law Family Law Assisted Pro Se Project in Anne Arundel and Montgomery Counties and Recommendations. In their clinic based program affiliated with a law school, 57% of participants cited funds as their chief reason for proceeding pro se.

In 1993, the Florida Supreme Court adopted a rule entitled RULE 4-6.1 PRO BONO PUBLIC SERVICE(Rules Regulating the Florida Bar) which required all members of the Florida Bar to annually state whether they had provided a minimum of 20 hours of legal services to the poor or had contributed \$350 to a legal aid organization in lieu of service.(Appendix E)

The court encouraged attorneys to provide this service in the civil area where there was likely to be gaps in legal service to the poor. Although, "The professional responsibility to provide pro bono services as established under this rule is aspirational rather than

mandatory in nature”... a large percentage of the local bar does participate in the program. In the 1994-1995 report to the Bar (Annual Report 1994-1995), 70% of local attorneys did participate in the program through service or contribution. Contact with the program suggest that the level of funding and attorney participation has not increased since the report was published. This is not surprising since Seminole County is one of the smallest counties in physical size. Many of the attorneys who practice in Seminole County reside in Orange Country and may have the bulk of their practice in Orange County. Their contribution of time and or money would be directed through the Orange County Bar Association.

The Legal Aid Society of the Seminole County Bar Association is able to address approximately 650 cases a year, with 67% being family cases. (Annual Report 1994-1995) They prioritize family cases as their top priority, so that around 400 cases are represented by one of two staff counsel or pro bono attorney from the community. It is probably reasonable to suggest that this program with its limited resources addressing as many of the cases as possible. Also, funding cuts have caused Legal Aid to prioritize assistance and there are income limitations.

In this same report, the committee suggested in the future that a pro se clinic be established to assist litigants with forms preparation in family cases. This recommendation is also found as one of the suggestions made by the Florida Supreme Court to local circuit pro bono committees as to what opportunities each circuit court should develop in a plan to enhance legal opportunities to the poor (RULE 4-6.5

VOLUNTARY PRO BONO PLAN). It may be that such an effort would increase legal aid to the community. It may also be that with some input from the court that more complex pro se cases could be identified and addressed through such an effort.

Two other approaches bear further consideration, the first is a low cost panel where attorney would voluntarily agree to take case in rotation at a reduced fee. This may help ensure that the rights of individuals and families are protected. An interesting twist would be if this resource could be used to address the more complicated pro se cases.

Perhaps a system could be put in place where the court either through the pro se coordinator or the judge (or master) at case management conference could refer the case to an attorney on the panel if there were eligible to clean up the case so that the court could rule on it. This approach would appeal to those who suggest that hand holding by staff would be too “hands on” and close to practicing law. It could also address the “bad ones”

A couple of promising programs should also be considered as possibilities for Seminole County to more fully address the problem. Both involve clinics run by law schools. Two examples exist in Dade County, Florida and in Maryland. The Dade County program has just begun operation. Litigants purchase form packets for \$35 from the program. This fee helps underwrite the program and provide faculty to assist in training law students and entitles the petitioner to two visits with the program. One to assist the litigants complete the form. The second to complete the forms, review them and to set a final hearing. Any additional visits require the payment of a \$10 fee. This program can address uncontested

and more complicated contested cases which can be A couple of promising program should also be considered a possibilities challenging for the pro se litigants. It is expected that the fees will make the program self supporting and assist 9,000 litigants each year. (Family Self-Help Project, Chief Judge Joseph Farina, 11th Circuit of Florida).

In Maryland, a similar program was established through the University of Maryland School of Law (Gilfrich, Natalie, Granat, Richard and Millemann, Michael. Report on the University of Maryland School of Law Family Law Assisted Pro Se Project in Anne Arundel and Montgomery Counties and Recommendations). This program is extremely ambitious and not only does it seek to provide service to the poor and moderate income litigants, but also seeks to screen litigants through a diagnostic interview and to refer them to the most appropriate resource for resolving their problem. The program also places students in a courthouse environment. The level of service provided depends on client income and problem complexity as identified through a case triage interview process. Clients who meet the income eligibility guidelines for the local legal services provider would receive assistance with forms and advice. Those with moderate income were only provided legal information and referrals to pro bono providers and private attorneys. Among the many interesting recommendations they made in their report was that the Bar consider developing the concept of task based or limited representation to address specific case issues or problems and not full representation as a way to minimize cost. In this study the authors point out that although 57% of the surveyed litigants cited their financial situation as the main factor in deciding to proceed pro se, only 38% of the litigants received actual legal advice because they were income eligible for legal aid.

This suggests that there is a great deal of unmet need even among the so called moderate income. They also suggest that such a triage process should be used to help direct pro se assistance to the more complex cases which especially require attorney involvement. Less complicated cases should be directed to self help resources such as simplified forms. Their success suggests that such a model perhaps combined with the revenue source feature of the Dade program might help develop a range of legal service options to meet the needs of low and moderate income family litigants.

VIII. THE FUTURE OF PRO SE ASSISTANCE IN FLORIDA

Florida as with many states has an unauthorized practice of law statute that makes it unlawful for nonlawyers to practice law. This standard was most clearly articulated in Florida Bar v Furman, 376 So2d 378. In that case the court found that it was not permissible for Ms. Furman, a legal secretary to fill out forms for persons seeking divorce. Partly as a result of this decision, the Florida Supreme Court developed simplified forms and instructions that litigants could use to file petitions with the court. These simplified forms were produced at the request “, that such forms be promulgated in order to provide greater access to the courts.” (581 So2d 902) Rules Regulating the Florida Bar-Approval of Form, Rule10-1.1(b) 1990.

Also, in The Florida Bar Amendment to Rules Regulating the Florida Bar (Chapter 10), the Supreme Court liberalized the Unauthorized Practice of Law Provision in Rules Governing the Florida Bar. Definition of UPL- “The unlicensed practice of law as

prohibited by statute, court rule and case law of the state of Florida. For purposes of this chapter it shall not constitute the unauthorized practice of law for nonlawyers to engage in limited oral communications to assist individuals in the completion of legal forms approved by the Supreme Court of Florida Oral communications by nonlawyers are restricted to those communications reasonably necessary to elicit factual information to complete the form(s) and inform the individual how to complete such forms.”(510 So2d 596) 1990.

This trend toward liberalization has continued in Florida. In Re: Family Rules of Procedure proposed by the Florida Bar 663 So2d 1047 1995, the Supreme Court commenting on comments received from the public on the Bar’s proposed rules noted that “Many of the comments received indicated that the proposed rules appeared to be fashioned for complex divorce cases. Fears were expressed that the complicated nature of the of the rules and the mandatory disclosure requirement would discourage pro bono representation in this area and adversely affect the ever increasing number of pro se litigants in family cases. After reviewing the proposed rules, we agree. Consequently we have redrafted the proposed rules to eliminate as much complexity as possible.” They also made the simplified form an instructions part of this package (1995).

The court after allowing period of time to review the new rules, published an opinion making some changes to the original rules after receiving further comment from the Bar and others. In this opinion, it is important to note that in regards to the forms instead of relying chiefly on the Family Rules Committee to address the rules, they noted

“Regarding future modifications to the family law rules, we issue the following directives. The Family Law Rules Committee shall have continuing responsibility for review of the family law rules, including all forms and appendices. We also ask the Family Courts Steering Committee to review these rules, forms, and appendices and to make recommendations to this Court, with particular emphasis on revisions to further simplify the family law process for the many pro se litigants in family law cases.” 663 So2d 1049.

The Family Court Steering Committee has placed a large emphasis on the issue on access to the courts. In September 1996, a workgroup of the Steering Committee was formed entitled Workgroup on Access to the Courts. Supreme Court . This group was formed to address the direction of the court’s opinion. An unpublished Supreme Court memo suggests that the group is also expected to ..”address Chief Justice Kogans’ goal of meaningful enhancements to access to the courts” They were specifically charged to:

1. Explore and define the nature of the problem(s) raised by the influx of pro se litigants.
2. Explore the role of pro se counsel and staff and identify what it is and what it should be
3. Make systemic recommendations for addressing the problems identified
4. Make specific recommendations for changes to the rules and forms

5. Make recommendations for the most appropriate incorporation of self help centers and internet technology into the family court process to ease the problems identified.

Most of the initiatives regarding pro se assistance developed independently in each of the circuit based on the plans submitted to the Supreme Court. These plans were in many instances broad blueprints with operational programming to be tailored to fit local conditions and needs. As a result, specific programs to address the needs of the pro se litigants developed. The individual programs themselves were not developed with specified direction of the Florida Supreme Court. A concern is that some or many programs might be perceived as providing too much service and that they could be directed to provide more conservative assistance suggested by the hands off approach. This concern may prove to be groundless. Those who would argue for more access to the unrepresented may be encouraged by the following statement from the approved rules.. “Nothing shall prohibit intake personnel in Family Law Division from assisting pro se personnel in preparing forms to be filed in any action under these rules” This language might suggest that the court approves of the hands-on approach or at least does not disapprove.

Further, conversations with individual members of this committee suggest that the trend towards greater litigant assistance will continue and that the current initiatives already in place from the standard approach of form audit to a more “hands on” approach such as

assisting litigants complete forms and providing classes and instructions regarding contact.

IX. SUMMARY AND RECOMMENDATIONS

The investigation of the pro se efforts in Seminole County accomplished several things:

1. Developed a measurement system to determine the number of pro se litigants coming before the court to obtain divorces.
2. Determined that the level of satisfaction with the program by judges was high and initial expectations were met.
3. Determined that judges assumed that the public was receiving written materials from the court that would at least advise them on how to contact the program and the role of the program.
4. Determined that there were many programs operating throughout Florida successfully and that commitment from the Supreme Court was high.

The investigation suggested that other things should be done:

1. Program capacity should be enhanced over time to address the growing need and complexity of the cases. Initially, brochures should be developed to explain the role of the program and to let litigants know when they will hear from the program and what the court expects of them.

2. Brochure topics initially should be identified from those used successfully in other courts. After these brochures have been tailored to the local program, informal surveys should be done, perhaps on the brochure themselves to determine if the information is helpful.

3. The use of clinics sponsored by the Bar or in conjunction with Legal Aid with pro bono attorneys should be explored further. There may be a role for the Bar to fill in providing affordable access to the courts which would complement the court's efforts. It is interesting to note that the majority of persons who file pro se report to the pro se coordinator that have already contacted private attorneys but were unable to secure their services at a price they could afford.

4. Two courts in Florida are using the internet to provide information to litigants and one provides the ability to file. These options should be explored as the court develops a capacity to file. This would be a long-term goal. It has been estimated in many newspapers that 20% of the adult population has some form of internet access. It is not clear however that those persons who access the net are the same persons who would proceed pro se later on.

The pro se assistance program was developed and implemented fairly painlessly in Seminole County. The chief program component is file review and audit of pro se case filings. As one judge put it, "This program is the right program for Seminole County at

this time.” This suggests an implicit recognition that the program will by necessity have to change as the courts and society changes.

There are some possible explanations for the relatively painless integration of the pro se assistance program. The first may simply have been judicial frustration with persons who are pro se. The second, perhaps is the existence of simplified form pleadings with easy to understand instructions. The third may have been the willingness of the Florida Supreme Court to address this nagging issue of people’s access to their courts.

Whatever the reason for the success of this and other similar programs, there is ample reason to believe that similar efforts could be successful in other courts.

BIBLIOGRAPHY

American Bar Association-Standing Committee on the Delivery of Legal Services. (1994) Responding to the Needs of the Self-Represented Divorce Litigant. Chicago, Illinois.

Discussion at Family Court Director's Meeting held in January 17, 1997 in Clearwater, Florida.

Gilfrich, Natalie, Granat, Richard and Millemann, Michael. (1996, June 14) Report on the University of Maryland School of Law Family Law Assisted Pro Se Project in Anne Arundel and Montgomery Counties and Recommendations. Family Law Assisted Pro Se Project, Clinical Law Program of the University of Maryland School of Law.

Goerdts, John A. (1992) Divorce Courts: Case Characteristics, and the Pace of Litigation in 16 Urban Jurisdictions (National Center for State Courts No. R-141). Williamsburg, Va. .

HardHat Zone: Family Courts Under Construction. Handouts from Family Courts Symposium Sponsored by the Florida Office of the State Courts Administrator (April 29, 1996 to May 1, 1996), Orlando, Fl.

National Center for State Courts. Examining the Work of State Courts, 1994 A National Perspective from the Court Statistics Project. Williamsburg, Va.: Kauder, Neal B. & Ostrom, Brian J..

National Center for State Courts. (1995, September). Rhode Island Family Court Assessment - Final Report. Williamsburg, Va. Court Services Division, 1331 17th Street, Suite 402, Denver, Co. 80202

Office of the State Courts Administrator (Florida). Circuit Profiles- 1995 Family Court Initiatives. Compiled Responses from Each Judicial Circuit's Annual Report on their Family Court Programs.

Office of the State Courts Administrator (Florida). (Pro Se Study Group Workshop:Workshop Highlights. A Symposium Held in Jacksonville, Fl. February 22-24, 1996.

Phone Interview with Dee Denton of the Sedro-Wooley Washington Municipal Court held on February 4, 1997.

U.S. Department of Health and Human Services. (1991) Developing Effective Procedures for Pro Se Modification of Child Support Awards. Office of Child Support Enforcement, Washington, D.C.. Landstreet, Eleanor & Takas, Marianne.

Stremmer, Alexandra Bongard & Shehan, Constance. (1994, February) Florida Pro Se Divorce Clinics: Representation for the Poor. Center for Governmental Responsibility: University of Florida, College of Law.

Seminole County Bar Association Legal Aid Society, Inc.. Annual Report 1994-1995.

APPENDIX A

Attached is a survey used as part of an evaluation of the University of Maryland Law School Assisted Pro Se Project, 1996. This survey was administered telephonically to assess the satisfaction of litigants who worked with the student clinic. This survey and others will be collected and adapted for use in gauging the satisfaction of litigants with the current pro se program and to assess changes in the future.

INTERVIEW FORM

TYPE OF ASSISTANCE

_____ LEGAL INFORMATION ONLY

_____ LEGAL ADVICE

TYPE OF CLIENT

_____ PETITIONER

_____ RESPONDENT

1. Client Name _____

2. Client Case Number _____

3. Interviewed By _____

4. Date _____

5. County

_____ Anne Arundel

_____ Montgomery

6. Gender

_____ Male

_____ Female

7. What is your age?

_____ Years

8. What is the highest level of schooling you have completed?

_____ None

_____ Grade 1-8

_____ Grade 9-11

_____ Completed high school

_____ 1-3 years of college or vocational school

_____ Completed college or vocational school

_____ Some graduate school

_____ Completed graduate school

9. What is your ethnic background?

- White
- African-american
- Hispanic
- Asian
- Other

10. What kind of work do you do?

- Unemployed
- Housewife
- Unskilled labor
- Clerical/office work
- Skilled labor
- Student
- Teacher
- Middle management
- Sales
- Upper management
- Professional

11. Approximately what is the annual income of your family?

- 0 - \$9,999
- \$10,000 - \$19,999
- \$20,000 - \$29,999

_____ \$30,000 - \$39,999

_____ \$40,000 - \$49,999

_____ over \$50,000

12. How long were you and your spouse married?

_____ Less than 1 year

_____ Years

13. Have you ever had a case in domestic court prior to this case?

_____ No

_____ Yes

14. If yes, did you hire an attorney or represent yourself in this other case?

_____ Hired an attorney

_____ Represented self?

NOW, I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT THE CASE YOU JUST HAD IN DOMESTIC COURT WHERE YOU RECEIVED SOME ASSISTANCE.

15. On a scale of 1 to 10, where 1 is not very complicated at all and 10 is extremely complicated, how difficult do you think your case was?

_____ Number

16. What were your reasons for representing yourself in this case (the case just completed)?

_____ Could not afford an attorney

_____ Did not want to spend the money on an attorney

_____ Thought the case was simple enough

_____ Was familiar with the law

_____ Had a bad experience with a previous lawyer

17. Did you begin this case representing yourself?

_____ No

_____ Yes

18. Did you talk to any attorneys before deciding to represent yourself?

_____ No

_____ Yes

19. If yes, how many attorneys did you talk to?

_____ Attorneys

20. Type of Case

_____ Complaint for Child Support

_____ Petition for Contempt for Failure to Pay Child Support

_____ Petition for Contempt for Denial of Visitation

_____ Complaint for Custody

_____ Complaint for Visitation

_____ Petition/Motion to Modify Child Support

_____ Petition /Motion to Modify Custody/Visitation

_____ Complaint for Absolute Divorce

_____ Complaint for Limited Divorce

_____ Complaint for Annulment

_____ Other (Describe)

21. Did you find the domestic relations forms clearly explained?

_____ No

_____ Yes

22. If NO, what form did you find confusing?

23. If NO, what about the form did you find confusing (check all that apply)?

_____ Understanding instructions

_____ Understanding the questions asked

_____ Gathering information to complete the forms

_____ Knowing which forms to use

_____ Knowing the correct number of copies to file

_____ Knowing how to file motions and other documents

_____ Knowing when to file motions and other documents

_____ Knowing how to serve papers

_____ Other problems

24. Did you continue to represent yourself in your legal proceeding, or did you have to consult a lawyer?

_____ Continued to represent self

_____ Sought legal help

25. If you sought a lawyer, did you get advice or did the lawyer handle the case for you?

_____ Just sought legal advice

_____ Lawyer handled the case

26. Did you seek help from other sources, such as friends, family members, or self-help manuals?

_____ No

_____ Yes

27. If yes, which did you seek help from (check all that apply)

Friends

_____ No

_____ Yes

Family

_____ No

_____ Yes

Self-help manual

_____ No

_____ Yes

28. If legal assistance was sought, was this because you did not find the legal forms helpful?

_____ No

_____ Yes

29. If YES, what do you think could be done to help improve the form? (Interviewers: Probe here - would a video help, other written instructions, a completed form as an example?)

30. How do you think the process could be improved to allow other persons to represent themselves?

31. On a scale of 1 to 10 where 1 is very dissatisfied and 10 is very satisfied, how satisfied were you with the help given you by the law students?

32. On a scale of 1 to 10, where 1 is very dissatisfied and 10 is very satisfied, how satisfied were you with the master/judge in your case?

33. On a scale of 1 to 10 where 1 is very dissatisfied and 10 is very satisfied, how satisfied were you with the help given you by the clerk in court?

34. Do you think you were given the opportunity to state your side of things?

_____ No

_____ Yes

35. Do you think the court appeared to be neutral in hearing your case?

_____ No

_____ Yes

NOW I WOULD LIKE TO ASK YOU SOME QUESTIONS ABOUT THE LAW STUDENTS WHO HELPED YOU.

36. Did they give you the opportunity to state your case?

_____ No

_____ Yes

37. Do you think they treated your opinions as important?

_____ No

_____ Yes

38. Do you think the students were willing to be helpful?

_____ No

_____ Yes

39. Do you think they had sufficient knowledge to help you?

_____ No

_____ Yes

40. Do you think they had sufficient time to help you?

_____ No

_____ Yes

NOW I WOULD LIKE TO ASK, YOU SOME QUESTIONS ABOUT THE COURT CLERK

41 Did they give you the opportunity to state your case?

_____ No

_____ Yes

42. Do you think they treated your opinions as important?

_____ No

_____ Yes

43. Do you think they explained things to you that you did not understand?

_____ No

_____ Yes

44. Do you think they were willing to be helpful?

_____ No

_____ Yes

45. Do you think they had sufficient knowledge to help you?

_____ No

_____ Yes

46. Do you think they had sufficient time to help you?

Yes

APPENDIX B

Attached are the two chief family court opinions 588 So.2d. 586 and 633 So.2d. 14.

Citation/Title
588 So.2d 586, Report of Com'n on Family Courts, In re, (Fla. 1991)

*586 588 So.2d 586

IN RE REPORT OF the COMMISSION ON FAMILY COURTS.

No. 77623.

588 So.2d 586, 16 Fla. L. Week. S609

Supreme Court of Florida.

Sept. 12, 1991.

Rehearing Denied Nov. 19, 1991.

Accepting recommendations of Commission on Family Courts, the Supreme Court, Overton, J., held that each judicial circuit in Florida was to develop local rule establishing family division in its circuit where they did not presently exist or means to coordinate family law matters that affected one family if circuit or part thereof was of such a limited size that it was unable to administratively justify such a division, and those local rules were to be filed with Supreme Court on or before January 6, 1992.

So ordered.

McDonald, J., concurred in part and dissented in part and filed opinion in which Kogan, J., joined.

1. COURTS
106 ---- 50
106II Establishment, Organization, and Procedure
106II(A) Creation and Constitution
106k50 Divisions and parts of courts.

Fla. 1991.

While inclusion of juvenile dependency and delinquency proceedings was not mandated, in developing local rule establishing family division each judicial circuit in Florida was to consider inclusion of those jurisdictions for administrative purposes in accordance with recommendations of Commission on Family Courts.

2. COURTS
106 ---- 50
106II Establishment, Organization, and Procedure
106II(A) Creation and Constitution
106k50 Divisions and parts of courts.

Fla. 1991.

Geography, population, and available facilities were to be considered in tailoring family division being created by local rule to needs of particular judicial circuit.

3. COURTS
106 ---- 70
106II Establishment, Organization, and Procedure
106II(E) Places and Times of Holding Court
106k70 Designation or assignment of judges.

Fla. 1991.

Need existed for rotation among judges assigned to family division for each circuit.

4. COURTS
106 ---- 50

- 106II Establishment, Organization, and Procedure
- 106II(A) Creation and Constitution
- 106k50 Divisions and parts of courts.

[See headnote text below]

- 4. COURTS ↔78
- 106 ----
- 106II Establishment, Organization, and Procedure
- 106II(F) Rules of Court and Conduct of Business
- 106k78 Power to regulate procedure.

Fla. 1991.

Each judicial circuit in Florida was to develop local rule establishing family division in circuits where they presently did not exist, or means to coordinate family law matters affecting one family if circuit or part thereof was of such a limited size that it was unable to administratively justify division, and local rules were to be filed with Supreme Court of Florida on or before January 6, 1992.

- 5. COURTS ↔50
- 106 ----
- 106II Establishment, Organization, and Procedure
- 106II(A) Creation and Constitution
- 106k50 Divisions and parts of courts.

Fla. 1991.

In formulating its local rule establishing family division, each judicial circuit in Florida was to develop its plan in accordance with presently available local resources and was also to develop appropriate plan for its jurisdiction as if family division were properly funded by state.

James R. Stewart, Jr., Circuit Judge, Fifteenth Judicial Circuit, West Palm Beach, *587 Ira Abrams, Chairman, Family Law Section of the Florida Bar, Miami, and Marjorie Head, Plantation, on behalf of the Broward County Coalition for Judicial Awareness, for petitioners.

Dale Ross, Chief Judge, Seventeenth Judicial Circuit, Fort Lauderdale, Lori Parrish, Chairman, Broward County Comm'rs, Fort Lauderdale, and Paul A. Louis of Sinclair, Louis, Siegel, Heath, Nussbaum & Zaverntnik, Miami, in Opposition.

OVERTON, Justice.

This cause is before the Court on the Report of the Commission on Family Courts (Commission). The Commission was established by the legislature in chapter 90-273, Laws of Florida. That legislation directed the Commission to: (1) develop specific guidelines for the implementation of a family law division within each judicial circuit; (2) provide recommendations for statutory, rule and organizational changes; and (3) recommend necessary support services.

The following recommendations were made by the Commission:

A. Establishment of Family Divisions

We recommend that the Supreme Court require each judicial circuit to submit to the court for approval a local rule establishing a family division in its circuit or a means to coordinate family law matters that affect one family if the circuit or part of the circuit is of such limited size that it is unable to administratively justify such a division. The local rule should be submitted by September 1, 1991 to the Supreme Court for approval and implemented in the judicial circuit by January 1, 1992. We find no need for legislative action. The authority to establish such a division is presently within the judicial branch.

1. The jurisdiction of the family division should include dissolution of marriage, simplified dissolution of marriage, child custody and support, URESA, domestic violence, name changes, adoptions, paternity suits, [and] modification proceedings; and each circuit should consider inclusion of juvenile dependency and delinquency matters at least for administrative purposes. Each circuit should develop a procedure that will provide a means to assign all current family law matters, including matters involving juvenile dependency and delinquency proceedings that [affect] one family, to one judge.

2. Judge assignment and rotation. Judges should be assigned to the family division by the chief judge, who should give special consideration to the aptitude, demonstrated interest, and experience of each judge, for a term of not less than two years with the opportunity to request rotation after three years. To the extent possible, rotation of judges should be staggered within the family division.

Commentary: In developing a rule providing for a family division, each circuit should consider the geographic location of various court facilities within the circuit and accessibility of the public to the location of judges serving in the division as well as proper judicial administrative practices. In considering an appropriate rule, it is not intended that rural and semi-rural counties establish a family division to serve the entire circuit. We recognize that the geographic configuration of the circuits, together with the multiple types of existing court facilities, must be taken into consideration. It is contemplated that each circuit should be treated individually in considering the appropriateness of a family division plan. We acknowledge that the type of plan that could work well in a metropolitan circuit consisting of one county would not be appropriate for circuits having three to eight counties of various populations. We further acknowledge that there are geographic areas in the state where one or two judges handle the entire jurisdiction of the circuit court. All of these factors must be taken into account to assure that the public is best and conveniently served. The commission believes that it is important to allow each circuit the flexibility *588 to design a family division based on its unique geographic and administrative conditions, taking into account the existing facilities.

Circuits should include in their plan procedures for coordinating the delivery of services when persons from one family are involved in family law matters before two or more judges. It is particularly important that there be administrative coordination between dissolution and dependency proceedings involving the same child or children and that the family division be administratively connected for this purpose to the juvenile jurisdiction of the circuit court. There must be coordination of the court's consideration of matters affecting one family. We have found no justification to have situations such as have been presented to the commission which indicate that families were required to appear before one judge in a dissolution proceeding that included determination of custody of the children and at the same time to have a hearing before another judge concerning the juvenile dependency of one of the children including the determination of the custody of that child. To properly effect this coordination, it appears one administrative judge should be designated in metropolitan circuits to be responsible for this entire jurisdiction.

With regard to the assignment and rotation of judges, the commission found that this assignment is considered by most members of the judiciary as the most stressful and difficult of all the jurisdictions in the circuit court. Because a strict rule of law is impossible to apply in these marital and family law matters, the law gives to the judge broad discretionary powers to try to resolve the issues in an equitable and just manner. Because of these broad discretionary powers, judges recognize that they are making decisions where, as one said, "I am playing God." More than in any other proceeding, the parties in these types of cases are emotional and have strong feelings of animosity, which make it difficult for the parties to think rationally in presenting the matter for resolution to the judge. Judges, by the nature of their responsibility, are trained to be problem-solvers. However, in many of these instances, the problems given to the judge to solve border on the impossible. For example, it is not unusual for judges to hear dissolution cases that are brought about by the financial problems of the parties. The judge is left with the problem of how to provide for two family entities to live on funds that one family unit could not live on. Given the emotions, the animosity, and the individual concern of judges for the children of these parties, the problems are stressful for the judge and are not easily left in the courtroom. For most there is a need for a sabbatical

from this assignment and, consequently, we suggest that there be rotation every three years. Further, we were advised that where there is sufficient family law work for only one judge, it would be beneficial for the administrative operation that two judges be assigned one-half time to division matters rather than one judge full time. Although there is a need for rotation, it is also important that the judges assigned to this division have a commitment to this important judicial responsibility and a willingness to participate in education and training programs as well as the ability to work with the other assigned judges as a coordinated team. In addition, it is necessary that the local bar association remain involved in the implementation and ongoing operation of the family division for its success.

B. Resources

We find that it is essential that the family divisions receive proper resources to fulfill their responsibilities, including: court connected mediation; domestic violence assistance programs; guardians ad litem to represent dependent children and children in contested custody cases; home assessment services; sufficient staff to operate *589 enforcement of support services; and case coordination/receptionist staff.

Commentary: A fully staffed mediation program is essential in these types of proceedings. It has now been clearly established that mediation can resolve a high percentage of these disputes if they are brought before a competent mediator at an early stage of the proceeding. The fact that the mediation service is court-connected is important because it presents the mediator to the parties as a person who will be fair and impartial because of being an arm of the court.

Child assessment services and enforcement of support services must be available for all types of cases within the family division. There is no justification for child assessment services that are available only in juvenile dependency matters and not available when the same type of decision is being made in a dissolution-custody proceeding. Nor is there any justification for there to be a substantial difference in the handling of enforcement of support matters for Title IV cases as distinguished from non-Title IV cases. The underlying basis for the action--that the child is not receiving support--is the same and the service should be the same.

C. Pilot Circuits

We recommend that three circuits of diverse needs be designated as pilot circuits by the Supreme Court for family divisions. It is contemplated that these circuits would be totally funded by the legislature in the 1992 legislature for all necessary resources and that each of the family court divisions would be closely monitored by the supreme court and audited by a performance audit conducted by the auditor general's office after two years of operation.

Commentary: The intent of this pilot program is to develop a model family division plan that effectively provides service to the public in this most difficult area of the law.

D. Education and Training

The commission recommends that all judges assigned to the family division receive training and education in family law courses before being assigned to that division or as soon as possible after such assignment. Further, all family division judges should participate in family mediation training within the first year of their assignment to this division.

Commentary: It is hoped that the assignment of a judge to this division will be made soon enough in advance to assure that the judge will have an opportunity to attend a basic family law educational program. The Florida Court Education Council presently has such a curriculum in place. We also suggest that the Florida Court Education Council develop specialty courses available on a regular basis for judges in the family divisions. These courses could include subjects such as family mediation training, uniform child custody act, child sexual abuse matters, psychological testing, and taxation as it affects family law cases.

E. Conclusions

The Commission has concluded that the public will be better served in most instances by the establishment of a family division. This Commission has received information from one metropolitan circuit that, when all family law cases were assigned as part of a general civil division, it took an average of eighteen months to complete a dissolution proceeding. After the establishment of a family division, the time to complete a dissolution proceeding has been reduced to six months. As important is the need to assign all family court matters of one family to one judge. Further, it is clear that the resources necessary for proper family law resolution can be more effectively and efficiently provided where there is a family division. It is only logical that it is easier for personnel responsible for mediation, child assessment *590 services, or enforcement of support services to provide those services to the judges in a family division rather than to all the judges in a general civil division. In making these recommendations, we have fully considered the following reports:

Report of the Family Court Subcommittee, Florida Judicial Council, June 1990

A Family Court for Children, Governor's Constituency for Children, September 1989

The Florida Bar Commission for Children 1990 Legislative Recommendations, The Florida Bar Commission for Children, January 1990

Families in Court, National Council of Juvenile and Family Court Judges, May 1989

Report on HRS Nonlawyer Counselors, Supreme Court Committee, February 1989

Report to Executive Council of Family Law Section of the Florida Bar, Bench/Bar Committee of the Florida Bar, June 1987

Report of the Study Commission on Child Welfare, March 1991, directed by the Florida Legislature

The legislature has the authority to require a study of the need for a family division pursuant to article III, section 7, of the Florida Constitution. This Court has jurisdiction to establish a family division in accordance with the provisions of article V, section 20(c)(10), of the Florida Constitution, (now section 43.30, Florida Statutes (1989)); article V, section 2, of the Florida Constitution; and the policy decision made by the legislature in chapter 90-273, Laws of Florida, directing the development of

specific guidelines for the implementation of a family law division within each judicial circuit. Such family law divisions shall operate with as much consistency as possible throughout the state.

Ch. 90-273, Sec. 10(3), Laws of Fla.

The Commission was created in part because of reports of various entities which had recommended a family division or a family court in this state, including: (a) the Governor's Constituency for Children; (b) Florida Task Force on Marriage and the Family Unit, Florida State University Governmental Law Center and Institute for Social Research; (c) the Task Force on the Future of the Florida Family; (d) the Supreme Court Committee on the Department of Health and Rehabilitative Services Nonlawyer Counselors; (e) committees of The Florida Bar and the National Council of Juvenile and Family Court Judges; (f) the Metropolitan Court Judges Committee; and (g) the Study Commission on Child Welfare.

The Commission received testimony from those involved with the operation and administration of family divisions in circuits that presently have successful family divisions, as well as from individuals who were familiar with the unsuccessful family division in the Eleventh Judicial Circuit. The Commission also considered testimony from representatives of other groups that had examined and recommended the establishment of a family

division, including the Florida Judicial Council Subcommittee on Family Courts, The Florida Bar's Family Law Committee, and the Governor's Constituency for Children. Although these groups recommended the establishment of a family division, they differed on the extent of the jurisdiction of such a division. All of them agree that dissolution, custody, visitation relief, property, URESA, name change, paternity, adoption, and domestic violence should be within the family division. However, The Florida Bar Commission for Children, and the Governor's Constituency for Children would also include juvenile delinquency and dependency jurisdiction. The Governor's Constituency for Children would extend the jurisdiction even further to include probate, guardianship, and trust proceedings.

[1] In its recommendations, the Commission took a middle ground approach and recommended that, while it would not mandate the inclusion of juvenile dependency and delinquency proceedings, each circuit should consider the inclusion of those jurisdictions for administrative purposes. The Commission emphasized the need to have all current family matters assigned to one judge.

***591** [2] We approve the recommendations of the Commission on Family Courts, and we accept the Commission's recommendation concerning the jurisdiction of a family division. We emphasize our support for the recommendation that there be a means to assign all family court matters that affect one family, including dissolution of marriage, custody, juvenile dependency and delinquency proceedings, to one judge. In approving these recommendations, we note the need for each circuit to design a family division to best serve its particular area. Geography, population, and available facilities are all factors that must be considered in tailoring a family division to the needs of a particular circuit.

[3] We agree that the assignment of a judge to family law cases is one of the most difficult and stressful of all the responsibilities of a circuit judge. Consequently, we acknowledge that there is a need for rotation among judges assigned to the family division. For such a division to work, judges must be committed to carrying out this judicial responsibility and willing to participate in education and training programs in this area of the law.

Family law is a developing and expanding area of court jurisdiction. As noted in the Commission's report, approximately fifty percent of the civil court jurisdiction in our circuit courts, without the inclusion of juvenile delinquency and dependency cases, is comprised of family law matters. New techniques are regularly being implemented to try to make this jurisdiction of our courts work more effectively. Further, we recognize that delays in family law matters aggravate the parties' problems. Clearly, an early resolution is best for all concerned. We believe that implementing the Commission's recommendations will benefit the public by expediting the resolution of family law matters.

We reject the arguments that family divisions will not accomplish the desired results and may impede fair and unbiased handling of family matters. We also reject the claim that so-called specialists in the field of family law will have an unfair advantage in a family division. Presently, five out of the twenty circuits in this state have family divisions, and no evidence was presented to the Commission that those circuits have these alleged problems.

[4] We hold that each judicial circuit should develop a local rule establishing a family division in its circuit or a means to coordinate family law matters that affect one family if the circuit or part of the circuit is of such a limited size that it is unable to administratively justify such a division, and direct that such a local rule be filed with this Court on or before January 6, 1992. (FN1)

In accepting these recommendations, we emphasize to the legislature that these family divisions cannot operate effectively without appropriate state support. The creation of a family division will not be a panacea for all family law problems. To leave it to each local government to fund the necessary services for a family division is a prescription for inequality in the family services available to the citizens of this state and possible failure of the family law divisions. In order for a family division to operate effectively, it needs: (1) court-connected mediation services; (2) home assessment services for custody cases; (3) sufficient staff to coordinate the family division operation; and (4) sufficient staff to operate enforcement of support services. These are services that

this Court cannot mandate a local government to provide. In some circuits, these services are being provided because of the local government's desire to provide better service for its citizens.

[5] Recognizing that funds are not now available, we request each circuit, in formulating its local rule, to develop its plan in accordance with presently available local resources. Each circuit should also develop an appropriate plan for its jurisdiction *592. as if the family division were properly funded by the state.

In conclusion, we believe that the creation of family divisions will provide a better means for resolution of family issues in this state, and we ask the judiciary and the legal profession to cooperate in implementing these divisions where they presently do not exist.

It is so ordered.

SHAW, C.J., and BARKETT, GRIMES and HARDING, JJ., concur.

McDONALD, J., concurs in part and dissents in part with an opinion, in which KOGAN, J., concurs.

McDONALD, Justice, concurring in part and dissenting in part.

Because the report and opinion mandated a family division in all populous circuits, I dissent in part. (FN2) If each circuit had the option of either establishing a family division or, in the alternative, submitting a workable plan for the handling of family matters, I would concur. I believe it better to leave the decision to each circuit as to whether a separate family division would be required. Should it be shown that alternative methods of handling family matters are inefficient, inequitable, more costly, or have greater problems than those utilizing a family division, I would review the plan and experiences of that circuit to then determine whether a separate family division is mandated.

I fail to see any reason or justification for placing juvenile delinquency with family courts. Juvenile dependency is a closer question.

KOGAN, J., concurs.

FN1. As the Commission emphasized in its commentary, the needs of a particular circuit are extremely important in developing such a rule.

FN2. I hasten to add that I join all in seeking a fair, efficient, timely, and cost-effective method of resolving all problems arising from family relationships.

Citation/Title

633 So.2d 14, Report of Com'n on Family Courts, In re, (Fla. 1994)

*14 633 So.2d 14

19 Fla. L. Weekly S125

In re REPORT OF the COMMISSION ON FAMILY COURTS.

No. 77623.

Supreme Court of Florida.

March 10, 1994.

Matter was before Supreme Court to further refine and implement plan for creation of family court divisions of circuit courts. The Supreme Court, Barkett, C.J., held that to fulfill goals of creating family law division, each circuit had to be staffed to screen, evaluate, and manage cases through justice system to satisfactory conclusion and administrative judge had to be appointed in each circuit to be directly responsible for administratively managing family division.

Ordered accordingly.

1. COURTS
106 ---- ↪50

106II Establishment, Organization, and Procedure

106II(A) Creation and Constitution

106k50 Divisions and parts of courts.

Fla. 1994.

Local circumstances such as geography, number of judges, location and capacity of court facilities, and limitations of court staff and other resources were required to be considered in developing family court divisions of circuit courts.

2. COURTS
106 ---- ↪78

106II Establishment, Organization, and Procedure

106II(F) Rules of Court and Conduct of Business

106k78 Power to regulate procedure.

Fla. 1994.

Goal of creating fully integrated, comprehensive approach to handling all cases involving children and families had to be addressed by combination of local rules, local administrative orders, internal organizational structure, operating procedures, automation, and staffing.

3. COURTS
106 ---- ↪50

106II Establishment, Organization, and Procedure

106II(A) Creation and Constitution

106k50 Divisions and parts of courts.

Fla. 1994.

Intent in establishing family divisions for each judicial circuit in Florida was to establish comprehensive approach coordinating all judicial efforts in cases affecting same family, regardless of sometimes necessary geographical separation of courthouse facilities or manner in which dockets for different types of cases were structured and managed.

4. COURTS
↪50

106 ----

106II Establishment, Organization, and Procedure

106II(A) Creation and Constitution

106k50 Divisions and parts of courts.

Fla. 1994.

Family's interaction with courts in all circuits had to be administratively coordinated and monitored in one unified family division, whether that interaction involved dissolutions of marriage, cases under Uniform Child Custody Jurisdiction Act (UCCJA) and Uniform Reciprocal Enforcement of Support Act (URES), adoption and paternity, domestic and repeat violence, juvenile delinquency and dependency, termination of parental rights, or cases of children or families in need of supervision. West's F.S.A. Secs. 61.1308, 88.031.

5. COURTS

106 ---- ↪85(1)

106II Establishment, Organization, and Procedure

106II(F) Rules of Court and Conduct of Business

106k85 Operation and Effect of Rules

106k85(1) In general.

Fla. 1994.

Under family court divisions which were created by local rule, in all instances, all judges handling some aspect of family's litigation and not others had to be made aware of all pending matters in courts that involved all family members.

6. COURTS

106 ---- ↪85(3)

106II Establishment, Organization, and Procedure

106II(F) Rules of Court and Conduct of Business

106k85 Operation and Effect of Rules

106k85(3) Construction and application of particular rules.

Fla. 1994.

Under family court divisions which were created by local rule, family courts were required to coordinate and maximize court resources, such as guardians ad litem, mediation, law clerks, computer systems, for benefit of children and families in litigation and establish necessary linkages with community-based resources, including substance abuse treatment counseling, specialized training and parenting courses, and social services.

7. COURTS

106 ---- ↪55

106II Establishment, Organization, and Procedure

106II(B) Court Officers

106k55 Ministerial officers in general.

Fla. 1994.

Under family court divisions which were created by local rule, each family court had to be staffed to screen, evaluate, and manage cases through justice system to satisfactory conclusion, and case management staff had to be available to help and direct families at point of initial contact with judicial system to appropriate judge, and to appropriate judicial or community-based services.

8. JUDGES

227 ---- ↪3

227I Appointment, Qualification, and Tenure

227k3 Appointment or election.

Fla. 1994.

Under family court divisions which were created by local rule, in each circuit there had to be specific person who was directly responsible for overseeing, coordinating, and guiding development of each court's comprehensive response to children and families in litigation, no matter what type of case had been filed and,

thus, administrative judge had to be appointed in each circuit to be directly responsible for administratively managing family division.

9. JUDGES
227 ---- ↪24

227III Rights, Powers, Duties, and Liabilities

227k24 Judicial powers and functions in general.

Fla. 1994.

Administrative judge of newly created family court division was responsible to chief judge in same manner as administrative judge of civil or criminal division of court.

10. JUDGES
227 ---- ↪24

227III Rights, Powers, Duties, and Liabilities

227k24 Judicial powers and functions in general.

Fla. 1994.

Administrative judge of newly created family court division was responsible for coordinating circuit's development of overall plan for implementation of family court concept, developing proposed policy, operating procedures, and administrative orders for implementation of circuit's plan, monitoring and reporting progress toward implementation, coordinating development of resources and assessing possible integration of cases regarding involuntary commitments for drug and alcohol dependency or mental health, and, as appropriate guardianships, developing and facilitating communications with court-related entities, and developing means of orienting judges newly assigned.

11. COURTS
106 ---- ↪55

106II Establishment, Organization, and Procedure

106II(B) Court Officers

106k55 Ministerial officers in general.

Fla. 1994.

To reduce administrative burden of developing and pursuing plans to create family court divisions, circuit courts were required to assign administrative staff to assist family court services coordinating judges in fulfilling their responsibilities.

12. JUDGES
227 ---- ↪24

227III Rights, Powers, Duties, and Liabilities

227k24 Judicial powers and functions in general.

Fla. 1994.

Supreme Court provisionally approved plans to give family court administrative judges opportunity to review and revise plans for creation of family divisions in accordance with opinion, in context of local requirements.

13. COURTS
106 ---- ↪85(1)

106II Establishment, Organization, and Procedure

106II(F) Rules of Court and Conduct of Business

106k85 Operation and Effect of Rules

106k85(1) In general.

Fla. 1994.

Circuit courts were required to fully implement local rules and administrative orders regarding creation of family court divisions and were required to take such steps as *14 had been articulated in their local plans and required by Supreme Court, within available resources, in furtherance of goals outlined for Florida's family court initiative.

14. COURTS
106 ---- ↗82

106II Establishment, Organization, and Procedure

106II(F) Rules of Court and Conduct of Business

106k82 Modification, amendment, suspension, or disregard of rules.

Fla. 1994.

Any deviations from or amendments to local rules or administrative orders regarding creation of family division had to be submitted to Supreme Court for approval.

15. JUDGES
227 ---- ↗24

227III Rights, Powers, Duties, and Liabilities

227k24 Judicial powers and functions in general.

Fla. 1994.

Each circuit court was required to submit to chief justice annually report on progress toward full implementation of family court initiative and first report was due on December 1, 1994, along with any proposed revisions to local rules and administrative orders provisionally approved by Supreme Court.

*16 Martin L. Haines, III, Lake Park, Burton Young, Miami Beach, and Nancy Palmer, Maitland, on behalf of The Family Law Section of The Florida Bar, for petitioner.

BARKETT, Chief Justice.

This matter is before the Court to further refine and implement the family court divisions of the circuit courts initially established by our opinion, In re Report of the Commission on Family Courts, 588 So.2d 586 (Fla.1991). In that opinion we considered the recommendations of the 1991 Report of the Commission on Family Courts. (FN1) We held that "each judicial circuit should develop a local rule establishing a family division in its circuit or a means to coordinate family law matters that affect one family if the circuit or part of the circuit is of such a limited size that it is unable to administratively justify such a division." 588 So.2d at 591.

Several judicial circuits sought an extension of time to prepare their local rules and to make such plans as were necessary to effectively implement the unified family court concept. The Court granted an extension of time. A local rule or administrative order was submitted to this Court by each judicial circuit by mid-1992.

Those local rules and administrative orders suggested that the Court needed to further clarify its intent and expectations regarding the family court concept. Accordingly, the Chief Justice convened a Family Court Workshop in April of 1993, which was attended by a delegation from each judicial circuit. The circuit teams included the chief judge, judges handling dissolution of marriage cases and attendant matters, judges handling juvenile dependency and delinquency, trial court administrators, and selected court support staff. This Court withheld final action on the local rules and administrative orders pending completion of the workshop and submission *17 of implementation plans and budget requests by the twenty judicial circuits. This Court also provided additional direction to the chief judges at meetings in October and December of 1993.

[1][2][3] The local rules and administrative orders, individual circuit plans and budget requests, and discussions with chief judges made clear that local circumstances such as geography, the number of judges, the location and capacity of court facilities, and limitations of court staff and other resources, must be considered in developing each circuit's response to children and families involved in litigation. The goal of creating a fully integrated, comprehensive approach to handling all cases involving children and families, thus, must be addressed by a combination of local rules, local administrative orders, internal organizational structure, operating procedures, automation, and staffing. The intent is to establish a comprehensive approach coordinating all judicial efforts in cases affecting the same family, regardless of the sometimes necessary geographical separation of courthouse facilities or the manner in which dockets for different types of cases are structured and managed.

[4][5] To better accomplish this goal, a family's interaction with the courts in all circuits shall be administratively coordinated and monitored in one unified family division, whether that interaction involves dissolutions of marriage (and attendant determinations of custody, visitation, child support, alimony, and modifications thereof), cases under the Uniform Child Custody Jurisdiction Act and the Uniform Reciprocal Enforcement of Support Act, adoption and paternity, domestic and repeat violence, juvenile delinquency and dependency, termination of parental rights, or cases of children or families in need of supervision. The manner of administering this family division will, of course, differ between circuits where all matters involving one family are handled by one judge and circuits where several judges in different subdivisions of the family court may handle different aspects of a family's litigation. (FN2)

[6] The trial courts must likewise coordinate and maximize court resources, such as guardians ad litem, mediation, law clerks, and computer systems, for the benefit of children and families in litigation and establish necessary linkages with community-based resources, including substance abuse treatment counseling, specialized training and parenting courses, and social services.

[7] There are two essential elements that must be put in place in each circuit if the foregoing goals are to be fulfilled. First, each circuit must be staffed to screen, evaluate, and manage the above described cases through the justice system to a satisfactory conclusion. A case management staff must be available to help and direct families at the point of initial contact with the judicial system to the appropriate judge, and/or to the appropriate judicial or community-based services.

[8][9][10] Second, in each circuit there must be a specific person who will be directly responsible for overseeing, coordinating, and guiding the development of each court's comprehensive response to children and families in litigation, no matter what type of case has been filed. Thus, an administrative judge must be appointed in each circuit to be directly responsible for administratively managing the family division. This administrative judge of the family division will, of course, be responsible to the chief judge in the same manner as the administrative judge of the civil or criminal division of the court. However, the administrative judge of the family division will also be responsible for:

1. Coordinating the circuit's development of the overall plan for implementation of the family court concept;
2. Developing proposed policy, operating procedures, and administrative orders for implementation of the circuit's plan;
- *18 3. Monitoring and reporting progress toward implementation;
4. Coordinating the development of resources that may be required by various courts dealing with family matters, and assessing the possible integration of cases regarding involuntary commitments for drug and alcohol dependency or mental health, and, as appropriate, guardianships; (FN3)
5. Developing and facilitating communications with court-related entities on policy with respect to family cases, e.g., state attorneys, public defenders, Health and Rehabilitative Services, community social services entities, clerks of court, etc.; and
6. Developing a means of orienting judges newly assigned to matters affecting children and families to the family court concept for integrating the court's response to cases involving the same family, including directing them to appropriate initial and continuing judicial education offerings and reference materials.

[11] We recognize that developing a comprehensive, effective response for families in litigation in each circuit will take some time. To reduce the administrative burden of developing and pursuing plans to implement this policy, the courts need to assign administrative staff to assist the family court services coordinating judges in fulfilling their responsibilities.

We also recognize that few trial courts have been provided sufficient staff (FN4) and other resources to screen, monitor, and assist the courts to manage these cases, even though such resources are essential to identify the multiple needs of children and families in the court system and ensure that the court response is timely, appropriate, efficient, and effective. The fact is that children and families in the courts cannot adequately be served within the existing resources.

For the foregoing reasons, this Court is supporting a legislative initiative by which an initial core of qualified staff can be provided to each of the twenty judicial circuits. We are hopeful that the 1994 Legislature will pass the necessary legislation and make appropriations to support this family court initiative.

[12][13][14][15] While we expect each court to continue efforts to develop a more holistic response to children and families in litigation, it may be some time before all necessary resources for effective family court operations are in place. Accordingly, we hereby provisionally approve the local rules and administrative orders submitted by the respective circuits pursuant to In re Report of the Commission on Family Courts. We are provisionally approving the plans to give the family court administrative judges, who shall be appointed in each circuit by the chief judge within thirty days of the date this opinion is filed, the opportunity to once again review and revise the plans in accordance with this opinion, in the context of local requirements. We direct the trial courts to fully implement such local rules and administrative orders and take such steps as have been articulated in their local plans and required herein, within available resources, in furtherance of the goals we have outlined for Florida's family court initiative. Any deviations from or amendments to local rules or administrative orders provisionally approved must be submitted to this Court for approval. We also direct that each circuit submit to the Chief Justice an annual report on progress toward total implementation of the family court initiative. The first report shall be due on December 1, 1994, along with any proposed revisions to the local rules and administrative orders provisionally approved today.

Finally, this Court directs that a Family Court Steering Committee, appointed by the Chief Justice, shall be established to provide support and assistance to the Supreme Court, as well as the individual circuits, on the development and full implementation of the family court concept in Florida. Responsibilities *19. of the Family Court Steering Committee shall include:

1. Advising the Court with respect to the response of the various judicial circuits to families in litigation;
2. Identifying obstacles and problems encountered by the trial courts that prevent an effective coordinated response to such cases, and proposing solutions to address such problems;
3. Developing a consensus recommendation on the characteristics of a model family court including organization, policy, procedures, staffing, resources, and linkages to the community;
4. Developing and disseminating guidelines for implementing the model;
5. Serving as a clearinghouse for information on programmatic innovations developed in different circuits;
6. Recommending, for consideration by the Chief Justice and/or the Supreme Court, changes in administrative policy, rules, statutes, or training programs, that would advance the goals outlined herein;
7. Recommending strategies for improving communications between the courts and the Bar, State Attorneys, Public Defenders, state and local human service providers, and other entities with whom the courts must relate on family cases;
8. Making recommendations on how courts can best respond to increased numbers of pro se litigants appearing in family matters; and
9. Making specific recommendations on funding requirements, priorities, and options.

Staff for the committee shall be provided by the Office of the State Courts Administrator.

As we said in In re Report of the Commission on Family Courts, "the creation of a family division will not be a panacea for all family law problems." 588 So.2d at 591. However, "[t]o leave it to each local government to fund the necessary services for a family division is a prescription for inequality in the family services available to the citizens of this state and possible failure of the family law divisions." Id. We reiterate our belief "that the creation of family divisions will provide a better means for resolution of family issues in this state, and we ask the judiciary and the legal profession to cooperate in implementing these divisions where they presently do not exist." Id. at 592.

It is so ordered.

OVERTON, McDONALD, SHAW, GRIMES, KOGAN and HARDING, JJ., concur.

FN1. The commission was established pursuant to Chapter 90-273, Laws of Florida. This Court's jurisdiction was stated in our prior decision, 588 So.2d at 590.

FN2. Although it would be preferable to have one judge decide all matters pertaining to the same family, we recognize it may not yet be feasible. However, in all instances, all judges handling some aspects of a family's litigation and not others must be made aware of all pending matters in the courts that involve all family members.

FN3. E.g., guardian ad litem, mediation services, drug referral and treatment, home studies, etc.

FN4. Such staff should include trained professionals such as attorneys, social workers, or other experts who are familiar with court organization, operations and procedure, as well as court and community-based resources that can assist judges in making the best possible decisions in individual cases and providing needed social, medical, or other services to children and families.

APPENDIX C

Programs contacted:

During the course of this investigation, program staff involved in pro se assistance were contacted in several judicial circuits in Florida.

These circuits include the Margaret Early in the 1st Circuit, Mia Heiney in the 4th Circuit, Gay Inskeep in the 6th Circuit, Erika Watts in the 8th Circuit, Molly Oskner in the 9th Circuit, Celina Rios in the 11th Circuit, Alan Kahn in the 15th Circuit, Sue Ropp in the 18th Circuit, and Karen Alley and Honorable Hugh Starnes in the 20th Circuit.

These programs provided information about cases, methods and approaches they used to help address the needs of the pro se litigants and the court.

APPENDIX D

SAMPLE BROCHURES AND CHECKLIST

Attached are several brochures. The first is a brochure used in the 20th circuit of Florida. The second is a list of frequently asked questions downloaded from the internet site for the 6th Judicial Circuit of Florida. The third brochure is an example of one of the many fine ones used in the Sedro-Wooley Municipal Court in Washington. Also attached is checklist provide to uncontested divorce petitioners.

COMMONLY ASKED QUESTIONS
from Pro Se Litigants - Family Law

as of January 1, 1996

1. My spouse has been physically abusive toward me and I am afraid. What can I do?
2. I cannot pay my child support payments because payments are too high/I am disabled/I'm out of work/the child is deceased/the child is living with me. What can I do?
3. The Hearing Officer ordered me to pay child support, yet I do not have visitation rights with my child. What can I do?
4. How do I get a divorce?
5. I cannot find my spouse to be served with the Petition for Dissolution of Marriage. What can I do?
6. My daughter left for the military and left her child in my custody. I need to get a court order to enroll her in school. How do I go about that?
7. My son just got divorced and my former daughter-in-law will not let me see my grandbabies. Do I have any rights?
8. My ex is not paying the court ordered child support. If I can only talk to the judge to explain, and I know he/she will throw him in jail.
9. These forms are too confusing. I don't understand some of the words. Can you help me fill them out?
10. What's a Petition?
11. What should my Motion say?
12. I just got served with this Injunction that says I have to be at a hearing this Thursday. I can't take off work. What will happen if I don't go? Should I file a written response?
13. I want to dismiss the domestic violence injunction against my husband because he has promised never to do it again. My friend told me she just filed something with the Clerk and that was that.
14. I can't afford to pay for this Children and Divorce course. The Clerk told me to call you.
15. I already took a course like "CAD" twice in Michigan during my last two divorces. Do I HAVE to take this one?
16. My child's father keeps threatening to take my baby away. I want permanent custody.
17. I just tried to pick my child up from visiting his grandparents and they won't give him back, what do I do?
18. I'm not satisfied with how long it's taking DOR to go after my child's father for child support. How can I file the paperwork myself and get the support started now?
19. I'm going to be out of work for 3 months because of work slow downs and a temporary layoff. I need to do something temporarily so I won't be in arrears, what do I do?

20. My spouse uses the times when he/she picks up the children for visitation to try to cajole me into coming back, harass me, or start fights with my boyfriend/girlfriend, in front of the children. What can I do to stop this behavior?

21. My spouse just picked my children up for visitation and left the state without my permission. He kidnapped them! I want my kids back, I'm afraid I'm never going to see them again! What do I do, the police won't help me and I can't afford an attorney?

22. I'm trying to sell my house and now I find out that the Clerk of Court has filed a child support lien against my house. How do I get rid of this? I'm not in arrears, the account is wrong.

23. My wife had custody and HRS did a Dependency action and gave me the child, but child support is still coming out of my check. How come this is happening - HRS told me they would take care of everything?

24. I don't mind my ex having visitation but I don't like the other people that are around my child during visitations. I want the judge to tell him/her that these people are not allowed around my child!

25. My husband's new wife slaps my son around and I want her told to stop it! What can I do?

26. I filed a petition for divorce and there was no answer. What do I do now so I can get a hearing. Somebody told me something about a default motion and a non-military affidavit, what are those and where do I get them?

27. I filed a petition to change my child's name but I have no idea who the father is so I can't serve him.

28. My new husband wants to adopt my children. I have no idea where their father is so I can't serve him, DOR can't even find him. Why do I have to work so hard to find him when they can't either?

29. When we got divorced the court only put in the paperwork "liberal access" when it talked about visitation what does that mean? This needs to change, he/she shows up whenever they want to and expect to be able to take the kids and it's causing problems. How can I change this?

30. I don't have a lawyer. My husband's lawyer never sends me copies of stuff from the hearing and now this is signed and it's all wrong the way he wrote it. I never got my chance to object. (OR: This draft the lawyer sent me is nothing like what the judge ordered at the hearing, it's all changed around in my husband's favor; I object. What do I do?

31. My husband and I just got divorced. We agreed that there wouldn't be any child support, so why did the judge order it?

32. I'm under 18 and I got my girlfriend pregnant. Now I've found out that her mother is planning to take my baby out of the State after it's born and put it up for adoption. I don't want that, I want my child. Can I file something to stop her from doing this. The baby isn't due for another 3 months.

33. I don't care for the way my daughter is taking care of her child, I want custody. They got divorced in Pinellas County, how can I ask to get custody?

34. I want this domestic violence injunction dismissed and I demand a hearing on my Motion to Dissolve with 5 days, like the rule says.

35. I have a custody order from another state. My spouse took our child to Florida without my permission. How can I get my out of state order enforced?

permission. How can I get my out of state order enforced?

36. I don't have any kids and my wife and I are agreeing how to divide our property and debts. What's the easiest way for me to get a divorce?

37. I have an order for visitation/child support that came from another State/County. I've lived here for awhile and now my ex isn't honoring this order. How can I get this transferred into this court?

38. How can I withdraw a motion?

39. I just got sent to jail in a child support case and there isn't a purge amount in the paperwork. I'm going to lose my job if I don't get out of jail!

40. I just found out that there was a child support hearing I didn't know about and a warrant went out for my arrest. What can I do?

41. The Clerk requires that I file a Nonmilitary Affidavit before they will enter a default in my case. My problem is, my wife IS in the military, so I can't truthfully file one. Does this mean I can't get a default?

1. My spouse has been physically abusive toward me and I am afraid. What can I do?

Contact the Clerk of the Circuit Court in St. Petersburg at 582-7771 or in Clearwater at 464-3267, and request assistance in filing a Petition for Injunction for Protection Against Domestic Violence.

2. I cannot pay my child support payments because payments are too high/I am disabled/I'm out of work/the child is deceased/the child is living with me. What can I do?

If you want your child support payments lowered or discontinued you must file a written Petition for Modification specifically asking the court what it is you want and why. The Petition, accompanied by a current financial affidavit must be personally served on your spouse, and you must set a hearing before a Judge, General Master, or Hearing Officer.

3. The Hearing Officer ordered me to pay child support, yet I do not have visitation rights with my child. What can I do?

The Hearing Officer only has the authority to address issues of support unless you make a written request. If you want Shared Parental Responsibility or visitation issues addressed, you must file a written motion asking the court for what you want and why, and schedule a hearing with written notice to the other party.

4. How do I get a divorce?

If you and your spouse don't have any minor children and are basically agreeing to everything, you might contact the Clerk of Court and ask for assistance in filing a Simplified Dissolution action. However, you both must appear in front of the Clerk to fill out the paperwork, and you both must appear again in front of the judge who will grant your divorce.

If you have children, think your divorce might be contested, or cannot find your spouse, you should have a lawyer, but if you must proceed without a lawyer, contact the Clerk of Court for forms to be used in filing a Petition for Dissolution of Marriage. There are several mandatory forms that must be filed in cases with minor children, such as a Financial Affidavit and a Uniform Child Custody Affidavit. You must also attend a four hour course entitled, "Children and Divorce."

5. I cannot find my spouse to be served with the Petition for Dissolution of Marriage. What can I do?

You may explore a method called "Constructive Service" when your spouse cannot be located to be personally served with the Dissolution (Divorce) petition. You can do this by posting or publication. You should contact the Clerk of Court for more information on this method. Constructive service is a very technical area of the law; **legal advice is strongly recommended**. Failure to correctly follow the law leaves you with an invalid divorce.

6. My daughter left for the military and left her child in my custody. I need to get a court order to enroll her in school. How do I go about that?

You may contact the Clerk of Court, Juvenile Division, to obtain forms entitled "Temporary Custody." This procedure may only be used when both legal parents are in agreement with the custody arrangement.

7. My son just got divorced and my former daughter-in-law will not let me see my grandbabies. Do I have any rights?

You may come in our office and pick up forms relating to grandparent visitation. You must ask the court, in writing, what you want and why, and set a hearing. You must provide notice to your son and former daughter-in-law.

8. My ex is not paying the court ordered child support. If I can only talk to the judge to explain, and I know he/she will throw him in jail.

You may not speak to the judge/general master/hearing officer unless you have filed a written motion and properly scheduled a hearing with notice to all parties.

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

You might also contact the Department of Revenue and request their assistance in obtaining your child support.

9. These forms are too confusing. I don't understand some of the words. Can you help me fill them out?

The court cannot assist you in filling out the forms. If you think you need assistance, you might try contacting the Community Law Program, Clearwater Bar Foundation, or Lawyer Referral Service. Both the St. Petersburg and Clearwater Bars have a lawyer referral program where you can talk to a lawyer for 1/2 hour for \$20.00.

10. What's a Petition?

"Petition" is a legal term, but basically it is just a piece of paper that tells the judge what you want and why you think you should get it. Petitions are used to start several different types of lawsuits, such as divorce, paternity, modification of child support, etc.

11. What should my Motion say?

The court cannot tell you what your Motion should say. You should try your best to tell the judge what it is you want the court to do, and why you think the court should do it. Your Motion should not just focus on what you personally think is right, but should be supported by evidence and applicable law. It is always advisable to seek legal advice before coming to court.

12. I just got served with this Injunction that says I have to be at a hearing this Thursday. I can't

take off work. What will happen if I don't go? Should I file a written response?

You should read the Injunction carefully because it tells you what will happen if you don't go. You are not required to attend; however, the hearing may go on without you.

You may file a written response if you'd like, but there is no guarantee that it will have any effect on the outcome of the hearing.

13. I want to dismiss the domestic violence injunction against my husband because he has promised never to do it again. My friend told me she just filed something with the Clerk and that was that.

Your personal appearance is required at the return hearing whether or not you've filed a Motion to Dismiss your case.

14. I can't afford to pay for this Children and Divorce course. The Clerk told me to call you.

You may contact the Clerk again and ask them for their form "Motion to Waive Fee" for this course. The Clerk will bring the Motion to the judge's attention. You will be notified of the judge's decision when you receive a copy of the Order in the mail.

15. I already took a course like "CAD" twice in Michigan during my last two divorces. Do I HAVE to take this one?

You may contact the Clerk of Court and request a form Motion to Waive Attendance at this course. The Clerk will bring the Motion to the judge's attention. You will be notified of the judge's decision when you receive a copy of the Order in the mail.

16. My child's father keeps threatening to take my baby away. I want permanent custody.

If you are married, both parents have equal "custody" rights to the children unless and until there is some court action to the contrary. If you and the father of the child were never married, and there is no court order establishing paternity, the father technically does not have any legal rights or responsibilities as to the child. Either party can file a Petition or Complaint to establish paternity.

17. I just tried to pick my child up from visiting his grandparents and they won't give him back, what do I do?

Call the police or Sheriff's Department for assistance. If there is no court action and HRS is not involved in your case, you as the parent have the sole right to custody of your child in relation to disputes between persons not the parents of the child.

18. I'm not satisfied with how long it's taking DOR to go after my child's father for child support. How can I file the paperwork myself and get the support started now?

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You should attach a copy of your Order or Final Judgment that sets the child support amount. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

19. I'm going to be out of work for 3 months because of work slow downs and a temporary layoff. I need to do something temporarily so I won't be in arrears, what do I do?

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing and the Judge or hearing officer will consider your request.

20. My spouse uses the times when he/she picks up the children for visitation to try to cajole me into coming back, harass me, or start fights with my boyfriend/girlfriend, in front of the children. What can I do to stop this behavior?

Mediation is sometimes a useful tool in working out these problems. You may obtain a form Motion for Mediation from the Clerk's office. You must complete this form and send it to the judge and the other party in your case. You should write a cover letter to the judge and other party requesting that the judge order you to attend mediation.

Once at mediation, you and your spouse can work out a detailed schedule that meets your current needs.

If mediation doesn't work, you may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

21. My spouse just picked my children up for visitation and left the state without my permission. He kidnapped them! I want my kids back, I'm afraid I'm never going to see them again! What do I do, the police won't help me and I can't afford an attorney?

If you think your child has been kidnapped, you should contact the Office of the State Attorney or local police. If you know where your child has been taken, you will probably have to go to court there and show your Florida judgment giving you custody of your child.

22. I'm trying to sell my house and now I find out that the Clerk of Court has filed a child support lien against my house. How do I get rid of this? I'm not in arrears, the account is wrong.

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

23. My wife had custody and HRS did a Dependency action and gave me the child, but child support is still coming out of my check. How come this is happening - HRS told me they would take care of everything?

You may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You should attach a copy of your dependency court order. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

If the Department of Revenue is involved in the case, you should contact them and send them a copy of the dependency order.

24. I don't mind my ex having visitation but I don't like the other people that are around my child during visitations. I want the judge to tell him/her that these people are not allowed around my child!

Unless your court order or final judgment puts limitations on your ex spouse's contact with your child, there is probably not much you can do. If you feel your child is in some kind of danger, you can contact the Abuse Registry. You might also obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

25. My husband's new wife slaps my son around and I want her told to stop it! What can I do?

If you feel your child is in some kind of danger, you can contact the Abuse Registry. You might also obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

26. I filed a petition for divorce and there was no answer. What do I do now so I can get a hearing. Somebody told me something about a default motion and a non-military affidavit, what are those and where do I get them?

If the Petition was served on your spouse and your spouse did not file a written response within twenty (20) days of the date of service, you may go to the Clerk of Court and ask for a Request for Default form. You will also have to complete a Nonmilitary Affidavit, stating that your spouse is not currently serving in the military. After you have completed and filed these forms, the Clerk may enter a Default if appropriate in your case. Once the Default is entered, you may proceed with your case without further notice to your spouse. However, the law requires that your spouse receive notice of any final hearing in the dissolution (divorce) action.

27. I filed a petition to change my child's name but I have no idea who the father is so I can't serve him.

You can file the Petition but it will be up to the judge to decide whether to grant it since the father does have a right to notice.

28. My new husband wants to adopt my children. I have no idea where their father is so I can't serve him, DOR can't even find him. Why do I have to work so hard to find him when they can't either?

The natural father has a right to notice of the adoption. You must make a diligent search for the father. Also keep in mind that adoptions are a highly technical area of the law which receive close judicial scrutiny. You should seek legal advice before attempting to file your own adoption action. It is desirable that you retain a lawyer to handle the adoption for you.

29. When we got divorced the court only put in the paperwork "liberal access" when it talked about visitation what does that mean? This needs to change, he/she shows up whenever they want to and expect to be able to take the kids and it's causing problems. How can I change this?

Mediation is sometimes a useful tool in working out visitation problems. You may obtain a form Motion for Mediation from the Clerk's office. You must complete this form and send it to the judge and the other party in your case. You should write a cover letter to the judge and other party requesting that the judge order you to attend mediation.

Once at mediation, you and your spouse can work out a detailed schedule that meets your current needs. (Note: You might offer to send them a sample visitation schedule and suggest they mediate it themselves.)

If mediation doesn't work, you may obtain a form "Motion" packet. You should fill it out the best you can, telling the judge what it is you want and why. You must then schedule a hearing, and copy the other party with your Motion and Notice of Hearing.

30. I don't have a lawyer. My husband's lawyer never sends me copies of stuff from the hearing and now this is signed and it's all wrong the way he wrote it. I never got my chance to object. (OR: This draft the lawyer sent me is nothing like what the judge ordered at the hearing, it's all changed around in my husband's favor; I object. What do I do?

You may file a written Motion to the judge, with a copy to the attorney, stating your objections to the Order, or how you feel the Order does not reflect the judge's ruling. It will be up to the judge to decide whether or not his or her order accurately reflected the ruling at the hearing.

31. My husband and I just got divorced. We agreed that there wouldn't be any child support, so why did the judge order it?

Child support is a benefit for the child. It cannot be waived by the parents. The court must follow the law even if you do not want child support.

32. I'm under 18 and I got my girlfriend pregnant. Now I've found out that her mother is planning to take my baby out of the State after it's born and put it up for adoption. I don't want that, I want my child. Can I file something to stop her from doing this. The baby isn't due for another 3 months.

You cannot, as a minor, file a lawsuit. You might have one of your parents or guardians, on your behalf, file a Motion or Petition for an injunction asking the court to prevent the child from being removed from the state.

33. I don't care for the way my daughter is taking care of her child, I want custody. They got divorced in Pinellas County, how can I ask to get custody?

Grandparents have certain custody rights. You may file a written Petition telling the court what you want and why you think you should get it. You must have the Petition personally served on your daughter and the other parent. You will have to schedule a hearing on your Petition and provide written Notice of this hearing to your daughter and the other parent of the child. (There is more to this...waiting for answer, discovery, M/Order Nonjury Trial, etc.)

34. I want this domestic violence injunction dismissed and I demand a hearing on my Motion to Dissolve with 5 days, like the rule says.

The statute governing domestic violence supersedes Rule 1.610. According to the statute, you may file a Motion to Dismiss or Dissolve your injunction at any time, but you are not entitled to a hearing within five (5) days.

35. I have a custody order from another state. My spouse took our child to Florida without my permission. How can I get my out of state order enforced?

You must personally appear at the Clerk of the Circuit Court in Clearwater. They have established a procedure whereby you may request that our court recognize and enforce your out of state order. You should bring a certified copy of your out of state order with you.

36. I don't have any kids and my wife and I are agreeing how to divide our property and debts. What's the easiest way for me to get a divorce?

You are probably eligible for what is called a "simplified" divorce. Both you and your spouse must go together to file the paperwork. You must also both appear at the final hearing. You may contact the Clerk of Court for assistance with this process.

37. I have an order for visitation/child support that came from another State/County. I've lived here for awhile and now my ex isn't honoring this order. How can I get this transferred into this court?

Visitation: If you have an order or judgment from another jurisdiction, to enforce it you first must register it with our Clerk's office and then ask this court to enforce it. You should contact the Clerk of the Circuit Court in Clearwater for information about this procedure. (464-3267)

Child Support: You should first contact the Department of Revenue for assistance in having your out of jurisdiction child support order enforced. If that is unsuccessful, follow above directions given for enforcement of foreign visitation orders.

Note: In either instance, encourage the caller to seek legal advice.

38. How can I withdraw a motion?

File another motion to ask that the first motion be withdrawn.

39. I just got sent to jail in a child support case and there isn't a purge amount in the paperwork. I'm going to lose my job if I don't get out of jail!

The only legal remedy at this point is an appeal. If there is no purge amount in their order, that probably means you were sent to jail on a criminal contempt charge. (For failing to appear for a hearing, for example.) If that is the case, then there is no purge; the jail sentence is a "punishment" for failing to comply with a court order. (In a civil contempt case, there is a purge amount to "coerce" them to pay their child support; in a criminal contempt, there is no purge because the goal is not coercion, but punishment.)

40. I just found out that there was a child support hearing I didn't know about and a warrant went out for my arrest. What can I do?

You can voluntarily appear before the appropriate hearing officer. (Clearwater or St. Petersburg.) You should call the hearing office first to make sure someone will be available to assist you.

41. The Clerk requires that I file a Nonmilitary Affidavit before they will enter a default in my case. My problem is, my wife IS in the military, so I can't truthfully file one. Does this mean I can't get a default?

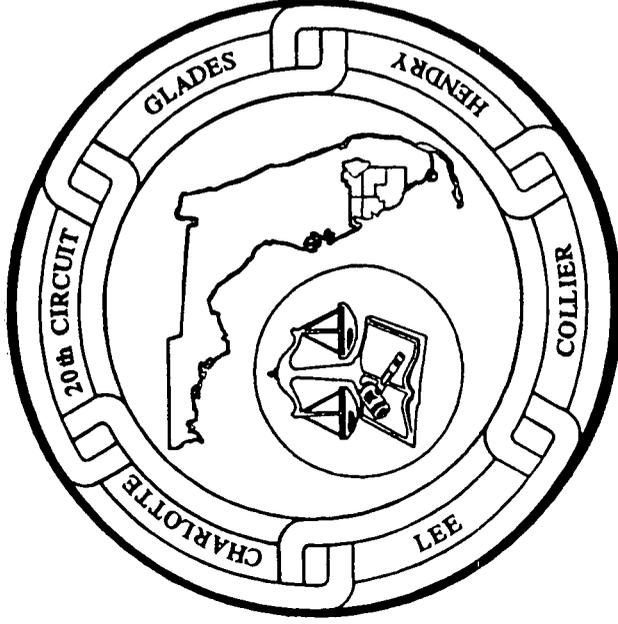
It probably means you can't get a default issued by the Clerk. You can also have your Motion for Default heard by a judge or one of the General Masters instead of requesting one from the Clerk. However, this is complicated by Federal Law and you should have a lawyer assist you.

PROGRAM PROVIDES

- Access to the legal process
- Assistance with preparation of proper form and content of court motions
- Notary service for same-day filing of completed court documents
- Instruction on filing paperwork with the Clerk of Court
- Guidance on court policies, procedures and etiquette
- Information on other available legal services

PROGRAM FEES:

- Dissolution of Marriage \$50.00
Includes all paperwork and workshop
- Assistance in all other areas is \$35.00
- **Additional fees may be associated with the program.**
- There may also be filing fees and court costs assessed in each case.



REPRESENTING YOURSELF IN A FAMILY LAW MATTER

THE PRO SE LITIGANT PROGRAM

**A SERVICE PROVIDED BY THE
ADMINISTRATIVE OFFICE OF THE COURTS
FAMILY LAW DIVISION**

FAMILY LAW PRO SE LITIGANT PROGRAM

The Family Law Pro Se Litigant Program provides assistance and guidance to persons who represent themselves in family court

The program is designed to assist in the following areas:

- Dissolution of Marriage (Divorce)
- Child Support/Visitation Issues
- Child Custody
- Paternity
- Name Changes

Court proceedings involving divorce and other family matters are often emotional and difficult times for all persons involved. It is highly advisable to consult with an attorney who will represent you and your interests. If, however, you choose to represent yourself, the Pro Se Litigant Program is designed to help you through the court process.

You must call to schedule an appointment
(941) 335-2247
or
1-800-250-7451*

It is important to understand that the prose staff member who assists you **DOES NOT** represent you, **YOU** represent yourself.

*Within the State of Florida only

WHAT IF I DO NOT PAY MY TICKET OR APPEAR FOR A HEARING?

A failure to pay or respond to the ticket within 15 days results in an order that the infraction was committed. If you asked for a hearing and do not appear, your payment is **due immediately**. When an infraction is not paid in a timely manner or a hearing is missed a \$47 late penalty is added to the amount shown on the ticket. Your license may then be **suspended** if the penalty is not paid following a notice to pay the increased penalty, and the account may be assigned to a collection agency.

WHAT ABOUT A NO LIABILITY INSURANCE TICKET?

If you receive a ticket for no insurance and you had insurance at the time of the ticket, you may file proof of insurance with the Court Clerk, pay a \$25 administrative costs, and the charge will then be dismissed and not go on your driving record. If you obtained insurance after you were given the ticket, you may file proof of the insurance with the Court Clerk and your penalty will be reduced to \$100 or you may request a mitigation hearing (box 2) to explain the circumstances and show your policy to the Judge. **HOWEVER, YOU MUST DO EITHER WITHIN THE 15 DAY RESPONSE TIME.**

REMEMBER: Failure to respond within 15 days or to appear for a scheduled hearing may result in the suspension of driving privilege and the account may be assigned to a collection agency.

HEARING IMPAIRED

Hearing assistance devices are available at the Sedro-Woolley Municipal Court and may be requested from the Clerk to allow you to better hear the Judge and all details of your case. If a Language Signer is required, please notify the court **7 days** prior to your hearing.

FOREIGN LANGUAGE INTERPRETERS

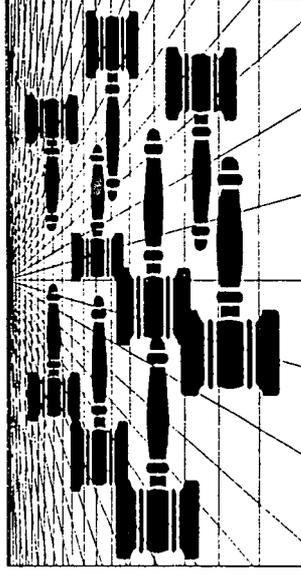
If an interpreter is required for your hearing, please notify the court **7 days** prior to your hearing.

ADDRESS/NAME CHANGES RCW 46.20.205

You are required by law to notify the Department of Licensing, in writing, when you change your address and/or your name on a special form. You may file this change of address through the Court or through your local Department of Licensing Office. Your correct address and name are the only means of notifying you about problems with your driver's license.

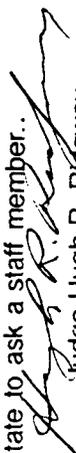
SEDRO-WOOLLEY MUNICIPAL COURT

INFRACTION PROCEDURES



Prepared by
Sedro-Woolley Municipal Court
220-A Woodworth Street
Sedro-Woolley, WA 98284
(360) 855-0366

Being accused of an infraction can be an upsetting experience. We hope this pamphlet will be of help in guiding you through the infraction process and take some of the mystery out of the procedures. We have tried to anticipate and answer the more frequently asked questions. If you have any additional questions, don't hesitate to ask a staff member.


Judge Hugh R. Ridgway

WHAT SHOULD I WEAR AND HOW SHOULD I ACT IN COURT?

Suitable attire is required. Shoes and shirts are necessary. Halter tops, tank tops, and shorts are not permitted. Hats are to be removed upon entering the Courtroom. No smoking, food, or drink will be allowed. Children may be present in the Courtroom, but if they disturb the proceedings you may be requested to remove them. The Court does not provide child care. Upon your arrival, find your name on the calendar on the Courtroom door, then have a seat in the Courtroom until the session convenes. You do not need to check with the Clerk unless your name is NOT on the list. When your case is called, come forward and stand behind one of the counsel tables until instructed otherwise by the Judge.

WHAT IS A MITIGATION HEARING?

A mitigation hearing is where you admit you committed the violation, but wish to explain the circumstances of the infraction. To request a mitigation hearing you should check box two (2). The Judge, depending on the explanation and your record, may adjust the penalty. However, the Judge will not dismiss your ticket. As the Court is required to forward all committed traffic tickets to the Department of Licensing, it will appear on your driving record.

WHAT IS A CONTESTED HEARING?

If you believe you did not commit the violation then you should select box three (3) and have a contested hearing. Unless you request the officer to be subpoenaed, the procedure at the hearing will be for the Judge to read the sworn statement of the officer. Then you may testify or present any evidence or witnesses that you wish. If you want to have the officer or any technician present, you must advise the Clerk at the time you present your ticket or as soon thereafter as possible so the hearing can be appropriately scheduled. As a result of a contested hearing, the penalty may stay the same, be reduced, or the ticket dismissed. In the event you

WHAT IS AN INFRACTION?

Previously, many traffic and criminal charges were crimes. The Legislature has decriminalized many traffic, parks, wildlife and fisheries offenses. These offenses are now called infractions and are civil cases.

WHAT MUST I DO IF I RECEIVE AN INFRACTION?

Start by reading the entire back side of your notice of infraction (ticket). If you follow the instructions you can't go wrong! You should note that you must respond within **fifteen (15)** days of the date that the ticket was issued. An infraction is not a crime, but **failure to respond can result in the suspension of your driver's license.** You can respond by either mailing the green ticket to the Court or bring it in person to the Clerk's office. Select one of the boxes on the back of the ticket and verify your address. If you select box one (1) you are electing to pay the amount of the penalty as shown on the front of the ticket. If you need to have the ticket cleared quickly, please pay by cash or money order. A personal check will not close your case and adjudicate the ticket until the check has cleared (approximately 14 days).

have subpoenaed witnesses you may be required to pay court costs. A contested infraction hearing is a civil case and the Judge will decide the case based on the preponderance of the evidence.

MAY I HAVE A LAWYER AT A CONTESTED HEARING?

You may, at your own expense, have a lawyer appear and represent you at your hearing. If you are to be represented by counsel, the lawyer is required to file a notice of appearance with the Court, and the prosecutor, prior to the hearing date. A separate hearing is held when lawyers are involved and it is necessary to have sufficient notice for scheduling.

IS THERE A RIGHT TO APPEAL?

If you do not win at a contested hearing you have the right to appeal to the Superior Court of Skagit County. The notice of appeal must be filed within **14** days of the judgment. There will be various appeal costs, payable in advance, including a \$110 Superior Court filing fee and a \$100 appeal bond. If you appeal, the Superior Court will review the record that was made at the Municipal Court, but there will not be a new trial. The Clerk's Office will provide you with the information about the appellate process and the forms necessary to file the appeal.

WILL A TRAFFIC INFRACTION APPEAR ON MY DRIVING RECORD?

When you pay the penalty, mitigate, or if the Judge finds you have committed a traffic infraction at a contested hearing, the state law requires that the infraction be reported to the Department of Licensing. The infraction will then appear on your driving record. neither the Court Clerk, nor the Judge, has the authority to keep the infraction off your record. If you win at a contested hearing and the infraction is dismissed, it is not reported to the Department of Licensing and will not appear on your driving record.

**PROCEDURES AFTER FILING
DISSOLUTION OF MARRIAGE**

THIS PROCEDURE IS ONLY APPLICABLE TO THOSE CASES FILED WHERE THERE ARE NO ATTORNEYS INVOLVED.

1. THERE IS A 20 DAY MANDATORY WAITING PERIOD BEFORE A FINAL HEARING CAN BE SET IN ALL CASES.
2. YOU WILL RECEIVE A LETTER FROM THE PRO SE COORDINATOR IF THERE ARE ANY MISSING DOCUMENTS IN YOUR FILE.
3. PLEASE ALLOW 2 WEEKS FOR PROCESSING TIME.
4. IF ALL THE DOCUMENTS REQUIRED HAVE BEEN FILED AND ARE IN CORRECT FORM, YOU WILL RECEIVE A PHONE CALL FROM THE PRO SE COORDINATOR SCHEDULING YOUR CASE FOR FINAL HEARING.
5. IF YOU HAVE NOT HEARD FROM THE PRO SE COORDINATOR WITHIN TWO WEEKS, PLEASE CALL SUE ROPP, PRO SE COORDINATOR, AT 323-4330, Extension 4213. (Please be patient this is a one-person department).
6. PLEASE DO NOT CONTACT JUDGES JUDICIAL ASSISTANTS AS ALL FILES MUST COME THROUGH THE PRO SE DIVISION FIRST.

PLEASE UNDERSTAND THAT I CANNOT GIVE OUT LEGAL ADVICE ONLY PROCEDURAL.

PLEASE DO NOT CALL TO SCHEDULE YOUR CASE FOR FINAL HEARING UNTIL YOU HAVE RECEIVED CORRESPONDENCE FROM THIS DIVISION.

APPENDIX E

PRO BONO PUBLIC SERVICE RULE

Rule 4-6.1 PRO BONO PUBLIC SERVICE (Excerpts)

(a) Professional Responsibility.

Each member of the Florida Bar in good standing, as part of that member's professional responsibility, should (1) render pro bono legal services to the poor and (2) participate, to the extent possible, in other pro bono service activities that directly related to the legal needs of the poor. The professional responsibility does not apply to members of the judiciary or their staffs or to government lawyers who are prohibited from performing legal services by constitutional, statutory, rule or regulatory prohibitions. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline.

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Service to the Poor.

The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory. Neither does this professional responsibility apply to those members of the bar who are retired, inactive, or suspended, or who have been placed on the inactive list for incapacity not related to discipline.

(b) Discharge of the Professional Responsibility to Provide Pro Bono Legal Services to the Poor.

The professional responsibility to provide pro bono legal services as established under this rule is aspirational rather than mandatory in nature. The failure to fulfill one's professional responsibility under this rule will not subject a lawyer to discipline. The professional responsibility to provide pro bono legal service to the poor may be discharged by:

- (1) annually providing at least 20 hours of pro bono legal service to the poor; or
- (2) making an annual contribution of at least \$350 to a legal aid organization.