

**TRIAL COURT RESEARCH AND
IMPROVEMENT CONSORTIUM**

**Report on the Programs to Assist Self
Represented Litigants
of the**

**Prince Georges County Circuit Court
of the State of Maryland**

Final Report

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Introduction and Overall Conclusions

This Report is an evaluation of the programs to assist self represented litigants in the Circuit Court of Prince Georges County, Maryland. The Report was prepared as part of the Trial Court Research and Improvement Consortium *Pro Se* Assessment Project, funded in part by the State Justice Institute,¹ and uses an Executive Assessment Tool developed by the Project. This individual evaluation is intended to provide concrete feedback and suggestions to the management of the Prince Georges County Circuit Court, to be part of an assessment of the Family Law Pro Se Assistance Projects of the Maryland judicial branch, and to be part of creating a general picture of *pro se* litigants and *pro se* innovation throughout the country produced from similar assessments in eleven courts in six states.²

This report is prepared early in the process of the eleven court assessment program and includes comparative data for only five additional courts. As more data is gathered around the country, the conclusions drawn in this report may need to be modified. The authors reserve the right to revisit their assessment and conclusions in light of the comparative data collected. However, a comparison of the performance of programs in Prince Georges County with those in Hennepin County Minnesota and in four other Maryland Counties (Baltimore City, Harford, Montgomery, and Worcester) shows that litigants make significant use of the services in Prince Georges County and rate the services provided, and the performance of the court as a whole, very highly.

The Prince Georges County Circuit Court has three programs – the Family Division Information and Referral Center, the Pro Se Orientation Program, and the Law Foundation of PG County Pro Se Project. These programs, particularly the Information and Referral Center, are completely integrated within the case management and judicial decision-making process of the Family Division. They provide services valued highly by the litigants – both at the time of delivery of services and after court hearings. Litigants also rate highly the performance of the judges and staff in court hearings and trials. Both judges and in-court observers rate positively the ability of self represented litigants to handle their cases in the courtroom.

¹ The Project is funded by SJI grant no SJI-03-N-104. Opinions expressed are those of the authors and not of the State Justice Institute.

² This evaluation was conducted by John M. Greacen, an independent consultant, and by Mayra Lindsay, who is a staff attorney for the Florida Eleventh Judicial District Court, serving Miami/Dade County, where she directs the programs to assist self represented litigants in that court.

The two evaluators spent four working days at the court. The observations and stakeholder interviews they conducted were supplemented by extensive staff-conducted surveys of litigants, judges, court staff, and users of the Self Help Centers. Court observations were also conducted by judges and court staff.

But judges and lawyers report a negative view of self represented litigants and do not believe that the three programs have made their work any easier. This paradox – a highly successful program in the eyes of all but the judges and lawyers – can be explained by a fuller understanding of the way in which family cases are handled in Prince Georges County. The great bulk of family law matters involving self represented litigants are heard and disposed of by masters. The results of the judicial surveys on the other hand reflect the views and experience of the circuit judges, whose experience of self represented litigants is based on the most complex and highly contested matters – those requiring hearings and trials of more than three hours. It is in these instances that the court’s programs – as presently constituted – are of least utility and where the performance of self represented litigants is poorest.

This report should have a positive impact on the perceptions of judges and lawyers in Prince Georges County. Its positive findings about the quality of services provided should bolster the standing of the program with both groups of stakeholders. And its recommendations should address their lingering doubts about these efforts.

Pro Se Assistance Programs in Maryland receive significant support from the Maryland Court of Appeals, its Chief Judge, and the Administrative Office of the Courts. The programs are financially and politically secure in Prince Georges County.

The Family Division in Prince Georges County – including its programs to assist self-represented litigants -- operates very well. The court has solved a number of problems that bedevil other courts and programs – assisting self represented litigants through the process by ensuring that their paperwork is adequate prior to a court appearance; providing them with written orders before they leave the courthouse; facilitating conflict resolution quickly and informally; and providing same day court services and decisions. With very few exceptions, the Division has reached the “state of the art” in programming for self-represented litigants today. Its challenges are those that face all state courts – better articulation of and comfort with the changing role of judges, increased assistance to self represented litigants with complex contested matters, and more sophisticated programs to ensure that these litigants do not unknowingly forfeit significant rights and legal interests. Some of these developments need to be pursued at the state level. But Prince Georges County can play an important role in providing an example and serving as a test bed for the further changes to come.

While this report consists in large part of a number of suggestions for improvement, none of them should be viewed as undercutting these overall highly positive conclusions.

Overall History and Description of Program

The programs to assist self represented litigants (SRLs) in Prince Georges County have developed in the context of significant revisions in the way in which family cases are handled. Over fifteen years ago the Maryland legislature considered creating a

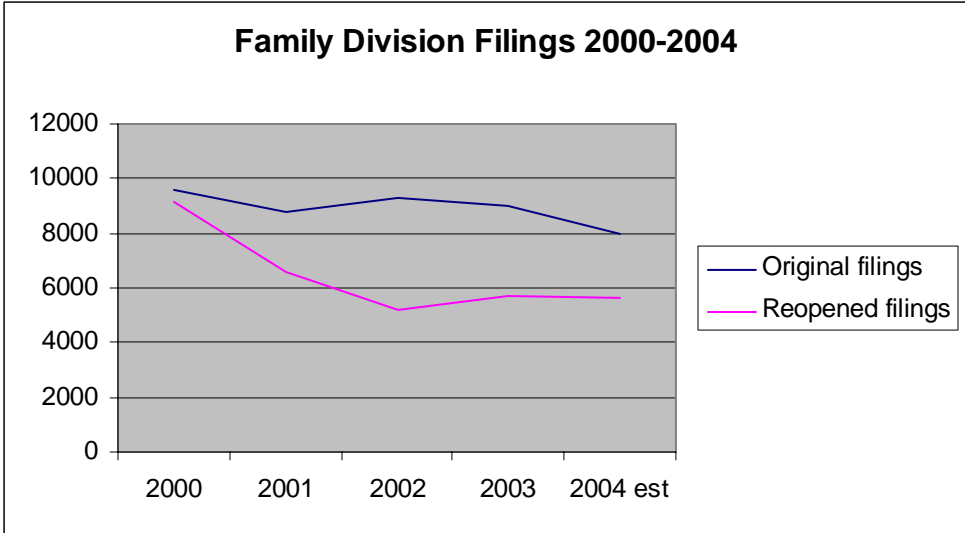
separate family court with judges and staff dedicated exclusively to family and juvenile cases. The Maryland judiciary opposed the creation of separate courts, but reached a compromise with the legislature – the Court of Appeals would through internal orders direct each court to establish a Family Division appropriate to the needs of its county. Family Divisions came into being in 1998. Significant additional state funding has been provided by the legislature and funneled by the AOC to each circuit to assist in enhancing family court services. During this same time period, reorganization of the child support enforcement program within the state has created a strengthened executive branch entity with the authority to hold administrative hearings on child support modification and enforcement, reducing somewhat the burden of these cases on the state courts. The Foster Care Court Improvement Project has simultaneously focused attention on juvenile dependency and neglect cases.

Most domestic violence matters and landlord/tenant and small civil matters involving amounts in controversy up to \$30,000 are handled in Maryland's court of limited jurisdiction, the District Court. The authors did not visit the District Court to view its operations. Therefore, the comments ventured about programs to assist SRLs in those courts are based on the recommendations of the judges of the circuit court.

In 2002, the Maryland Judiciary marked the maturing of the Family Divisions by publishing Performance Standards and Measures for Maryland's Family Divisions. The Maryland AOC Department of Family Administration produces an annual report of the Maryland Circuit Court Family Divisions and Family Services Programs. The authors have benefited from the opportunity to review these documents.

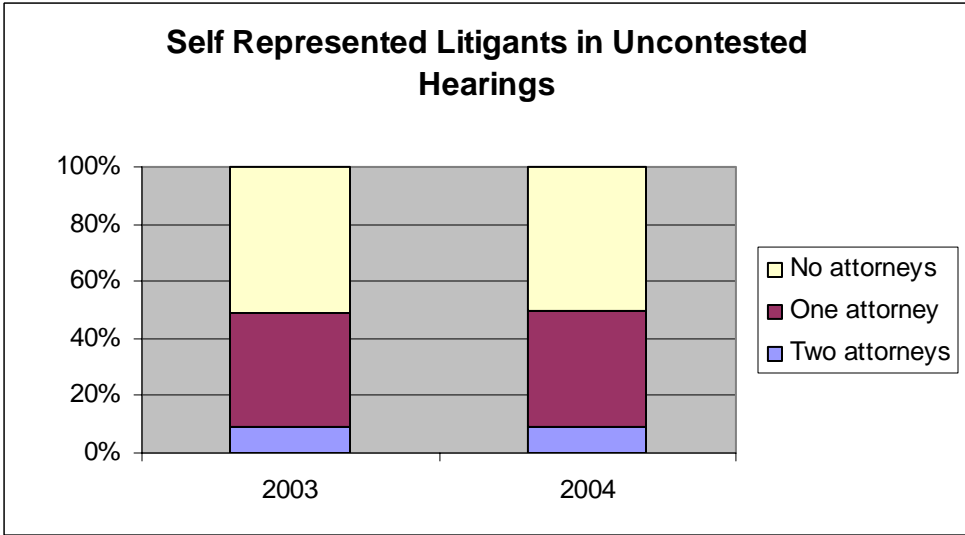
Prince Georges County has a population of 833,000. Its population is growing at the rate of roughly 2% per year. The county has a relatively high per household median income of over \$55,000 per year, but 8% of its population lives on incomes below the federal poverty guideline. Almost 16% of the population speaks a language other than English in the home. About 7% of the county's population consider themselves to be of Hispanic or Latino origin. This group constitutes the fastest growing community of persons with special needs.

Prince Georges County has the highest caseload of non-juvenile family cases in the state. The table below shows, however, that the number of new and reopened family case filings has been gradually decreasing in recent years. The drop in reopened cases may be explained by the resolution of some child support matters through the executive branch hearing process. However, it is difficult to understand the falling number of new divorce, annulment and paternity filings at a time when the county's population continues to rise. The court should investigate this phenomenon. In particular, it should determine whether newly arriving immigrant populations – which now make up a significant portion of the county's citizenry – may be less familiar with and less likely to use the court's services than native born Americans. If this hypothesis proves correct, the need for broader community outreach will become even more urgent.

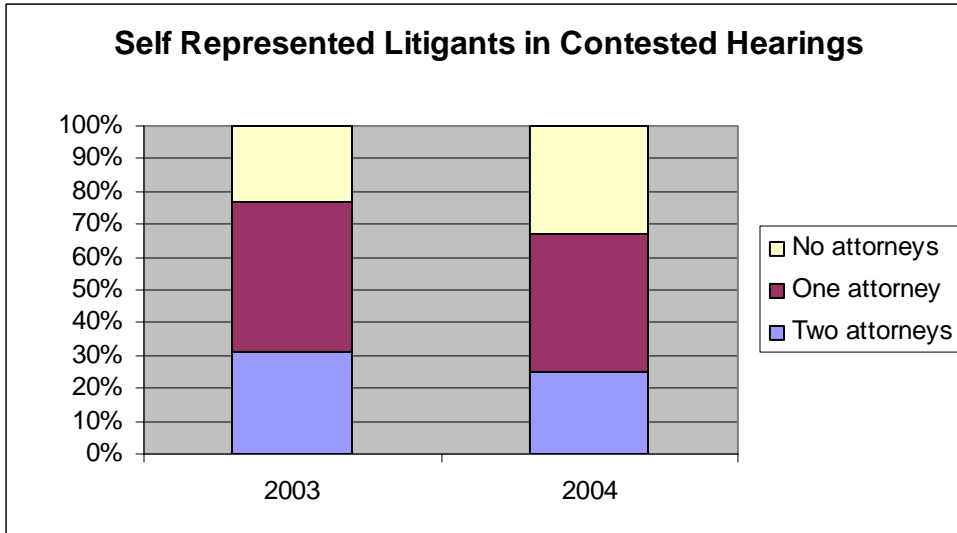


The percentage of persons choosing to represent themselves has increased in the Family Department over the past two years. Data was not gathered by the court in the same way for prior years, making it impossible to estimate trends over a longer period than two years.

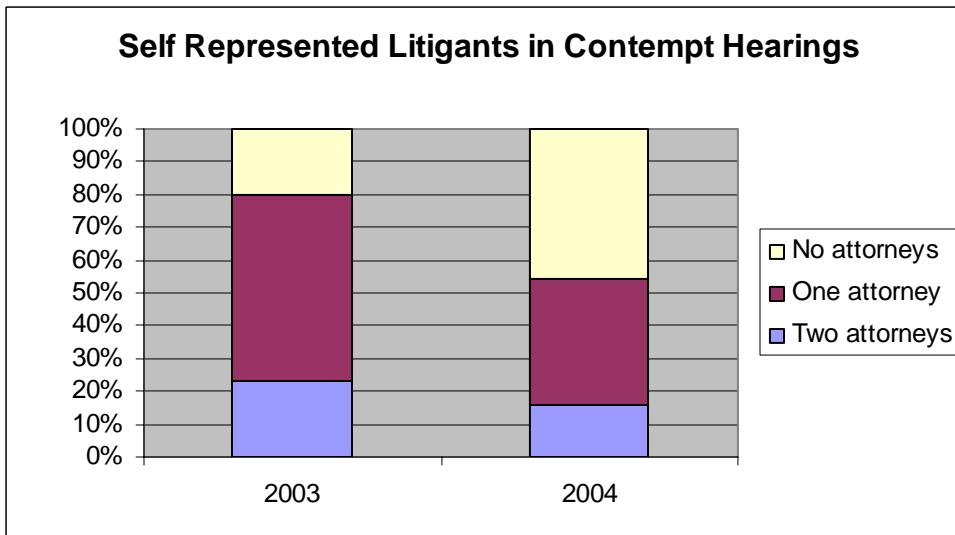
In uncontested matters, the rate remains unchanged, but it is so high – 91% of all uncontested cases having at least one unrepresented party – that it is probably saturated, i.e., it cannot go much higher.



In contested matters, the overall percentage of cases involving at least one SRL has risen from 69% last year to 75% this year. The number of cases with no attorneys has grown from 23% to 33%.



The trend is similar for parties appearing in contempt hearings, with the number of cases with at least one SRL rising from 77% to 84%. The percentage of no attorney cases has grown from 20% to 46%



This experience is consistent with trends in other parts of the country. It is consistent with the ever growing numbers of Americans who eliminate professional middlepersons in other parts of their lives. Consider the number of homes sold without realtors, the amount of medication taken without prescription, the amount of stock traded without the advice of a broker, the number of children schooled at home by a parent, and the numbers of persons making their own plumbing and electrical repairs. From this perspective it should be clear that the increasing numbers of SRLs appearing in family court matters are not the result of the programs to assist them provided by the court. The court's programs sprang up in response to the phenomenon, which continues to grow.

In 2002, Prince Georges County had the poorest record in the state for timely disposition of family division cases, with 29% of all domestic relations cases falling outside the state's standard of disposing of 90% of all such cases within one year. We are aware that the family division has expended great efforts in the last two years to improve the timeliness of case dispositions, but do not have any more current data on this issue.

There are three programs in Prince Georges County Circuit Court to assist self represented litigants – the Family Division Information and Referral Center (FDIRC), the Pro Se Orientation Program, and the Law Foundation of PG County Pro Se Project (Law Foundation Project). To understand their operation, it is important to view them in the context of the Family Division's overall operation.

The Family Division. The Circuit Court has 23 judges. The Family Division assignment is disfavored by the judges. The period of the assignment has been reduced recently from two years to one year. Eleven of the 23 judges are assigned to the Family Division. One of the eleven handles juvenile delinquency cases. So ten judges handle divorce, annulment, separation, custody, child support, visitation, paternity, domestic violence, and adult adoption and guardianship matters. The other twelve judges may be assigned to hear family cases if on a particular day there are insufficient judges to hear all the matters scheduled.

The circuit judges are on a master calendar system. Their assignments are made by a central calendaring unit and they generally do not know their calendars very far in advance.

One circuit judge handles all requests for continuances. Another handles all orders to enforce discovery. In general, cases will not be continued at the last minute for failure of a party to request or obtain discovery. This creates particular problems in cases in which self represented litigants do not obtain or provide discovery.

The Family Division has five masters. These persons are appointed by the court. They were originally compensated by county appropriations; the state has picked up that cost. Masters have only the power to recommend decisions for approval by the circuit judges. They do not wear robes in the courtroom. They do not have the power to sanction persons for contempt. However, they hear all uncontested and short contested matters in the Family Division. One master is assigned to juvenile cases. Another handles a child support docket. The other three handle all uncontested divorce, annulment, paternity, custody, visitation, property division and other domestic relations matters. Their courtroom staff are employees of the Family Department, not the Clerk of Court. These courtroom staff prepare orders in the courtroom for matters other than those the judge takes under advisement; most litigants leave the courtroom with a proposed order in hand. An unsatisfied litigant can take exception to a master's proposed order within ten days. Otherwise the order becomes final and is signed by a circuit judge.

The most senior master will retire in two months. His replacement will be assigned to juvenile cases, reducing to three the number of masters handling domestic

relations matters, including child support cases. The court should carefully monitor the consequences of this pending reduction in the availability of masters to support the non-juvenile caseload of the Family Division. In our observations, the role played by the masters is of critical importance to the processing of Family Division matters.

All documents filed by SRLs are referred by the Clerk of Court's office to the paralegals in the FDIRC, who review them for completeness and compliance with the court's requirements. Defective filings are returned to the filer with instructions for correcting the errors found.

All non-juvenile family matters in which an answer is filed are set for a scheduling conference, conducted by Family Department non-lawyer staff. The parties file a form identifying the matters in controversy. The conferences focus on the issues identified by the parties. The conference officers assist the parties to resolve all issues, either on a temporary or permanent basis – offering the opportunity for the parties to appear before a master immediately that same morning or afternoon to incorporate agreements reached in final or pendente lite orders. Masters' calendars have sufficient flexibility to incorporate hearings and orders on such agreements. If agreements are not reached, the conference officer may make a referral to the Family Support Services or to other community social and legal services providers. Support Services will conduct a screening interview and report back to the conference officer recommended services, such as a custody home investigation, a psychological evaluation, or mediation. Upon receiving this report, the conference officer schedules all future events in the case, including referrals to services, to the court's parenting education class (conducted by a contractor for the court), discovery deadlines, and hearing dates.

Family Support Services conducts roughly 40 mediations, 30 custody and 4 or 5 psychological evaluations per month, providing written reports to the court.

If agreements are reached, the conference officer informs the master of the terms of the agreement, the master confirms the agreement on the record in open court, and the master's courtroom assistant prepares an appropriate proposed order which is handed to the litigants and counsel before they leave the courtroom.

The Family Division Information and Referral Center. The Family Division Information and Referral Center includes roughly 14-15 staff, two of whom are from the Clerk of Court's office. Eight are paralegals. The FDIRC conducts numerous functions:

- It registers all persons coming to court for hearings on Family Division matters
- It accepts filings that do not require the payment of a fee (except for \$10 attorney appearance fees, which it does accept)
- It answers telephone inquiries about Family Division cases
- It manages the progress of Family Division cases; three of the paralegals specialize in managing particular case types – adoptions, child support, and exceptions to proposed orders entered by masters

- As noted above, it screens all filings by SRLs
- It provides information to SRLs; counter staff provide information available to them; paralegals answer more technical questions
- It provides Family Support Services
- The paralegals prepare orders in SRL cases at the request of a circuit judge; court staff from the Clerk of Court's office do not prepare orders for circuit judges
- Attend and provide logistical support for Pro Se Orientations

Paralegals will provide extensive information to SRLs to assist them in preparing their cases. They will not actually complete forms. But, if a litigant can articulate the outcome they seek from the court, a paralegal will inform him or her of the alternative procedural courses available to place the matter before the court for adjudication. FDIRC staff have a one page form differentiating the information they can provide from that which they may not provide; the form is not clear and, according to our observations, is not followed by staff in all cases.

The FDIRC is physically located in the hub of Family Division activities – in the middle of the floor containing all masters' courtrooms. Consequently, the bulk of the court's assistance to self represented litigants takes place where these litigants come for hearings and other proceedings. The paralegals have very little space in their cubicles for self represented litigants to sit and their settings provide no opportunity for privacy in those interactions.

The cost of the paralegal program, including only salaries and fringe benefits, was \$281,116 last year. The program met with 7,825 litigants, for a cost of \$35.92 per litigant. However, the court estimates that the paralegals spend only 50% of their time assisting litigants; the remainder of their time is spend on reviewing files, preparing memos and orders, and managing cases. If this time ratio is used, the cost per case falls to \$17.96.

The Pro Se Orientation Program. The Pro Se Orientation Program is conducted twice a month. It is presented at the courthouse by a volunteer attorney recruited by the volunteer program coordinator who is a member of the local family court bar. Fifteen or sixteen lawyers are scheduled to present the program in coming months. Logistical support (including the distribution of forms packets) is provided by FDIRC staff who receive flex time for the time they spend. Lawyers follow a curriculum developed several years ago. The purpose of the orientation is to alert persons intending to represent themselves of the issues – such as large amounts of property or pension rights or a controversy over child custody – that suggest the need for legal representation. The presentation also covers the basic procedures followed in these cases and the most elementary directions for appearing in court (dress, courtesy, no gum chewing, etc.) The program includes roughly 45 minutes for a question and answer period. The lawyer making the presentation is allowed to accept attendees as clients.

When the Clerk of Court’s office or the FDIRC provide a forms packet to anyone, s/he is informed of the date for the next orientation and her or his name is added to the list of attendees for that session. Between 30% and 50% of those signed up attend a session. 60% of those signed up attend when the staff make follow up telephone calls reminding them of the orientation program.

Program costs are \$12,500 for a supervising attorney; costs for staff attendance are included within their regular court salaries. Last year 487 persons attended orientation sessions. The cost per attendee was \$25.67.

The Law Foundation of PG County Pro Se Project (Law Foundation Project). The Law Foundation Project provides the services of a lawyer to persons who cannot afford to hire one. It is the only one of the three services provided that is means tested (provided only to persons whose income is sufficiently low to qualify for the service). The project hires two part time attorneys and recruits a number of volunteer attorneys to provide brief advice and information to poor litigants. Persons needing the project’s services fill out an information sheet, which is used to check for conflicts and to guide the attorney in understanding the presenting problem. Advice is not limited to family matters. Conflicts are referred to the pro bono volunteer attorneys. Litigants are given legal advice and provided with proper forms to complete. It is not clear whether the attorneys will ever fill out the forms for litigants.

The court provided funding of roughly \$102,000 last year to support this program. The program served 4,279 clients in that year. The cost per client was \$23.84.

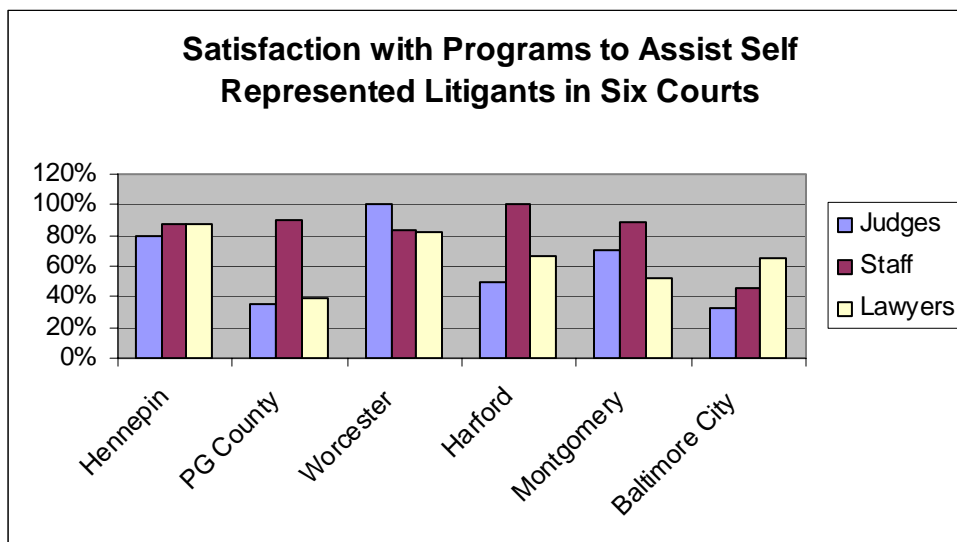
Use of the programs. The following table shows estimated annual use of the court’s judicial and SRL programs, extrapolated from statistics for the first three quarters of the current fiscal year.

Service	Cases resolved or persons served
Circuit judges	1113
Masters	8391
FDIRC (excluding Family Support Services)	69,471
Pro Se Orientations	420
Law Foundation Project	4392

Results of Stakeholder Research and Data Gathering

Approximately 25 stakeholder interviews, of judges, masters, clerks, bar association partners, court administrators, program staff and bar volunteers, as well as a variety of surveys completed by judges, court staff and lawyers, support the following conclusions:

- The court’s judicial and administrative leadership and bar leadership strongly support the programs to assist SRLs. A state legislator with whom we spoke stated that while these programs are not well known by legislators, they are strongly supported by those few members who do know of them and their funding is secure.
- In Prince Georges County, 33% of the judges, 90% of the court staff, and 35% of the lawyers expressed satisfaction with the programs to assist self represented litigants. The judge and lawyer satisfaction ratings are very low compared to other courts studied.



- Court staff support the programs and believe that they have made their work easier. Staff of the Clerk of Court who serve in the FDIRC were included in the survey. Clerks serving at the public filing counter (which is temporarily housed in a different building) were not included in the survey process. However, Clerk of Court employees with whom we spoke expressed the view that the programs are highly valuable to them.
- Judicial officers reporting observations of SRLs in the courtroom generally reported that they provide completed forms, present evidence and witnesses required, are able to “tell their stories,” and more or less have reasonable expectations.
- Judges responding to questionnaires reported generally that SRLs fail consistently to perform the above functions competently and that the programs to assist SRLs had not improved their lives. A majority of the judges are unsatisfied or very unsatisfied with the programs.
- The contradiction between these findings is explained as follows: The observations were primarily conducted by masters. The surveys, on the other

hand went to all circuit judges and masters; the views expressed are therefore primarily those of the circuit judges who have less direct contact with the SRL programs and whose experience of SRLs in the courtroom is confined to highly conflicted and complex cases – the situations for which the SRL programs provide little assistance and in which SRLs perform most poorly.

- Self represented litigants themselves report highly favorable ratings of the services provided, both at the time they are received and after a court hearing. Although the ratings of particular services are high over all, they are generally lower than those of other Maryland courts assessed. An exception is speed of service; services provided in Prince Georges County received the second best “waiting time” score among Maryland courts – a factor which we also observed in practice.

**Comparative Ratings of Programs by SRLs in Six Courts
(5 point scale with 1 being highest)**

Question asked of litigants	Hennepin County, MN	Prince Georges County, MD	Worcester County, MD	Harford County, MD	Montgomery County, MD	Baltimore City, MD
Overall satisfaction with program	1.59	1.45	1.3	1.14	1.16	1.06
Information helped me understand my situation	1.64	1.52	1.52	1.21	1.2	1.30
I know what I need to do next	1.66	1.49	1.52	1.34	1.24	1.32
Staff knowledgeable	1.49	1.35	1.39	1.21	1.12	1.20
Staff listened	1.51	1.35	1.35	1.21	1.16	1.24
Staff explained things clearly	1.54	1.37	1.35	1.28	1.24	1.24
Staff treated me with respect	1.44	1.35	1.3	1.17	1.1	1.14
I did not have to wait a long time	1.77	1.35	1.52	1.59	1.84	1.18
I would recommend the program to a friend	1.48	1.37	1.17	1.31	1.16	1.20

Satisfaction rating after a court hearing (4 point scale with 4 being highest)	3.17	3.38	2	3.56	3.73	3.31
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Readers should use caution in using and drawing conclusions from the above tables and the table that follows. The results may be affected by the following factors: that the data is drawn from small numbers of surveys (courts were asked to obtain completed surveys from 50 program users, but smaller courts were not able to do so); that some programs provide services only for family law matters and others (e.g.,

Hennepin County) provide services covering multiple case types; that courts used different data collection methods (who did the interviews, whether they were they identified as court staff members); and that the particular laws and rules of a state impact how complex or simple the forms are, and may therefore impact the customer satisfaction level with the forms and instructions.

Ratings of specific services provided are also very high.

**Comparative Ratings of Services Provided to SRLs in Six Courts
(3 point scale with 3 being highest)**

Question asked of litigants	Hennepin County, MN	Prince Georges County, MD	Worcester County, MD	Harford County, MD	Montgomery County, MD	Baltimore City, MD
Forms	2.84	2.80	3.00	2.96	2.95	3.00
Written instructions	2.72	2.76	3.00	2.83	2.97	3.00
Staff answer questions	2.90	2.89	2.95	2.92	2.94	3.00
Translation assistance	3.00	2.96	na	3.00	3.00	3.00
Workshop	3.00	2.95	na	na	na	na
Prepare for court hearing	2.77	2.83	3.00	2.63	2.78	na
Following up with court orders	2.80	2.93	3.00	3.00	2.84	na
Educational materials	2.67	2.80	2.80	2.67	2.86	na
Where to get more help	2.83	2.78	2.90	2.83	2.85	3.00
Met with attorney (not court staff)	2.85	2.68	3.00	3.00	2.95	na
Referred to an attorney	2.25	2.74	3.00	3.00	2.77	na
Help using computer	2.33	2.75	na	na	3.00	na
Made an appointment	3.00	2.82	na	na	2.00	na

- The litigants also gave very high ratings to the judges for the hearings and trials conducted. The ratings fall at the high end of the range of ratings in other courts assessed to date.

**Comparative Ratings of Court Processes by SRLs in Six Courts
(5 point scale with 5 being highest)**

Question asked of litigants	Hennepin County, MN	Prince Georges County, MD	Worcester County, MD	Harford County, MD	Montgomery County, MD	Baltimore City, MD
Felt prepared	4.19	4.21	3.00	4.13	4.63	4.12
Judge treated you with respect	4.66	4.79	5.00	4.36	4.91	4.45
Staff treated you with respect	4.67	4.91	5.00	4.44	4.91	4.47
Judge cared about your case	4.42	4.52	5.00	4.18	4.74	4.25
Judge treated everyone in court fairly	4.6	4.71	5.00	4.44	4.89	4.20
Able to tell the judge everything s/he needed to know	4.18	4.42	4.25	3.72	4.69	4.01
Did a good job representing yourself	4.02	4.64	4.50	4.12	4.74	4.29
Understood the words used	4.61	4.91	4.00	4.38	4.81	4.49
Can explain the outcome of the hearing	4.87	4.26	4.25	4.41	4.81	4.36
Outcome favorable	3.76	4.53	4.00	3.85	4.84	3.74
Judge's ruling fair	4.18	4.62	4.00	4.19	4.89	3.97
Satisfied with what happened today	4.08	4.48	2.00	3.92	4.89	3.81
Do you have more respect for the court system	3.79	4.09	4.00	3.49	4.80	3.73

Readers should use caution in using and drawing conclusions from the above. The results may be affected by the following factors: that the data is drawn from small numbers of surveys (courts were asked to obtain completed surveys from 50 program users, but smaller courts were not able to do so, viz Worcester County, MD which collected only four surveys); that the surveys may have been conducted of litigants coming from different sorts of hearings (for instance, the Maryland data came exclusively from family law matters while the Hennepin County data came from multiple case types; further, most Maryland courts focused their data gathering on cases before masters, which are likely to be simple and uncontested); that state laws impact the difficulty of proving a case (e.g., Maryland law requires proof that the parties have been separated for a period of one or two years, without cohabitation or intercourse, and corroboration of that proof; other states require no grounds for divorce; consequently one would anticipate more problems at the hearing for an uncontested divorce in Maryland than elsewhere); and that in a small court, one judge's practices might affect the

score for the court as a whole (for instance, the Administrative Judge's practice in Harford to limit testimony in perfunctory matters may produce that court's relatively low score for a litigant's ability to tell the judge everything s/he feels the judge should know).

- Lawyers report in the surveys that SRLs do not perform well in the courtroom and that the programs have not made the lives of the lawyers better. A majority of lawyers surveyed as unsatisfied or very unsatisfied with the programs.
- Court managers perceive the program as critical to the effective resolution of Family Division cases
- Program staff are happy with the value and utility of the work they do.³
- The Clerk of Court believes that the programs to assist SRLs impermissibly involve court staff in the provision of legal advice and feels that too many resources are devoted to these programs at the expense of the core record keeping functions performed by her office.
- As a general matter, the programs are perceived as most useful in distributing the correct forms to litigants, and making sure that these forms are appropriately completed. The programs are perceived as least useful in preparing SRLs for the litigation of complex cases, in familiarizing them with court rules and procedures, and in providing them with reasonable expectations about the likely outcomes in their cases.
- Court observations and exit interviews confirm that the court as a whole is achieving excellent results in terms of the satisfaction of its users who do not have lawyers, as well as treating those litigants well in the courtroom, and apparently creating an environment in which they are able to tell their stories to the judge.⁴
- Sixty percent of the litigants interviewed following a court proceeding reported that they had used one of the court programs to assist SRLs. This usage level is lower than the other four Maryland courts surveyed to date (ranging from 72% to 77%).

Program Strengths

We have identified a number of strengths of the programs in Prince Georges County Circuit Court.

³ This conclusion was reached as a result of individual interviews and observation of staff performing their duties.

The programs are strongly integrated within basic case management and judicial decision making processes of the court rather than existing as separate and unique programs. This makes them simultaneously more effective and more secure as a permanent part of the court's operations.

They enjoy strong state level support from the Court of Appeals, from the Chief Judge, and from the Administrative Office of the Courts. That support is reflected in

- Stable, reliable funding. We are assured that the legislature's commitment to continuing support for these programs is solid and reinforced by the Chief Judge's and state judiciary's advocacy on their behalf.
- Mandatory pro bono reporting. The Court of Appeals last year required all members of the Maryland bar to report annually the number of hours devoted to pro bono services. While bar members are under no obligation to perform pro bono work, the new requirement appears to have increased the amount of pro bono activity within the bar.
- Statewide interactive forms. The judiciary's website contains statewide forms, instructions and information sheets for typically used family law matters
- Statewide best practices. The AOC is developing a report recommending best practices for family division programs.
- Peoples Law Library. This website, developed by the state's legal services community, includes extensive materials for the SRL, including an innovative assessment instrument to gauge the likelihood that a person can successfully represent him or herself in a family law matter.

They enjoy a depth of support within the court's judicial and administrative leadership; these programs are not dependent on a key person or persons for their inspiration or survival.

The programs benefit from an attitude of introspection and continuing improvement. The Family Division has tried a number of different approaches to the management of family law cases. It has learned from each and incorporated those learnings into the highly effective program in operation today.

Areas Needing Improvement

We have identified a number of general areas in which improvement is needed. Most of these are amplified in the detailed recommendations appearing at the end of this report.

It is important for the Clerk of Court to support these programs.

The court needs to increase its outreach to the community and to special needs populations within the community. Greater publicity for its programs to assist SRLs

would increase the percentage of SRLs in Family Division cases who had taken advantage of the services provided. The Division had very few Spanish speaking litigants until it hired a bilingual staff person several years ago. This one employee's availability to provide assistance and translation services quickly became known within the Spanish speaking community and a significant number of community members began coming to the court for services. One form of outreach would be to defendants in family litigation. The court's programs are now serving roughly 10 times as many plaintiffs as defendants. The court must appear to be, and actually be, evenhanded in the assistance it provides to both parties to any legal controversy. A special subset of defendants is non-custodial parents involved in child support enforcement matters. Child Support Enforcement attorneys informed us that 40% to 50% of child support defendants have visitation issues that they do not raise in court because they do not know how to do so and because they perceive the court system as being set against them.

The judiciary – at both the state and local levels – need to address the lingering concerns of judges and lawyers about these programs

- Training of judges on dealing with SRLs. A number of the masters with whom we spoke voiced concern about the change in their role with the advent of large numbers of SRLs in the courtroom. They feel that they can no longer play the passive role they are used to – merely “calling the balls and strikes.” But they do not feel comfortable in a different role. They need to be assured that a new role is not only necessary but is ethically appropriate. They also need to be taught new skills for dealing effectively with SRLs in the courtroom. Most difficult for them is the situation in which one party is represented and the other is not.
- Promulgating a consistent and authoritative definition of the difference between legal information and legal advice for judges and court staff to follow.
- Ensuring a level playing field for represented litigants. The lawyers with whom we spoke were not concerned about the judge's new role. They were, however, concerned that SRLs are not required to comply with the rules of civil procedure relating to discovery. They fear that their own clients – whom they force to disclose documents pertinent to the case – may be placed at a disadvantage if SRLs are allowed to testify to such matters without having complied with discovery requests.
- Protecting SRLs against themselves. Judges and lawyers are concerned that SRLs are forfeiting significant legal rights in these cases. An example is the right to a portion of a spouse's retirement. If that right is not asserted during the course of a divorce proceeding, it is forfeited. With the retirement of large numbers of Baby Boomers in the next few years, they dread the prospect of a number of needy former spouses being unable

to obtain support to which they would have been entitled if they had retained counsel to represent them.

- Giving SRLs more guidance for contested matters. The programs currently provided focus heavily on providing assistance with documents. A similar effort is needed for presentation of cases in the courtroom. The current statewide instructions describe the witnesses needed to establish the grounds for a divorce in Maryland and the testimony they need to provide. Similar guidelines could be developed to describe the sorts of evidence needed to address the legally relevant factors in various family law matters. The Women’s Law Center of Maryland and the Maryland Commission for Women have prepared a manual entitled *Legal Rights in Marriage and Divorce*⁵ which sets forth concisely the elements required to establish entitlement to various types of relief in family law cases.

The program services provided by the court are quite expensive. Services of a psychologist for a mental health examination cost \$1500. Those of a guardian ad litem cost twice as much. A home study to assist in the judge’s custody determination cost \$400. The required parenting class costs \$100 per person. These fees strike us as high. Perhaps the court could use competitive bidding to obtain less expensive alternatives to the services provided by current contractors. While court leadership is concerned that obtaining mediation, guardian ad litem, and psychological evaluation services on the basis of competitive bids would reduce the quality of providers, other courts around the country have successfully used a competitive bidding process for them.

The state of Maryland should consider the possibility of providing SRL services to litigants in the District Courts. Large numbers of persons represent themselves in domestic violence matters, small claims disputes and landlord/tenant eviction matters. We are told that large numbers of persons facing serious criminal charges are also choosing to represent themselves in District Court, notwithstanding the government’s obligation to provide appointed counsel in any criminal matter in which the defendant faces the possibility of imprisonment upon conviction. This may be an additional instance where persons contemplating self representation need to be protected from themselves.

Specific Programmatic Characteristics

The TCRIC Executive Assessment Instrument identifies eight specific areas on which this assessment must focus some attention.

Goal Alignment

⁵ Second Edition 2001.

Goal alignment is the extent to which the activities of everyone within the court agrees upon the same purposes, objectives, and values for serving self represented litigants, and pursues them consistently in the course of their everyday work.

The activities of the programs are so thoroughly integrated within the work of Family Division that there is a very high degree of alignment of activities and values that we observed in practice during our visit to the Prince Georges County Circuit Court. There is one exception – the Clerk of Court herself. Our observations are that her staff are aligned well with the court’s goals and work effectively with the court and its administrative staff; it is only at the leadership level that there are conflicting goals and objectives – particularly in the area of a common understanding of the definition of “legal advice” and the extent to which the court and its staff should be providing large amounts of information to persons representing themselves in family law matters.

The program does not have written goals. Such goals have been articulated at the state level in the Performance Standards and Measures document. We believe that the formal articulation of the goals of the Prince Georges programs would be helpful. When we asked the Coordinating Judge, the Family Division Administrator, and the Associate Director for FDIRC to state the program’s goals, we got somewhat different responses. Judge Weatherly’s response was the clearest: the objective of the programs is to provide persons intending to represent themselves with the information they need to have to be able to differentiate the cases in which they need and do not need lawyers, to assist those needing lawyers to obtain their services, and to assist those who do not to complete the legal process themselves. The goals articulated by Linda Morris and Patty Perez were not inconsistent but they were different – focusing on increasing access to justice, ensuring the fairness of the judicial process and providing education about the legal system to self represented litigants.

Were the program’s goals to be articulated formally as Judge Weatherly states them they might provide useful clarity for skeptical judges and lawyers and engender broader support from them for the programs.

Although we observed that court staff appear to follow a consistent understanding of the difference between legal information and legal advice (and one that is consistent with the national consensus on this issue) it would nonetheless be helpful to all for the state judiciary to promulgate a rule or policy statement to which all could turn for guidance. A common, authoritative definition of the meaning of the term “legal advice” would also address the major concern of the Clerk of Court.

Client Groups

The court has given very little attention to the changing demographics of Prince Georges County and the possibility that there are groups within the population of the county needing special services in order to be able to take advantage of court services.

Data provided to us from the County website show that over 15% of the County’s population speak a language other than English in the home. The court has identified Spanish speakers as a special needs population and plans to translate the forms and materials into Spanish and to hire more bilingual staff to address their needs. It would be helpful for the administrative staff to investigate the existence of other identifiable cultural and language groups to whom special outreach may be appropriate.

We note that the services of the Prince Georges County programs are provided largely to plaintiffs. There are more than ten plaintiffs served for every defendant served. Other programs studied have ratios as low as 2.5 to 1. In particular, we observed very little support for defendants in child support cases. There is a clear need to provide a greater emphasis in program forms and materials and in program descriptions to assure defendants that staff assistance is equally available to all parties coming before the court.

Although the court provides immediate access to a judge for persons facing an emergency, there is little information available to persons to assess whether the situation they face will be considered an emergency by the judges.

Stakeholders

We have discussed the data and observations of various stakeholders previously.

The Clerk of Court, judges and lawyers are the stakeholders to whom the programs need to accord greater attention. We believe that the specific recommendations set forth below will address their major, lingering concerns.

Emerging Practices

The assessment tool developed by the Trial Court Research and Innovation Consortium includes a number of Emerging Practices against which a court’s program should be compared. The table below summarizes the Emerging Practices identified by TCRIC and our observations concerning Prince Georges County’s use of them. We note that the Maryland judiciary is developing its own Best Practices document addressing family division activities as a whole.

Emerging Practice	Prince Georges County Status
Easily Understandable Forms and Instructions Forms and instructions written in plain English	The statewide forms process provides a wide variety of forms and instructions written in plain English. We make some recommendations for their improvement below.
Large Type Forms and instructions in larger type.	Such forms are not formally available, but they could be printed out if requested.
Development of a Web Site for Self-	The court’s own website contains limited

<p>Represented Litigants Applicable statutes and rules, extensive instructions written in plain English, downloadable forms, and interactive forms completion programs (where the program obtains the user’s input in response to questions and populates the form appropriately based upon the answers).</p>	<p>information concerning its programs for SRLs; it should be enhanced. Nor does it contain a link to the statewide interactive forms, to family law statutes, or to the Peoples Law Library. This failure can easily be remedied.</p>
<p>Other Languages Easily understandable forms and instructions, translated into Spanish and other languages (including Braille) as designated by the county’s demographics.</p>	<p>The program is planning to translate the forms and instructions into Spanish. This effort should be coordinated with the AOC because there is a statewide need for forms and instructions in languages other than English. The court should investigate the need for such translations into other languages in Prince Georges County.</p>
<p>Access at Local Libraries and Community Access Sites Website available at public facilities such as public libraries, city halls, and municipal buildings together with assistance in accessing and using the website</p>	<p>The state court website and the Peoples Law Library are available in public libraries and anywhere that Internet access is available.</p>
<p>Attorneys in the Courthouse Attorneys either employed by the court, employed by an outside agency, or working pro bono counsel litigants prior to court appearances</p>	<p>The Law Foundation Project employs lawyers to provide this counsel and also brings pro bono volunteers to the courthouse to supplement the resources of the part-time employees. Paralegals also perform reviews of filings submitted by SRLs.</p>
<p>Attorneys in the Courthouse The judge may send litigants out of the courtroom to meet with attorney advisors in order to expedite calendars.</p>	<p>The services of the Law Foundation Project and the FDIRC are available for referral from the courtroom. We did not observe such referrals during our short visit to the court.</p>
<p>Workshops Workshops can be either run by video or live presenters.</p>	<p>The Pro Se Orientation is well established. The court intends to prepare a Powerpoint presentation for presenters to follow. We recommend below that the state judiciary prepare a videotape or online workshop for persons planning to represent themselves in family law matters.</p>
<p>Mobile Services Centers Service centers contained in mobile RV units that can be driven to various parts of the jurisdiction</p>	<p>There is no mobile service center, and the evaluators do not recommend one.</p>
<p>Telephone Attendant Decision–Tree</p>	<p>There is no automated phone service, and</p>

Systems can provide telephone assistance to self-represented clients	the evaluators do not recommend even exploring one. The FDIRC has a sophisticated call monitoring system which shows staff and supervisors the number of pending telephone calls and which staff members are available to answer them.
Training Other Court Staff Provides a customer service orientation to all public information components of the court.	There is significant cross training, which has succeeded in creating a strong public service orientation to the whole court. County level training programs are used extensively for staff.
Prehearing Screening Process A court staff member, staff attorney (sometimes called a family law facilitator) or a volunteer attorney (sometimes from legal services) reviews the papers prepared by the parties to determine their readiness for consideration by the judge. In some courts, judges meet with the parties in a prehearing conference to accomplish the same objective and to help with dispute resolution.	Paralegals and scheduling conference officers perform this function.
Unbundled Legal Services Providing access to specific legal services on a limited representation basis -- limited to a specific phase or issue in the case.	The Law Foundation Project provides unbundled legal services. Although the Maryland judiciary has not formally endorsed this form of legal practice, it is widely available. We recommend a further recognition of it through the creation of a panel of lawyers who specialize in the preparation of qualified domestic relations orders (QDROs).
Community Outreach Providing information about court services and obtaining input from community members about those services and their experiences with the courts.	The program has begun to reach out to Spanish speaking citizens. Further such efforts are needed.
Fully Interactive Forms with on line or otherwise simultaneous Video Help	The state court website provides interactive forms on line.
Customer Friendly E-Filing Court-sponsored forms completion process is linked to electronic filing system so that self-represented litigant can file form as soon as it is completed.	Prince Georges County conducted one of the first experiments with electronic filing a decade ago. The state judiciary's interactive forms could be used as the basis for an electronic filing process for self-represented litigants.

Statistical and Data Analysis

Demographic information on users of programs to assist SRLs is collected because it is required by the AOC. But it is not regularly analyzed. Similarly, the court collects data on the extent of self representation at various stages of the progress of cases through the court. It could make more use of that information in monitoring the performance of its own programs. The graphs set forth earlier in this report are examples of ways in which the court can provide such information to staff and stakeholders.

Evaluation

There is no regular, systematic evaluation of any of the court's programs. This assessment is the first such effort by the court. We recommend that the court conduct its own annual assessment of the performance of the Family Division as a whole. The assessment would be grounded in the written goals suggested earlier and would make use of available data. We recommend that its scope be limited; it is easy for such projects to turn into long reports that consume staff time and provide little helpful information. An annual assessment would also serve as the vehicle for annual planning for changes and enhancements to the programs.

Strategic Planning

Strategic planning is evident at the state level. It does not exist formally at the level of the Prince Georges County Circuit Court. Effective strategic thinking is clearly evident in the way in which the Family Division programs have been conceived, structured, resources, implemented, and integrated into the operations of the court. As noted above, the annual Family Division assessment would provide an opportunity to set forth specific plans for needed changes and enhancements to the court's programs.

Overall Assessment

We find that the Prince Georges County Circuit Court Family Division has in place an exceptional process for handling family law matters, into which its three programs to assist self represented litigants are completely integrated. SRL assistance works seamlessly with basic case management and judicial decision making processes.

The court appears to be highly responsive to the needs of self represented litigants. It provides a broad range of services for judges and litigants to resolve family law matters in an integrated fashion.

The court has solved a number of problems that bedevil other courts:

- Assisting SRLs through the process by ensuring that their paperwork is adequate prior to a court appearance;
- Providing them with written orders before they leave the courthouse;
- Facilitating conflict resolution quickly and informally; and
- Providing same day services and decisions.

The court, with the assistance of the state judicial leadership, now needs to address the next level of problems facing all state courts in providing effective access for self represented litigants to court services in the family law area;

- Statewide definition of legal information v. legal advice;
- Better articulation of and training for judges to deal with the changed judicial role in the general jurisdiction trial court required to address these cases; and
- Increased assistance to SRLs with complex contested matters in presenting them effectively in the courtroom;

Recommendations

Our recommendations are made both to the AOC and state court leadership and to the leadership of the Prince Georges County Circuit Court. The first recommendations need to be addressed at the state level.

Enhance forms to include additional advisories for self-represented litigants

As noted earlier, judges and lawyers are concerned that significant numbers of self-represented litigants are forfeiting important legal rights. We recommend changes to state forms and instructions to highlight the following areas:

- Forfeiture of rights to share spousal pensions if not asserted in complaint or answer
- Notice of tax consequences of distribution of assets
- The consequences of divorce proceedings for alimony, monetary awards, and home ownership

We suggest that the state consider changes to the divorce forms, the instructions accompanying the forms, the summons, and the notice of default to include clear warnings, stated in understandable English, notifying both plaintiffs and defendants of the potential consequences of divorce proceedings.

Promulgate a statewide definition of legal information v. legal advice

At least a dozen states have drafted and adopted definitions for judges, staff and the public, setting forth in understandable English the activities in which staff may engage and those that they are prohibited from performing. We can provide the AOC with examples. We recommend particularly the materials developed by the California Judicial Council.

Address SRL needs in other case types

Forms, instructions, and operational programs are now in place for persons who choose to represent themselves in family law matters. It has also devoted considerable attention to assistance of abused spouses and children in obtaining orders of protection. The state could usefully apply the lessons learned in these efforts to providing similar materials for small claims, landlord/tenant, and criminal cases in the District Courts.

District Court judges are accustomed to the appearance of litigants without counsel; they have well established routines for ensuring that they have an opportunity to present their cases in open court. Consequently, there has been far less clamor for materials in the types of cases that arise in these courts.

Nonetheless, the jurisdictional limit of the District Courts has been increased to \$30,000 recently. This suggests that the potential consequences for litigants have become more serious and that the state judiciary should consider providing at least more written materials for litigants involved in civil matters in the limited jurisdiction courts. As noted above, there are also reports that growing numbers of persons are choosing to represent themselves in criminal cases in these courts. While they have a constitutional right to do so, the judiciary should consider preparing strong advisory materials that will alert such litigants to the potential consequences of self representation in these matters.

Mandate attendance at orientation program for SRLs (if video or online option is available)

We urge the Court of Appeals to consider making attendance at an orientation a requirement for self representation in some types of family law matters, just as the courts are mandating attendance at approved parenting classes. While attendance would not be required for cases seeking modification of custody or child support, it could be required for temporary and absolute divorce.

We would recommend that a statewide orientation videotape and online presentation be created prior to the imposition of such a requirement and that these orientations be provided at no cost to the litigants.

While imposition of such a requirement would serve as a barrier to access to divorce, it nonetheless seems to us to be an appropriate balance of the litigant's rights to access with his or her interests in not inadvertently forfeiting important legal rights associated not only with property interests but also with interests in a parent's future relationship with children.

Training of judges on dealing with SRLs in the courtroom

The Judicial Institute has developed program segments on dealing with self represented litigants. We recommend that they become a standard part of the orientation for new circuit court judges and be provided to all judges embarking on an assignment to the Family Division. The training needs to address the ethical issues that trouble judges in adopting the more engaged judicial role required to deal effectively with these cases, reassurance to the judges that the lawyers understand and accept the need for them to provide procedural guidance to self represented litigants, and specific techniques that judges can use to obtain the information they need to resolve cases on their merits while preserving the reality and appearance of impartiality.

Develop name change and guardianship forms and instructions

We are told that the statewide name change forms have been withdrawn from use by the AOC. They should be reissued as soon as possible. There are no statewide forms and instructions for guardianship cases.

Consider separate discovery rules in domestic relations cases

Divorce cases are different from ordinary civil litigation. The parties have lived together for some time – often for many years. They know a great deal about each other, about their property and their businesses. The discovery rules put in place for obtaining information from strangers are not necessarily appropriate for family law cases. In Arizona, a special committee appointed by the Supreme Court is developing separate rules of procedure for family cases. Maryland should consider following the same path, at least with regard to a different approach to discovery.

Adopt ABA Model Rule 6.5 on conflicts checking

The Law Foundation Project must expend valuable resources conducting checks for conflicts of interest before providing information and advice to a client. The ABA's new Model Rule 6.5 relieves such programs of the need for a conflicts check, although a lawyer may not knowingly give advice even in this circumstance to a person if s/he knows of an actual conflict of interest with the opposing party in the matter.

Enhance services for Spanish speaking citizens, including materials in Spanish

The state has initiated a contract to translate its forms and instructions into Spanish. It will expand that service into other languages for which there is statewide demand as resources permit. Courts and bar associations throughout the state are beginning to invest resources in this area. There is no need for duplication of effort.

The remaining recommendations are addressed to the Prince Georges County Circuit Court.

Enhance services for Spanish speaking citizens, including the hiring of bilingual staff

The Circuit Court should follow through with its current plans to hire additional bilingual staff and otherwise make its services culturally accessible to Hispanic families and individuals.

Identify other language or cultural groups needing special attention

As noted earlier in this report, more than 15% of the population of Prince Georges County speaks a language other than English in the home. The court should meet with law enforcement and other county officials to identify community groups in addition to Hispanics who may need special outreach from the court.

Require self-represented litigants to comply with documentation/discovery requirements

Lawyers are concerned that the court's leniency towards SRLs in complying with discovery requirements may actually prejudice represented litigants. This appears to us to be a legitimate concern. We urge the court to be more demanding of SRLs in this context.

One way of accomplishing this is to authorize masters to continue hearings when one party has failed to make required disclosures. They currently lack this authority. Additional sanctions should also be considered, such as payment of all or part of the attorney's fees of the other side occasioned by the need to continue the hearing. SRLs should be warned by the scheduling conference officer and in the scheduling order itself of the possibility of such monetary sanctions for failure to comply with disclosure requirements.

Increase public awareness of services available to SRLs (e.g., promotion of new Spanish language services when they are available)

The court needs to take steps to increase the percentage of SRLs who take advantage of the court's programs to assist them.

Enhance court website to publicize SRL programs and services and provide link to statewide forms and statutes and to People Law Library

It will be quite easy for the court to add more information to the court website. It is one way to accomplish increased public awareness of the court's SRL programs.

Create panel of QDRO lawyers for SRLs to view and use as referral source

We understand that many divorce orders remain incomplete because the parties do not obtain qualified domestic relations orders called for by the terms of the orders. We recommend that the court assemble a list of lawyers willing to prepare QDROs for self represented litigants. The list should also set forth the fees that these lawyers will charge.

Prepare materials to assist SRLs preparing for contested hearings, especially in complex matters

There are a number of steps that the court could take to better prepare SRLs for court appearances, including basic courtroom protocols, lists of the legal elements that must be proven to obtain relief and the sorts of evidence that can be used to prove them, and suggestions that litigants observe hearings and trials in other cases. Some courts in other states have videotaped proceedings for this purpose.

Provide parties with option of appearing before Masters in cases longer than three hours

If sufficient master resources are available, we suggest that the parties be allowed to request that longer evidentiary hearings be conducted by them in cases involving one of more self represented litigants. Consent of both parties would be required. It is clear from our discussions that the masters are more comfortable with these cases than most circuit judges. We are aware of one court in Maryland in which the masters hear all matters involving hearings of up to a day in length.

Create exceptions form

The court has no form for litigants to use to file an exception to the proposed order prepared by a master. The staff provide litigants with a 1977 county form for a Praecipe. It would be quite easy to create a new form appropriate for this purpose. This is a form that should also be created for statewide use.

Conclusion

The entire Prince Georges County Circuit Court should be proud of what it has achieved in its services to self-represented litigants. The Court has an extremely solid foundation on which to build. The program will be an important resource for the rest of the state as Maryland takes its programs to the next level of sophistication.

The program should continue its pattern of self-assessment and enhancement, and is deserving of the resources to make such enhancements possible. The deployment of such enhancements will be cost effective and will save the state and county resources overall.