

Performance Evaluation Summary Legislative Finance Committee, June 2012 Judicial Branch, Court Help Program

Current Program Status

Court Help continues to operate Self-Help Law Centers in six communities with outreach to surrounding locations. Services are provided by limited paid staff, AmeriCorps service members and volunteers. The Court Help legal services developer continues efforts directed at increasing the number of pro bono attorney services provided to self-represented litigants.

To date, the self- help component of the program has served approximately 24,000 contacts (individuals may seek services more than once). In calendar year 2011, a total of 114,546 pro bono hours were reported by Montana attorneys.

The Court Administrator's Office is preparing data about the number of self-represented litigants in certain case types (family law and guardianship cases) in Montana's District Courts. National data indicates a significant increase in the number self-represented litigants and anecdotal data would indicate the same increase in Montana. Specific Montana data, which should be available in late summer 2012, will guide Court Help Program decisions including program development and resource allocation.

Summary of the Completed Performance Measures

Court Help Services: The anticipated outcomes identified prior to the survey of individuals involved in the judicial process, including clerks of court, judges, judicial staff, volunteer attorneys and self-represented litigants, were confirmed. In general:

- Litigants who receive Court Help services have better prepared and more complete paperwork.
- Litigants who receive Court Help services have a better understanding of the court process.
- Clerks are able to process case filings for these litigants more efficiently than for those litigants who do not seek services from a center.
- Judges notice an improvement – based on the assistance of the centers - in the ability of self-represented litigants to navigate the legal system.
- Orderly and complete case filings have to some degree increased court efficiency.

Results of the 13th Judicial District Family Law and Motion Clinics, for self-represented litigants in uncontested family law case, supported by volunteer attorneys were as anticipated. Litigants

attending the clinic presented more complete and accurate required documents, and displayed an improved understanding of court process and more confidence in the court's decision.

- The clerks observed that self-represented litigants were better prepared, and their documents were more complete and accurate which improved the efficiency and effectiveness of the court's time.
- Judges or judicial staff also found the self-represented litigants were more prepared, with their documents more complete and accurate which improved the efficiency and effectiveness of the court's time. Those litigants receiving assistance from volunteer attorneys also appeared to have a better understanding of the court process and therefore confidence in the court's decision.
- Finally, the volunteer attorneys providing assistance prior to the hearing reported litigants were better prepared for hearings with more accurate and complete documents submitted. Most judges believed the attorney assistance would improve the issuance of a decree without the need for the litigant to amend their documents or the need to return to court again.

In general, it is very clear that a variety of Court Help services and projects provided significant assistance to litigants, clerks and judges. Without the program, a large number of litigants would be floundering; creating additional chaos for not only themselves but for clerks and courts as well. The program, however, is not a panacea. Judges and clerks continue to express concerns about the ability of many self-represented litigants to adequately understand the court process and represent themselves. Courts, clerks, attorneys and other concerned citizens must continue to look at ways to maximize the services provided through the Court Help Program and by other programs assisting litigants.

ISSUE STATEMENT

The Joint Appropriations Subcommittee on Judicial Branch, Law Enforcement, and Justice voted to request monitoring of this item. The legislature appropriated funding for the Court Help Program in the 2009, 2011, and 2013 biennia with one-time funding. With this funding, has the program achieved its intended purpose, as stated below by assumption from a bill that failed to be enacted by the legislature?

HISTORY AND PURPOSE OF PROGRAM OR ITEM

SJ 6 of the 2005 Legislature requested a study of access by low-income Montanans to the Montana civil legal system. The Law and Justice Interim Committee requested HB 60 during the 2007 Legislature, which would have established the “Montana Access to Civil Justice Act” to be administered by the Supreme Court; identified the duties of the program, then identified as the self-help law program; and appropriated \$505,000 general fund for each year of the 2009 biennium. HB 60 also stated the purpose for the program was to “make Montana’s court system more accessible by:

- Providing Montanans with user-friendly information about Montana’s civil law, courts, and legal system.
- Providing state-level, self-help legal resources, tools, information, and training materials on a statewide basis in a cost effective manner emphasizing technology and volunteer services.
- Facilitating the efficient use of judicial resources in civil court proceedings that involve self-represented litigants.

HB 60 failed to pass the legislature having died in the House Appropriations Committee. Instead, the legislature appropriated general fund to the Supreme Court Program of the Judicial Branch in the amount of \$252,500 in each of the 2009 biennium, and specified in language the various uses of the funds.

The 2009 Legislature funded the program in HB 645 for the 2011 biennium, a bill that implemented the American Recovery and Reinvestment Act of 2009, with \$250,000 general fund year. For the 2013 biennium, the legislature funded the program with nearly \$296,000 of restricted, biennial, and one-time-only general fund per year but without the restricted language that was included for the 2009 biennium.

The current program includes the following:

- Two full-time staffed centers have now been established in Flathead and Yellowstone counties.
- Four centers have been established in Missoula, Great Falls, Bozeman and the State Law Library in Helena. The centers provide services four or more days a week and are staffed by a combination of paid employees, AmeriCorps service members and volunteers.
- Leveraged funds provide six AmeriCorps members who staff the established centers and travel and provide services to 17 rural counties.
- Includes a program administrator and a legal resources developer positions.

Methodology/ Measures for Determining Effectiveness

To assess the effectiveness of the Court Help Program components, stakeholders in the legal process were surveyed regarding their experience with and the impact of the Court Help Program services. Measure one, consisted of a survey of clerks and judges or judicial staff in the six counties with Self Help Centers during a five month period in 2012. Measure Two surveyed clerks, judges, litigants and volunteer attorneys who participated in monthly Law & Motion Clinics in the 13th Judicial District (Yellowstone County) during the same time period. With input from the Legislative Fiscal Analyst, specific criteria were developed for each measurement as set forth below:

Measure One:

To measure if the program is facilitating the efficient use of judicial resources in civil court proceedings involving self-represented litigants. To measure, a comparison of the quality of case filings will be used.

Specifically:

1. In Court Help Centers in Missoula, Gallatin, Cascade, Lewis and Clark and Yellowstone Counties, self-represented litigants in domestic relations cases completing court paperwork in a Center will have the papers stamped with a “Court Help” stamp indicating all documents are included in the file. Self-represented litigants not receiving center services will not have a stamp.
2. The practice will not apply in Flathead County where all self-represented litigants in family law cases are required to have case filings processed through the center.
3. The stamp protocol will be required effective December 1, 2011.
4. In May 2012, Clerks of the District Court in the other five counties will complete a survey comparing the quality of paperwork submitted by litigants who have visited a center (as verified by the stamp) and those who have not visited a center. The survey will ask for general assumptions about whether center assistance improves the quality of the paperwork and the ability of the court to process the cases.
5. Additionally, in May 2012 the judges (or judicial staff) in each of the five counties will be asked to complete a survey comparing the quality of paperwork submitted by self-represented litigants who have visited a center (as verified by the stamp) and those who have not visited a center. The survey will ask for general assumptions about whether center assistance improves the quality of the paperwork and the efficiency of the court to process the cases.

Expected outcomes:

- Litigants who receive center services will have better prepared and more complete paperwork.

- Litigants who receive center services will have a better understanding of the court process.
- Clerks will be able to process case filings for these litigants more efficiently than for those litigants who do not seek services from a center.
- Judges will notice an improvement – based on the assistance of the centers - in the ability of self-represented litigants to navigate the legal system.
- Orderly and complete case filings increase court efficiency.

Performance Measure One Outcomes

The expected outcomes were confirmed.

From July 1, 2011 to May 18, 2012, about 4,600 people sought assistance from Court Help Centers around Montana. (An individual could seek services more than once from a center.)

In addition to the six counties set out in Measure one in May 2012, all district courts clerks and judges(or judicial staff) in judicial districts with self-help services were asked to complete a survey comparing the quality of paperwork submitted by self-represented litigants who have visited a center and those who have not visited a center. This survey asked for general observations about whether Court Help assistance improves the quality of the paperwork and the ability of the court to process the cases, as well as the efficiency of the court to process these cases.

Clerks of District Court Responses:

A total of 44 clerks of court responded to the survey. A large majority of clerks (71%) were able to identify a difference in the level of preparedness when a self-represented litigant received Court Help services.

Differences identified include:

- 93% note the litigant has completely filled out legal forms.
- 89% note the litigant’s filing contains all required documents.
- 69% note the litigant has filed paperwork in the correct order.
- 58% note the litigant has complied with local rules and filing requirements.
- 42% note the litigant has an enhanced understanding of the legal process.
- 39% note the litigant is prepared for court hearings.

Clerks also noted:

- Where the litigant received Court Help services, clerks spend less time discussing filing requirements with the litigant (53% “agree” or “strongly agree” while 36% somewhat agree).
- Where the self-represented individual received Court Help Program services, litigants make fewer unsuccessful attempts at filing documents (52% “agree” or “strongly agree” while 24% “somewhat agree”).

Clerks provided other general comments including (*comments are paraphrased*):

- Litigants who have received help have a better general understanding and attitude about the process and the tasks they are undertaking by proceeding as a self-represented litigant.
- They are always organized and we don't have to explain a lot of procedures.
- Litigants are less frustrated, more organized, have an idea of what to expect from us and the court. Don't yell at us nearly as often.

Clerks also identified common pitfalls for individuals representing themselves:

- 100% indicate that understanding the legal process is a challenge;
- 79% indicate that understanding the law is a challenge;
- 40% indicate access to legal forms is a challenge; and
- 37% indicate that literacy is a challenge.

District Court Judges' Responses:

A total of 19 judges (or judicial staff) responded to the survey. A large majority (84%) were able to identify whether a self-represented litigant received Court Help services.

A very large majority (94.4 %) of the judges and judicial staff were able to identify a difference in the level of preparedness when a self-represented litigant received Court Help services.

Differences identified include:

- 93% note the litigant has completely filled out legal forms.
- 88% note the litigant's filing contains all required documents.
- 75% note the litigant has filed paperwork in the correct order.
- 68% note the litigant is prepared for court hearings.
- 62% note the litigant has complied with local rules and filing requirements.
- 50% note the litigant has an enhanced understanding of the legal process.

Judges also noted:

- Where the litigant received Court Help services, clerks spend less time discussing filing requirements with the litigant (73% "agree" or "strongly agree").
- Where the self-represented individual received Court Help Program services, litigants make fewer unsuccessful attempts at filing documents (79% "agree" or "strongly agree").

Judges also identified common pitfalls for individuals representing themselves:

- 94% indicate that understanding the legal process is a challenge;
- 78% indicate that understanding the law is a challenge; and
- 50% indicate access to legal forms is a challenge;
- 50% indicate that literacy is a challenge

Judges provided other general comments (both positive and negative) including (*comments are paraphrased*):

- Litigants receiving Court Help services have a better understanding of the process and what to expect in court.
- They (litigants) are always organized and we don't have to explain a lot of procedures.
- Litigants appear more confident.
- Less time wasted for the courts and clerks.
- Litigants are prepared for their hearing and are confident in their testimony and demeanor.
- Litigants fail to follow the instructions and don't know how to present necessary evidence to allow the judge to make a decision.
- There is only a difference in the initial forms; they still have no idea of rules of civil procedure or evidence.
- Nothing is foolproof and some people don't get it even with help.

Measure Two:

To measure if the legal clinics facilitated by volunteer attorneys improve the ability of a self-represented litigant to represent themselves in court. This measure requires specific focus on a group of litigants and as such, is limited to the 13th Judicial District Family Law Law & Motion Clinics staffed by volunteer attorneys, beginning in January 2012.

1. In Billings the judges have agreed to hold a monthly Law & Motion day in which family law self-represented litigants with uncontested cases will be offered the assistance of a volunteer attorney to review the sufficiency of their filing documents prior to appearing before the Judge.
2. Litigants will be asked to complete a brief survey at the end of their filing to determine if the clinic improved their understanding of the process and their confidence in the court's decision.
3. Clerks will be asked to complete a brief survey at the end of the Law & Motion day to determine if the clinic improved the completeness of documents submitted by the litigants, how well prepared litigants were, and if time and efficiency of the court was enhanced.
4. Judges will be asked to complete a brief survey at the conclusion of the Law & Motion hearings to ascertain if the documents, as well as the individual litigants were better prepared, the impact on time and efficiency of the court and the anticipated reduction of return visits of the litigants.
5. The volunteer attorneys will be asked to complete their own brief surveys to determine if they believe the clinics improved how well prepared the litigants were, as well as the accuracy and quality of the final documents submitted to the court.

Expected outcomes:

- Litigants attending the clinic will present complete and accurate required documents, and will have an improved understanding of the court process and more confidence in the court's decision.
- The clerks will observe that self-represented litigants are more prepared, and their documents are complete and accurate which will improve the efficiency and effectiveness of the court's time.
- The judges will observe that self-represented litigants are more prepared, and their documents will be complete and accurate which will improve the efficiency and effectiveness of the court's time. These litigants will demonstrate a better understanding of the court process and therefore confidence in the court's decision.
- Finally, the volunteer attorneys providing assistance prior to the hearing will enhance how well prepared litigant are for hearing, as well as the accuracy and completeness of documents submitted. This will improve the issuance of a decree without the need for the litigant to amend their documents or the need to return to court again.

Performance Measure Two Outcomes

Expected outcomes were realized.

In the 13th Judicial District (Yellowstone County) Law and Motion Clinics were conducted once each month (January - May 2012) serving 159 self-represented litigants in uncontested family law cases. A total of 22 volunteer attorney slots were provided during these clinics. A total of five judges and eight court clerks were involved in the clinics and subsequently surveyed as part of the pilot project. The 13th Judicial District has the largest number of family law case filings with 1,891 cases filed in 2011.

Self-represented litigants who received assistance from volunteer attorneys at the monthly Law and Motion Clinics reported improved understanding and confidence in the court's decision.

- 90% of the individual self-represented litigants responded that the volunteer attorney assistance received at these clinics "greatly improved" their ability to finalize their family law matter.
- 94% stated this assistance "greatly improved" their ability to review, understand or complete their final documents.
- Assistance received after the hearing (filing documents, obtaining necessary copies and reviewing information about additional steps necessary) was found to "greatly improve" (59%) or somewhat improve (24%) the understanding of the self-represented litigants assisted in the clinics.

Court clerks reported self-represented individuals better prepared with more accurate documents.

- 100% of clerks indicated the clinics "somewhat improved" to "greatly improved" the efficiency in preparing for hearings.

- 88% found the completeness of documents was also “somewhat” to “greatly improved”.
- 88% of clerks reported measurable to substantial time savings and improved efficiency due to the clinics.

Judges also observed the self-represented individuals were better prepared with more complete documents, all of which contributed to court efficiency and a better understanding of the court process.

- 100% of responding judges indicated the sufficiency, completeness and accuracy of self-represented litigants’ final documents as compared to previous final documents of non-assisted self-represented litigants was “greatly improved.”
- 100% of responding judges indicated that self-represented family law litigants were “much more prepared” for hearing after attending the clinic.
- 100% of responding judges indicated the time and efficiency value of the Law & Motion Clinic to judges and staff was “somewhat improved” to “greatly improved”, resulting in measureable time savings.
- All but one judge believe the volunteer attorneys assistance in preventing errors will reduce the number of self-represented litigants seeking revision of a Court’s order. One judge believed litigants would seek future revisions based on personal circumstances rather than incorrect forms.

Volunteer attorneys concluded their assistance prior to the hearing did enhance how well prepared litigants were for a hearing and the documents were more accurate and complete.

- 75% of these attorneys indicate their involvement “greatly improved” the quality, accuracy and completeness of final documents for all litigants they assisted, while 25 % considered their involvement “somewhat improved” these elements.
- 85% of the volunteer attorneys state the self-represented litigants they assisted “greatly improved” how prepared they were for hearing, and the remaining 15% considered these individuals “somewhat improved” in their preparedness.

The Law & Motion Clinic pilot program is currently under review by the judges in the 13th Judicial District as to if and how they would like to continue this program for self-represented litigants. If continued, the program will be offered to other judicial districts with support from legal services developer charged with supporting pro bono attorney involvement.