



## State Responses on Standardized Forms

Commission staff has conducted extensive research on the availability of standardized forms in all 50 states and the District of Columbia. This information is a compilation of interviews with representatives from 22 states who were involved in the promulgation of their state's forms.<sup>1</sup>

### 1. Is there any evidence that forms have harmed the public?

- No state reported any evidence of harm to the public. Not one person interviewed knew of a litigant who had been hurt by using the standardized forms.
- States reported benefits to self-represented litigants. Many states echoed **Kansas**, which reported "There already were a wide number of forms being used by the public before we made our forms available. The public was downloading the forms off the internet or purchasing at local stores. Many of these are not Kansas specific and do more harm to the public than the forms we developed."

### 2. What has been the impact of state forms on the ability of lawyers to earn a living?

- No state reported any evidence that the forms negatively impacted lawyers' businesses.
- Many states reported that forms positively impacted attorney businesses.
- **Maryland's** observations:
  - Attorneys could attract more clients by cutting fees and having clients prepare their initial filings while the attorney focused on the more complex matters involved in the case.
  - While forms and self-help centers are good at initiating a case, litigants still have challenges navigating the process, especially in contested trials and complex matters. Lawyers benefit from the state's efforts with self-represented litigant by referring litigants to the self-help center to complete a portion of the case on their own and then recommend the litigant hire the lawyer to handle other portions.

### 3. Are the forms restricted to use by the poor?

- No state has restricted the use of state forms to the poor.
- All states report that the majority of litigants accessing various self-represented litigant services are low-income.
- Many states' access to justice commissions helped develop the state's forms.

### 4. What is the impact on judicial efficiency and economy?

- All states report an increase in judicial efficiency and economy.
- Susan Ledray, Senior Pro Se Services Manager, Hennepin County Courts, **Minnesota**, stated:
  - "Forms result in the judge getting the information she needs, instead of struggling to make sense of free-form documents filed by self-represented litigants."

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<sup>1</sup> The states interviewed were: Alabama, Alaska, Arkansas, California, Delaware, Hawaii, Illinois, Indiana, Kansas, Louisiana, Maryland, Massachusetts, Minnesota, Montana, Nebraska, New York, Oregon, Pennsylvania, South Carolina, Tennessee, Utah, and Washington.

- Staff and judges get used to the forms and where to find the information, and this makes it faster and easier to review forms before and during hearings.
- Form blanks that are not filled in draw attention to the fact that information is missing – while with a customized pleading, the court might not realize at the most opportune time that something is lacking.
  - Court staff save a lot of time when able to refer people to written forms and instructions, instead of trying to explain, write notes, or get into an unpleasant conversation with a person who is angry that ‘you won’t do your job and answer my questions.’”
- Every state indicated that pro se litigation is not increased by the promulgation of uniform forms; the forms only make the process more efficient for the courts. Nancy Strauss, Director of Judicial Council of **Kansas** stated, “They are going to be representing themselves anyway so we might as well give them some tools so it’s not a nightmare for all of us.”

**5. How have state bars been involved in their state’s efforts to assist pro se litigants?**

- A variety of state bars have been actively involved in efforts to address the problem of pro se litigants. State bars are involved in all levels of pro se programs.
- In **Michigan**, the self-help website is administered by the state bar.
- In the **District of Columbia** and **Minnesota**, the state bar actively promulgates and distributes uniform forms.
- Uniform forms were promulgated by the State Bar of **Alabama**. In 2005, the state bar appointed a task force to determine if there was a problem with self-represented litigants in the court system. The Task Force studied the issue and arrived at the conclusion that Alabama indeed did have a problem with pro se litigants. The Task Force recommended two courses of action that could be completed without a large expenditure: 1) creating standardized forms and 2) implementing a rule and other tools to further limited scope representation. The Bar approved the Task Force to proceed on creating standardized forms.
- In **Oregon**, it was the Family Law Section of the state bar that initially recommended that uniform forms be created. The forms were created as a joint effort between the Family Law Council, the State Court Administrator, and the State Court Advisory Committee. There are now over 300 family law forms in existence in that state.
- In addition, the **American Bar Association** has a pro se resource center located on their website to assist state bar associations with programs aimed at the pro se population.

**6. Has the private bar opposed the promulgation of uniform forms in any organized fashion in other states?**

- States like **Nebraska** and **South Carolina**, which have experienced significant opposition, involved their opponents in the process and in the end came up with better forms. Robin Wheeler, Director of the South Carolina Access to Justice Commission stated that the opponents’ “feedback was incorporated into the forms and ultimately made them better.”
- While some states indicated that there were grumblings here and there by individual attorneys or judges, the Commission’s research did not yield any other states that face organized opposition to uniform forms by the private bar.