



Increasing Access to Justice in Texas

1. Why Forms are an Important Access to Justice Issue

- **It is always best for everyone to have a lawyer but it is simply not feasible.** Improving self-representation by the poor is one of the few avenues available to increase access to justice for poor Texans.
- **Texas faces a crisis in providing access to justice for the poor.**
 - The need: 6 million people qualify for legal aid, yet legal aid and pro bono programs can help only 20% of those who seek it. Decreased funding to legal aid programs combined with a 17% poverty rate means these numbers are growing.
 - The stark reality: There are more poor people in need of legal help than there are attorneys licensed in Texas. There will never be enough legal aid and pro bono resources to help them. In desperation, more and more people are trying to represent themselves.
- **Standardized forms are the most common and basic tool on the continuum of legal assistance used by the many states faced with growing numbers of pro se litigants.**
 - National prevalence: 48 states + DC have standardized family law forms available, of those, 37 have divorce forms, and 37 require their courts to accept the forms when a litigant chooses to use them.
 - Need for Texas Forms: Forms and self-help handbooks currently available online are often inaccurate or too complex for use. Court-approved forms will provide judges and pro se litigants with a reliable, standard form to use. It increases judicial economy by allowing judges to review the litigant's information only rather than spending time ensuring the form itself is accurate. National data shows that lawyers, especially pro bono lawyers, use the forms. This has also been the experience in Texas with the Protective Order forms approved in 2005.
 - Attorney concerns: Concerns that standardized forms would harm pro se litigants and negatively impact lawyer incomes were shared by attorneys in states that use state forms. However, no state reports that these concerns have materialized. Given the prevalence of online forms in Texas already, it seems unlikely that these particular forms will impact lawyer's incomes more than those already in existence.
 - Income Restriction on Use: No state in the U.S. requires litigants be low-income to access their forms. There are no income restrictions on forms currently available through the Texas Young Lawyers Association website or through the Family Law Section Forms Manual available in law libraries. The burden on court, legal aid, pro bono or bar staff to means-test individual users would be extreme and highly expensive given the knowledge that poor people are the most likely users of the forms.

2. Why Forms are Important for Judicial Economy and Efficiency

- **The Current Volume of Pro Se Litigants in the Courts**
 - Texas Statistics: The Office of Court Administration reports that in 2010, 21.6% of all family cases were filed by a pro se petitioner. This statistic does not include pro se respondents or petitioners who later become pro se. The percentage of pro se divorce filings is believed to be in the 40% range, based on statistics from several counties who collect this information.
 - OAG Statistics: In 2011 OAG filings, **461,147** parents represented themselves in a suit affecting the parent-child relationship, including original orders, enforcements and modifications.
 - TexasLawHelp, a self-help website, had 596,555 visits in 2011. The top 4 forms, including divorce with kids, divorce without kids, and protective orders, had 115,981 hits. User income: 24% make below \$9,570/yr, while more than 62% make less than \$26,000/yr.
- **Forms Increase Judicial Economy and Efficiency**
 - State approved forms provide judges with a reliable, standard form that is legally sound and comports with Texas law. Judges become familiar with the forms and no longer have to spend time reviewing the forms to ensure that it meets Texas law and can simply focus on reviewing the document for completeness.
 - Pro se litigants are better prepared, reducing both judicial and clerk time.
 - All states with standardized forms report a significant increase in judicial economy and efficiency.