


We have received the following two questions from Carl Reynolds, Administrative Director of the Texas Office of Court Administration, regarding the use by self-represented litigants of state-approved forms for matters such as uncontested divorce:

1. Have you seen evidence that using the forms has harmed individuals or the public?
2. What is the impact of using the forms on judicial and court efficiency?

State/Respondent	Response
Alaska/Stacey Marz	<p>I am the Alaska Court System Director for the self-help program and draft the forms for use by self-represented litigants so Christine Johnson asked me to respond to the questions about usage of self-help forms.</p> <p><b>1. Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>No, we have seen no evidence that using self-help forms has harmed individuals or the public. The Alaska Court System has been providing self-help forms for many years. Our self-help center was created in 2001 and began producing many forms to be used specifically by self-represented litigants. See <a href="http://www.courts.alaska.gov/shcforms.htm">www.courts.alaska.gov/shcforms.htm</a> for a list of family law forms designed for self-represented litigants and <a href="http://www.courts.alaska.gov/shc/appeals/appealsforms.htm">www.courts.alaska.gov/shc/appeals/appealsforms.htm</a> for a list of forms for civil appeals to the Alaska Supreme Court. The court system also provides forms in other case types: <a href="http://www.courts.alaska.gov/forms.htm">www.courts.alaska.gov/forms.htm</a>. These forms have increased the ability of self-represented litigants to access the courts to resolve their legal matters.</p> <p><b>2. What is the impact of using the forms on judicial and court efficiency?</b></p> <p>Judges report that filings are more complete and include more relevant information about the issues in the case. In fact, in custody family law cases, the judges regularly issue final findings and conclusions of law and decrees on forms designed to be filed by self-represented litigants. Judicial officers routinely use other self-help orders designed for self-represented litigants. They appreciate the fill-in-the blank and check box formatting and the inclusion of all necessary provisions. Judges have also reported that filings on self-help forms are sometimes better than those drafted by attorneys.</p>

	<p>Court clerks report a reduced need to issue deficiency notices because the fill-in-the blank forms address many common problems (they are formatted correctly and include certificate of service sections) that historically have caused documents to be deemed deficient filings because of non-compliance with court rules.</p>
<p>Arizona/Dave Byers</p>	<p>I have never heard of any instance of harm due to the forms....Of course regardless of the forms, pro pers can make mistakes in filings and what they request (e.g. not asking for a portion of a pension)</p> <p>The impact of the forms on the court are all positive...They are legible. Instructions help make forms more complete...</p>
<p>California/Bonnie Hough</p>	<p>I am responding to the question you posed regarding the usage of self-help forms on behalf of Mr. Ronald Overholt, Interim Administrative Director of the Courts.</p> <p>California has used standard forms since the 1970's. We currently have about 1,400 forms that have been approved by the Judicial Council including translations of those that are most commonly used by self-represented litigants. For a list of all forms and link to each, please see: <a href="http://www.courts.ca.gov/forms.htm">http://www.courts.ca.gov/forms.htm</a> The procedure for adopting a rule or form is attached.</p> <p>The Judicial Council adopts legal forms in one of two ways. Under Government Code section 68511, the council may "prescribe" certain forms. Use of those forms is mandatory. The council may also "approve" forms. Use of an approved form is not mandatory, but the form must be accepted by all courts in appropriate cases (<a href="#">rule 1.35</a>). Forms thus are "adopted" for mandatory use and "approved" for optional use.</p> <p>Some forms are for information only (including all translations). Most forms can be downloaded to a local computer and filled out. They are also available at clerks' offices, law libraries, and self-help centers. Parties can also print any form and fill it out by hand. See the section on the website re: "<a href="#">How to fill out court forms.</a>"</p>

	<p>We have no evidence that forms have hurt litigants in any way.</p> <p>Judges, clerks and practicing attorneys generally find them extremely helpful as they know where to look on forms for the information they need and do not have to worry about basic issues not being set out before the court. Self-represented litigants can prepare appropriate pleadings – often with the guidance of an attorney. Cases such as divorce, child support, domestic violence, small claims, guardianship, conservatorship, probate, adoption and a wide variety of other matters precede primarily using forms. It saves a huge amount of time in training and judicial review to know that the key elements are set forth in the forms. We have a relatively small number of judges given our population and I think that part of the reason that the system works is because of standardized forms.</p> <p>While we have a large number of self-represented litigants in California, our figures do not seem to be different than in most other states that report that data. We also have many litigants who may not be able to afford an attorney for the entire case, but are able to get help with a portion of the case, including completion or review of forms.</p> <p> howprorule.pdf</p>
Guam/Geraldine Amparo Cepeda	<p>The inquiry was the effects of the use of state-approved forms by self-represented litigants. Here is the response from the Judiciary of Guam:</p> <p>The Judiciary of Guam has self-help computer kiosks that allow self-represented litigants to complete pre-approved forms, which are then printed and filed by these litigants.</p> <p><b>Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>No, the court has no evidence that the use of the self-help kiosks and forms has resulted in any harm. Those who cannot afford an attorney but do not qualify for assistance from Guam Legal Services are able to generate court filings for less</p>

	<p>complex court proceedings, such as guardianships and uncontested divorces.</p> <p><b>What is the impact of using the forms on judicial and court efficiency?</b></p> <p>The impact on members of the public who use the kiosks and the forms has been positive. They are able to represent themselves in less complex court proceedings, and save money. The impact on efficiency in the court system has been positive as well, because the court documents generated by the kiosk are correct and in proper format for filing. As a result, there is no hold up in the filing process.</p>
Idaho/Michael Dennard	<p>1. <b>Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>No. We try and limit our forms to court proceedings which are not complex, although that is difficult to do in family law cases which have the greatest need for assistance and the greatest inability to retain legal counsel. While there might be an occasional circumstance where instructions are not followed, or errors occur, the same thing happens in cases where the parties are represented by attorneys. Our goal is to provide access to the courts for citizens of limited means who are unable to retain legal counsel. If there were adequate resources for these people to assist them in retaining counsel, we would not have to provide this kind of assistance for self-represented parties. But the reality is, there is no other option. The “harm” to the public would be to provide no help for those unable to retain an attorney. For those who have dealt with this issue for many years, the argument that providing access to justice through court approved forms “harms” the public is very disingenuous.</p> <p>2. <b>What is the impact of using the forms on judicial and court efficiency?</b></p> <p>If statistics are examined for the past 10 to 15 years, in particular in family cases, one will see an extremely high and consistent rate of self-representation. This is not the result of any action or inaction on the part of the courts, but driven by the high cost of legal representation in proceedings where parties have no choice but to go to court. Prior to our use of court approved forms, these parties were trying to create their own forms, or using inadequate or inappropriate forms they found from a variety of sources, which did nothing but frustrate court staff and judges who had to deal with the problems created by those documents. By having correct forms and instructions approved by the courts, these issues have diminished greatly. Less time is spent correcting or redirecting the self-represented litigants by court staff and judges, and matters are resolved more quickly and efficiently. But the greatest “impact” on the judiciary, however, is the appreciation expressed by the public and the public’s very appropriate perception that everyone is ensured access to justice in our courts.</p>

Indiana/Camille Wiggins

Here are several responses from Indiana per your request to the COSCA listserv:

In response to your email dated February 8, 2012, to Indiana Supreme Court Division of State Court Administration Executive Director, Lilly Judson, I forwarded the survey questions to our SRL Committee for response. Our Committee is comprised of judges, lawyers, court librarians, legal service organizations, court clerks, law schools, and pro bono organizations. Below you will find the responses received from several of the Committee members:

From judges.....

People tend to use the forms without a full understanding of what they are supposed to be used for. They also think that once they file the forms their relief will either be automatically granted or the Court or court staff will assist them through the process. Many people do not bother to read or follow the directions that accompany the forms. They become frustrated when they cannot get the relief they are requesting.

The impact on the Court and judicial efficiency is that court staffs are glad to be able to refer people to the website for forms. However, the staff is not sufficiently aware that there are not forms available to fit all situations. The litigants return to the court frustrated that they cannot find the correct forms or resort to using the wrong forms just to get something on file. We often go in to Court to hear an emancipation only to discover that the moving party is seeking modification of custody or some other relief. I don't think the answer is creating forms to fit more situations. Litigants need to understand the limitations of the website.

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The forms help separate the simple cases that can be done with little or no professional assistance, from the more complicated matters that genuinely require legal specialist and other professional guidance.

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Please allow me to respond to your questions in reverse order.

The forms generally save the court time in two ways. First, they are recognizable as pleadings, which mean I do not spend as much time guessing what the litigant wants. Second, the forms are a huge improvement over handwritten pleadings because they are much easier to read.

I do not believe that the forms have harmed individuals or the public. Litigants are harmed by incomplete forms, missing important information or issues, and lack of understanding the legal process. As long as people are self represented, that is not likely to change.

The existence and use of the forms is incidental to that problem. That said, having the forms may give some persons a false a sense of security that can be risky. The philosophical question of whether it is better to let people engage in legal combat where they may be overmatched and "outgunned" or not let them get into the fray at all is for those wiser than me.

***From a court clerk.....***

***Have you seen evidence that using the forms has harmed individuals or the public? no***

***What is the impact of using the forms on judicial and court efficiency? Our Courts really appreciate the forms. Without them pro-se litigants turn the Court and Clerk staffs into interpreters.***

From pro bono organizations....

Harm? I don't believe that I have ever seen the forms themselves result in harm to litigants that would not have occurred regardless. Certainly, litigants mis-use the forms sometimes, use them for the wrong reasons, or try and modify them to fit a situation that they aren't designed to address, but they would likely do that regardless of the existence of our court forms (using forms from the internet or other sources or no forms at all). There are times when litigants don't read the directions or understand the implications of court actions, but that is not the fault of the forms. That is the fault of a society that doesn't have adequate access to counsel – which is a different issue entirely. I do think litigants are sometimes frustrated that our forms cannot work the magic they hope and pray for.

Efficiency? The forms have absolutely improved judicial and court efficiency, especially since the advent of the new versions that help litigants only use the appropriate forms for their specific situation (no more filing for both and final hearing and a waiver of the final hearing because they are in the same packet). When combined with pro se assistance, we have seen the number of continuances in litigated matters drop substantially with litigants completing matters more quickly and with fewer scheduled hearings.

***Have you seen evidence that using the forms has harmed individuals or the public?***

I have not seen any such evidence. All feedback to me has been positive.

***What is the impact of using the forms on judicial and court efficiency?***

I do not work in the courts but the pro bono plan administrators' observation is that the forms increase court efficiency and access to justice.

Iowa/John Goerdts on behalf of David Boyd

David Boyd asked me to respond to this inquiry. The Iowa courts have offered a form for filing a small claims case for at least 15 years. In 2007, the Iowa courts began offering forms and instructions for self-represented parties in a divorce that does not include children. In 2008, our courts also began providing forms and instructions for parties involved in a proceeding to modify child support only. The committee that developed these forms expects to complete the forms and instructions for a divorce involving children sometime during 2012.

You can find the forms and instructions for domestic relations cases on the Iowa courts' website at:

[http://www.iowacourts.gov/Representing\\_Yourself/DivorceFamily\\_Law/index.asp](http://www.iowacourts.gov/Representing_Yourself/DivorceFamily_Law/index.asp)

**1. Have you seen evidence that using the forms has harmed individuals or the public?**

We have not received any complaints or feedback from the public or judges that use of these forms has harmed any individuals. Many or most of the people who have used the forms and instructions developed by the Iowa judicial branch would have found forms someplace (e.g., on the internet or at Walmart) -- and those generic forms often do not meet some specific requirements under Iowa law. By using the forms and instructions approved by the Iowa Supreme Court, parties and judges can be confident that the forms and instructions meet the requirements of Iowa law. Consequently, the forms and instructions probably prevent harm, rather than cause harm.

It should be noted that at approximately the same time when the forms and instructions for divorce without children were released (in 2007), the supreme court amended the Code of Professional Conduct for attorneys to allow them to handle just part of a case (i.e., unbundled legal services), rather than requiring them to handle everything in a case from start to finish. The instructions that accompany the forms for self-represented litigants encourage the parties to consult with an attorney whenever they have questions about a form or procedure described in the instructions.

**2. What is the impact of using the forms on judicial and court efficiency?**

Under the Iowa Court Rules, a self-represented party who uses forms in any case for which the supreme court has made forms available must use the approved forms. The forms are very simple and clearly explained by the instructions. Use of these forms almost certainly increases the likelihood that self-represented parties provide the type of information judges need to make decisions and move the case to the next step. Judges also know exactly where to find the information they need on the forms because the forms are standardized. Consequently, the forms and instructions have almost certainly increased the courts' efficiency in handling cases involving self-represented parties.

Massachusetts/Kim Wright	<p>Your inquiry to Listserv members regarding questions from Carl Reynolds regarding self help forms has been referred to me relative to a question about Probate and Family Court forms.</p> <p>We have a court promulgated form for filing an uncontested divorce, a Joint Petition, but we do not provide a form for the agreement that must be submitted with it that contains all the substantive information about the parties agreement relative to custody, visitation, child support, property division etc.</p> <p>We have various other complaint and petition forms for other case types available at our courthouse and some on our website.</p> <p>Please feel free to contact me with further questions.</p>
Michigan/Amy El Garoushi	<p>I am responding from Michigan. We have not yet started using court-approved forms for divorce proceedings in Michigan. We are in the process of developing them now for use with a pilot website being developed by the Michigan Poverty Law Program through a project funded by the State Bar Foundation and overseen an advisory group established by the Solutions on Self Help Task Force. The use of these forms and the website will be evaluated for effectiveness and impact on the judiciary in the upcoming year. If you would like more details, you can contact Angela Tripp of the Michigan Poverty Law Program. Feel free to contact me for more information.</p>
Missouri/Greg Linhares	<p>Missouri has no survey or other empirical data to determine if the public or individuals have been harmed by our forms, nor do we have such information to determine impact on court efficiency. Anecdotal evidence suggests both benefits and drawbacks to use of such forms in Missouri, with improved access to court process for pro se litigants being identified anecdotally as a benefit, and improper use of forms or improper attempts to represent oneself when an attorney should be used being identified anecdotally as a drawback.</p>
Montana/Erin Farris	<p>I am responding to this message on behalf of the Montana Supreme Court Court-Help Program. As the current Program Administrator, these comments are a reflection of the feedback I receive from clerks of court and judges statewide regarding the State's provision of forms for self representation.</p> <p><b><i>Have you seen evidence that using the forms has harmed individuals or the public?</i></b></p> <p>I cannot report a single incident where the use of self represented forms created and distributed by the State has harmed</p>



a self represented litigant. Although form development is challenging, especially in light of legal progress, obstacles encountered by self represented litigants are only made easier by the State's provision of forms.

A large contributing factor to Montana's success in form development and distribution is the administrative safeguards in place. The Montana Supreme Court has a Commission on Self Represented Litigation. One of the purposes of the Commission is to approve form development and revisions. The Commission has a process of determining what materials are most appropriate for self representation and endorses the development of only those forms. The Commission also delegates legal experts to review form content. The decision of whether to provide forms on a particular subject often hinges on whether the materials might put the litigant at risk of harm due to predictable or unpredictable legal outcomes.

An example of near harm created by self representation forms was due to a litigant's utility of a form found from a foreign online source. The forms used were not provided by the State. This was only a situation of near harm because the presiding judge was able to identify the unfamiliar form and consult community and State resources about its inappropriateness. Through the provision of well defined state approved forms and communication with the court, Court based legal programs act as a safeguard to the multitude of misinformation available to people through various online legal resources.

***What is the impact of using the forms on judicial and court efficiency?***

Prior to the provision of forms, litigants were largely undirected. Given the relative unpreparedness of an individual attempting to navigate the court system, court staff had a very difficult time administering justice. Judges found themselves in uncomfortable positions in the court room; making difficult decisions in answering litigant questions and instructing litigants on filing. Clerks of court similarly had to regularly instruct litigants on filing requirements.

Judges observations are that the State's provision of forms dramatically increased court efficiency by enhancing the effectiveness of scheduling and completing effective court hearings. However, complaints about forms are ongoing. Judges complain the "one size fits all" approach to form development results in overly lengthy forms. Judges have also complained that the forms are unconstructively vague. However, the solution in those jurisdictions has not been to abandon forms. Rather, judges developed county or district specific forms to address their concerns.

Clerks of court are extremely appreciative of state wide form provision. Prior to form development, clerks of court would receive multiple visits from self represented litigants in their jurisdictions and found it very difficult to manage their time and avoid instructing individuals on filing instructions from the counter. Many clerks describe the ability to direct individuals to state forms as an option they couldn't do without. Some clerks have fully endorsed forms to the extent of

	<p>actually providing printed forms to litigants at the clerk counter.</p> <p>I hope this brief description of our experience is helpful to your research. Feel free to contact me if you have additional questions.</p> <p>For a complete list of Commission endorsed self representation forms see:  <a href="http://courts.mt.gov/library/topic/default.mcpX">http://courts.mt.gov/library/topic/default.mcpX</a></p> <p>For more information on the Commission on Self Represented Litigants see:  <a href="http://courts.mt.gov/supreme/boards/self_represented_litigants/default.mcpX">http://courts.mt.gov/supreme/boards/self_represented_litigants/default.mcpX</a></p>
<p>New Hampshire/Don Goodnow</p>	<p><b>Have you seen evidence that using the forms has harmed individuals or the public?</b> Assuming "state-approved" refers to forms created by the judicial branch which are made available to the public, we have not seen any evidence that the use of these forms has harmed individuals of the public.</p> <p><b>What is the impact of using the forms on judicial and court efficiency?</b> Our pre-made forms include spaces for individuals to include information set forth in statute or court rules and thus they provide a compliance roadmap for any filing party. The use of these forms increase efficiency because they reduce the explanation time required by clerical staff to the filing party, and both clerical and judicial staff know immediately where on the form to look for specific information to screen and review. These forms are updated by the court, thereby reducing the likelihood that they will have to be returned to the party for the inclusion of information newly required by law or court rule.</p>
<p>New Mexico/Arthur Pepin</p>	<p><b>1. Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>NM introduced statewide uncontested divorce forms over ten years ago. The main problem with the form was that people did not understand the difference between contested and uncontested (no matter how clearly that was addressed in the form) and would try to file uncontested forms for contested matters. Because the need for pro se forms is so severe in NM, the NM Supreme Court is seeking to establish forms for use in both contested and uncontested cases through the interactive format of the LawHelp website.</p> <p><b>2. What is the impact of using the forms on judicial and court efficiency?</b></p> <p>The initial impact was confusion on the part of court staff and judges, but continued use resulted in familiarity and</p>

	<p>suggestions to streamline the process. There has never been a major push to pull the forms off the shelf once they were introduced, only to improve them. The forms improve court efficiency because court staff has forms and/or referrals to give to pro se litigants, who otherwise clog up the lines and phones with questions and requests for legal advice that court staff cannot give. Trained on the difference between legal advice and procedural information, and equipped with available, approved referrals, court staff are able to provide access to the courts to pro se litigants rather than turn them away with no help.</p>
<p>North Carolina/Todd Nuccio on behalf of Judge John Smith</p>	<p>Judge Smith forwarded the below email to my attention for comment and direct submission. I am the court administrator in Mecklenburg County, NC and we generally have the widest use of self-help forms and services in the state. Please let me know if you need any further clarification regarding the below responses. Thanks.</p> <p><b>Q. Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>A. We have not seen any evidence which indicates the use of legal form packets by pro se litigants has harmed individuals or the public. To use the example of absolute divorce, litigants who wish to file for absolute divorce are required to meet all the same legal standards as an attorney filing for absolute divorce. A judge is assigned to review all documents filed by the individual in the case and determine that all legal standards have been met prior to signing the order granting an absolute divorce.</p> <p>The Mecklenburg County SelfServe Center has developed step by step instructions and local county forms that require the litigant to answer all of the legal requirements for filing for absolute divorce, child support, custody and other claims for relief. These forms have been reviewed and approved for distribution by various Family Court Judges in Mecklenburg County. We have found that these and the other steps mentioned below have helped in reducing harm to individuals and the public. In fact, the standardized forms actually assist in reducing errors, increasing efficiency and improving litigant satisfaction.</p> <p>In addition to forms and instructions, we provide supplemental services which further reduce any potential harm. One additional service is providing a list of attorneys willing to provide “unbundled services.” This term is used to describe the wide range of discreet tasks that an attorney might provide without providing full representation. Unbundled services allow the litigant to seek assistance for those tasks that are beyond either their educational means, financial means or both. As such, they can elect to use an attorney for their entire case or just a particular phase of the case. Other measures we have implemented which reduce any potential harm to individuals or the public include the offering of educational workshops (clinics) for pro se litigants. In partnership with the Charlotte School of Law and the Latin American</p>

	<p>Coalition we conduct clinics in both English and Spanish during the lunch hour, in the evening and on weekends. These clinics cover the legal standards required and increase the accuracy and completeness of the forms. After attending a legal clinic, the litigant, if financially qualified, may also sign up for an Attorney for the Day appointment. This is a 30 minute consultation with a licensed North Carolina attorney. These attorneys have also attended a continuing legal education (CLE) on assisting self-represented litigants navigate the court system. The Mecklenburg County SelfServe Center hosts, on average, three (3) days per month where an attorney conducts up to six (6) consultations per day. This allows 18 litigants per month to have their documents reviewed for accuracy, completeness and the ability to ask additional questions about the divorce process.</p> <p><b>Q. What is the impact of using the forms on judicial and court efficiency?</b></p> <p>A. Each week one judge is charged with reviewing up to 135 divorce files. The judges have openly expressed their preference in reviewing and processing local template forms. Their preference is expressly based on uniformity, the ability to review the information at a glance for completeness, and the formatting of the documents. In fact, for ease in processing, most judges first separate the divorce files into two piles, local forms and other pleadings. The time spent processing the template forms is minimized greatly in comparison to those drafted by members of the Bar. The same preference is true for handling forms dealing with other case types. The completeness and uniformity serve to ensure that the Court has what it needs to address the relief being sought.</p>
North Dakota/Sally Holewa	<p>1. <b>Have you seen evidence that using the forms has harmed individuals or the public?</b> We have not done a study on this. Anecdotally, some judges and lawyers have raised this as an issue, but have not provided any specific examples.</p> <p>2. <b>What is the impact of using the forms on judicial and court efficiency?</b> Judges and court staff frequently raise this as an issue, but we have not done any type of study to determine whether that is actually the case or whether <u>not</u> having forms available for self-represented litigants would make the process more efficient.</p>
Ohio/Jo Ellen Cline on behalf of Steve Hollon	<p><b>Have you seen evidence that using the forms has harmed individuals or the public?</b> None to our knowledge.</p> <p><b>What is the impact of using the forms on judicial and court efficiency?</b> Allowing the use of standardized forms has a significant impact on judicial economy both in terms of administrative matters and case processing. Ohio uses standard forms in domestic relations cases, civil protection order cases, and in probate matters extensively.</p>

Oklahoma/Mike Evans	Occasionally the Oklahoma legislature has directed that the Administrative Office of the Courts prepare subject matter forms that are available to judges and litigants; however, these forms are not designed or specifically designated for use by self-represented litigants only. These forms have been used on a very limited basis. I am not aware of any particular concerns with their use in any Oklahoma trial court.
South Carolina/Cody Lidge	<p><b>1. Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>No, but SC Court Administration has learned of isolated events where individuals have attempted to sell the Self-Represented Litigant Divorce Packet to litigants even though the packet is offered free of charge.</p> <p><b>2. What is the impact of using the forms on judicial and court efficiency?</b></p> <p>Our forms are easily accessible on the website and, in some cases, provided in the Clerks of Court offices for a nominal fee. When the court forms are used correctly, they benefit all players and help judicial proceedings run smoothly.</p>
Utah/Jessica Van Buren on behalf of Dan Becker	<p>The answers provided are based on anecdotal experience.</p> <p><b>1. Have you seen evidence that using the forms has harmed individuals or the public?</b></p> <p>We have not. We have, however, seen people harmed by <b>not</b> using the free court-approved forms. For example, people who pay for divorce packets that don't include vital forms, like the petition.</p> <p><b>2. What is the impact of using the forms on judicial and court efficiency?</b></p> <p>There has been a positive effect on clerical and judicial efficiency. The court-approved forms are also used by clinic staff and practicing attorneys.</p>