

## **Family Law Research Group report on Self-Represented Litigants**

The Family Law Task Force, November 1, 2004, recommended adoption of the "Challenge to Justice--Report on Self-Represented Litigants in New Hampshire Courts" findings. This report is the official document on "pro se" litigation, compiled and written by the Supreme Court Task Force with Associate Justice James E. Duggan as its chair.

Part First of the New Hampshire Bill of Rights, Article 14, adopted June 2, 1784, states:" Every very subject of this State is entitled to a certain remedy, by having recourse to the laws, for all injuries he may receive in his person, property, or character; to obtain right and justice freely, without being obliged to purchase it; completely, and without any denial; promptly and without delay; conformably to the laws."

The "Challenge to Justice" report states that the increase in pro se litigants, which, while maintaining the Constitutional guarantee of these citizen rights, is causing increasing difficulty for the court system to accommodate. The resources required for the increase in numbers of those who chose not to use professional legal assistance places an additional burden on the court. The court is searching for the most efficient and viable constitutional means to aid these litigants.

There are seven recommendations made by this report:

First: An expansion of legal service appropriate to low-income prose litigants. In order to implement this recommendation, fund-raising campaigns are suggested, with the aid of the N.H. Bar Foundation.

Second: Court rules need to be adjusted to allow lawyers to provide aid at a lesser cost. One method would be "limited representation", which, although not ideal, is preferable to no representation.

Third: Case managers can be utilized to help in domestic relations cases. These case managers give litigants the beneficial personal touch. Increased funding would be needed here also.

Fourth: Computers for public use are needed in every courthouse. A part of this program would be a "Self-Help Center, enabling the litigant to obtain necessary information re legal issues, forms, etc.

Fifth: Alternative Dispute Resolution (ADR) should be coordinated by personnel on the state level. Studies have shown that ADR is an effective long-term alternative to the traditional court process.

Sixth: The Supreme Court needs to develop protocols to deal with these proceedings. The difficulty of finding the middle road of providing non-prejudicial judicial advice is difficult but necessary. There are ethical issues, case processing issues, also, that need to be addressed.

Seventh: Citizens often find the courts intimidating and overpowering. Simplifying processes could alleviate this.

The Supreme Court Task Force on Self-Representation makes it clear that without a lawyer, the pro se litigant will not have the most effective access to justice. The seven recommendations would mitigate the problem; however, there is no substitute for an attorney.