

Connecting Library Patrons to Legal Information Resources

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ILLINOIS SUPREME COURT COMMISSION

ACCESS

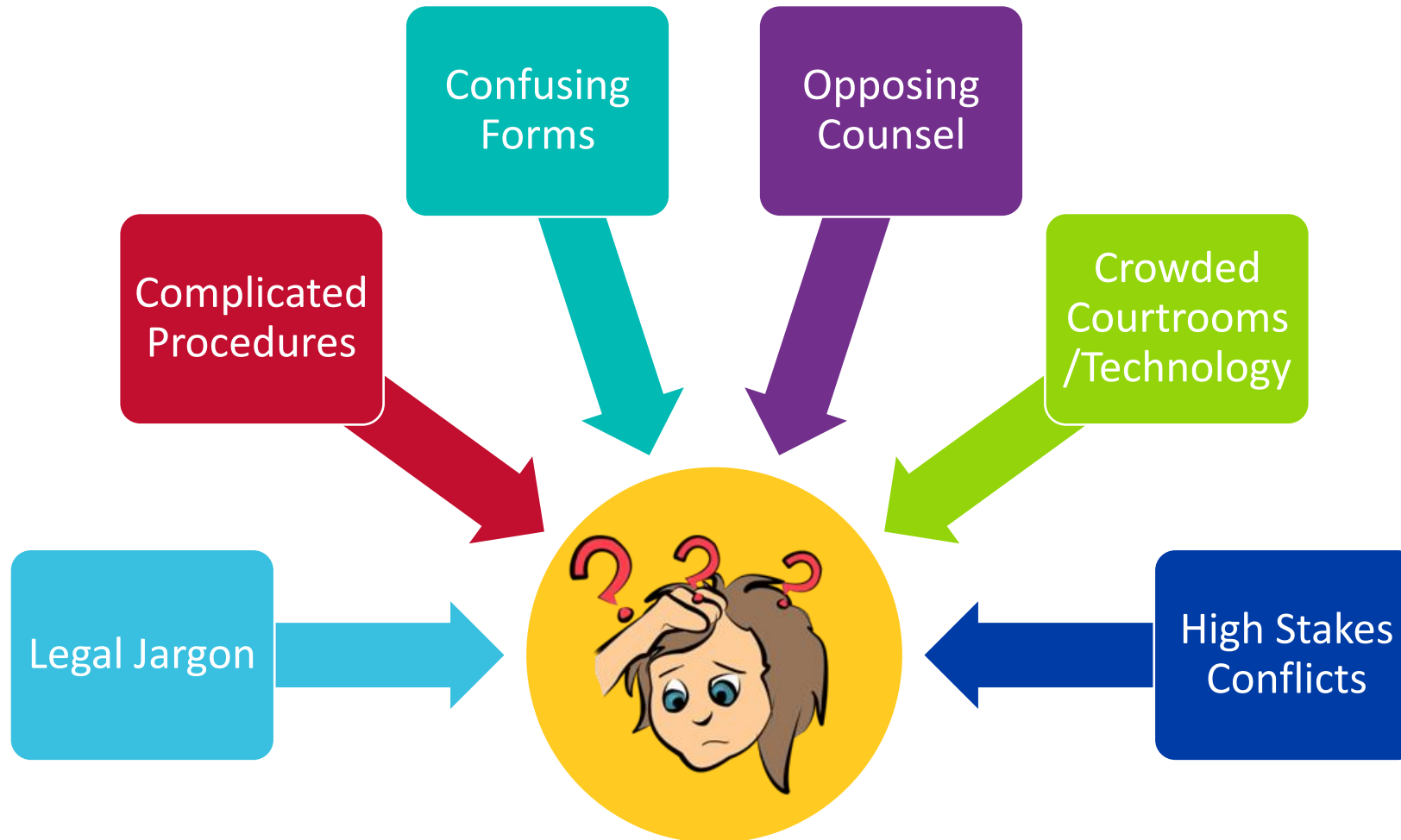
TO JUSTICE

EDUCATION. SUPPORT. EMPOWERMENT.

LEARNING OBJECTIVES

1. Apply practical tips and strategies to handle the unique challenges that arise people navigating the court without a lawyer.
2. Develop skills to assist SRLs in understanding their expectations of the court and how you can/cannot assist them.
3. Identify what services are permissible legal information and plan for incorporating that information into your work with SRLs.

Self-Represented Litigant Challenges





What is legal information? (The rules of the game)

General **factual** information about the law or legal process

The same information for everyone, **universal**

Legal information is **neutral**

Anyone can give legal information

What is legal advice? (The strategy to win game)

Application of the law to **particular facts**

Telling people what to do in their **specific situation**

Changes as you talk to different people

Only **lawyers** can give legal advice

Quick ways to spot info vs. advice

Legal Information


- Facts about the law and the legal process
- Signals: **who, when, where, how?**
- Objective or neutral information: shouldn't require details about an individual case

Legal Advice

- Advice about the course of action a patron should take to further his or her own interests
- Signals: **should, what?**
- Subjective information: often requires details of a person's case

Policy on Assistance to Court Patrons





Illinois Supreme Court Policy
On Assistance to Court Patrons by Circuit Clerks,
Court Staff, Law Librarians,
and Court Volunteers

Amended November, 2018
 Originally effective April, 2015

How Can I Best Assist Self-Represented Litigants?

The Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers outlines the services that can be provided to self-represented litigants and other court patrons. Services offered in accordance with this policy do not constitute the unauthorized practice of law. You can read the policy and find additional resources at: <http://www.illinoiscourts.gov>.

Legal Information Is...
 general, factual information about the law and the legal process that is both neutral and objective.

Legal Advice Is...
 guidance regarding an individual's legal rights and obligations in light of their unique facts and circumstances.


I Can...	I Cannot...
Tell a litigant what they can do	Tell a litigant what they should do
Explain a process to a litigant	Make a prediction for a litigant
Share all available options	Suggest one particular option
Give a litigant information that may help them make an informed decision	Make a decision on behalf of a litigant

Should versus Could: Responding when court patrons ask for legal advice
 Court patrons may ask for legal advice ("What should I do?"). You can still respond by providing legal information, instead of advice.
 Example: How *should* I serve someone?
 Answer: I can't tell you what to do, but I can explain your options. There are three approved methods of service you *could* choose. Here are some resources with more information...

ILLINOIS SUPREME COURT COMMISSION ON ACCESS TO JUSTICE

What is Legal Information?

A Guide to Using the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers



AVAILABLE ASSISTANCE TO COURT PATRONS

HOW CAN COURT PERSONNEL HELP YOU?

WE CAN...

- ✓ Provide general legal information about court rules, court terminology and court procedures
- ✓ Provide information about available legal resources and referrals, including free and low-cost legal help
- ✓ Help identify approved court forms and related instructions relevant to a court patron's case
- ✓ Provide information about how to request a foreign or sign language interpreter
- ✓ Check a court patron's forms to make sure they are complete
- ✓ Answer general questions

WE CANNOT...

- X Provide legal advice or help with legal strategy
- X Recommend whether a case should be brought to court or comment on the merits of a pending case
- X Give an opinion about what will happen in court
- X Represent a court patron in court
- X Disclose any information that would violate a court order, statute or rule
- X Deny a self-represented litigant access to the court or any services provided to other court patrons
- X Refer a court patron to a specific lawyer for fee-based representation

For more information, see the Illinois Supreme Court Policy on Assistance to Court Patrons by Circuit Clerks, Court Staff, Law Librarians, and Court Volunteers (approved April, 2015).

"Safe Harbor" Policy

- ❖ The purpose of this policy is to provide guidance to circuit clerks, court staff, law librarians, and court volunteers acting in a non-lawyer capacity as to what services may and may not be offered to assist court patrons **to achieve fair and efficient resolution of their cases.**
- ❖ **No court patron should be denied services permitted under this policy on the basis of being a self-represented litigant.** Services to court patrons should be provided in a **nondiscriminatory manner** to all applicants without regard to race, color, religious creed, ancestry, national origin, age, sex, disability, sexual orientation or any category prohibited by federal or Illinois law.

What can you do? **Section (d), page 3-4**



(d) Permitted Services.

Court Access and Process

Provide information about:

- 1) **Court rules, court terminology and court procedures**
- 2) Requesting a foreign language or sign language **interpreter**
- 3) Requesting a reasonable accommodation due to a **disability**
- 4) Requesting a **waiver of court fees** due to inability to pay and provide the required approved form

What can you do? **Section (d), page 3-4**



(d) Permitted Services.

Court Access and Process

5) Provide info about **e-filing**, including:

- Help finding an existing case or filing a new case
- Creating a payment account
- Selecting case category, case type, filing code
- Adding party information
- Formatting and uploading documents
- Choosing between lead/attachment and confidential/non-confidential
- Explaining why a submission was rejected and how to correct it

6) Explaining how to get an **exemption** from e-filing

What can you do? **Section (d), page 4**



(d) Permitted Services.

Approved Forms

- 7) Help identify forms and **explain nature of info** required to fill out the forms
- 8) **Record answers verbatim** if person has a disability or literacy barriers
- 9) Review forms for **completeness**

What can you do? **Section (d), page 4-5**



(d) Permitted Services.

Referrals

- 10) Share info about **legal resources and referrals**
- 11) Encourage getting legal advice from a **lawyer**

Court Records

- 12) Provide **docket info**
- 13) Provide access to **case file**, as permitted by law or court order

What can you do? **Section (d), page 5**



(d) Permitted Services.

General

- 14) **Same** services and info to all parties, as requested
- 15) Assume info from court user is **accurate and complete**
- 16) Inform about **security protocols and directions**
- 17) Offer **educational classes** and informational materials
- 18) Assist people pursuing self-guided **research**
- 19) Provide other services consistent with intent of the policy

What can't you do? **Section (c), pages 2-3**



(c) Prohibited Services.

Court Access and Process

- 1) Deny SRLs access to the court or services provided to others
- 2) Share info that violates a court order, statute, rule, etc.
- 3) Comment on whether a case should be brought or has merit
- 4) Give an opinion about what will happen if a case is brought

Referrals

- 5) Refer to a specific lawyer or firm for fee-based representation

What can't you do? **Section (c), page 3**



(c) Prohibited Services.

General

- 6) Represent litigants in court
- 7) Give legal analysis, strategy, advice, or perform legal research other than assisting with self-guided research
- 8) Tell litigant anything that you would not repeat in the presence of any other party in the case
- 9) Otherwise engage in the unauthorized practice of law

How can we refer people to outside help?



ISBA Lawyer Referral Services



ILLINOIS STATE

BAR ASSOCIATION®

IL LawyerFinder, 800-922-8757

<https://www.isba.org/public/illinoislawyerfinder>

Free Legal Services

For the largest regional legal aid orgs (Prairie State Legal Services, Land of Lincoln Legal Aid, & Legal Aid Chicago), apply online at: <https://www.illinoislegalaid.org/get-legal-help>

For other options:

 PRAIRIE STATE LEGAL SERVICES	https://pslegal.org/How-To-Get-Started
 LAND OF LINCOLN -LEGAL AID- <i>Breaking Barriers to Justice</i>	Call: (877) 342-7891 (toll free) Mon-Thurs: 9 am to 4 pm, Friday: 9 am to 1:30 pm
 CARPLS everyday justice  A Legal Aid Nonprofit	Call: (312) 738-9200
IL Free Legal Answers  AMERICAN BAR ASSOCIATION FREE LEGAL ANSWERS™	https://il.freelegalanswers.org/

Illinois Legal Aid Online (ILAO)

<https://www.illinoislegalaid.org/>



Illinois Court Help

Illinois Court Help

Call or text: 833-411-1121

www.ilcourthelp.gov



Your guide
through
the courts

Do you have questions about court?

Illinois Court Help connects you to the information you need to go to court. It's a free service from the Illinois Courts.

Call or Text (833) 411-1121

- Find up-to-date information for the steps in your case
- Get specific answers to your questions about the court process, like how to file court documents
- Find the latest COVID-19 updates and how to appear in court on Zoom
- Get connected to legal aid and community resources to help you solve your problem

Visit ilcourthelp.gov to find more information

The IL Court Help logo is repeated in the bottom right corner of the flyer, with the tagline "Your guide through the courts" next to it.



Questions?

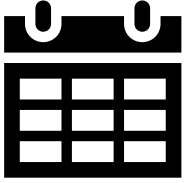
Can you look up my case number for me? #

INFORMATION

Safe Harbor Rule(s):

D(12) - provide docket information; see subsections therein

I need to reschedule my court date. How do I do that?



INFORMATION

Safe Harbor Rule(s):

D(1) - Provide legal information about court procedures

D(7) - Assist court patrons in identifying approved forms and related instructions based on the court patron's description of what he or she wants to request from the court

What should I write so the judge will grant my motion?



Advice

Safe Harbor Rule(s):

C(7) - Provide legal analysis, strategy or advice to a court patron, or perform legal research other than assistance in self-guided legal research for any court patron

C(8) - Tell a litigant anything he or she would not repeat in the presence of any other party involved in the case

C(9) Otherwise engage in the unauthorized practice of law as prohibited by law

What should I write so the judge will grant my motion?

BUT

D(7) - Assist court patrons in identifying approved forms and related instructions based on the court patron's description of what he or she wants to request from the court. When necessary, explain the nature of the information required to fill out the approved forms.

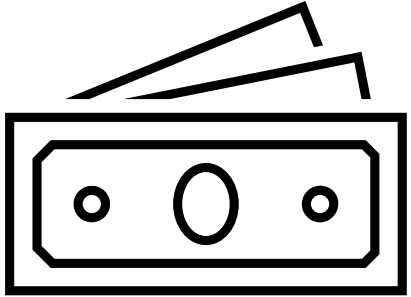
D(11) - Encourage self-represented litigants to obtain legal advice from a lawyer

Switch up: Can you write or type onto someone's form?

Sometimes

D(8) - Record verbatim information provided by the self-represented litigant on approved forms if that person is unable to complete the forms due to disability or literacy barriers. IDVA 750 ILCS 60/202(d) requires clerks to: provide clerical assistance to help with the writing and filing of a petition under this Section by any person not represented by counsel.

I can't afford my court fees; what should I do?



INFORMATION

Safe Harbor Rule(s):

D(4) - Inform court patrons of the process for requesting a waiver of court fees due to inability to pay and provide the required approved form

I'm trying to efile my paperwork. What case type do I pick?

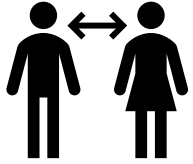
INFORMATION



Safe Harbor Rule(s):

D(5)(d) and (e) - Provide information about electronic filing (e-filing) including, but not limited to...Explaining how to file into a new or existing case including, but not limited to, information about creating a payment account, selecting a location, selecting a category, selecting a case type, entering party information, the format and size of the document to be filed, uploading documents to file, selecting a filing code, and differentiating between lead documents and attachments

Do I have to go in person to the courthouse for my court date?



INFORMATION

Safe Harbor Rule(s):

D(1) - Provide legal information about court procedures



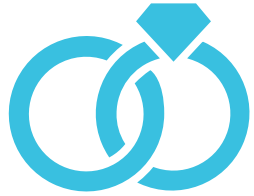


Scenario #1

Jamie just got to the courthouse at 1:00pm and was told that the hearing was actually at 10:00am. Jamie already missed the court call and a default judgment was entered. Jamie was told by the person in the courtroom that you would be able to fix it.

Scenario #1 – missed court, default judgment

- Can explain the court process when that happens (D1)
- Can give them forms (D7)
- Can't tell them that they should file it or what will happen if they do (C3 & C4)



Scenario #2

Pat calls your office and says they want to get remarried soon, so they need to file for divorce. They have no clue where their current spouse lives now and thinks they might have been deported. Pat mentions they don't have a computer at their house.

Scenario #2 – Divorce, don't know where spouse is, no computer at home, children present

- Can explain the court process for how to serve papers (D1), probably refer to ILAO
- Can give them forms (D7)
- Can explain and walk through e-filing (D5) or explain and provide exemption (D6)

Scenario #3



Alex would like to change their name. Alex asks what they need to do and are particularly concerned about a couple of arrests in their past and if they have to tell the court about that. While Alex has you on the line, Alex also want information about how to change their child's last name on the birth certificate because it is not the correct last name.

Scenario #3 – Change name, need to disclose criminal record? What about changing child's name, too?

- Can give them forms & related instructions...explain the nature of the information required to fill out (D7)
- Can't make an assessment of criminal record being disqualifying (C7)
- Potentially make referral to Dept. of Public Health (D10)

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Mogotrevo ▾				
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Mumbo Jumbo



“Legalese isn’t anyone’s first language” Monica, SRL in small claims case

- Plain language policy & guide from Illinois Supreme Court

English as a second language + legalese = mumbo jumbo

- Language Line or translation services on smartphone
- Court personnel who speak language
- Interpreter Registry

Thank you!!

- Policy and other resources can be found at https://www.illinoiscourts.gov/public/training-material-and-educational-programs#tab_pages-appearance.
- Email Jill Roberts at jroberts@illinoiscourts.gov with any questions or requests for information.