

- The Constitutions of the United States and Wisconsin require that due process be fair and equitable to all persons, regardless of their means, regardless of their wealth, regardless of their poverty, regardless of their race, regardless of their social circumstance.

# The Frequency of Pro Se Litigants in Family Court

- 2015 Statistics from Milwaukee Justice Center
- 10,900 total clients seen
- 7825 (78%) Family Law Self-Help Forms Assistance
- 787 – “Divorce Part 2” ( e.g. Financials, Marital Settlement Agreements)
- 7038 – “Everything Else” (e.g. Divorce Part 1, Post-Judgment Issues)
- 92% of persons assisted at MJC – incomes below Federal poverty guidelines

# The Frequency of Pro Se Litigants in Family Court

- 2015 Statistics from Milwaukee Justice Center
- 2223 (22%) Brief legal advice through Marquette University Volunteer Legal Clinics and Mobile Legal Clinics
- 156 Divorce related
- 601 Post-judgment family
- 445 volunteers
- 12,760 hours donated

# Not Just a “Milwaukee Problem”

- Sauk County – 80% of Family Law cases both litigants unrepresented
- Portage County – both parties represented in 12% of divorce cases filed
- CCAP statistics – not available

# Problems Unique to Pro Se Litigants in Family Court

- Summons & Petition
  - Venue: resident of the County for 30 days prior to filing and resident of Wisconsin for 6 months prior to filing
  - Necessary Parties: Child Support Services
  - Service: Summons & Petition must be served in accordance with Sec. 801.11 Wis. Stats.
  - Payment of fees
  - Not done correctly – DELAYS

# Problems Unique to Pro Se Litigants in Family Court

- Preparation & Filing Necessary Paperwork
- Financial Disclosure Statement
- Completion of Required Actions
- Parent Education Class
- Need for a Guardian ad Litem
- Not done correctly – DELAYS

# Problems Unique to Pro Se Litigants in Family Court

- Domestic Abuse/Harassment/Child Abuse Injunctions
  - “reasonable grounds to believe that the person has engaged in harassment with the intent to harass or intimidate the petitioner...”
  - Harassment –
  - “engaging in a course of conduct or repeatedly committing acts which harass or intimidate another person and which serve no legitimate purpose”
- Firearm Surrender Hearings
- Pending Criminal Charges

# Problems Unique to Pro Se Litigants in Family Court

- Evidentiary Hurdles – Maintenance 767.56
  - Length of marriage
  - Age/Physical & Emotional Health of Parties
  - Property Division
  - Educational level of parties at time of marriage & divorce
  - Earning capacity of party seeking maintenance
  - Ability to become self-supporting at standard of living reasonably comparable to that enjoyed during marriage & length of time to achieve it
  - Tax consequences
  - Mutual agreement
  - Contribution to education, training or increased earning power
  - Other relevant factors

# Problems Unique to Pro Se Litigants in Family Court

- Property Division 767.61(3)
  - Length of marriage
  - Property brought to marriage by each
  - Party has substantial assets not subject to division
  - Contributions to marriage
  - Age & Health (Physical & Emotional) of parties
  - Contribution of one party to education/training or increased earning capacity of other party
  - Earning capacity of each
  - Award of home
  - Duration of maintenance & family support
  - Other economic interests (e.g. pensions & future interest)
  - Tax consequences
  - Premarital/Marital Agreements
  - Other relevant factors

# Problems Unique to Pro Se Litigants in Family Court

- Allocation of Debt and Financial Obligations
  - Identify all “marital” debt
  - Spendthrift and “waste” issues
  - Home foreclosure
  - Bankruptcy
  - Tax liabilities/liens
  - Home sale/Award of home to one spouse
  - Health Insurance for children/Tax Exemptions
  - Necessary appraisals and valuations for both assets & liabilities
  - Variable expenses

# Problems Unique to Pro Se Litigants in Family Court

- Custody & Placement 767.41(5)(am)
  - Wishes of parent or parents
  - Wishes of child (GAL/other professional)
  - Interaction of child with parents/siblings/others
  - Amount & quality of time spent with parents
  - Home, school, religion & community
  - Age & developmental/educational needs of child
  - Mental/physical health of child & others
  - Need for regular placement to promote stability
  - Availability of public/private child care services
  - Cooperation/communication between parties
  - Evidence of abuse of the child by either party
  - Criminal record of any party/interspousal battery
  - Alcohol or drug abuse
  - Reports of appropriate professionals
  - Such other factors the Court deems relevant

# A Starting Point

- Directory of Self-Help Resources in WI Counties:
  - Counties that have free legal advice clinics
    - Brown, Chippewa, Dane, Eau Claire, Kenosha,
    - La Crosse, Milwaukee, Outagamie, Ozaukee
    - Richland, Pierce, Polk, Sheboygan, St. Croix
    - Washington, Waukesha, Winnebago

# The Milwaukee Experience

- Milwaukee Justice Center
- The Honorable Michael Skwierawski