



**OKLAHOMA
ACCESS TO
JUSTICE
FOUNDATION**

BREAKING UP IS HARD TO DO: A STUDY OF OKLAHOMA'S DIVORCE PROCESS

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LETTER FROM THE DIRECTOR

The Oklahoma Access to Justice Foundation began producing annual research reports in 2022, focusing on areas of civil justice that see a disproportionate number of people navigating the system without attorneys. Our first two reports—on eviction and debt collection—reflected the disjointed reality of our state courts for critical issues with particularly low representation rates for respondents (tenants and debtors, respectively).

This year, we chose to study divorce. Although many people assume family law resources may be more widely available, our research confirms a troubling reality: 90% of divorce cases in Oklahoma have at least one unrepresented party, and 40% have no legal assistance at all. This bears out what the ATJ Foundation’s legal services partners have been telling us for years: **divorce is among the largest unmet civil legal needs in Oklahoma.**

While Oklahoma has relatively robust funding to support survivors of domestic violence, **we have no dedicated funding to provide basic family law resources** to those who need to end their marriage for any number of other reasons—including the building, but not yet realized, threat of violence. For years, legal services leaders have shared with us the consistent numbers of calls they receive asking simply for “help with my divorce,” and the disappointment and frustration at the complete lack of resources to turn to.

Just this month, I received a call from a woman in Oklahoma City in this position; after having been turned away by one legal services provider because they cannot help in divorce cases, and discovering her tribal nation did not have available assistance, she resorted to calling numbers she found online. Although the ATJ Foundation does not provide direct legal services, I was able to recommend her to the Oklahoma County Law Library, where she can at least acquire a packet of divorce forms she can be confident will work in that jurisdiction; however, there is no help available to ensure she understands or completes those forms correctly. If she had been in one of 75 other counties in Oklahoma, I would have had nothing to refer her to at all.

Divorce is fundamental to being able to live life unentangled, both legally and practically, after the end of a marriage. Not being able to secure a legal divorce following a separation can lead to messy disputes with future relations, children, property, and probate. Our legal systems must work for the whole public; “Equal Justice Under Law” is just a platitude if we do not ensure our systems are accessible for all.

Katie Dilks, Executive Director
Oklahoma Access to Justice Foundation

August 26, 2024

METHODOLOGY

This study was conducted by the Oklahoma Access to Justice Foundation (hereinafter “the ATJ Foundation”) from the fall of 2023 through the summer of 2024. The study was designed to analyze the divorce process in Oklahoma with a specific focus on the experience of unrepresented litigants. This study’s information was gathered from numerous sources. The ATJ Foundation researched Oklahoma divorce laws and best practices for family courts across the nation; visited 26 county courts across the state, observing divorce processes in both urban and rural counties in Oklahoma as well as in Colorado state courts; conducted stakeholder interviews with attorneys, judges, court clerks and staff, and parenting class instructors; and partnered with Legal Services Corporation (LSC) to analyze Oklahoma divorce court data. Stakeholders’ names and other identifiable details have been altered on request to ensure confidentiality.

For the purposes of this report, “urban” counties are counties with a population of 300,000 or more, and “rural” counties are counties with a population of less than 300,000. By these definitions, there are three urban counties in Oklahoma—Oklahoma County, Tulsa County, and Cleveland County—and the rest are rural.¹ The ATJ Foundation visited all three urban county courts, as well as the following 23 rural county courts: Logan, Noble, Payne, Creek, Okmulgee, Okfuskee, McIntosh, Pawnee, Kay, Osage, McClain, Garvin, Murray, Carter, Wagoner, Muskogee, Haskell, LeFlore, Harper, Beaver, Texas, Cimarron, and Woodward. All court visits and observations took place in June and July of 2024.

Note: This report focuses on state civil courts in Oklahoma. Tribal courts were not observed or analyzed, and this report’s findings should not be extrapolated to Oklahoma tribal courts.

The quantitative data in this study, collected and analyzed by LSC, constitute all available divorce cases filed in Oklahoma district courts between 2019 and 2023. These divorce cases include filings for legal separation, annulment, and the registration of a foreign divorce. LSC’s process involved collecting data from docket text entries, extracting key phrases from the entries, and constructing variables based on those key phrases. Over 300 key phrases were used to construct variables and classify outcomes. Key variables include the presence of minor children and the presence of domestic violence in Oklahoma cases. The variable for minor children was constructed using 14 text phrases such as “child custody,” “visitation,” and “child support,” among others. The variable for domestic violence was constructed using phrases such as “restraining,” “protection,” or “protective”

¹ Cubit Planning, Inc., and Carney, K. *Oklahoma Counties by Population*. Oklahoma Demographics by Cubit, 2024. Retrieved from https://www.oklahoma-demographics.com/counties_by_population (last visited July 1, 2024).

to capture cases that referenced a domestic violence protective order. However, this potentially undercounts the prevalence of domestic violence within these cases as it does not account for instances of abuse or domestic violence referenced in petitions. Although the majority of cases had classifiable case outcomes (over 96% of the sample), some cases could not be classified using parsed docket text. This limitation can be attributed to variations in docket text phrasing (for example, “order terminating marriage” versus “parties awarded divorce”).

Note: Across Oklahoma, counties do not systematically document case outcomes the same way. Several factors complicated LSC's ability to parse docket text into divorce case outcomes for every filing such as typos, misspellings, and extant variation in the language of case outcomes. Different counties appeared to utilize the docket system differently, some documenting case outcomes solely in uploaded pdfs, court minutes, or brief descriptions typed into the docket text. Consistency in case documentation is the first step in understanding Oklahoma's legal landscape.

LSC's quantitative data analysis, coupled with the ATJ Foundation's research, observations, and interviews, create the basis for this report and its conclusions.

ACKNOWLEDGEMENTS

This report uses data gathered through LSC's Office of Data Governance and Analysis Civil Court Data Initiative. LSC team members involved in the data collection and analysis for this report include Elizabeth Price, Ellis Glazer, Logan Pratico, Punya Kalra, Anne Groggel, and Holly Stevens. Although they reviewed various drafts and the report's findings, neither they nor their organization necessarily endorses the conclusions.

EXECUTIVE SUMMARY

Combining quantitative court data with findings from interviews and observations conducted across the state, the Oklahoma Access to Justice Foundation (ATJ Foundation) produced this report to highlight barriers to accessing divorce in Oklahoma and to provide actionable recommendations aimed at improving the divorce process.

Getting divorced in Oklahoma is challenging, especially for Oklahomans who lack legal counsel. Despite a steady number of divorce cases making their way through the court system each year, there is a remarkably low rate of legal representation, with only a small percentage of cases involving representation for both parties, and many where neither party is represented. The recommendations in this report challenge stakeholders to simplify the divorce process and expand access to resources (such as standardized forms and guides) to increase people’s ability to get a divorce simply and without legal assistance, and to increase the availability of low-cost/no-cost legal help, recognizing that some divorces will always be complicated or contested, and some individuals need more assistance to get through the system.

Because it is a complicated area of law, navigating the divorce process without an attorney can present unnecessary challenges, as many Oklahomans experience. However, the authors of this report do not necessarily intend to present low representation rates and the other barriers to divorce highlighted within as explicit problems, but rather as realities of the current legal system. The challenge is that while not everyone needs a lawyer to get divorced, our system isn’t set up to make divorces simple for unrepresented parties. As such, this report identifies actions that can make the legal process less burdensome for all actors in the system—from parties in divorce proceedings to the courts themselves.

BARRIERS

Unrepresented litigants lack knowledge of legal language and procedures. Navigating the legal system without legal training poses significant challenges for unrepresented litigants. Complex legal terminology (often called “legalese”) and procedural requirements like serving process and filing forms create barriers. Judges and court clerks are often unable to answer unrepresented litigants’ questions due to legal advice constraints, further frustrating all participants. For many, the obvious answer would be to hire an attorney. Unfortunately, the reality is not so simple.

Finding a lawyer in Oklahoma can be challenging, especially given the prevalence of legal deserts in the state. Areas in which there is less than one licensed attorney for every 1,000 residents are commonly called “legal deserts.” Twenty counties in Oklahoma are considered legal deserts and another 29 are dangerously close to becoming legal deserts. With such sparse attorney availability in much of the state, legal deserts are a serious threat to accessing divorce in Oklahoma. Limited access to attorneys, in addition to cost, creates a landscape where **90% of all divorces in Oklahoma have at least one unrepresented party.**

The cost of getting a divorce presents a barrier for many Oklahomans. The cost of hiring a divorce attorney is prohibitive for many Oklahomans, especially considering the number of Oklahomans earning low wages. Limited scope representation and nonprofit providers such as Legal Aid Services of Oklahoma, Inc. (LASO) offer some relief. However, few attorneys offer limited scope services, and nonprofit resources are insufficient to meet the demand. Those who can’t afford counsel and don’t qualify for free assistance must proceed unrepresented. Even then, divorce costs may still include the cost of filing, serving process, obtaining childcare, missing work, notarizing documents, certifying documents, and hiring private interpreters as needed. Fee waivers (also known as “Pauper’s Affidavits”) could mitigate hefty filing fees for many low-income litigants; however, **fee waivers are not advertised often**, leaving eligible Oklahomans in the dark about this valuable resource.

Oklahomans do not have access to standardized divorce forms. Without court-approved standardized forms or an attorney’s limited scope representation drafting services, unrepresented litigants turn to the internet or document preparation services to meet the need for reliable divorce forms. This search sometimes leads unrepresented litigants to purchase and file forms from other jurisdictions or forms that ask for sensitive information, including social security numbers (an identity theft threat for a public records state). If the judge rejects their forms, unrepresented litigants must try again. Often this means purchasing additional forms or hiring an attorney, adding to the litigant’s expenses.

Most unrepresented litigants do not have access to divorce instructions. Though the legal system is foreign and intimidating to most non-lawyers, represented litigants benefit from the advice and instructions of their lawyers to walk them through necessary legal processes. The same is not true for unrepresented litigants who must learn the divorce process as they go. Without access to court-approved guides or instructions, unrepresented litigants struggle to understand the court’s expectations for them and next steps.

Additional logistical hurdles further complicate the divorce process. Unrepresented litigants may struggle to physically navigate Oklahoma's courthouses due to unclear directions, high parking costs, and insufficient public transportation in rural areas. Furthermore, unannounced court closures and challenges obtaining suitable court attire also present obstacles to unrepresented litigants.

Inconsistent divorce processes and disparate resources between counties prevent unrepresented litigants from knowing what to expect and create unfairness. Rural counties lack resources like the waiver dockets, waiver clinics, court navigators, and dedicated family resource coordinators available in urban areas. This discrepancy in court resources breeds unfairness as unrepresented litigants in urban counties have far better access to legal help than individuals residing in rural counties. Divorce procedures and resources are inconsistent even between urban courts like Tulsa and Oklahoma counties. Moreover, varying procedures and judicial approaches among counties and judges make the divorce process unpredictable for unrepresented litigants, affecting their ability to adequately prepare for and succeed in getting divorced.

Limited English proficient (LEP) individuals face additional barriers, including the need for interpreters during court proceedings and trouble accessing essential resources like parenting classes in non-English languages. While Oklahoma is required to provide courtroom interpreters for LEP individuals, pivotal conversations that occur outside the courtroom may require litigants to hire private interpreters.

RECOMMENDATIONS

This report makes several recommendations for improving divorce access in Oklahoma, as briefly described below and expounded upon in [section IV](#) of this report.

Equip and Empower: *These recommendations would equip unrepresented litigants with tools and resources to meaningfully access Oklahoma divorce courts.*

- The ATJ Foundation suggests **standardizing divorce forms** in Oklahoma, as we are one of only a few states without court-approved forms. Standardized divorce forms should be readily available online and at all court clerk offices. These forms, including petitions, entries of appearance, waivers of summons, and decrees, should be in **plain language** and written at a 6th grade reading level. Sample forms should be translated and made available in **multiple languages** such as Spanish and Vietnamese (Oklahoma's most spoken non-English languages). Standardized forms would simplify the process for unrepresented litigants, reduce form errors (and therefore make judges' and court clerks' jobs easier), curb unauthorized legal practices, and enhance overall system efficiency.

- Alongside standardized forms, Oklahoma courts should offer **plain language instructional guides** at a 6th grade reading level to all unrepresented litigants. These guides should also be offered in multiple languages to accommodate non-English speakers. Guides should educate litigants on procedural requirements and next steps reducing confusion and streamlining court processes.
- Courts should **promote fee waivers**. Court clerks should increase awareness and accessibility of fee waivers enabling low-income litigants to easily seek them for filing costs. Greater utilization of fee waivers would remove financial barriers and facilitate access to justice for low-income Oklahomans.
- Oklahoma lawyers should **offer limited scope representation options**, such as drafting-only services. These services provide affordable legal options for those who can't afford to retain a lawyer's full representation but still need a lawyer's assistance. Additionally, increased access to limited scope representation would make judges' jobs easier as they would encounter fewer defective forms and wouldn't need to educate litigants from the bench as often.

Ensure Consistency and Fairness: *These recommendations would increase consistency among divorce practices in the state. In doing so, these recommendations promote fairness by equalizing the playing field.*

- Oklahoma courts should **establish uniform divorce procedures** across counties. Establishing uniform divorce procedures would require collaboration between counties, including communicating about the relative advantages and disadvantages of current initiatives to increase divorce access. Uniform procedures would enable unrepresented litigants to know what to expect when they initiate a divorce, allowing them to prepare for court and avoid procedural hiccups.
- Courts should **increase staffing to support unrepresented litigants**, such as employing more family resource coordinators and court navigators. Currently, these resources are available in very few counties. Given their success, additional Oklahoma counties would benefit from staffing similar personnel.
- Courts should **implement legal technology** to enhance access to divorce for unrepresented litigants, particularly for individuals residing in legal deserts. In Oklahoma, implementing a comprehensive e-filing system that is accessible to unrepresented litigants, expansion of online self-help resources, and availability of legal kiosks in rural counties would be beneficial. Legal technology can optimize processes and reduce physical barriers to court access, which is valuable for a largely rural state.

Consider Systemic Change: *These recommendations encourage Oklahoma to reevaluate its conventional adversarial approach to divorce law and potentially pilot alternative models that are more appropriate for unrepresented litigants.*

- To better accommodate the prevalence of unrepresented litigants in Oklahoma, courts should **reevaluate the adversarial approach to divorce law**. Because 40% of divorce litigants in Oklahoma involve two unrepresented parties, courts should adjust procedures to cater to this demographic. Not only would doing so improve unrepresented litigants' experience in divorce courts, but it would alleviate Oklahoma's overburdened courts by ensuring processes are appropriate and easy to understand for the primary demographic they serve.
- Oklahoma courts should **consider piloting alternative divorce models**. Models like Alaska's Early Resolution Program (ERP) and Connecticut's Pathways Process have been found to streamline and improve outcomes for uncontested divorces. Both programs prioritize early case screening and pathway assignment tailored to each case's needs.

I. THE LANDSCAPE

WHAT IS DIVORCE?

Divorce is a challenging but necessary aspect of life for many Oklahomans. Legally, divorce is a formal decree issued by a court indicating the end of a valid marriage. Divorce terminates a marital contract and severs ongoing obligations between spouses. Although this may sound straightforward, the process of divorce can be burdensome, difficult, and have critical impacts on various facets of daily life, including emotional well-being, financial stability, and family dynamics. For example, in a divorce, the court may distribute property, allocate spousal support, and if there are children, make custody, visitation, and child support arrangements. Divorce is also vitally important for a number of reasons discussed further in this section.

HISTORY OF DIVORCE LAW IN OKLAHOMA

In the late 19th and early 20th centuries, Oklahoma stood out for having some of the most lenient divorce laws in the United States.² Oklahoma, then a territory,³ aimed to attract individuals seeking a swift and uncomplicated end to their marriage by listing ten distinct grounds for divorce in its statutes, including the broad category of “gross neglect of duty.”⁴ Oklahoma's leniency also extended to residency requirements with only a 3-month stay in the territory needed to file for divorce.⁵ Furthermore, individuals were not required to prove that they had informed their spouse of their intention to divorce or provided them with an opportunity to respond.⁶ Instead, it sufficed to place a notice in a newspaper, which the spouse could theoretically see.⁷ If there was no response, the courts would proceed under the assumption of tacit consent from the non-responding party, meaning that silence was taken as agreement.⁸ This combination of factors made Oklahoma an attractive destination for those seeking a quick and easy divorce.⁹

² Koehn, D. “Nuptial Benedictions: The Divorce Industry in Oklahoma Territory (1890s-1900s).” *Blue Cereal Education*, 2017. Retrieved from <https://bluecereaeducation.com/nuptial-benedictions-divorce-industry-oklahoma-territory-1890s-1900s/> (accessed July 8, 2024).

³ Despite being a territory, Oklahoma operated under a structured governance framework established by the Organic Act of 1890. This framework included both appointed officials and elected representatives, guiding its administration and development. United States Congress. “Organic Act of 1890.” *Government Publishing Office*, 1890. Retrieved from <https://www.govinfo.gov/content/pkg/STATUTE-26/pdf/STATUTE-26-Pg81.pdf> (accessed August 7, 2024).

⁴ Koehn, D. *supra* note 2.

⁵ *Ibid.*

⁶ *Ibid.*

⁷ *Ibid.*

⁸ *Ibid.*

⁹ *Ibid.*

Oklahoma remained a pioneer in divorce accessibility through the mid-20th century.¹⁰ In 1953, the state added provisions for “no-fault” divorce to traditional grounds, acknowledging incompatibility as a valid reason for divorce.¹¹ This change marked a significant shift in the legal landscape, aiming to create a more neutral and non-coercive environment for couples seeking to dissolve their marriages without having to prove fault or assign blame.¹² This approach notably reduced the conflict often associated with divorce proceedings.¹³ By the end of the 1970s, 36 states had followed Oklahoma in reforming or repealing their statutes, embracing the principles of no-fault divorce and marking a period known as “the divorce law revolution.”¹⁴ Since the introduction of no-fault divorce in 1953, there have been no significant changes to divorce law in Oklahoma. No-fault divorce is a widely accepted practice across the United States, demonstrating the recognized need for more accessible and non-adversarial divorce processes.¹⁵

No-Fault Divorce Legislation

An Oklahoma state senator introduced a bill in 2024 that aimed to eliminate the option for no-fault divorce in Oklahoma and would require individuals seeking a divorce to provide clear and convincing evidence of specific grounds for ending their marriage.¹⁶ If passed, this legislation could introduce a more subjective aspect to the divorce process and place increased demands on court time and resources.¹⁷

CONTESTED VS. UNCONTESTED DIVORCES

A divorce can be categorized as either contested or uncontested. If both parties can agree on all aspects of the divorce—including grounds, property division, and if applicable, custody, visitation, and child support—it will be considered uncontested. However, if there are unresolved issues, the divorce is considered contested. It is also possible that the parties may agree to a final resolution on some issues (such as property and debt division), while contesting other issues (such as child custody and visitation), creating a hybrid action that requires judicial determination only on the contested matters.

¹⁰ Vlosky, D. A., and P. A. Monroe. “The Effective Dates of No-Fault Divorce Laws in the 50 States.” *Family Relations*, vol. 51, no. 4, 2002, pp. 317-324.

¹¹ *Ibid.*, p. 320.

¹² *Ibid.*, p. 317.

¹³ *Ibid.*

¹⁴ *Ibid.*

¹⁵ *Ibid.*

¹⁶ Hoberock, B. “Oklahoma Bill Would End Compatibility as Grounds for Divorce.” *Oklahoma Voice*, January 25, 2024. Retrieved from <https://oklahomavoice.com/2024/01/25/oklahoma-bill-would-end-incompatibility-as-divorce-grounds/> (accessed August 19, 2024).

¹⁷ Wax-Thibodeaux, E. “No-Fault Divorce and the New Push for Reform: J.D. Vance and the Debate Over Women’s Rights.” *The Washington Post*, August 4, 2024. Retrieved from <https://www.washingtonpost.com/nation/2024/08/04/no-fault-divorce-jd-vance-women/> (accessed August 8, 2024).

GROUNDINGS FOR DIVORCE IN OKLAHOMA

State law outlines the grounds on which individuals can seek a divorce; as described above, both no-fault and fault-based divorces are permitted in Oklahoma. The key distinction lies in whether one spouse must demonstrate that the marriage is ending due to the other spouse's behavior.¹⁸ A no-fault divorce in Oklahoma has the potential to reach a final outcome more quickly than a fault-based divorce because neither party needs to argue or establish fault. If one spouse asserts that the couple is incompatible, Oklahoma courts will approve a no-fault divorce.¹⁹ A fault-based divorce occurs when one or both spouses present evidence to the court to prove that the other party's actions led to the divorce.²⁰

There are 11 fault-based grounds for divorce in Oklahoma.²¹ Oklahoma law has determined that these reasons represent serious breaches of marital trust, safety, and support, making it impossible to sustain a healthy and functional relationship.

Regardless of the matter of fault, deciding to get a divorce is a major and often life-changing choice that couples may make for various reasons, including irreconcilable differences, financial problems, infidelity, lack of communication, and incompatibility. Emotional and psychological issues, such as drifting apart over time, unmet needs, and unfulfilled expectations, may cause couples to seek divorce.²² Additionally, more serious issues such as domestic violence can make divorce not just a choice but a necessary step for safety and well-being.

DIVORCE AND DOMESTIC VIOLENCE

Though not specifically listed as grounds for divorce in Oklahoma state law, experiencing domestic violence can also lead a person to seek divorce. Domestic violence includes the systematic exercise of power and control by one intimate partner over another and can include physical, emotional, psychological, financial, and sexual abuse.²³ For many who experience domestic violence, leaving an abusive marriage, seeking freedom

¹⁸ American Bar Association. "Ending the Marriage: Divorce." *ABA Home Front*. Retrieved from https://www.americanbar.org/groups/legal_services/milvets/aba_home_front/information_center/family_law/marriage_and_divorce/annulment_separation_divorce/ending_the_marriage/divorce/ (accessed July 8, 2024).

¹⁹ Smith v. Smith, 1993 OK CIV APP 17, 847 P.2d 827, 64 OBJ 1098, ¶ 8 (Okla. Civ. App. 1993).

²⁰ American Bar Association, *supra* note 18.

²¹ Abandonment for at least 1 year, adultery, impotence, extreme cruelty, habitual drunkenness, fraudulent contract (which often involves deception about previous or current marriages), gross neglect of duty, failure to support the family, the wife being pregnant by another man at the time of marriage, imprisonment for a felony, procurement of an out-of-state divorce that doesn't absolve marital obligations under Oklahoma law, and insanity for 5 years with institutionalization and medical verification of unlikely recovery. 43 O.S. § 101.

²² Williamson, H. C., T. N. Bradbury, T. P. Nguyen, and B. R. Karney. "Are Problems That Contribute to Divorce Present at the Start of Marriage, or Do They Emerge Over Time?" *University of California, Los Angeles*, pp. 12-14.

²³ National Coalition Against Domestic Violence. "Learn More About Abuse." *The Hotline*, 2024. Retrieved from <https://www.thehotline.org/resources/learn-more-about-abuse/> (accessed August 7, 2024).

from harm and the possibility of rebuilding their lives in a safe and stable environment, is essential to protect themselves and their children.

Domestic violence significantly impacts divorce outcomes, particularly concerning custody and visitation rights.²⁴ The custody presumption statute includes a rebuttable presumption against awarding joint custody to a parent who has committed domestic violence, harassment, or stalking, prioritizing the safety and well-being of the child and the non-offending parent.²⁵ This means that domestic violence can significantly influence the court's decisions regarding custody arrangements ensuring a safe and stable environment for the child and the non-offending parent.²⁶

Nationwide, more than 12 million people experience domestic violence every year.²⁷ In Oklahoma, in 2023, 49.1% of women and 40.7% of men have either experienced or are currently experiencing domestic abuse—a higher rate than in any other state.²⁸ Accessible divorce can play a crucial role in reducing domestic violence. In a 2001 Oklahoma survey, 30% of participants listed domestic violence as a “major contributor” to their divorce;²⁹ for women, this number increased to 44% of participants.³⁰ Research on no-fault divorce laws implemented in the U.S. during the 1970s and 1980s revealed significantly reduced rates of female suicide, domestic violence, and women being murdered by their spouses as divorce became easier to access.³¹ Domestic violence rates in particular fell by more than 30%.³² These trends have been validated in other countries as well—a study in Spain found a 30% decrease in domestic violence after a dramatic reduction in the cost of divorce.³³

²⁴ 43 O.S. § 109(I).

²⁵ *Ibid.*

²⁶ *Ibid.*

²⁷ Black, M. C., K. C. Basile, M. J. Breiding, S. G. Smith, M. L. Walters, M. T. Merrick, J. Chen, and M. R. Stevens. *The National Intimate Partner and Sexual Violence Survey (NISVS): 2010 Summary Report*. Atlanta, GA: National Center for Injury Prevention and Control, Centers for Disease Control and Prevention, 2011. Retrieved from https://www.cdc.gov/violenceprevention/pdf/nisvs_report2010-a.pdf (accessed August 7, 2024).

²⁸ World Population Review. “Domestic Violence by State 2024.” Retrieved from <https://worldpopulationreview.com/state-rankings/domestic-violence-by-state> (accessed July 24, 2024).

²⁹ Johnson, C. A., S.M. Stanley, N. D. Glenn, P. R. Amato, S. L. Nock, H. J. Markman, and M. R. Dion. *Marriage in Oklahoma: 2001 Baseline Statewide Survey on Marriage and Divorce*. Oklahoma State University Bureau for Social Research, 2002, p. 15. Retrieved from https://www.researchgate.net/publication/240108285_Marriage_in_Oklahoma_2001_baseline_statewide_survey_on_marriage_and_divorce (accessed August 19, 2024).

³⁰ *Ibid.*, p. 16.

³¹ Stevenson, B., and J. Wolfers. “Bargaining in the Shadow of the Law: Divorce Laws and Family Distress.” *The Quarterly Journal of Economics*, vol. 121, no. 1, 2006, pp. 267-288.

³² *Ibid.*, p. 281.

³³ Brassiolo, P. “Domestic Violence and Divorce Law: When Divorce Threats Become Credible.” *The Journal of Labor Economics*, vol. 34, no. 2, April 2016, pp. 443-477.

DIVORCE CASES ACROSS OKLAHOMA

Divorce continues to be a common experience for many Oklahomans, impacting emotional well-being, financial stability, and family dynamics. Despite a steady number of cases each year, there is a remarkably low rate of legal representation, with only a small percentage of cases involving representation for both parties, and many where neither party is represented. Because it is a complicated area of law, navigating the divorce process without an attorney can present unnecessary challenges. This trend is particularly noticeable in many rural counties. Additionally, there is a significant gap in who is supported by attorneys, with petitioners (the spouse who files for divorce) having much greater access to legal representation than respondents (the other spouse). It is crucial to assess whether these disparities impact the ability of the courts to deliver fair and equitable outcomes for all parties involved in divorce cases across the state.

Between 2019 and 2023, Oklahoma’s district courts handled approximately 81,000 divorce filings.³⁴ Though filings have decreased slightly over that time period, the numbers have remained fairly steady, averaging about 16,293 cases each year.³⁵ Thirty-eight percent of those cases involved minor children.³⁶

In Oklahoma, for every 1,000 married women, 21 divorce petitions were submitted annually, including legal separation, annulment, and registration of foreign divorces. Of these, an average of 17 divorces were granted.³⁷ This highlights a noticeable gap between the number of divorces initiated and those that made it through the legal process, with about 20% of cases remaining dismissed or unresolved.

³⁴ Legal Services Corporation. “Divorce Cases in Oklahoma.” Forthcoming.

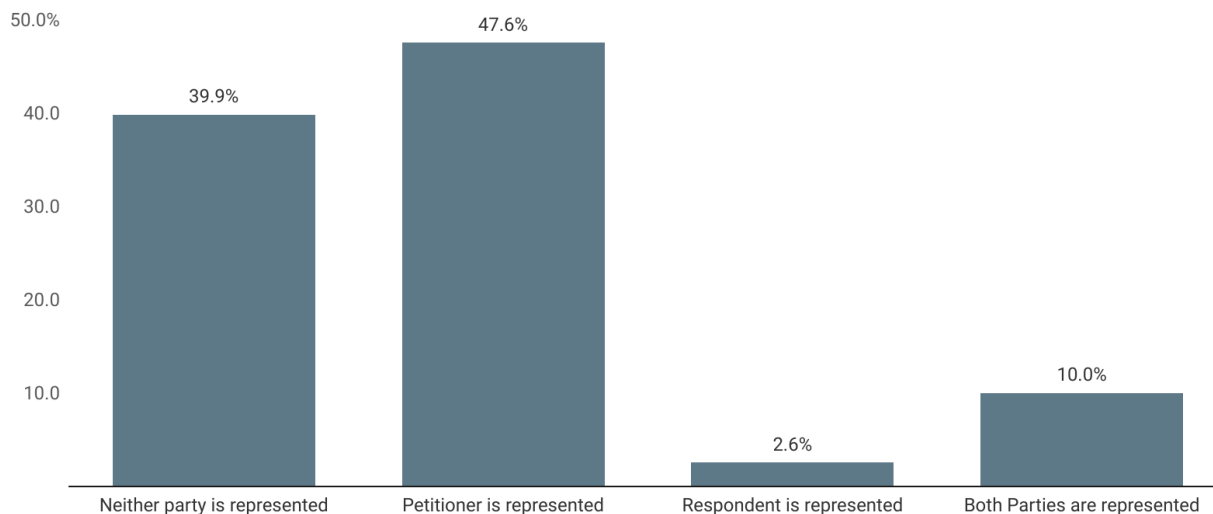
³⁵ *Ibid.*

³⁶ *Ibid.*

³⁷ *Ibid.* This rate may change as pending divorce cases are decided.

Nearly 40% of Oklahoma Divorce Cases Are Filed Without Legal Representation

Oklahoma Divorce Cases by Representation Status from 2019-2023



N= 81,463. The difference in representation status was statistically significant $p < 0.001$.

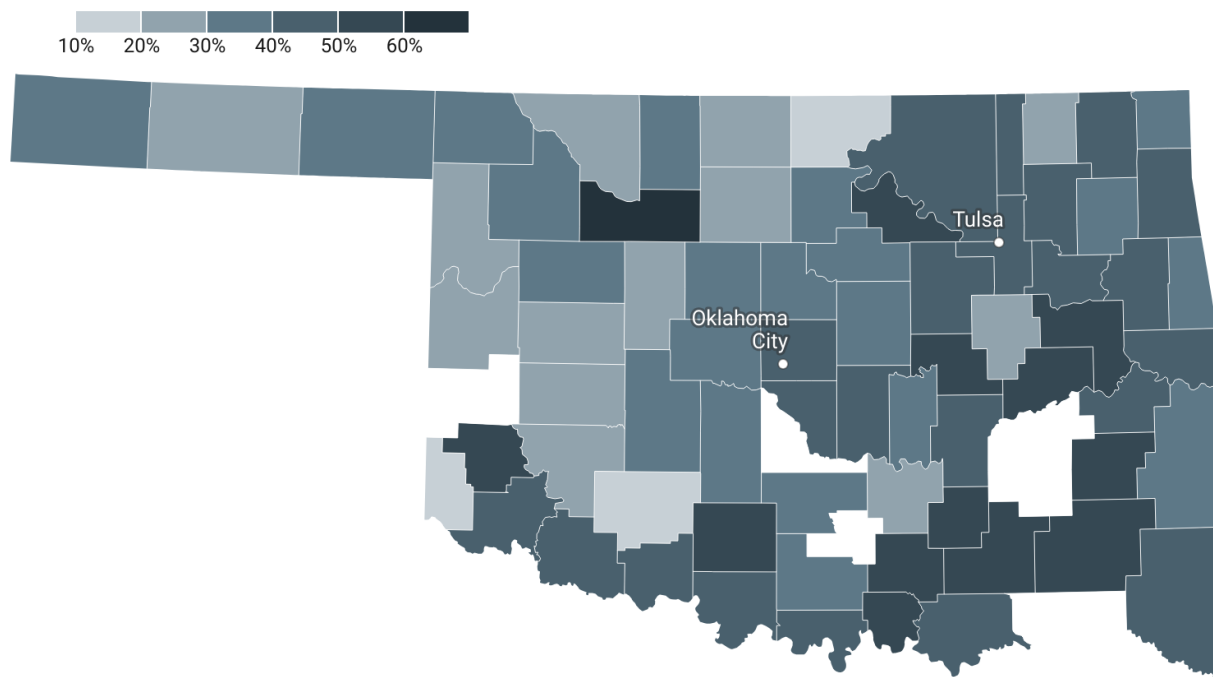
Source: Civil Court Data Initiative, Legal Services Corporation, 2024

Over the 5 years studied, only 10% of all cases involved both parties having legal representation. In most cases, at least one person navigated the process without a lawyer, and in nearly 40% of the cases, neither party had legal representation. This reveals that most people in Oklahoma tackle the complexities of divorce without legal assistance. However, the rates of at least one party having representation are higher for cases involving minor children—approximately 75% of cases with children compared to 51.5% without.³⁸

³⁸ *Ibid.*

Percent of Divorce Cases Filed Without Legal Representation

Oklahoma Divorce Cases by Representation Status from 2019-2023



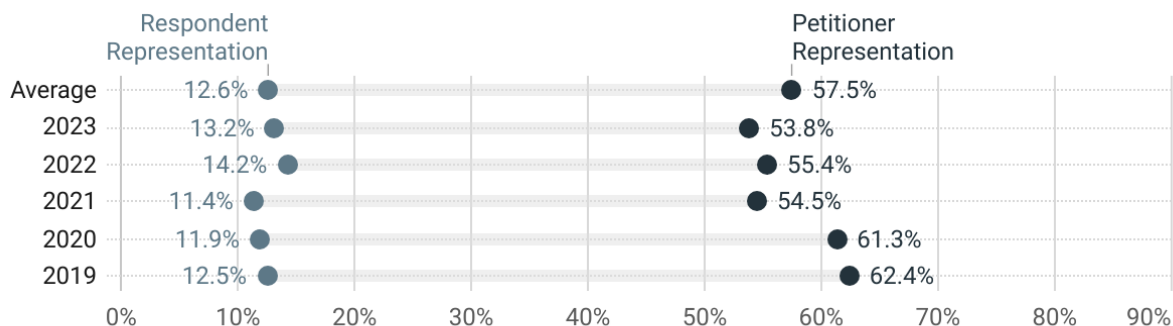
N=81,463. The difference in representation status was statistically significant $p<0.001$.

Source: Civil Court Data Initiative, Legal Services Corporation, 2024

These representation trends varied by geography. In 34 of 77 counties, unrepresented cases constituted over 40% of divorce filings. In one-third of those low-representation rate counties, the number of divorces filed without an attorney exceeded 50%. This underscores a widespread trend of individuals handling divorces on their own in many parts of the state, and an outsized burden on some rural courts.

Respondents Had Legal Representation Significantly Less Than Petitioners

Average representation status for petitioners and respondents in Oklahoma divorce cases from 2019 through 2023



N=81,463. The difference in representation status was statistically significant $p<0.001$.

Source: Civil Court Data Initiative, Legal Services Corporation, 2024

The patterns of legal representation in Oklahoma divorce cases from 2019 to 2023 showed a significant contrast between petitioners and respondents. On average, 57.5% of petitioners had lawyers, while only 12.6% of respondents were represented. Although it is likely that a number of divorce cases with legal representation only for the petitioner are uncontested, this data highlights a continuing and notable difference in access to legal support during divorce proceedings. Furthermore, representation rates for petitioners have decreased since 2020, suggesting a consistent decline in legal support for individuals initiating divorce cases.

II. THE LEGAL PROCESS

The legal process for getting a divorce in Oklahoma is complex and varies depending on a number of factors. Are the parties represented or unrepresented? Do the parties have minor children? Is the divorce contested or uncontested? Additionally, the divorce process may vary from county to county depending on county-specific rules, procedures, and resources. This section seeks to provide a general overview of the divorce process in Oklahoma, but because counties' procedures vary, this overview may not reflect all procedures for every county.

FILING

A divorce case is initiated when a person who has lived in Oklahoma for at least 6 months³⁹ files a form called a “petition” with the appropriate county’s court clerk.⁴⁰ A person can file in any county in which either they or the other party have lived for at least 30 days.⁴¹ The party who starts the case is called the petitioner.⁴² To file, the petitioner must first obtain a petition, which can be difficult as Oklahoma does not have standardized divorce forms. The petition must discuss jurisdiction,⁴³ grounds for divorce,⁴⁴ division of property,⁴⁵ and whether minor children are involved.⁴⁶ If minor children are involved, the petition should also include custody and child support preferences and whether the Oklahoma Department of Human Services (OHS) is a party to the case (applicable if OHS has provided benefits for the child).⁴⁷ For the unrepresented petitioner, undertaking complex legal drafting that includes all the required information is exceptionally challenging, leading many to seek out forms online or through paralegal or document preparation services. Often these forms are incorrect—either because they are not filled out correctly or are not acceptable for that jurisdiction—and the petitioner may make multiple attempts to acquire an acceptable petition. (The process of filing a petition for divorce is discussed further in section III of this report under “Access to Forms and Instructions.”)

³⁹ 43 O.S. § 102(A).

⁴⁰ 43 O.S. § 105(B).

⁴¹ 43 O.S. § 103(A)(1).

⁴² 43 O.S. § 105(B).

⁴³ 43 O.S. § 102(A).

⁴⁴ 43 O.S. § 101.

⁴⁵ 43 O.S. § 110.

⁴⁶ 43 O.S. § 112(A).

⁴⁷ *Ibid.*

In addition to the petition, the filing party must also navigate finding and completing a civil cover sheet,⁴⁸ summons,⁴⁹ and a notice of automatic temporary injunction.⁵⁰ Each of these documents is critical to the divorce process, as they often preserve rights and remedies for one or both parties. A summons informs the other party, the respondent, about the divorce case, including the claims being made, remedies requested, parties involved, and when to respond.⁵¹ The automatic temporary injunction establishes temporary rules for the parties to follow throughout their case, such as prohibiting them from damaging each other's property or hiding assets from one another.⁵² If the petitioner has minor children, they must also file a Uniform Child Custody Jurisdiction and Enforcement Act (UCCJEA) affidavit alongside the petition, which provides information to the court about the children's whereabouts (addresses, visitation, custody) and other proceedings that could impact the divorce case (such as a proceeding relating to domestic violence).⁵³

If a person filing for divorce is able to overcome the initial barrier of knowing what paperwork to file and what information to provide, they must still find funds to properly initiate the action in court. Filing the petition costs over \$250.⁵⁴ For low-income unrepresented litigants, this filing fee may present a financial barrier to getting a divorce. Fee waivers (also known as "Pauper's Affidavits" in Oklahoma⁵⁵) can mitigate the cost of filing but are not explicitly offered to many low-income unrepresented litigants. (Filing fees and fee waivers are discussed further in section III of this report under "Cost.")

SERVICE

Once the petitioner has filed the required paperwork and initiated the divorce action in court, they must then properly serve the respondent with copies of the documents submitted to the court.⁵⁶ This should include the petition, summons with a notice of automatic temporary injunction, and the UCCJEA affidavit (if minor children are

⁴⁸ Okla. 15 Jud. Dist. Ct. Rule 6(1) (Muskogee). *Local District Court Rules*. Retrieved from [https://govt.westlaw.com/okjc/Document/NEEEE66B0106811E1B5C4E3010B88B13F?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)&bhcp=1](https://govt.westlaw.com/okjc/Document/NEEEE66B0106811E1B5C4E3010B88B13F?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)&bhcp=1) (accessed July 8, 2024) and Okla. 15 Jud. Dist. Ct. Rule 5.1 (Cherokee and Wagoner). Retrieved from [https://govt.westlaw.com/okjc/Document/N85E133B1106711E1A63EF998D9512521?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=\(sc.Default\)](https://govt.westlaw.com/okjc/Document/N85E133B1106711E1A63EF998D9512521?viewType=FullText&originContext=documenttoc&transitionType=CategoryPageItem&contextData=(sc.Default)) (accessed July 8, 2024).

⁴⁹ 43 O.S. § 105(D).

⁵⁰ 43 O.S. § 110.

⁵¹ 12 O.S. § 2004(B)(1).

⁵² 43 O.S. § 110.

⁵³ 43 O.S. § 551-209.

⁵⁴ Tulsa County's Filing Fee Chart. Retrieved from https://www.tulsacountydistrictcourt.org/files/Family_Division_Filing_Fees.pdf (accessed July 8, 2024).

⁵⁵ The ATJ Foundation advocates for greater use of plain language in the legal field to increase accessibility to legal information. Shifting from "Pauper's Affidavit" to "fee waiver" could increase the general public's understanding of this resource and its function.

⁵⁶ 43 O.S. § 105(D).

involved). Service of process is a common practice for lawyers but can be difficult to understand for unrepresented litigants (discussed in section III of this report under “Knowledge of the Legal Process”). In Oklahoma, serving the opposing party can be done personally, through certified mail, by the county sheriff, or by a private process server.⁵⁷ If the petitioner is unable to locate the respondent, they will have to navigate the additional step of asking the court for permission to serve the respondent by publication.⁵⁸ Service by publication has its own set of rules requiring publication 1 day per week for 3 consecutive weeks in a newspaper authorized to publish legal notices in the county.⁵⁹ Once the petitioner successfully serves the respondent, they must file proof of service with the court clerk.⁶⁰

If the divorce is uncontested, the respondent can waive formal service by filing an entry of appearance and waiver of summons no sooner than 24 hours after the petition has been filed.⁶¹ This waiting period can be difficult for unrepresented litigants to understand (discussed further under “Knowledge of the Legal Process”). The entry of appearance and waiver of summons indicate that the respondent is aware of the divorce case and agrees with the petitioner and their proposed plan. Waiving summons expedites the divorce process and is common in uncontested cases. Alternatively, if the case is contested, the respondent can respond by filing an answer and/or a counterclaim within 20 days of being served⁶² which may allege new matters against the petitioner.⁶³

WAITING PERIODS AND NEXT STEPS

After filing and service, parties must observe either a 90-day waiting period if they have minor children⁶⁴ or a 10-day waiting period if they do not before the divorce can be finalized.⁶⁵ Even when a divorce is uncontested, parties must wait until the waiting period has passed before the petitioner requests a final order hearing during which the judge will sign the final divorce decree. If contested, a trial will be scheduled. However, hearings on the merits of the case cannot occur until 30 days have passed if the parties have minor children or until 10 days have passed if the parties do not have minor children.⁶⁶ These waiting periods are found in the statutes that govern divorces and can be difficult for

⁵⁷ 12 O.S. § 2004(C)(1)(a).

⁵⁸ *Ibid.*

⁵⁹ 12 O.S. § 2004(C)(3).

⁶⁰ 12 O.S. Ch. 2, App., Rule 2.

⁶¹ 12 O.S. Ch. 2, App., Rule 8.

⁶² 12 O.S. § 2012(A)(1)(a).

⁶³ 43 O.S. § 106.

⁶⁴ 43 O.S. § 107.1(A)(1).

⁶⁵ Parties without minor children must wait 10 days from filing the petition to have a hearing on the merits. It is implied in practice that parties must wait 10 days before the divorce can be finalized. 12 O.S. Ch. 2, App., Rule 8.

⁶⁶ *Ibid.*

unrepresented parties to locate and understand, especially when they are eager to finalize their divorce (discussed further under “Knowledge of the Legal Process”).

Additional Required Steps for Parties with Minor Children

When minor children are involved in a divorce, additional forms and requirements must be completed for the divorce to be granted. Divorces that involve minor children often take longer than those without children due to the extra steps required in determining custody, visitation, attending parenting classes,⁶⁷ and addressing child support.⁶⁸ There is not a designated provider for these required parenting classes, but state law notes that the course must include six components which include short- and long-term effects of divorce on child well-being, reconciliation as an optional outcome, and effects of family violence.⁶⁹ These classes typically take about 4 hours to complete and cost between \$10 and \$60.⁷⁰

As the waiting period progresses, other legal steps may continue. Before signing the final divorce decree at a final order hearing and/or going to trial, parties may be required to attend mediation,⁷¹ a temporary order meeting, or a pre-trial conference—steps and requirements that often differ county by county. For represented parties, the attorney will explain the required waiting period, any interim procedures and steps, and local court rules such as required mediation to avoid delays. For unrepresented individuals, the waiting period is often spent navigating local court rules, understanding and attending mediation or status conferences, and attempting to draft complex legal documents including final decrees, child custody plans, and child support computations.

FINAL DECREE AND CONCLUDING TASKS

If the petitioner is able to obtain or draft reliable divorce forms and successfully navigate the legal system to the point of scheduling a final order hearing, the judge can then sign the final divorce decree and grant the divorce. Drafting a final divorce decree for a judge to approve and sign is critically important. A divorce decree serves as a legal document that outlines each party’s obligations and entitlements.⁷² An unrepresented litigant may not be familiar with all the possible remedies and legal provisions that could be included in a divorce decree, which may cause them to unknowingly waive important

⁶⁷ 43 O.S. § 107.2(A).

⁶⁸ 43 O.S. § 112(A)(1).

⁶⁹ 43 O.S. § 107.2(B)(1-6).

⁷⁰ 43 O.S. § 107.2(B)(6).

⁷¹ 12 O.S. § 1823.

⁷² Legal Aid Society of Oklahoma. Self-Representation in Divorce Cases. Retrieved from <https://www.legalaidok.org> (accessed August 12, 2024).

legal rights or fail to include critical provisions. A well-drafted decree ensures all relevant issues are addressed comprehensively, including property division, spousal support, child custody, visitation, and child support.⁷³

Additionally, a detailed and clear divorce decree can help prevent future disputes by specifying how various aspects of the divorce will be handled.⁷⁴ This is crucial for unrepresented litigants who may lack the knowledge or experience to foresee and address all possible issues, which can potentially lead to future conflicts or disagreements.

Once the divorce decree has been signed by the judge, the petitioner must file it with the court clerk;⁷⁵ unrepresented litigants do not always realize the decree needs to be filed and sometimes miss this step (discussed further under “Knowledge of the Legal Process”). Even after the decree has been signed and filed, parties will likely need to complete additional tasks. Post-divorce tasks such as changing last names and retitling divided property may be necessary.

The legal process for getting a divorce in Oklahoma is complex and poses many barriers for unrepresented litigants who lack legal knowledge and resources to assist them. To illustrate the divorce process, the ATJ Foundation developed four legal process maps covering four common pathways to divorce in Oklahoma. Below is a process map for an uncontested divorce with minor children. This report’s [appendix](#) contains additional process maps for an uncontested divorce without minor children, a contested divorce with minor children, and a contested divorce without minor children.

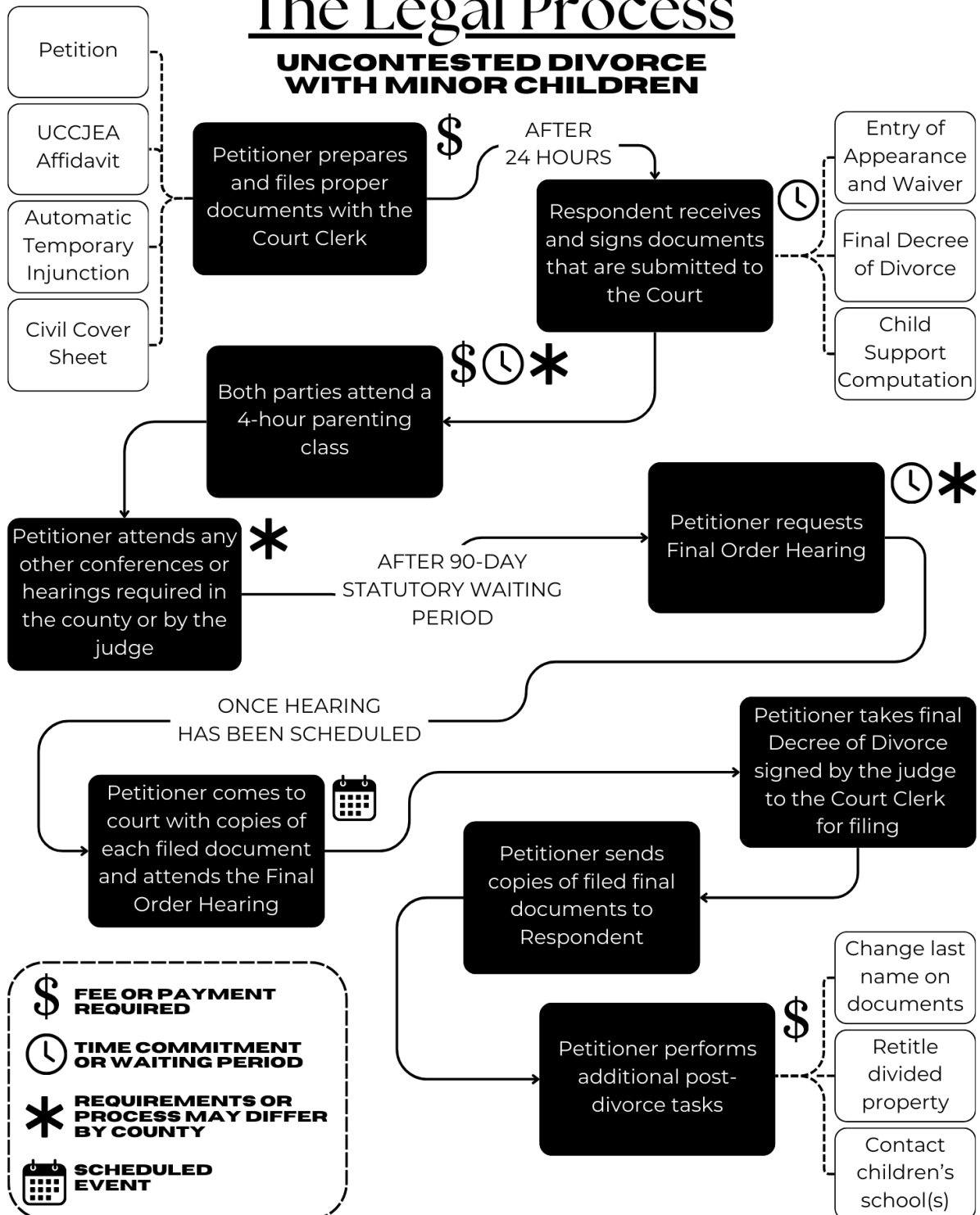
⁷³ *Ibid.*

⁷⁴ Oklahoma Bar Association. Divorce. Retrieved from <https://www.okbar.org/freelegalinfo/divorce/> (accessed August 12, 2024).

⁷⁵ 12 O.S. § 696.2(A).

The Legal Process

UNCONTESTED DIVORCE WITH MINOR CHILDREN



This is general legal information about divorce in Oklahoma. This is not legal advice.

III. BARRIERS TO DIVORCE

Getting divorced is difficult. This is especially true for the high number of unrepresented litigants who lack the assistance of counsel to guide them through the process. After performing courtroom observations and speaking with numerous Oklahoma family law stakeholders in all areas of the state, including attorneys, court clerks, and judges, the ATJ Foundation identified several barriers to divorce access in Oklahoma for the unrepresented litigant. These include knowledge of the legal process, finding a lawyer, cost, access to forms and instructions, access to courts, inconsistent processes, and language accessibility. Each of these barriers is discussed below, including recommendations for improvement, which are fully detailed in [section IV](#) of this report.

KNOWLEDGE OF THE LEGAL PROCESS

As discussed in section II above, the legal process for getting a divorce in Oklahoma is complex and variable. Given that the legal system has been described as “designed by and for lawyers,”⁷⁶ such technical processes are not easily understandable by people who are not lawyers. Unrepresented litigants are not formally trained in the law, nor are they assisted by a lawyer who is. Without training on terminology and procedure, unrepresented litigants find themselves wading through deep legal waters with few resources to keep them afloat. In this way, a lack of knowledge of the legal process acts as an initial barrier to accessing divorce.

Legal Language

When navigating the legal process, an unrepresented litigant may become overwhelmed by the antiquated legal jargon that dominates the system (often called “legalese”). The legal system’s use of “long, involved sentences, archaic legal expressions, latinisms, and pompous language . . . is often very difficult to read and understand.”⁷⁷ For example, the standard legalese used in Oklahoma to state the grounds for divorce is “as grounds for dissolution of marriage, the petitioner alleges that a state of complete and irreconcilable incompatibility has arisen between the parties hereto which has completely destroyed the legitimate aims of the marriage of the parties and rendered its continuation impossible, by reason of which the petitioner is entitled to a decree of dissolution of

⁷⁶ Carpenter, A. E., et al. “Studying the ‘New’ Civil Judges.” *Wisconsin Law Review*, 2018, pp. 249-259.

⁷⁷ Williams, C. “Changing with the Times: The Evolution of Plain Language in the Legal Sphere.” *Alicante Journal of English Studies*, vol. 28, 2015, pp. 183-184 (quoting Turnbull, I. “Plain Language and Drafting in General Principles.” *The Loophole*, vol. 25, 1995, p. 26).

marriage from the respondent.”⁷⁸ Simplifying the way the legal system communicates through the use of plain language⁷⁹ instead of legal jargon is crucial to increasing the system’s accessibility and efficiency. This is especially true in areas of law dominated by unrepresented litigants such as family law and divorce.

Legal Procedures

In addition to legal language, knowledge of legal procedures may prevent an unrepresented litigant from successfully moving through the system. The ATJ Foundation’s observations and stakeholder interviews revealed several procedures that unrepresented Oklahomans have difficulty understanding and completing. Most prominent among these procedures were service of process,⁸⁰ filing correct forms at the correct times,⁸¹ and observing statutory waiting periods.⁸²

Service of process is a frequently misunderstood procedure among unrepresented litigants in Oklahoma. Though second nature to lawyers, procedures “as fundamental and common as serving process on the other party can be an insurmountable barrier” to an unrepresented litigant.⁸³ The ATJ Foundation observed multiple hearings in which judges had to give legal information to unrepresented litigants about service—including explaining who is qualified to serve, which documents need to be served, and what to do when the respondent is unreachable⁸⁴—causing burdensome procedural delays and compelling judges to act as informers from the bench.⁸⁵ The intricacies of service are not common knowledge but are critical to an unrepresented litigant whose future depends on their ability to correctly carry out the procedure.

Furthermore, knowledge about filing procedures is a significant barrier to divorce access in Oklahoma. Several court clerks interviewed stated that knowledge of filing procedures is a recurrent issue among unrepresented litigants.⁸⁶ For instance, three court clerks cited failure to file the final divorce decree as a common error for unrepresented

⁷⁸ This language was found in three separate and anonymous Oklahoma divorce case pleadings and confirmed by an anonymous Oklahoma District Court Judge.

⁷⁹ Meaning language so clear in its “wording, structure, and design . . . that the intended audience can easily find what they need, understand what they find, and use that information.” Plain Language Association International. “What Is Plain Language?” Retrieved from <https://plainlanguagenetwork.org/plain-language/what-is-plain-language/> (accessed July 11, 2024).

⁸⁰ Difficulty understanding service of process informed by interviews with court clerks in two rural counties and observations in two urban counties.

⁸¹ Difficulty correctly filing forms informed by interviews with court clerks in thirteen counties.

⁸² Difficulty understanding statutory waiting periods informed by interviews with four rural counties and observations in one urban county.

⁸³ Carpenter, A. E., et al., *supra* note 76, pp. 249-261.

⁸⁴ Informed by observations in two urban counties.

⁸⁵ Carpenter, A. E., et al., *supra* note 76, p. 262.

⁸⁶ Difficulty correctly filing forms informed by interviews with court clerks in 13 counties.

litigants;⁸⁷ until the divorce decree is on file, these parties forfeit their opportunity to appeal.⁸⁸ Moreover, enforcement and modification of the decree's terms is challenging without the decree on file.

Lastly, statutory waiting periods are a common point of confusion for unrepresented parties.⁸⁹ Oklahoma law prescribes various waiting periods for divorces with and without children. These laws require parties to wait certain time frames between filing a petition and filing other forms such as a waiver of summons or final decree.⁹⁰ Failing to understand these waiting procedures is discouraging to the unrepresented litigant who is eager to finalize their divorce and may entail multiple unnecessary trips to the courthouse.

Legal Advice Constraints

Frustratingly for everyone involved, judges and court clerks are barred from giving legal advice to litigants.⁹¹ When an unrepresented person becomes overwhelmed with legal terminology and procedure that they don't understand, they typically ask court clerks and judges for help, as these are the court staff they encounter most often. Unfortunately, unrepresented litigants' questions usually are not answered due to legal advice constraints.⁹² This leads to an inefficient cycle in cases with unrepresented parties compared to those with representation.

⁸⁷ Informed by interviews with court clerks in three rural counties.

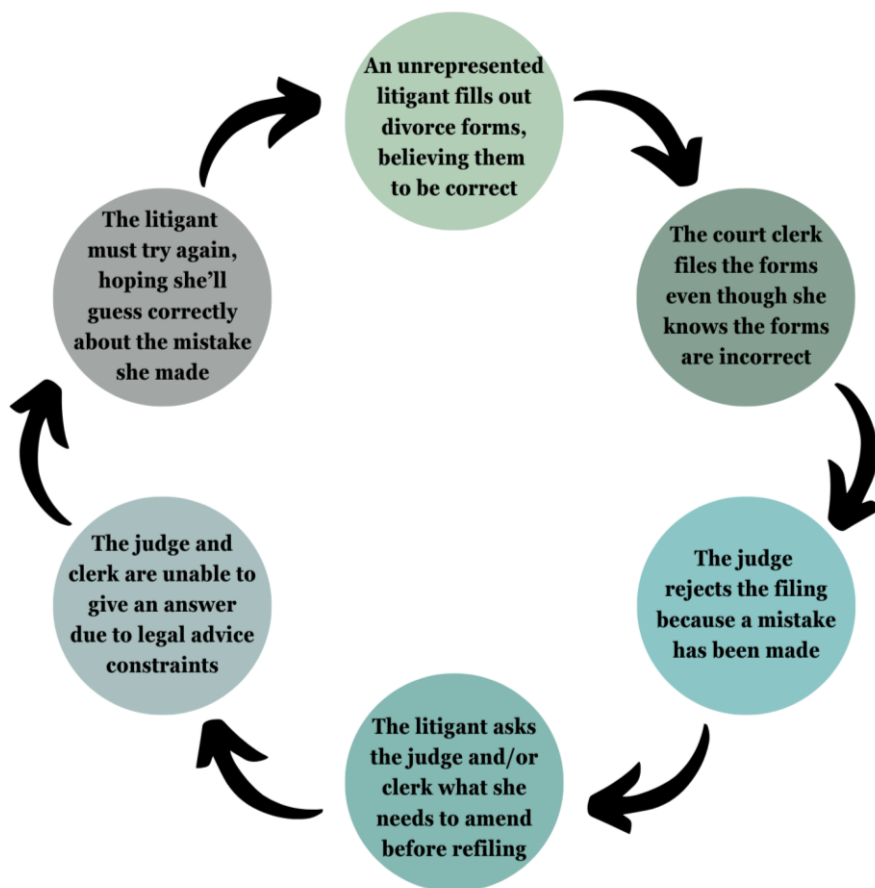
⁸⁸ 12 O.S. § 696.2(A).

⁸⁹ Difficulty understanding statutory waiting periods informed by interviews with four rural counties and observations in one urban county.

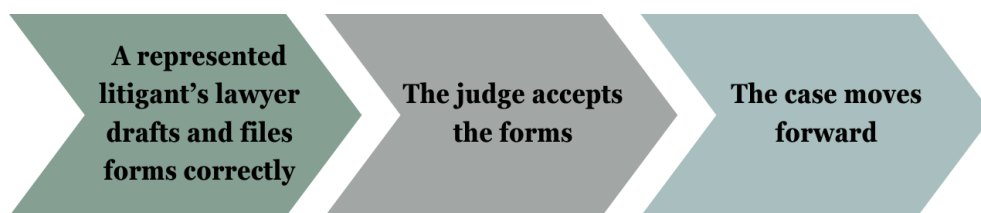
⁹⁰ For divorces with children, litigants must wait 30 days from filing the petition to have a hearing on the merits (12 O.S. Ch. 2, App., Rule 8) and 90 days before a final order can be issued (43 O.S. § 107.1 (A)(1)). For divorces without children, litigants must wait 10 days from filing the petition to have a hearing on the merits. 12 O.S. Ch. 2, App., Rule 8. Entries of appearance and waivers must be filed at least 1 day after filing the petition. *Ibid.*

⁹¹ Judges are prohibited from giving legal advice. 5 O.S. Ch. 1, App. 4, Rule 3.10. Only active members of the Oklahoma Bar Associations are authorized to practice law. 5 O.S. Ch. 1, App. 1, Art. 2, § 7.

⁹² In one county, the ATJ Foundation was approached by an unrepresented litigant seeking assistance from court staff. She needed help identifying a mistake in her divorce forms. A judge's clerk had told the litigant that her form was incorrect, but when the litigant asked what she needed to fix, the clerk was unable to answer. The clerk explained that she couldn't tell the litigant what to fix because she could not give legal advice. The litigant expressed that she was frustrated with being told she made a mistake on a form without being directed on how to fix it.



The cyclical nature of a divorce for many unrepresented litigants.



The linear nature of a divorce for a represented litigant.

To reduce the frequency of procedural misunderstandings and ensuing frustrations in cases with unrepresented litigants, Oklahoma should consider standardizing plain language divorce forms and creating universal processes so unrepresented litigants know what to expect. (See [Recommendation A1](#) and [Recommendation B1](#).) Additionally, courts should provide litigants with court-approved, plain language guides to assist them through the divorce process. (See [Recommendation A2](#).)

Traditional Adversarial Process

Although 25 years ago most litigants in state civil courts had a lawyer, today the vast majority are unrepresented.⁹³ As a result, the adversarial system—a system with opposing parties who are assumed to be represented and judges who act as “passive umpires calling balls and strikes”—is breaking down.⁹⁴ Because most litigants are unrepresented and judges are their only source of legal information in the courtroom, today’s judges are under pressure to be more involved with litigants by guiding and assisting them.⁹⁵ The ATJ Foundation found this phenomenon to be true in Oklahoma’s divorce proceedings: confused, unrepresented divorce litigants struggle to understand legal procedures which forces family judges to step in, educate, and assist litigants in the courtroom.⁹⁶ This slows the process down, burdens judges, and reduces the courts’ efficiency. Rather than waiting for the adversarial system’s revival, Oklahoma courts should recognize that “state courts *are* pro se courts”⁹⁷ and should adjust their procedures to make them more user-friendly for unrepresented litigants. (See [Recommendation C.](#))

FINDING A LAWYER

When considering divorce, many people’s first thought is to retain a lawyer. However, this is not possible for many Oklahomans either because they cannot afford a lawyer (discussed below under “Cost”) or because their geography prevents them from doing so. A “legal desert” is a “county with less than one licensed attorney for every 1,000 residents,”⁹⁸ a ratio the American Bar Association considers insufficient to provide meaningful access to legal resources. Twenty of Oklahoma’s 77 counties are legal deserts by that definition, and an additional 29 counties are dangerously close to becoming legal deserts, with fewer than 1.5 lawyers per 1,000 residents.⁹⁹ Oklahoma attorneys are disproportionately concentrated in urban areas, with only 24% practicing outside of Oklahoma County, Tulsa County, and Cleveland County,¹⁰⁰ even though more than 55% of the state’s divorce filings occurred outside of those three urban counties.¹⁰¹

⁹³ Carpenter et al., *supra* note 76, at 253.

⁹⁴ *Ibid.*, p. 262.

⁹⁵ *Ibid.*

⁹⁶ Informed by observations in two counties.

⁹⁷ Carpenter et al., *supra* note 76, at 256, 274.

⁹⁸ Dilks, K. “When Geography Determines Justice.” *Oklahoma Bar Journal*, October 2023, p. 16. Retrieved from <https://www.okbar.org/barjournal/october-2023/when-geography-determines-justice-examining-legal-deserts-in-oklahoma/> (accessed July 11, 2024).

⁹⁹ *Ibid.*

¹⁰⁰ *Ibid.*

¹⁰¹ Legal Services Corporation. Dataset available upon request.

Rural Oklahomans don't face fewer legal problems by virtue of living in a rural area. In fact, 77% of low-income households in rural America reported having one or more civil legal problems in 2021, a number slightly higher than the national average.¹⁰² With this being the case, the limited number of licensed attorneys in Oklahoma's legal deserts is particularly alarming.

As a further consequence of lacking access to legal help, individuals residing in rural legal deserts "may fail to know their legal rights or to recognize that legal recourse may be available for a particular problem."¹⁰³ For example, victims of domestic violence in rural areas may be less likely to recognize divorce as a viable option because they lack access to legal assistance.¹⁰⁴ In this way, the lack of access to justice in rural communities can have a snowballing effect and cause individuals to lose agency in their lives.¹⁰⁵ To increase access to justice for Oklahomans residing in legal deserts, Oklahoma should consider implementing technology solutions like universal e-filing and legal kiosks. (See [Recommendation B3](#).)

COST

For those without geographical barriers to hiring an attorney, the cost of legal representation might be the dealbreaker. The ATJ Foundation found that even for a simple, uncontested divorce case in Oklahoma, retainers typically start between \$2,500 and \$5,000.¹⁰⁶ From there, costs climb as divorces become more complex, with family law attorneys citing anywhere from \$5,000 to over \$20,000 for contested cases.¹⁰⁷ In a state where 36% of the working population makes \$12 per hour or less¹⁰⁸ and the living wage for an adult with no children is \$19.33 per hour,¹⁰⁹ spending thousands of dollars on a divorce lawyer is often not feasible.

¹⁰² Legal Services Corporation. *The Justice Gap: The Unmet Civil Legal Needs of Low-Income Americans*, p. 41. Prepared by Mary C. Slosar, Slosar Research, LLC, 2022. Retrieved from <https://justicegap.lsc.gov/resource/2022-justice-gap-report/> (accessed July 11, 2024).

¹⁰³ Pruitt, L. R., et al. "Legal Deserts: A Multi-State Perspective on Rural Access to Justice." *Harvard Law & Policy Review*, vol. 13, 2018, p. 23.

¹⁰⁴ *Ibid.*

¹⁰⁵ *Ibid.*

¹⁰⁶ Informed by interviews with Evan Humphreys, Family Law Attorney (September 26, 2023); Rachel Stoddard Morris, Family Law Attorney (September 26, 2023); and Lori Combs, Family Law Attorney (September 6, 2023).

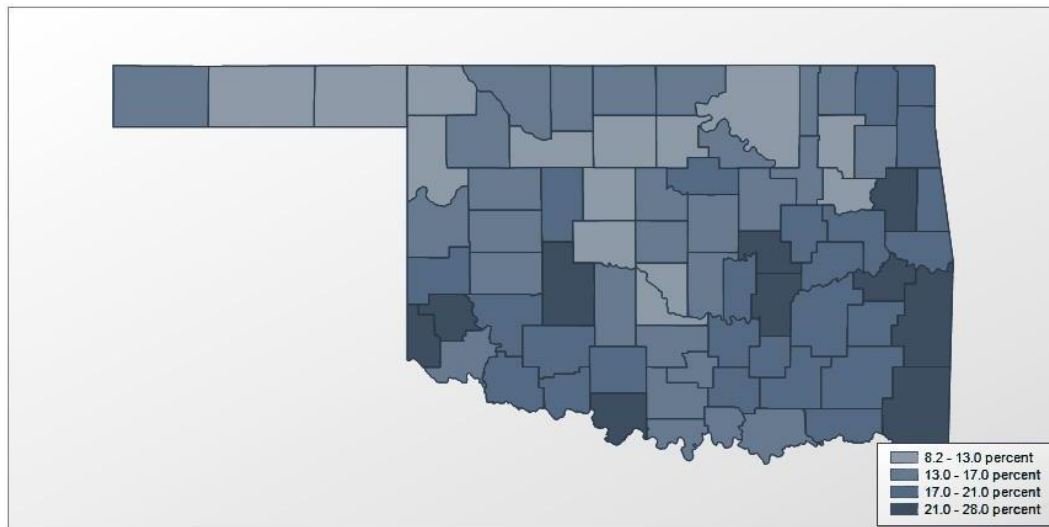
¹⁰⁷ Informed by interviews with Katie Griffin, Family Law Attorney (September 7, 2023), and Rachel Stoddard Morris, Family Law Attorney (September 26, 2023).

¹⁰⁸ Oxfam America. "Low-Wage Map Scorecard: Oklahoma." Retrieved from <https://www.oxfamamerica.org/explore/countries/united-states/poverty-in-the-us/low-wage-map/scorecard/?state=OK> (accessed August 8, 2024).

¹⁰⁹ Massachusetts Institute of Technology. "Living Wage Calculator: Oklahoma." Retrieved from <https://livingwage.mit.edu/states/40> (accessed July 11, 2024).

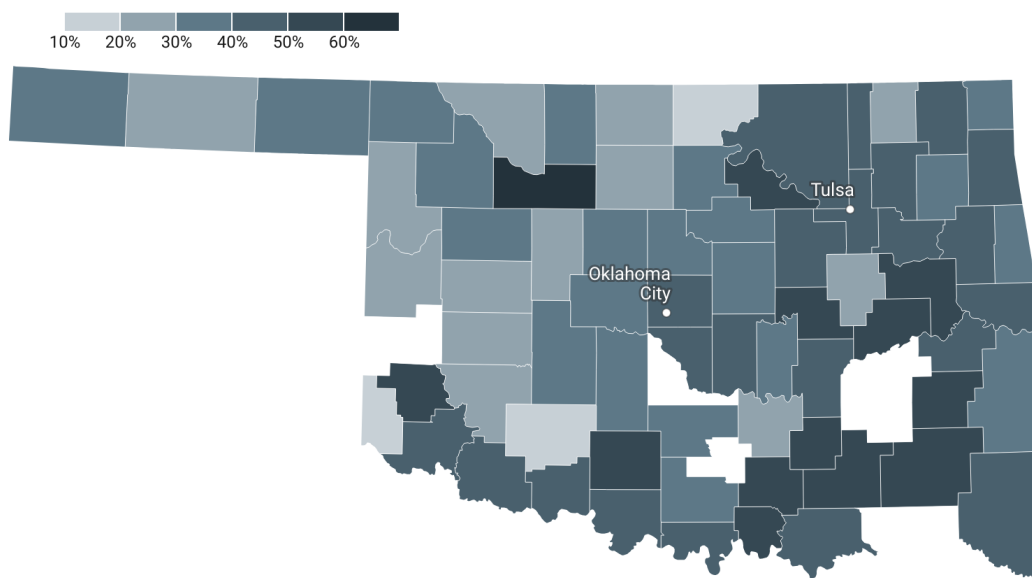
The state maps below display the poverty rates for each county in Oklahoma and, as seen earlier in this report, the percentage of divorce cases filed without legal representation in each county. As these maps show, Oklahoma poverty rates often correlate with unrepresented litigant rates, both having highest concentrations in southeast Oklahoma.

Percent of Total Population in Poverty, 2021



Source: U.S. Department of Agriculture Economic Research Service

Percent of Divorce Cases Filed Without Legal Representation



N=81,463. The difference in representation status was statistically significant $p<0.001$.

Source: Civil Court Data Initiative, Legal Services Corporation, 2024

If retaining a divorce lawyer's full representation is impossible, a person may ask a lawyer to provide only one or two specific services to them. This is called "limited scope representation" and allows clients to benefit from a lawyer's expertise on select matters without having to pay for a lawyer's full representation.¹¹⁰ Many Oklahomans would benefit from limited scope representation such as drafting-only services for assistance filling out and filing divorce forms. (See [Recommendation A4](#).) Unfortunately, offering limited scope representation is not a mainstream practice among lawyers in the state.¹¹¹

Those who can't afford an attorney may attempt to secure free representation from a nonprofit or volunteer attorney. When asked whether they have resources or referrals for unrepresented litigants, court clerks in 12 of 24 counties stated that they refer unrepresented parties to Legal Aid Services of Oklahoma (LASO),¹¹² yet several stakeholders (including three who work for LASO) discussed LASO's lack of capacity to help everyone who needs it.¹¹³ LASO has limited resources and is overburdened with cases.¹¹⁴ Therefore, the organization must prioritize certain case types; often, only divorces involving domestic violence are accepted.¹¹⁵ This prioritization is often driven by restrictions on funding such as federal funds limited to serving victims of crime¹¹⁶ or domestic violence.¹¹⁷ LASO is not the only provider of free legal services in Oklahoma, but they are by far the largest¹¹⁸ and one of only two to operate statewide. These limits on providing family law services extend to the majority of free legal services providers across the state.¹¹⁹ Oklahoma Indian

¹¹⁰ Mosten, F. S. "Limited Scope Representation." In P. Salem and K. B. Olson (Eds.), *Family Dispute Resolution: Process and Practice*, p. 349. Oxford University Press, 2024.

¹¹¹ Oklahoma Bar Association. "Find a Lawyer." Retrieved from <https://ams.okbar.org/eweb/startpage.aspx?site=FALWEB> (accessed July 9, 2024). When searching "Limited Scope Legal Services," Tulsa County generates four results and Oklahoma County generates nine results. Most counties in the state generate zero results. These results are not filtered to divorce limited scope services.

¹¹² Informed by interviews with court clerks in 24 counties.

¹¹³ Informed by interviews with Anonymous Family Law Stakeholder (September 28, 2023); Anonymous Family Law Attorney and Former Family Court Judge (September 14, 2023); Anonymous LASO Attorney (August 24, 2023); Anonymous LASO Attorney (September 21, 2023); Katie Griffin, Family Law Attorney (September 7, 2023); and Kensey Wright, Family Law Attorney (September 19, 2023).

¹¹⁴ *Ibid*.

¹¹⁵ Informed by interviews with Anonymous Family Law Stakeholder (September 28, 2023); Anonymous Family Law Attorney and Former Family Court Judge (September 14, 2023); Anonymous LASO Attorney (August 24, 2023); Anonymous LASO Attorney (September 21, 2023); Katie Griffin, Family Law Attorney (September 7, 2023); and Kensey Wright, Family Law Attorney (September 19, 2023).

¹¹⁶ Office for Victims of Crime. "Crime Victims Fund." Retrieved from <https://ovc.ojp.gov/about/crime-victims-fund> (accessed August 1, 2024).

¹¹⁷ Office on Violence Against Women. "Grant Programs." Retrieved from <https://www.justice.gov/ovw/grant-programs> (accessed August 1, 2024).

¹¹⁸ Legal Aid Services of Oklahoma. "Map of Service Areas." Retrieved from <https://www.legalaidok.org/law-offices/> (accessed August 1, 2024).

¹¹⁹ Based on a review of websites supported by the Oklahoma Bar Foundation (<https://www.okbarfoundation.org/oklahoma-bar-foundation-awards-1-2-million-in-iolita-grants/>) and interviews with legal services providers.

Legal Services (OILS) provides free legal services to tribal members in Oklahoma but has a limited scope of practice and does not represent parties in divorce actions.¹²⁰

For those who cannot afford an attorney and are not accepted by LASO or another nonprofit provider, few options for assistance are available. At this point in the process, many people seeking a divorce realize they will be proceeding as an unrepresented litigant and start searching for resources to help them navigate the process. Unrepresented litigants avoid lawyer’s fees, but the process certainly is not free.

First, the unrepresented litigant must locate divorce forms. Because Oklahoma does not have standardized divorce forms available to the public, acquiring these forms can be expensive—especially if an unrepresented litigant purchases deficient divorce forms that need replacing and refileing (discussed under “Access to Forms and Instructions” below).

After obtaining divorce forms, an unrepresented litigant must file them. The filing fee for a divorce is \$252.14 or \$262.14 depending on whether it is contested and needs a summons.¹²¹ Filing fees may be waived by requesting a fee waiver for low-income litigants, also known in Oklahoma as a Pauper’s Affidavit;¹²² however, these waivers are not common knowledge and are underutilized. Across all divorce cases from 2019 to 2023, only 5% referenced fee waivers.¹²³

Percent of Divorce Cases Filed Without Legal Representation

References to Pauper's Affidavit in Oklahoma Divorce Cases 2019-2023 by Representation Status

| Pauper's Affidavit ▼ | Neither party is represented | Petitioner is represented | Respondent is represented | Both Parties are Represented |
|-------------------------|------------------------------|---------------------------|---------------------------|------------------------------|
| Yes | 7.3% (2399) | 4.1% (1598) | 4.0% (84) | 1.8% (143) |
| No | 92.6% (30068) | 95.9% (37151) | 96.0% (1996) | 98.2% (8024) |

N=81,463

Source: Civil Court Data Initiative, Legal Services Corporation, 2024

¹²⁰ Oklahoma Indian Legal Services. “Services.” Retrieved from <https://oilsonline.org/services> (accessed August 1, 2024).

¹²¹ Tulsa County’s Filing Fee Chart. Retrieved from https://www.tulsacountydistrictcourt.org/files/Family_Division_Filing_Fees.pdf (accessed July 8, 2024).

¹²² Legal Aid Services of Oklahoma. “Pauper’s Affidavit.” Retrieved from <https://oklaw.org/resource/paupers-affidavit> (accessed June 24, 2024).

¹²³ Legal Services Corporation, *supra* note 34.

Low-income unrepresented litigants would benefit from increased promotion and availability of fee waivers. (See [Recommendation A3](#).) In addition to the cost of obtaining and filing divorce forms, an unrepresented litigant faces several other costs throughout the divorce process. These costs may include serving process on the opposing party;¹²⁴ notary services to file certain forms; parenting class registration;¹²⁵ parking, especially in Tulsa and Oklahoma counties;¹²⁶ childcare; missed wages from missing work to attend court; private interpreter fees for those who do not speak English; and making certified copies for name changes. The costs of filing, service of process, and registering for the parenting class alone totals between \$300 and \$350.¹²⁷ When every expense counts to an unrepresented litigant struggling to make ends meet, these costs are an additional barrier to divorce access for many Oklahomans.

ACCESS TO FORMS AND INSTRUCTIONS

Access to acceptable divorce forms is one of the most pervasive barriers to divorce access in Oklahoma. Unlike most other states,¹²⁸ Oklahoma does not have standardized divorce forms available to the public. For unrepresented litigants who cannot afford to retain a lawyer, this typically means finding divorce forms online or through alternative resources like paralegals or document preparation services.

None of the 23 rural courthouses the ATJ Foundation visited had divorce forms available for unrepresented litigants.¹²⁹ Several of these counties' court clerks refer unrepresented litigants "online" to find forms.¹³⁰ Although well-intentioned, this suggestion is not usually effective in practice. Finding reliable forms on the internet is not an easy task because search engines first populate sponsored forms that may not be suitable for Oklahoma courts. This leads many Oklahomans to file incorrect forms such as divorce "worksheets,"¹³¹ forms from other jurisdictions,¹³² and forms that ask for

¹²⁴ Costs for the serving process include certified mail (\$10-15), sheriff's office (\$50), personal process server (\$50+), or publication if the petitioner cannot locate the respondent (around \$60). These costs are detailed in Oklahoma County's Pro Se Divorce Package, available for purchase in person at the Oklahoma County District Court's law library.

¹²⁵ 43 O.S. § 107.2(B).

¹²⁶ Tulsa County District Attorney. "Parking." Retrieved from <https://da.tulsacounty.org/Home/Parking> (accessed July 25, 2024). Oklahoma County. "Parking." Retrieved from <https://www.oklahomacounty.org/county-information/parking> (accessed August 7, 2024).

¹²⁷ Filing Fees: See *Filing Fees*, *supra* note 121. Service Fees: See *Service Fees*, *supra* note 124. Parenting Class Fees: See *Parenting Class Fees*, *supra* note 125.

¹²⁸ FindLaw. "Divorce Forms." Retrieved from <https://www.findlaw.com/family/divorce/divorce-forms.html> (accessed July 11, 2024). Forty-five states have court-provided or court-authorized divorce forms.

¹²⁹ Informed by interviews with court clerks in 23 rural counties.

¹³⁰ *Ibid*. Fourteen of these county clerks instruct unrepresented litigants to find divorce forms online.

¹³¹ Informed by an interview with a rural county clerk.

¹³² Informed by interviews with Anonymous court staff (September 5, 2023), Anonymous Family Law Attorney and Former Family Court Judge (September 14, 2023).

sensitive information like social security numbers¹³³ (an identity theft threat in a public records state¹³⁴).

Without standardized divorce forms available to the public, the market for sub-standard legal forms is wide open in Oklahoma, and people are taking advantage of it. For example, for the past 8 years in Oklahoma County, two men who represent themselves as paralegals are known to stand in and near the courthouse's law library soliciting business from unrepresented litigants.¹³⁵ These men sell unreliable divorce forms for \$300-400¹³⁶ when just inside the law library, unrepresented litigants can purchase Oklahoma County court-approved divorce forms for \$20-40.¹³⁷

Aside from these solicitors in Oklahoma County, several paralegals, typing services, and mailing services offer divorce forms for roughly \$250.¹³⁸ In fact, four rural county clerks recommend unrepresented litigants to these services as an affordable option.¹³⁹ To reduce the unauthorized practice of law in the state,¹⁴⁰ Oklahoma should implement standardized forms across the state. (See [Recommendation A1.](#)) Additionally, attorneys should offer limited scope representation, a competitive alternative to the non-lawyer services currently filling the market, to assist litigants in understanding and correctly completing divorce forms. (See [Recommendation A4.](#))

Similarly, informational guides with divorce instructions are completely unavailable in the rural counties that the ATJ Foundation visited.¹⁴¹ When asked about changes they want to make to the filing process, four county clerks stated they wished they could hand out informative guides to unrepresented litigants to help them through the divorce process.¹⁴² Making court-approved, plain language guides available to unrepresented litigants would streamline the divorce process and enable court clerks to assist unrepresented parties without giving them legal advice. (See [Recommendation A2.](#)) However, for these guides to be effective, processes and procedures must

¹³³ Informed by interview with Anonymous court staff (September 5, 2023).

¹³⁴ Texas Public Radio. "Texas Law Allows Residents' Sensitive Personal Information to Be Exposed on County Websites." Published December 20, 2021, at 3:14 PM CST. Retrieved from <https://www.tpr.org/texas/2021-12-20/texas-law-allows-residents-sensitive-personal-information-to-be-exposed-on-county-websites> (accessed July 11, 2024).

¹³⁵ Informed by conversations with Oklahoma County District Court staff.

¹³⁶ *Ibid.*

¹³⁷ *Ibid.*

¹³⁸ Cost of paralegal services informed by websites of paralegal services recommended by court clerks.

¹³⁹ Informed by interviews with court clerks in four counties.

¹⁴⁰ 5 O.S. Ch. 1, App. 1, Art. 2, § 7.

¹⁴¹ Informed by interviews with court clerks in 23 rural counties.

¹⁴² Informed by interviews with court clerks in four counties.

be consistent across the state (discussed under “Inconsistent Processes” below). (See [*Recommendation B1.*](#))

Some efforts have been made to address unrepresented litigants’ need for forms and guides. Tulsa and Oklahoma counties have made divorce packets available at the court clerk’s desk and law library, respectively. These packets include some of the necessary forms¹⁴³ and instructions on the divorce process. Although these packets are incredibly useful for unrepresented parties in Tulsa and Oklahoma counties, their reach ends there as divorce procedures vary from county to county (discussed further under “Inconsistent Processes” below). If procedures were consistent across counties, then universal, court-approved guides could be offered to all unrepresented litigants in Oklahoma. However, if procedures remain inconsistent across Oklahoma, courts should develop instructional guides on a county-by-county basis and offer them to all unrepresented litigants.

ACCESS TO COURTS: ADDRESSING TRANSPORTATION AND LOGISTICAL BARRIERS FOR UNREPRESENTED LITIGANTS

Navigating the physical court infrastructure can be quite challenging for unrepresented litigants. Finding courthouses and specific courtrooms is often difficult, especially when maps, clear directories, or personnel to provide guidance are absent. Unrepresented litigants frequently encounter added obstacles when seeking assistance. They may be directed to incorrect locations within the courthouse. For instance, the ATJ Foundation witnessed an unrepresented litigant being directed to a specific floor to obtain divorce forms only to be informed upon arrival that the forms were available online.¹⁴⁴ This not only leads to frustration but also prolongs the legal process for individuals who are already grappling with navigating the system without representation. Additionally, parking at or near courthouses can be hard to find and often incurs substantial costs. For example, in some Oklahoma counties, daily parking fees range from \$5 to \$9,¹⁴⁵ further complicating access to the legal system for those without representation.

¹⁴³ Tulsa County’s divorce packet could be improved by including a petition and decree in its materials. Currently, neither form is included in the packet, requiring unrepresented litigants to obtain these two essential divorce forms on their own.

¹⁴⁴ Informed by observations in an urban county.

¹⁴⁵ See *Parking Fees*, *supra* note 126.

Transportation can also pose a significant challenge for unrepresented litigants. They may lack access to a car or someone to drive them to their court hearing. Approximately 8.5% of households in Oklahoma do not have reliable access to a car.¹⁴⁶ In urban counties, public bus systems or rideshare services might assist some unrepresented litigants. However, in rural counties, access to public transportation or rideshare services is often limited or nonexistent, further complicating their ability to attend court proceedings.

Unrepresented litigants face challenges when their hearing times are rescheduled without proper notification.¹⁴⁷ This is especially disruptive for those who need to take time off work and arrange for childcare, both of which involve significant costs and logistical planning. Childcare is particularly burdensome due to its high expense and the requirement, as indicated by signs in many Oklahoma courthouses, that children must not be left unattended while also not being allowed in the courtroom.¹⁴⁸

Unrepresented litigants often lack information about court dress codes or may not have access to suitable attire. Although some courthouses in Oklahoma have signage at entrances or courtroom doors outlining inappropriate attire, others lack any guidance.¹⁴⁹ This inconsistency in signage makes it challenging for unrepresented litigants to comprehend and adhere to court dress codes, potentially impacting their court experience and perceptions.

INCONSISTENT PROCESSES

Inconsistent processes between counties and judges present another barrier to divorce access in Oklahoma. Inconsistencies complicate the divorce process by making it difficult for unrepresented litigants to know what to expect and how to prepare for court. This, in turn, reduces the court's efficiency. Additionally, inconsistencies can create unfairness because unrepresented litigants' experiences and access to court-provided resources depend on where they live and their assigned judge.

In Oklahoma, the divorce process in a rural county may differ significantly from the divorce process in an urban county. This is especially true regarding available resources. Whereas rural counties don't offer forms or guides to unrepresented litigants,¹⁵⁰ both Tulsa and Oklahoma counties have some level of forms and instructions available.¹⁵¹ Moreover,

¹⁴⁶ U.S. Census Bureau. "Transportation." Retrieved from <https://www.census.gov/data/tables/time-series/demo/transportation.html> (accessed July 24, 2024).

¹⁴⁷ Informed by observations in an urban county.

¹⁴⁸ Informed by observations in urban counties.

¹⁴⁹ Informed by observations in rural and urban counties.

¹⁵⁰ Informed by interviews with court clerks in 23 rural counties.

¹⁵¹ Informed by observations in urban counties.

Tulsa and Oklahoma counties have both adopted additional practices to assist unrepresented parties; namely, Tulsa County employs a Family Resource Coordinator to assist unrepresented family court litigants, and Oklahoma County has established a waiver clinic and docket for simple, uncontested divorces.¹⁵² These valuable resources are not available in rural counties.¹⁵³

Rural counties are more likely to unexpectedly close their courts and court offices than urban counties; for instance, during the ATJ Foundation’s observations, one rural county closed the entire court down for a day to accommodate a market in the courthouse’s courtyard, one county closed its county clerk’s office for a staff funeral, and one closed its court clerk’s office for an hour-long “special luncheon” in the middle of the day.¹⁵⁴ Although these closures are often communicated to local attorneys, unannounced court closures are burdensome to unrepresented litigants who may structure their day around visiting the court only to discover it is closed.¹⁵⁵

In addition to the differences between rural and urban county processes, differences in resources and processes exist between Tulsa and Oklahoma counties as well. In addition to employing a Family Resource Coordinator, Tulsa County holds Parenting Plan Conferences as the first court date for all divorces with minor children.¹⁵⁶ In contrast, Oklahoma County assists unrepresented litigants by collaborating with LASO to hold waiver divorce clinics in conjunction with its waiver divorce docket.¹⁵⁷ Although both approaches provide critical assistance to litigants, Tulsa and Oklahoma counties would likely benefit from discussing the relative advantages and disadvantages of their respective resources and procedures and implementing standard processes in both counties. (*See Recommendation B1.*) Learning from one another’s experiences with specific resources and procedures could strengthen both counties and make the divorce process more predictable for unrepresented litigants.

Alongside standardized resources and procedures, Oklahoma courts would benefit from creating additional roles to assist unrepresented parties seeking divorce. The unique roles of Family Resource Coordinator in Tulsa County and Court Navigator in Cleveland County ensure litigants receive necessary procedural guidance and logistical support,

¹⁵² *Ibid.*

¹⁵³ Informed by interviews with court clerks in 23 rural counties.

¹⁵⁴ Informed by observations in three counties.

¹⁵⁵ Informed by an observation in one rural county when a woman who had walked to the court from her home several blocks away only to find that the court clerk’s office was closed for a “special luncheon.” The woman expressed her frustration with the court closure and walked back home.

¹⁵⁶ Greenough, K., Chief Judge, Family Court Division. “Parenting Plan Conference, Tulsa County District Court.” Retrieved from <https://www.tulsacountydistrictcourt.org/ppc.html> (accessed July 11, 2024).

¹⁵⁷ Informed by observations in Oklahoma County.

facilitating smoother legal proceedings and a fair judicial system. Expanding such roles across more jurisdictions could help bridge the gap for unrepresented litigants, reduce the burden on judges to explain the law, and facilitate a more navigable and supportive court experience. (See [Recommendation B2.](#))

The ATJ Foundation’s interviews also revealed that judges’ expectations regarding forms as well as their approach toward unrepresented litigants can vary. Some judges are more particular than others about forms; one judge may reject a form that another judge would amend and accept.¹⁵⁸ Because each judge is different, it is important to know their preferences.¹⁵⁹ However, while an attorney can learn about a judge’s preferences through professional experience or colleagues, unrepresented litigants may experience a barrier because they lack the experience and connections needed to do so. One Oklahoma attorney explained that a judge in her jurisdiction tells unrepresented litigants to “come back once they have an attorney,” implying that retaining an attorney is a prerequisite to getting a divorce.¹⁶⁰ Some Oklahoma judges take a more understanding stance with unrepresented litigants.¹⁶¹ Inconsistent expectations regarding forms and differing approaches toward unrepresented litigants unnecessarily complicate the divorce process.

In these ways, unrepresented litigants’ experiences with divorce court varies from judge to judge and from county to county. Inconsistency complicates the divorce process for unrepresented litigants by making it challenging to learn what to expect and how to prepare. A form that worked for Litigant A in County A might not work for Litigant B in County B, or a form that worked for Litigant A in front of Judge A might not work for Litigant B in front of Judge B in the same county. Universal divorce processes across Oklahoma would empower unrepresented litigants, reduce unfairness, and increase family courts’ efficiency. (See [Recommendation B1.](#))

LANGUAGE ACCESSIBILITY

Unrepresented Oklahomans with limited English proficiency (LEP) are not only burdened by the previously discussed barriers but are further encumbered by language barriers. In Oklahoma, 10.9% of households do not speak English as their primary language.¹⁶² English proficiency varies from county to county, with the highest number of

¹⁵⁸ Informed by interviews with Anonymous Family Law Attorney and Former Family Court Judge (September 14, 2023).

¹⁵⁹ Informed by interview with Lori Combs, Family Law Attorney (September 6, 2023).

¹⁶⁰ Informed by interview with Anonymous Family Law Attorney (October 17, 2023).

¹⁶¹ Informed by observations in an urban county.

¹⁶² Data USA. “Non-English Households.” Retrieved from: <https://datausa.io/profile/geo/oklahoma/demographics/languages#languages> (accessed July 11, 2024).

non-English-speakers in Texas County, where 20.3% of its population reported speaking English less than “very well.”¹⁶³

Language barriers present significant obstacles to divorce access. The Oklahoma Supreme Court acknowledged as much when it adopted the Code of Professional Responsibility for Interpreters to use in Oklahoma’s courts.¹⁶⁴ The Code’s preamble reads as follows:

Many persons who come before the courts are partially or completely excluded from full participation in the proceedings due to limited English proficiency or a speech or hearing impairment. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position as similarly situated persons for whom there is no such barrier.¹⁶⁵

Thus, language access is imperative for meaningful participation and equality in the justice system.

The “English as the Unifying Language” amendment to the Oklahoma Constitution, adopted by statewide vote in 2010, requires “all official actions of the state [to] be conducted in the English language, except as required by federal law.”¹⁶⁶ Although “official” state actions must be conducted in English, this does not mean efforts to assist LEPs speakers, such as translating vital documents into non-English languages,¹⁶⁷ are prohibited. In fact, some efforts to provide language access are required. Oklahoma must provide courtroom interpreters to comply with Title VI of the Civil Rights Act of 1964¹⁶⁸ which “prohibits discrimination on the basis of race, color and national origin by recipients of federal financial assistance.”¹⁶⁹ Recently, a LEP individual in Mayes County complained to the U.S. Department of Justice (DOJ) about the county’s failure to provide a courtroom interpreter in a family law case.¹⁷⁰ The DOJ responded by initiating an investigation but

¹⁶³ U.S. Census Bureau. “People That Speak English Less Than ‘Very Well’ in the United States.” April 8, 2020. Retrieved from <https://www.census.gov/library/visualizations/interactive/people-that-speak-english-less-than-very-well.html> (accessed August 9, 2024).

¹⁶⁴ Charles, D. “Certified Courtroom Interpreters.” *Oklahoma Bar Journal*, vol. 90, no. 8, August 2019, p. 16. Retrieved from <https://www.okbar.org/barjournal/aug2019/obj9006charles/> (accessed August 9, 2024).

¹⁶⁵ 20 O.S. Ch. 23, App. 1, Rule 1.

¹⁶⁶ Oklahoma Constitution, Art. 30, § 1. *Oklahoma Constitution*. Retrieved from <https://www.oscn.net/applications/oscn/DeliverDocument.asp?CiteID=461456> (accessed August 7, 2024).

¹⁶⁷ Memorandum of Understanding between the United States of America and the Oklahoma Administrative Office of the Courts, August 28-31, 2023. Retrieved from <https://www.justice.gov/opa/file/1312546/dl> (accessed August 7, 2024).

¹⁶⁸ 42 U.S.C. § 2000d (LEXIS through Pub. L. No. 118-66 (excluding Pub. L. No. 118-63)).

¹⁶⁹ Press Release, “Justice Department Enters Into a Memorandum of Understanding with the Oklahoma Courts to Resolve Title VI Investigation,” August 31, 2023. Retrieved from <https://www.justice.gov/opa/pr/justice-department-enters-memorandum-understanding-oklahoma-courts-resolve-title-vi> (accessed August 7, 2024).

¹⁷⁰ *Ibid.*

ultimately paused the investigation after entering a Memorandum of Understanding (MOU) with the Oklahoma Supreme Court Administrative Office of the Courts (AOC).¹⁷¹ Under the MOU, the AOC is required to provide free language assistance in all court proceedings and to develop a statewide language access plan that includes translation of vital documents into non-English languages.¹⁷² The MOU specifies that translation of vital documents will eventually include forms commonly used by unrepresented litigants.¹⁷³

Although language access is improving in Oklahoma courts, LEP individuals are still disadvantaged when it comes to pivotal conversations that occur outside the courtroom. For example, LEP individuals in Tulsa County cannot speak to Tulsa County's Family Resource Coordinator without an interpreter or a bilingual family member,¹⁷⁴ and the court is not required to provide an interpreter for this service. This means that arguably the most valuable free resource for unrepresented litigants in Tulsa County is only available to English speakers. Furthermore, the parenting class requirement for all divorces with minor children¹⁷⁵ is much more difficult for LEP individuals to complete due to these classes' limited language availability. One parenting class instructor reported that she has experience with LEP students hiring private interpreters for her class¹⁷⁶—an expense that English speaking litigants don't face. In these ways, an unrepresented litigant who doesn't speak English faces additional, sometimes costly, barriers to divorce in Oklahoma. To improve access to divorce for these individuals, Oklahoma should continue its efforts to strengthen its interpreter availability. Additionally, Oklahoma should translate standardized divorce forms into non-English languages and should create process guides in Oklahoma's most frequently spoken languages. (See [Recommendation A1](#) and [Recommendation A2](#).)

Although the barriers to divorce access in Oklahoma are numerous, courts, judges, attorneys, and lawmakers could take several clear and concrete steps to improve the system for all Oklahomans.

¹⁷¹ *Ibid.*

¹⁷² Memorandum of Understanding, *supra* note 167.

¹⁷³ *Ibid.*

¹⁷⁴ Informed by interview with Tulsa County court staff.

¹⁷⁵ 43 O.S. § 107.2(A).

¹⁷⁶ Informed by interview with Anonymous Parenting Class Instructor (June 13, 2024).

IV. RECOMMENDATIONS TO IMPROVE ACCESS TO DIVORCE IN OKLAHOMA

This report’s goal is not only to point out barriers to accessing divorce in Oklahoma, but to provide actionable recommendations to address or eliminate those barriers. These recommendations are presented under three broad categories: equipping and empowering unrepresented litigants, ensuring consistency and fairness across the state, and increasing family courts’ efficiency and efficacy. The ATJ Foundation’s recommendations include calls to action for stakeholders across the civil justice system—lawyers, judges, court staff and administrators, and legislators.

A: EQUIP AND EMPOWER UNREPRESENTED LITIGANTS

These recommendations seek to equip unrepresented litigants with forms, information, and resources to successfully navigate the divorce process. By providing them with the necessary tools, these recommendations empower unrepresented individuals to enter Oklahoma’s family courts and gain the relief they need.

Recommendation A1: Oklahoma should make **standardized divorce forms** available to the public online and at every court clerk’s office, including a standard petition, entry of appearance, waiver of summons, and decree at a minimum.¹⁷⁷ To be accessible to the public, forms should be in **plain language** and drafted at a 6th grade reading level.¹⁷⁸ Standardized forms should be translated and sample versions should be made available in Oklahoma’s most spoken languages; aside from English, these include Spanish and Vietnamese.¹⁷⁹ Given that obtaining reliable forms is half the battle for unrepresented litigants seeking uncontested divorces, standardizing divorce forms would remove arguably the largest barrier to divorce access in Oklahoma. Additionally, standardizing divorce forms would eliminate confusion and unnecessary expenditures on defective forms for unrepresented litigants; simplify judges’ and court clerks’ jobs by reducing the number of incorrect forms they encounter; decrease the frequency of unauthorized practice of law in the state by paralegals and other services; potentially protect Oklahomans from identity theft by limiting unrepresented litigants’ use of exploitative forms (such as forms that ask

¹⁷⁷ Five of the ATJ Foundation’s stakeholder interviewees, including attorneys, court staff, and a former judge, cited standardized forms as a potential solution to divorce barriers in Oklahoma.

¹⁷⁸ National statistics show that “54% of adults have a literacy below a 6th-grade level.” National Literacy Institute. “Literacy Statistics 2024-2025 (Where We Are Now).” Retrieved from <https://www.thenationalliteracyinstitute.com/post/literacy-statistics-2024-2025-where-we-are-now> (accessed July 11, 2024).

¹⁷⁹ Data USA. “Non-English Households.” Retrieved from <https://datausa.io/profile/geo/oklahoma/demographics/languages#languages> (accessed July 11, 2024).

for sensitive information like social security numbers); and help the system run more smoothly and efficiently overall.

Recommendation A2: Courts should offer **plain language instructional divorce guides** to all unrepresented litigants.¹⁸⁰ Guides should explain the divorce process and procedural requirements in easy-to-understand language at no more than a 6th grade reading level and in Oklahoma’s most frequently spoken languages to accommodate as many people as possible. Offering instructional guides to unrepresented litigants would equip them with information to successfully navigate the divorce process and would make judges’ and court clerks’ jobs easier by answering unrepresented litigants’ frequently asked questions before they arise. Supplying unrepresented litigants with accurate, comprehensive, user-friendly instructions would streamline the divorce process and increase the courts’ efficiency.

Guides should be bundled with standardized divorce forms and offered to unrepresented litigants as packets. Although Tulsa¹⁸¹ and Oklahoma counties have packets available, they are county-specific and cannot be implemented throughout the state due to inconsistent divorce processes across counties. (See [Recommendation B1](#).) As long as processes are inconsistent between counties, guides should be developed on a county-by-county basis to ensure accuracy, possibly as a collaboration with county bar associations.

Recommendation A3: Court clerks should increase awareness of **fee waivers**, also known as Pauper’s Affidavits, and should offer them to all unrepresented litigants. Many unrepresented litigants are unrepresented due to financial hardship and would benefit from filing fee waivers. Fee waivers may empower unrepresented litigants who otherwise could not afford to pay filing fees to initiate a divorce action. For those experiencing domestic violence, including financial abuse, filing fees may present an insurmountable barrier to divorce. Offering a fee waiver to someone in this situation could supply them with a lifeline that they didn’t know existed.

Recommendation A4: Attorneys should offer **limited scope representation**, such as drafting-only and advice-only packages, in addition to offering full representation. Providing limited scope representation options empowers litigants to determine, based on their individual circumstances and budgets, which legal services they should prioritize and

¹⁸⁰ When asked about solutions to increase divorce access in Oklahoma, four stakeholders mentioned guides: Anonymous Family Law Stakeholder (September 28, 2023); Anonymous Legal Aid Attorney (August 24, 2023); Kensey Wright, Family Law Attorney (September 19, 2023); and Evan Humphreys, Family Law Attorney (September 26, 2023). Similarly, when asked what would make the filing process easier for unrepresented litigants, four rural county clerks responded that offering guides to unrepresented litigants would help.

¹⁸¹ Suggestion for improving Tulsa County’s divorce packet, *supra* note 143.

purchase. Not only would limited scope representation increase access to justice for unrepresented litigants, but it would “provide some relief for the courts in dealing with the overflow of [unrepresented litigants], and provide additional practice-building opportunities for lawyers.”¹⁸²

B: ENSURE CONSISTENCY AND FAIRNESS

The goal of these recommendations is to ensure unrepresented litigants have consistent experiences with the legal system across Oklahoma. Ensuring consistent procedures and resources across counties is critical to meet the ideal of all people being treated equally under the law.

Recommendation B1: Oklahoma courts and judges should work together to ensure **consistent processes and experiences** for unrepresented divorce litigants across the state. Currently, Tulsa County holds Parenting Plan Conferences and has a Family Resource Coordinator, while Oklahoma County hosts waiver clinics and dockets to streamline uncontested divorces. Given that more divorces are filed in these two counties than any others (21.75% in Oklahoma County and 15.99% in Tulsa County),¹⁸³ Oklahoma and Tulsa County District Courts should communicate about the relative advantages and disadvantages of their processes and should work toward implementing standard procedures and resources in both counties. Moreover, efforts should be made to ensure rural unrepresented litigants can utilize similar resources despite geographic restrictions. A **statewide working group of family law judges** could help develop recommendations for court processes across county lines. Additionally, standardizing divorce forms and implementing legal technology are powerful strategies to ensure consistency and fairness for all Oklahomans. (See [Recommendation A1](#) and [Recommendation B3](#).)

Recommendation B2: Courts should **create additional roles to assist unrepresented parties** seeking divorce. The following are four existing examples of possible staff roles, two from Oklahoma and two from Colorado.

- **Tulsa County Family Resource Coordinator.** In Tulsa County, a Family Resource Coordinator is responsible for helping individuals with questions about the legal process in paternity and divorce cases.¹⁸⁴ They address inquiries directly or refer individuals to appropriate resources if the answer does not involve legal advice.¹⁸⁵ The Family Resource Coordinator’s assistance in a case is limited to paternity and divorce cases and is available only when all involved

¹⁸² Mosten, F. S., *supra* note 110, at 357.

¹⁸³ Legal Services Corporation. Dataset available upon request.

¹⁸⁴ Informed by interview with Tulsa County court staff (June 18, 2024).

¹⁸⁵ *Ibid.*

parties are unrepresented.¹⁸⁶ If one party has an attorney, the coordinator cannot assist with the case,¹⁸⁷ and even when both parties are unrepresented, the only form the coordinator can complete is child support computations.¹⁸⁸ Additionally, the Family Resource Coordinator connects individuals to relevant statutes and case examples but cannot provide further legal guidance.¹⁸⁹

- **Cleveland County Court Navigator.** In Cleveland County, the position of “Court Navigator” has been established.¹⁹⁰ Upon entering the courthouse and passing through security, individuals are welcomed by the Court Navigator, who provides information on where to go within the courthouse to find their destination whether it be a courtroom or the court clerk’s office.¹⁹¹ The Court Navigator also offers various pamphlets with information available to anyone who enters the courthouse.¹⁹²
- **Colorado Family Court Facilitator.** In Colorado courts, the “Family Court Facilitator” is responsible for managing family-related matters, including domestic relations, domestic violence, dependency, neglect, and delinquency cases.¹⁹³ Their duties include conducting status conferences, assisting parties in identifying disputed issues and resolution options, and facilitating the exchange of necessary information to prepare cases for judicial officers.¹⁹⁴ They also provide written and verbal recommendations or status reports to the court, request immediate hearings, and schedule future conferences as needed.¹⁹⁵ Additionally, they act as a liaison between parties, attorneys, other professionals, and judicial officers to expedite case processing with a focus on the family’s needs.¹⁹⁶ Some facilitators may also develop training programs to educate families and citizens on various issues influencing family dynamics and legal outcomes, perform legal research and writing, attend required meetings and training, and undertake other duties as assigned.¹⁹⁷

¹⁸⁶ *Ibid.*

¹⁸⁷ *Ibid.*

¹⁸⁸ *Ibid.*

¹⁸⁹ *Ibid.*

¹⁹⁰ Informed by observations in Cleveland County.

¹⁹¹ *Ibid.*

¹⁹² *Ibid.*

¹⁹³ ReMerG. “Colorado Judicial Family Court Facilitators.” Retrieved from <https://remerg.com/resources/colorado-judicial-family-court-facilitators/> (accessed August 12, 2024).

¹⁹⁴ *Ibid.*

¹⁹⁵ *Ibid.*

¹⁹⁶ *Ibid.*

¹⁹⁷ *Ibid.*

- **Colorado Self-Represented Litigant Coordinator.** The “Self-Represented Litigant Coordinator,” often referred to as a “Sherlock,” is a court employee designated to assist individuals without an attorney in non-criminal matters filed or to be filed in any State of Colorado court.¹⁹⁸ This free service includes providing general information about court procedures and logistics, including service requirements, filing, scheduling hearings, and compliance with local procedures.¹⁹⁹ Coordinators offer information about court rules, terminology, procedures, and practices; they inform litigants of available free and low-cost legal services, lawyer referral services, and legal resources from state and local libraries.²⁰⁰ Coordinators also offer educational sessions and materials, provide information about classes, explain options within and outside the court system including domestic violence and community resources, assist litigants in selecting and completing the correct forms, and record information for those unable to do so due to disability, language, or literacy barriers.²⁰¹

The roles of the Family Resource Coordinator, Court Navigator, Family Court Facilitator, and Self-Represented Litigant Coordinator all serve to streamline processes, enhance access to justice, and address the needs of families and self-represented litigants. These positions ensure litigants receive necessary procedural guidance and logistical support, facilitating smoother legal proceedings and a fair judicial system. Oklahoma should consider implementing similar positions to manage case backlogs, reduce delays, and improve efficiency across more courts, building on the success of the roles in Tulsa County, Cleveland County, and Colorado. These roles would guide unrepresented individuals, promote equal access to justice, improve court efficiency, and overcome socioeconomic, language, and literacy barriers benefiting families and communities statewide.

¹⁹⁸ 20th Judicial District. “Self-Represented Litigant Coordinator Brochure,” May 30, 2024. Retrieved from https://www.courts.state.co.us/userfiles/file/Court_Probation/20th_Judicial_District/SRLC%20Brochure%20%205-30-24.pdf (accessed August 7, 2024).

¹⁹⁹ *Ibid.*

²⁰⁰ *Ibid.*

²⁰¹ *Ibid.*

Recommendation B3: Courts across Oklahoma should implement **user-friendly legal technology**, including e-filing, online self-help resources, self-help centers, and legal kiosks. Currently, Oklahoma is the only state without e-filing capabilities for submitting legal documents.²⁰² Despite legislative authorization for e-filing dating back to 1997, most counties in Oklahoma still require paper filings to be submitted in person.²⁰³ Fortunately, the state is beginning a pilot program to introduce e-filing in some counties.²⁰⁴ E-filing has the potential to allow unrepresented litigants to file documents from any location and at any time, mitigating obstacles such as the need for daycare or taking time off work. This convenience can simplify the court navigation process and remove barriers associated with physically visiting a courthouse. It can also increase the ability of attorneys to work across the state without needing to travel for simple filings. E-filing also expedites the legal process by streamlining data entry, ensuring documents are correctly routed, and integrating with docket and case management software to schedule case events more quickly.²⁰⁵ E-filed documents are also made available online sooner than paper filings, allowing both judges and involved parties to access them promptly and enhancing overall efficiency.²⁰⁶

- **Colorado Courts E-Filing System and Self-Help Resources.** Since 1999, Colorado has been successfully utilizing e-filing in its courts.²⁰⁷ The ATJ Foundation observed the widespread use and efficiency of e-filing in Colorado state courts. For example, one court clerk's office reported that unrepresented litigants can find all necessary resources for filing a divorce online and subsequently submit these documents electronically.²⁰⁸ Additionally, Colorado state courts offer self-help centers with both paper resources and legal kiosks equipped with computers for public use, providing access to a wealth of self-help resources.²⁰⁹ These resources include legal forms, information on filing

²⁰² Court Technology Bulletin. "2019 State Court E-Filing Program," *Court Tech. Bull.*, August 2019. Retrieved from <https://courttechbulletin.blogspot.com/2019/08/2019-state-court-e-filing-program.html> (accessed August 7, 2024).

²⁰³ *Ibid.*

²⁰⁴ Loveless, T. "27 Years and Counting: The Long Road to E-Filing in Oklahoma Courts," *NonDoc*, March 8, 2024. Retrieved from <https://nondoc.com/2024/03/08/the-long-road-to-e-filing-in-oklahoma-courts/> (accessed July 8, 2024).

²⁰⁵ *Ibid.*

²⁰⁶ *Ibid.*

²⁰⁷ Colorado Judicial Branch. "Electronic Filing in Colorado." *Colorado Judicial Branch*. Available at: https://www.courts.state.co.us/userfiles/file/Administration/JBITS/PAS_ICCES/E-File_Article.pdf (accessed July 8, 2024).

²⁰⁸ Informed by observations in El Paso County, Colorado.

²⁰⁹ *Ibid.*

fees, records request procedures, and other valuable tools.²¹⁰ The centers also provide contact information for court employees who assist unrepresented litigants with various court procedures.²¹¹ This support network helps litigants navigate the legal system more effectively and ensure they have the necessary resources to manage their cases.

Implementing similar technology in Oklahoma could bring about substantial improvements in the state’s legal system enhancing both efficiency and accessibility for all parties involved. By embracing e-filing and expanding self-help resources, Oklahoma courts can ensure a more streamlined and equitable legal process.

C: CONSIDER SYSTEMIC CHANGE

The purpose of these recommendations is to encourage actors in Oklahoma’s civil justice system to reevaluate Oklahoma’s conventional approach to family law services and potentially implement new methods for carrying out those services.

Recommendation C: In recognition of the high number of unrepresented divorces in Oklahoma, courts should consider **alternative approaches to the divorce process**. Some states have responded to the high volume of unrepresented litigants in their family courts by reworking procedures to better assist this demographic, as seen in the following examples from Alaska and Connecticut.

- **Alaska’s Early Resolution Program (ERP).** In 80% of Alaska’s divorce cases involving two unrepresented litigants, the state’s ERP helps finalize the divorce at the initial hearing.²¹² The ERP process has three steps: (1) triage, (2) assist, and (3) hearing.²¹³
 - Step one, *triage*, begins once an answer has been filed.²¹⁴ During this stage, the ERP coordinator screens cases to determine if there are reasons to exclude them from the program.²¹⁵ Cases won’t be excluded simply because parties disagree as to property or custody but rather are excluded only if legal problems arise—Alaska’s ERP

²¹⁰ Colorado Judicial Branch. “Self Help/Forms.” *Colorado Judicial Branch*. Retrieved from <https://www.coloradojudicial.gov/self-help-resources> (accessed July 8, 2024).

²¹¹ *Ibid.*

²¹² Marz, S., and Hildebrandt, L. “One and Done: A Shortened and Personalized Approach to Family Law Case Processing,” *Dispute Resolution Magazine*, Vol.9, No. 3, September 2023, at 18. Retrieved from <https://www.aaaicdrfoundation.org/sites/default/files/2023-10/dispute-resolution-september-2023.pdf> (accessed August 7, 2024).

²¹³ *Ibid.*, p. 19.

²¹⁴ *Ibid.*

²¹⁵ *Ibid.*

recognizes that many family cases require practical problem solving rather than complex legal analysis.²¹⁶ The ERP accepts about 55% of screened cases.²¹⁷

- At step two, *assist*, parties are directed to an appropriate resource: a volunteer attorney providing limited scope services (if parties don't agree on complex issues), a mediator (if parties need help communicating, especially if children are involved), or a settlement judge (if the case is straightforward or only involves simple issues).²¹⁸
- After a hearing is scheduled, step three, *hearing*, begins. The ERP coordinator sends scheduling notices explaining the ERP hearing to unrepresented litigants.²¹⁹ The ERP coordinator also calls the parties to answer their questions and explain any issues found in their documents.²²⁰ At the hearing, the attorney-coordinator drafts final orders based on the agreements made and gives the final orders to the parties while they are all still in the courtroom.²²¹
- **Connecticut's Pathways Process.** Connecticut's Pathways Process is designed to tailor the court's resources to each individual case, reduce the number of court appearances, and better assist parties who are in agreement and don't want to engage in lengthy litigation.²²² After filing, parties are given a Resolution Plan Date (RPD).²²³ On the RPD, the court instructs litigants about the process and answers questions.²²⁴ A Family Relations Counselor reviews the case to identify points of agreement and disagreement, gauge how likely the parties are to reach an agreement, and determine the resource they need to ultimately resolve the

²¹⁶ Marz, S., and Hildebrandt, L. "One and Done: A Shortened and Personalized Approach to Family Law Case Processing," *Dispute Resolution Magazine*, Vol.9, No. 3, September 2023, at 19. Retrieved from <https://www.aaaicdrfoundation.org/sites/default/files/2023-10/dispute-resolution-september-2023.pdf> (accessed August 7, 2024).

²¹⁷ *Ibid.*

²¹⁸ *Ibid.*, p. 20.

²¹⁹ *Ibid.*

²²⁰ Marz, S., and Hildebrandt, L. "One and Done: A Shortened and Personalized Approach to Family Law Case Processing," *Dispute Resolution Magazine*, Vol.9, No. 3, September 2023, at 20. Retrieved from <https://www.aaaicdrfoundation.org/sites/default/files/2023-10/dispute-resolution-september-2023.pdf> (accessed August 7, 2024).

²²¹ *Ibid.*

²²² State of Connecticut Judicial Branch. "The Pathways Process in Your Divorce, Custody or Visitation Case: Background About Pathways." *State of Connecticut Judicial Branch*. Retrieved from <https://jud.ct.gov/family/pathwaysprocess.htm#bkg> (accessed July 12, 2024).

²²³ *Ibid.* at "Resolution Plan Date."

²²⁴ *Ibid.*

case.²²⁵ After evaluating their needs, the Family Relations Counselor recommends a plan of action to the court, which may include specific services (such as mediation).²²⁶ The Family Relations Counselor recommends a “track” for the case (Track A, Track B, or Track C) to the court, depending on the level of court resources necessary for its resolution.²²⁷ The judge then makes a scheduling order based on the Family Relations Counselor’s recommendations and instructs the litigants on next steps.²²⁸ Parties will ultimately settle the dispute via agreement or trial, although most settle through agreement.²²⁹

Both Alaska’s ERP and Connecticut’s Pathways Process involve early case screening and track assignment based on the case’s needs. Oklahoma courts would benefit from piloting a similar program to address the state’s high volume of divorce cases with unrepresented litigants. Doing so may streamline the divorce process, make judges’ jobs easier (as they would no longer be the sole source of critical legal information in their courtrooms for unrepresented litigants), and increase the courts’ efficiency by allowing courts to focus most of their energy toward contested cases.

²²⁵ *Ibid.* at “The Role of the Family Relations Counselor.”

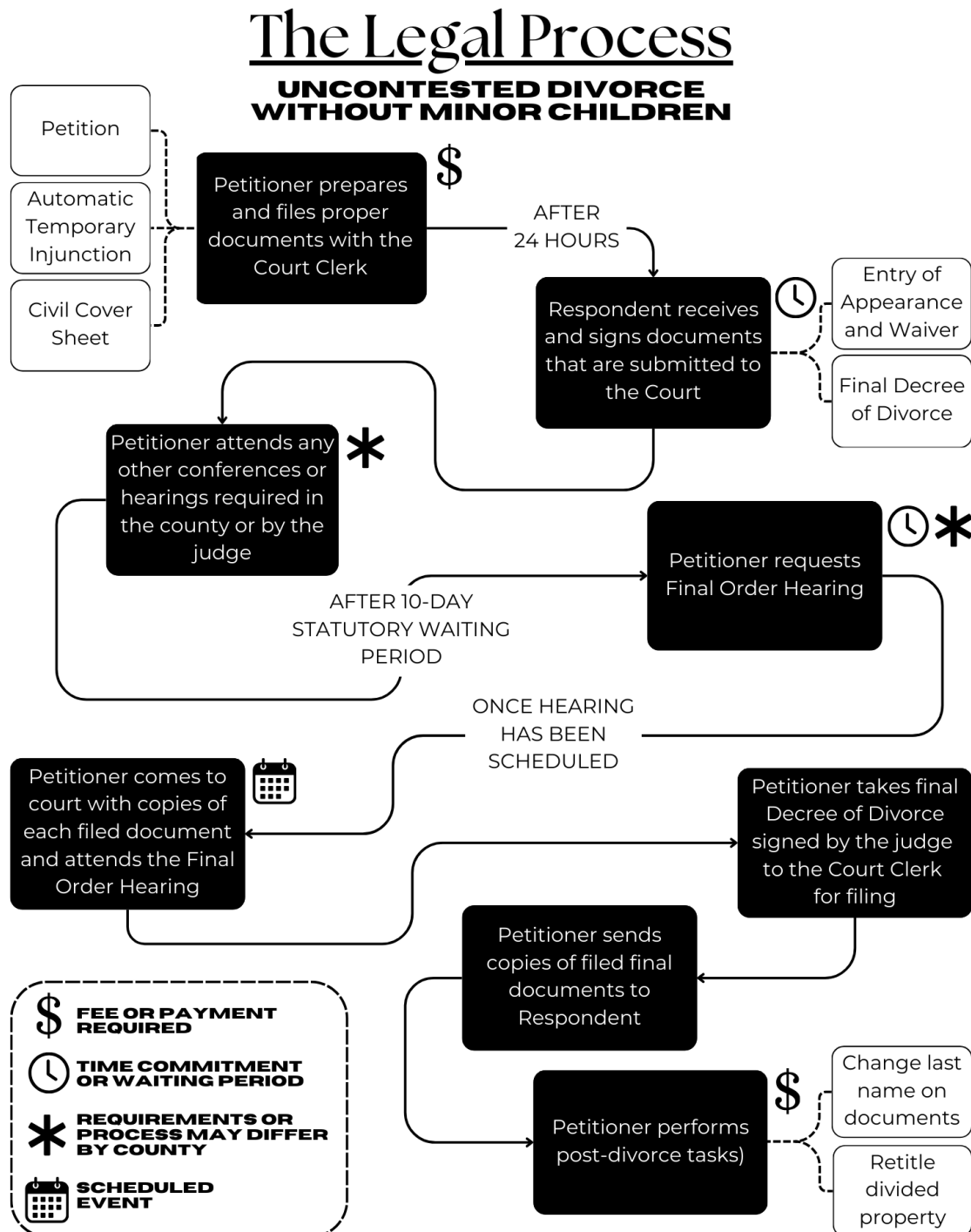
²²⁶ *Ibid.*

²²⁷ *Ibid.*

²²⁸ *Ibid.*

²²⁹ *Ibid.* at “Final Resolution.”

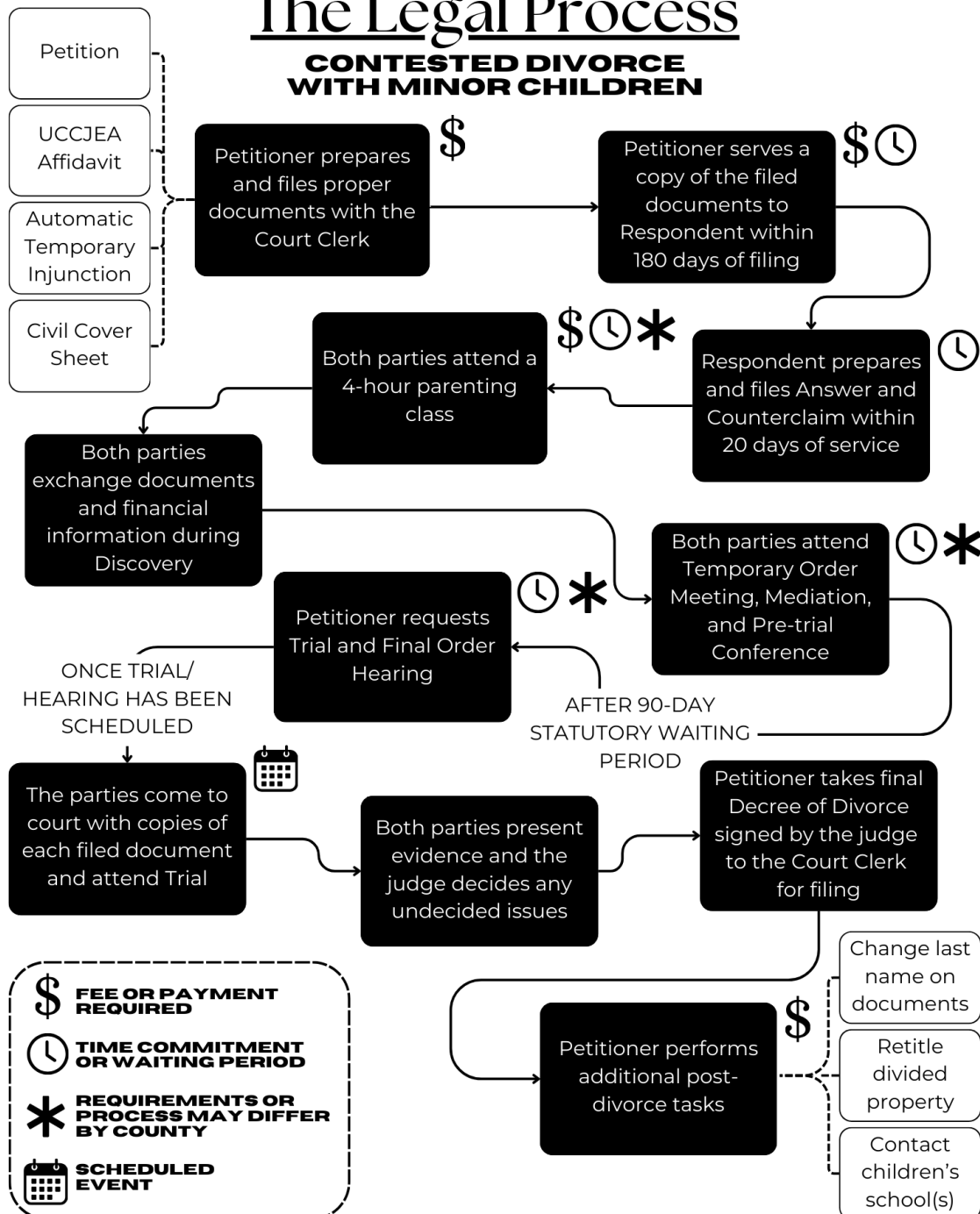
APPENDIX: OKLAHOMA DIVORCE PROCESS MAPS



This is general legal information about divorce in Oklahoma. This is not legal advice.

The Legal Process

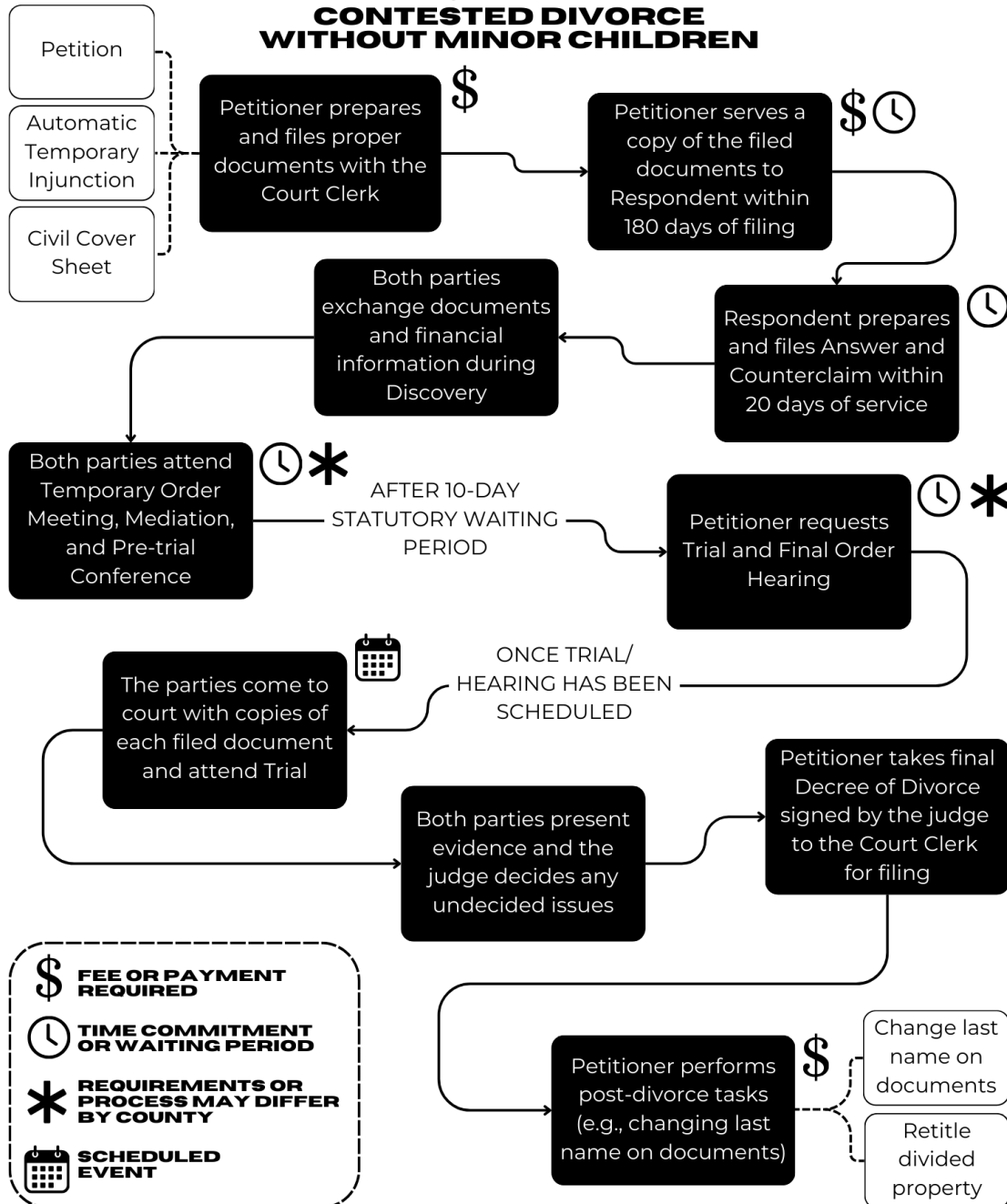
CONTESTED DIVORCE WITH MINOR CHILDREN



This is general legal information about divorce in Oklahoma. This is not legal advice.

The Legal Process

CONTESTED DIVORCE WITHOUT MINOR CHILDREN



This is general legal information about divorce in Oklahoma. This is not legal advice.



OKLAHOMA ACCESS TO JUSTICE FOUNDATION

ABOUT THE OKLAHOMA ACCESS TO JUSTICE FOUNDATION

The Oklahoma Access to Justice Foundation was created in 2019 to serve as a convener, collaborator, and advocate to increase meaningful participation in a civil justice system that is fair and accessible for all. The ATJ Foundation works with partners across the state to expand existing efforts and create new ones, trying to further the goal of access to justice for everyone. This work is informed by the ATJ Foundation's core organizational values:

- **Collaboration:** We collaborate through proactively working with others, including sharing resources and ideas, to achieve common goals and accomplish our mission.
- **Accessibility:** We believe justice is accessible when all people can understand, navigate, and interact with the justice system without physical or systemic barriers and regardless of financial resources.
- **Innovation:** We innovate by challenging a status quo that leaves 80% of civil legal needs unaddressed and seeking change for the better, while recognizing that change must be equitable and useful.
- **Empowerment:** We empower by enabling people to stand up for themselves, educating them about their power and voice, and providing the tools to enact those principles, while making needed reforms to systems so individuals and advocates can fully realize that power.

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