

Pro-se Law Clerk	Agency/Program #: 2110-01-I1	
	Division: Supreme Court Ops	
	Program: Pro-se law clerk	
Agency Name:	Judicial Branch	
Agency Contact:	Lois Menzies	841-2957
LFC Contact:	Representative Hinter, Senators Bales and Schmidt	
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Program or Project Description:

The pro se law clerk for the Supreme Court conducts preliminary review and tracks cases filed by pro se litigants (people representing themselves).

Fund Name:	Appropriation, Expenditure and Source				Approp & Expenditure numbers are as of August 31, 2008
	2008		2009		
	Approp.	Expended	Approp.	Expended	
General Fund	56,534	46,982	53,979	7,486	
State Special					
Federal Funds					
Total:	\$56,534	\$46,982	\$53,979	\$7,486	

Goal(s):

Reduce the amount of time Supreme Court justices must spend in preliminary review of filings from pro se litigants

Performance Measures :

1. Number of cases having preliminary review done by pro se law clerk and by justices in FY 2008 (available July, 2008)
 2. Number of response briefs requested in FY 2008
- Also see milestones

The pro se law clerk was hired in September 2007. The responsibility for preliminary review shifted from the justices to the pro se law clerk after the clerk was hired. During one year of employment (September 2007- September 2008), the pro se law clerk conducted a preliminary review of all original petitions filed by pro se litigants (60 cases);

The amount of time to dispose of original petitions in FY 2008 was a mean of 23 days compared to 40 days in FY 2007, a decrease of 43%. Twenty-four responses were ordered from the Departments of Justice or Corrections in FY 2008 compared to 40 in FY 2007, a reduction of 43%. (Note: The pro se law clerk was employed for only 10 months in FY 2008.)

From September 2007 to September 2008, the pro se law clerk reviewed 64 direct appeals and drafted 53 procedural orders, 10 memorandum opinions, and one full opinion for the Supreme Court's consideration.

2009 Biennium Significant Milestones:	Completion Dates	
	Target	Actual
1 Hire pro se law clerk	8/31/2007	Sep-07
2 Adopt processes and procedures for review of pro se filings	Sep-07	September 2007 (ongoing)
3 Begin review of certain pro se filings	Oct-07	Oct-07
4 Collect and analyze data; review processes and modify as needed	Oct. 2007 - March 2008 and beyond	Ongoing
5		

Performance Report:

In calendar year 2007, 26% of all cases filed in the Montana Supreme Court were filed by pro se litigants (people representing themselves). A multitude of procedural issues arise in these cases, such as whether the petition or appeal was filed timely, whether the petitioner is entitled to proceed without payment of the filing fee, whether the motion was filed in the proper court, and whether the petition should be barred for failure to raise the issues in an appeal. Before the pro se law clerk position was established, a justice was required to spend a significant amount of time each week conducting a preliminary review of these cases and preparing orders disposing of the petitions on procedural grounds or on the merits.

With funding provided by the 2007 Legislature, the Supreme Court hired a pro se law clerk in September 2007. The current duties of the law clerk include initial review of all original petitions for writs of habeas corpus, supervisory control, mandamus, and extraordinary relief filed by self-represented litigants. The pro se law clerk now researches and writes the first version of procedural orders and dispositional orders for review by the justices. The law clerk may be assigned to review direct appeals in which at least one party is a self-represented litigant. To date, the pro se law clerk has reviewed and prepared the first version of orders or opinions for 60 original petitions and 64 direct appeals. The work performed by the law clerk has reduced the overall workload of the justices, thereby allowing them to handle other matters before the Court.

In addition, the law clerk position has reduced the workload for legal staff of the Departments of Justice and Corrections. Before the position was established, these agencies frequently were ordered to respond to petitions filed by self-represented litigants. Now that a full-time law clerk, who is knowledgeable in the procedural rules and case law underlying these cases, is conducting a threshold review and noting any procedural bars or defects in the cases, fewer responses are being ordered. In cases in which a procedural bar applies or that are defective on other grounds, the clerk drafts an order disposing of the matter without a response brief. During FY 2008, which included approximately 10 months of the law clerk's term of employment, 24 responses were ordered for pro se cases compared to 51 responses for pro se cases in FY 2007 (before the law clerk was employed). This represents a 53% reduction in the number of responses ordered. In addition, the number of days for disposing of a pro se case has been reduced from a median of 40 days in FY 2007 to 23 days in FY 2008, a 43% decrease.

LFD Narrative:

LFD Assessment: On track

Data Relevance: Yes

Appropriation Status: Provided

Comments/Issues: The workgroup may wish to discuss gathering data that illustrates how much time has become available in the schedule of justices due to the addition of this position and the impact of increased efficiency upon the workload of justices.

Options:

- Change LFD Assessment



Version	Date	Author
DO	09/23/08	Gervais

Change Description
Sept 2008 update