

# Kansas Legal Services - 2022 Private Attorney Involvement Plan

## 2021 Overview

We appreciate that 185 clients received representation in legal matters through volunteer attorneys in 2021. This is about 3% of the total clients who received legal representation from KLS. An additional 10 clients will be assisted with legal matters through low fee retainer attorneys, paid for by KLS. 214 people received legal advice in a variety of matters from volunteer attorneys. In addition over 4,700 hours of legal services will be donated to KLS clients by law students.

Expungement clinics were held in Johnson, Saline and Pratt counties. We promoted the Wyandotte county expungement event. A driver's license clinic is in December in Wichita drew 425 applications, with about 150 people helped during the clinic.

## Why Pro Bono?

As lawyers, we know firsthand the value and necessity of quality legal representation. We see victims of domestic violence, abused children, and families losing their homes all too frequently because they cannot afford a lawyer. We have a professional responsibility to help others in our community gain access to the justice system to protect their rights, their freedom, their homes, their livelihoods, and their families. Legal needs studies have consistently found that less than 40 percent of low income people get the legal assistance they need, and funding per eligible person has dropped drastically in recent years. In Kansas, our numbers continue to show that 1 percent of the Kansas population calls our intake line annually, and 10 percent of the Kansas population accesses our website. This is a crisis and lawyers must get involved. Supporting civil legal aid is a way to work for justice and access for all.

Volunteer attorneys are needed for three reasons:

- 1) **Legal services can provide life-changing differences in the lives of low income Kansans.** From a simple landlord letter to a complex child custody case, the impact of legal issues on our lives is dramatic. When a family is involved in a legal matter, it is unsettling for them, to say the least. Parents lose needed hours of work to deal with the situation, for which many have no paid vacation time. The lost income means they are short on rent or on other essential bills. Feeling that they must deal with the problem alone creates a sense of hopelessness.

With accurate legal information or representation by an attorney, they can achieve a sense of justice. The Judge can hear their case and make a fair decision. Their children can have the stability of a court-ordered parenting plan. The family can have a little time to find a new apartment in their children's school district, saving the children from the disruption of changing schools.

An attorney's help can make the difference and change Hopelessness to Hope and a Sense of Justice from our legal system.

- 2) **Rule 226 of the Kansas Rules of Professional Conduct** says, “lawyers should render **public interest legal services.**” While acknowledging that legal aid programs were created to help meet this need, the rule encourages lawyers to support these programs by continuing to provide services on a pro bono or reduced fee basis. Kansas Legal Services stands ready to help Kansas attorneys meet this professional obligation.
- 3) **The justice gap is growing.** Estimates are that 50 percent or more of the litigants in family law courts in Kansas are self-represented. Some initiatives have been put in place to allow the Courts to handle the large number of self-represented litigants. This includes forms created by the Judicial Council, which create the basis for many of the forms that Kansas Legal Services makes available online via interactive interviews. These actions are done only because Kansas Legal Services and its volunteer lawyers cannot meet the demand for legal services by low income persons. Modifications of the Rules of Professional Responsibility allow attorneys to be involved in limited scope representation. One example of this is an attorney review of documents that a low income person has prepared. The attorney can review the documents and “coach” the client for success as a self-represented litigant.

The Legal Services Corporation, a funder of Kansas Legal Services, requires that an annual plan exists for involving private attorneys in helping meet the civil legal needs of low income persons. [45 CFR 1614.4] The 2022 plan will be approved by the Kansas Legal Services Board of Directors in January, 2021. The Board is currently seeking comments on the proposed plan. Please provide comments to **Jennifer Stevenson, President, Board of Directors, Kansas Legal Services, 712 S Kansas Ave, Suite 200, Topeka, KS 66603** or email [president@klsinc.org](mailto:president@klsinc.org).

### **How Pro Bono Referrals Work:**

Kansas Legal Services allows a potential applicant to apply by phone (1-800-723-6953) or initially online ([www.kansaslegalservices.org](http://www.kansaslegalservices.org)). Staff dedicated to screening applicants for financial eligibility take calls from 8:00 a.m. to 5:00 p.m. Monday through Friday. Questions about family size, current and potential income and assets, citizenship status and other eligibility factors are used in determining initial eligibility. To be eligible for pro bono services, the applicant must have household income below 150 percent of the Federal Poverty level.

In addition, Kansas Legal Services Board of Directors has determined, by legal problem type, the matters that can qualify for representation by Kansas Legal Services. The limited resources available to meet the needs of low income Kansans make this type of prioritization necessary. Some types of legal problems can only be accepted if a pro bono attorney is willing to accept the case.

After an applicant has been determined to be eligible for KLS services, the case is reviewed in the local office covering the applicant's county. The applicant is contacted and more information about their situation and their legal need is obtained. Information about upcoming court deadlines, etc. are key to determining if a case is appropriate for pro bono referral. The length of time it takes to place a case with a volunteer attorney eliminates cases with rapidly approaching deadlines. The applicant's access to reliable transportation is another factor considered. With knowledge of all relevant factors, the managing attorney of the office makes the decision that a case is appropriate for placement with a volunteer attorney.



Once a case has been designated for placement with a volunteer attorney, the list of volunteer attorneys is reviewed by staff. In making determinations about which lawyers to contact, the various staff making contacts with attorneys take into consideration the geographic location, substantive areas of the law and when the attorney last took a pro bono case. Attempts to place cases are made by telephone and email contact.

Following referral of a case, KLS staff regularly follow-up on the case to determine the status of representation. The follow-up is done until the attorney notifies KLS that the case is concluded. Assistance can be provided to the attorney throughout the case by KLS staff, unless the case referred represents a conflict of interest for KLS.

KLS is aware that some volunteer attorneys are not regularly referred a case, despite their willingness to accept cases. The match between case type and the location of the volunteer attorney sometimes makes a match difficult. KLS continues to work to utilize all volunteer attorneys to meet the needs of eligible clients.

## **Components of the 2022 Pro Bono Plan**

During 2022, KLS will continue to grow the connections between lawyers and the KLS Pro Bono program. This begins with hiring and orienting a new Director of Pro Bono Services. We have a number of expungement clinics in the works with local partners identified. We will use current staff resources to move those projects along, until the new Director is selected.

When not focused on expungement activities, the Statewide Pro Bono Director will work on other activities set out in this plan, including the following.

- 1) The director will support the local pro bono coordinators as they work to meet the needs of their local offices and volunteers.
- 2) The director will continue to coordinate "KLS Pro Bono Partners," a project to encourage law firms to commit to four hours of pro bono work per each lawyer in their firm per year. Upon commitment and a signed agreement, the firms will receive this logo to put on their websites or other promotional material to show they are a proud KLS Pro Bono Partner. Ideally, this would be a statewide competition during Pro Bono Month.

- 3) The director will also work with county bar associations to promote the inclusion of KLS pro bono information in their local bar newsletters.
- 4) KLS will begin the process of organizing volunteer opportunities into “programs” that attorneys can subscribe to, for ease of advertising and organization.

Rural pro bono assistance is an area for improvement. As such, the Statewide Pro Bono Director will work to implement a Rural Outreach Initiative.

Among the ongoing activities that will continue to be pursued as part of the 2022 plan:

**A. Direct Services to Clients Referred from Kansas Legal Services**

The pro bono coordinator in each of the eleven KLS offices is aware of attorneys willing to consider referrals of persons who need legal services on a pro bono basis. Information about clients who have a need that could be met by a pro bono attorney are posted (confidentially) on the [www.klsprobono.org](http://www.klsprobono.org) website. Attorneys select a case directly from the website, with KLS staff following up to make the match. KLS continues to monitor these cases and requires notice when the work for the client is complete.

While the majority of the requests for legal services are in the family law area, cases are also available in housing, mortgage foreclosure, consumer matters and a wide range of other legal areas. Attorneys can specify the types of cases they are willing to consider. Attorneys are always contacted by KLS staff prior to the client receiving the attorney’s contact information.

KLS maintains a website for attorney volunteers, [www.klsprobono.org](http://www.klsprobono.org). This website provides forms and materials and is another way for lawyers to learn about volunteer opportunities in Kansas. The monthly email newsletter has been phased out as we communicate with private attorneys from web-based resources.

Each KLS office may recruit one or more attorneys to participate in a Retainer Contract Program, through which referred cases are accepted by the attorney for participation on a reduced fee basis. For accepted participants with incomes under 125 percent of poverty, KLS will pay the retainer contract attorney a limited hourly fee for the representation. These attorneys are generally located in places where the expense of travel for KLS staff attorneys is the greatest.

**B. Projects Requiring a Limited or Predictable Time Commitment**

Kansas Legal Services understands that one of the barriers for attorneys in accepting pro bono work is the unpredictable nature of the time commitment. A “simple” case can become complicated, where the attorney spends more hours than expected. Three volunteer options are designed to provide attorneys with volunteer opportunities with a limited and predictable time commitment.

1) With the 2012 adoption of Supreme Court Rule 115A, attorneys may now limit the terms of their representation of a client. Kansas Legal Services has embraced the option of limiting the scope of representation and encourages volunteer attorneys to do so when appropriate. One example would be an attorney who accepts referrals of clients who have created their own divorce documents using the approved Supreme Court forms. The attorney meets with the client, reviews their situation and the forms they have prepared. By discussing topics like court jurisdiction and service, the attorney can greatly improve the likelihood the client will be successful in self-representation. When the attorney has reviewed the forms and explained to the client what will happen at the final hearing, the attorney has completed their obligation to that client. If the attorney prefers, this entire consultation can occur by phone. KLS refers cases through this program where it is unlikely a response will be filed by the Respondent. However, even if a response is filed, the attorney has completed all the work to which they agreed (via limited scope representation agreement) and has no obligation to do more with that case.

2) The adoption by the Kansas Supreme Court of Model Rule 6.5 to the Code of Professional Responsibility opens up a new pool of volunteer attorneys for assistance at courthouse-based self-help centers. We will work to implement new programs making use of associates from law firms.

While not directed exclusively at low income persons, Kansas Legal Services provides another opportunity for attorneys to serve Kansans.

The Kansas Elder Law Advice Line gives attorneys the opportunity to provide legal advice or information to Kansans age 60 and over. Attorneys volunteer for a four hour shift and work from their own offices. Telephone technology allows KLS to seamlessly transfer the caller to the attorney.

## **Kansas Legal Services Supports Volunteer Attorneys**

Consistent with its goal of supporting attorneys who provide pro bono services through Kansas Legal Services, KLS will provide the following support to those attorneys who request it:

- 1) Access to legal materials that are available to KLS staff. Needed materials can be requested from the pro bono coordinator in the office or from a KLS staff attorney. The [www.klsprobono.org](http://www.klsprobono.org) site makes it easier for attorneys to learn of volunteer opportunities in Kansas. The site also makes forms, research and other resources available to volunteer attorneys.
- 2) Access to KLS staff seminars. When KLS sponsors a Continuing Legal Education event, volunteer attorneys are notified of the event through the pro bono website. Volunteer

attorneys may attend these events at no charge. These events are held as determined by the training needs of KLS and are not held every year.

- 3) Access to CLE credit for some pro bono work. Attorneys who participate in some community-based pro bono events may obtain CLE credit. Attorneys who participate in a learning session immediately followed by practicing what is learned with actual clients may receive CLE credit for both activities. KLS is only able to provide this credit when the event format meets the criteria of the CLE commission.
- 4) Retired and Inactive Attorneys. Supreme Court Rule 208 was modified in 2013 to allow retired and inactive attorneys to perform pro bono work through an approved organization. Kansas Legal Services was approved to supervise these attorneys. KLS has recruited several Emeritus attorneys and will continue to publicize this opportunity to eligible Kansas attorneys and find ways to incorporate those attorneys in existing or new volunteer opportunities. This must be an ongoing effort, as some retired lawyers must leave the program each year.
- 5) Single Employer-Licensed Attorney. After Supreme Court Rule 712 was modified in 2018 to allow Kansas lawyers licensed under this rule to perform pro bono work through an approved organization, the Supreme Court submitted a rule for public comment that would provide further pro bono guidelines for these attorneys. KLS will continue to incorporate these attorneys in to our pro bono programs and modify our policies as Supreme Court rules dictate.

## **Kansas Legal Services Supports Law Student Volunteers**

Kansas Legal Services believes that engaging law students in pro bono service has long-term effects. The interns see firsthand the needs of low- income people and experience the rewards of helping them. They leave law school determined to continue giving back in this manner. They are also excellent “extenders” of KLS staff, allowing more clients to be served than could occur through staff resources alone.

For these reasons, KLS hosts law student volunteers in a variety of ways.

- 1) The Topeka and Kansas City offices recruit and supervise law student volunteers from area law schools during the school year.
- 2) Kansas Legal Services staff teach the Elder Law Externship at the University of Kansas School of Law and host the enrolled students, who contribute 100+ hours a semester as interns.
- 3) KLS offices in Pittsburg and Wichita have sponsored Washburn Third Year Anywhere students. These students get academic credit for time spent in our offices, while attending their last semester of law school online.

- 4) All KLS offices recruit and supervise law student volunteers and pre-law volunteers during the summers.
- 5) Specialty student groups within the law schools are recruited to assist with events, for example the Expungement Clinics across the state

## **Other KLS Activities**

KLS staff is engaged in recruiting and retaining volunteers through direct communication, outreach at local bar functions and other means.

KLS maintains, as part of a malpractice insurance policy, coverage for attorneys who represent clients on a pro bono basis through KLS programs, in order to protect attorneys from possible claims. This effort allows participation by attorneys who have a limited or corporate practice and do not maintain malpractice insurance or who do not want to risk the consequences of a possible claim on their policy.

KLS recognizes that not all attorneys have the type of practice or available time to volunteer. KLS will continue the private bar donation solicitation to seek direct financial contributions and volunteer commitments from private attorneys. As seen through our statewide trivia fundraiser, we continue to strive for bar involvement in our fundraising efforts.

## **Role of the Kansas Bar Association in Support of Pro Bono Activities**

The Kansas Bar Association will support the work of Kansas Legal Services by recruiting new volunteers and recognizing the efforts of attorneys providing pro bono services.

### Recruitment

The Kansas Bar Association will continue to recruit volunteers in the following manner:

- 1) KBA will continue to pursue strategies to grow the number of family law attorneys who will accept pro bono referrals. This effort is designed to meet the largest demand for pro bono referrals.
- 2) KBA staff will continue to work with KLS to recruit inactive and retired attorneys to provide legal services under Rule 208.
- 3) KBA will partner with the Kansas Bar Foundation to expand the IOLTA program, benefiting KLS through IOLTA-funded grants.
- 4) KBA will join with KLS in analyzing the results of the 2017 ABA Survey of Attorneys about their pro bono services and barriers to expand pro bono efforts.

### Recognition

In 2021, the Kansas Bar Association recognized the Saline County Bar Association for their pro bono expungement projects. The Kansas Bar Association will continue to recognize attorneys for

their pro bono work through the Pro Bono Award and Pro Bono Certificates. These certificates will be publicly presented at the KBA Annual meeting, recognized in the Kansas Bar Journal and on the KBA website.

The KBA will explore other methods of recognizing volunteers who have completed pro bono cases including possible public recognition during Celebrate Pro Bono week and by publication in the KBA Journal and/or the weekly e-blast.

#### Other Activities

The KBA has modified the member profile to allow attorneys to track the hours of pro bono service that they provide. It is hoped that this will lead to a greater ability to recognize the attorneys who provide pro bono services. In addition, this tracking will allow the KBA to report the tremendous monetary value of the services provided collectively to Kansans through the volunteer actions of its members.