

FILED 097

SID J. WHITE

AUG 21 1998

CLERK, SUPREME COURT

By _____
Chief Deputy Clerk

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENT TO THE
FLORIDA FAMILY LAW RULES
OF PROCEDURE (SELF HELP)**

CASE NO.: 93,319

COMMENTS FROM THE FLORIDA BAR

JOHN F. HARKNESS, JR., Executive Director of The Florida Bar, files these comments on the petition of the Family Court Steering Committee to adopt Florida Family Law Rule of Procedure 12.750, Family Self Help Programs.

The Board of Governors of The Florida Bar considered the rule proposed by the Family Court Steering Committee and the comments of the Family Law Rules Committee at its August 14, 1998 meeting. The Board recommends that the Florida Supreme Court not adopt the proposed rule at this time, but postpone any consideration of it until the completion and evaluation of significant efforts being undertaken currently to address the needs of pro se litigants.

The 1998 Legislature appropriated funds to create self help pilot projects to improve pro se litigants' access to family courts. The pilot programs, in areas to be designated by the Court, will be funded for one year, beginning about September 1998. The projects will be collecting data profiling the type of assistance needed by pro se litigants to achieve fair and efficient resolution of their family law cases. The existence of the pilot projects allow for application of the proposed rule in a limited setting and evaluation of its effectiveness.

Because of the serious concerns raised by Florida's family law practitioners, the Family Law Section of The Florida Bar has declared that meeting the legal needs of pro se litigants is its top priority for 1998-1999. The Family Law Section has established committees, chaired by leading family law practitioners, to address access issues in a comprehensive manner. These committees have been charged with addressing both the pilot projects' and the private bar's response to the pressing dilemma of pro se litigants in family court.

The Board of Governors further submits that the proposed rule raises other concerns, including unlicensed practice of law, that may be resolved after the results of the pilot projects have been studied. Self help personnel are prohibited by the rule as proposed by the Family Court Steering Committee from recommending to pro se litigants the specific form necessary for their family law case. The Family Law Rules Committee, in its comments to the Court, correctly points out that prohibiting self help programs from assisting the litigants in selecting the proper forms may render assistance ineffective. Pro se litigants do not know which forms to use for their specific

case and need the information that is prohibited by the proposed rule. This tension between assisting the pro se litigant and respecting the rules regarding unlicensed practice of law has not been fully addressed by the proposed rule.

The Florida Bar Board of Governors respectfully requests that the Court not adopt Florida Family Law Rule of Procedure 12.750 at this time. A postponement will allow the Family Law Section, the Family Law Rules Committee, the Family Court Steering Committee, and the pilot projects to work together to evaluate the success of the pilot projects and design a delivery system that best serves the needs of pro se litigants.

The Board of Governors also respectfully requests oral argument on this rule.

Respectfully submitted this 21 day of August, 1998.



JOHN F. HARKNESS, JR.

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I HEREBY CERTIFY that a copy of the foregoing has been furnished to B. Elaine New, Office of the State Courts Administrator, 500 South Duval Street, Tallahassee, FL 32399, and Hon. George S. Reynolds, III, 301 South Monroe Street, Room 365K, Tallahassee, FL 32301.


