



State of the State: Civil Access to Justice in Minnesota

A Project of the Minnesota State Bar Association Access to Justice
Committee

Presentation Highlights

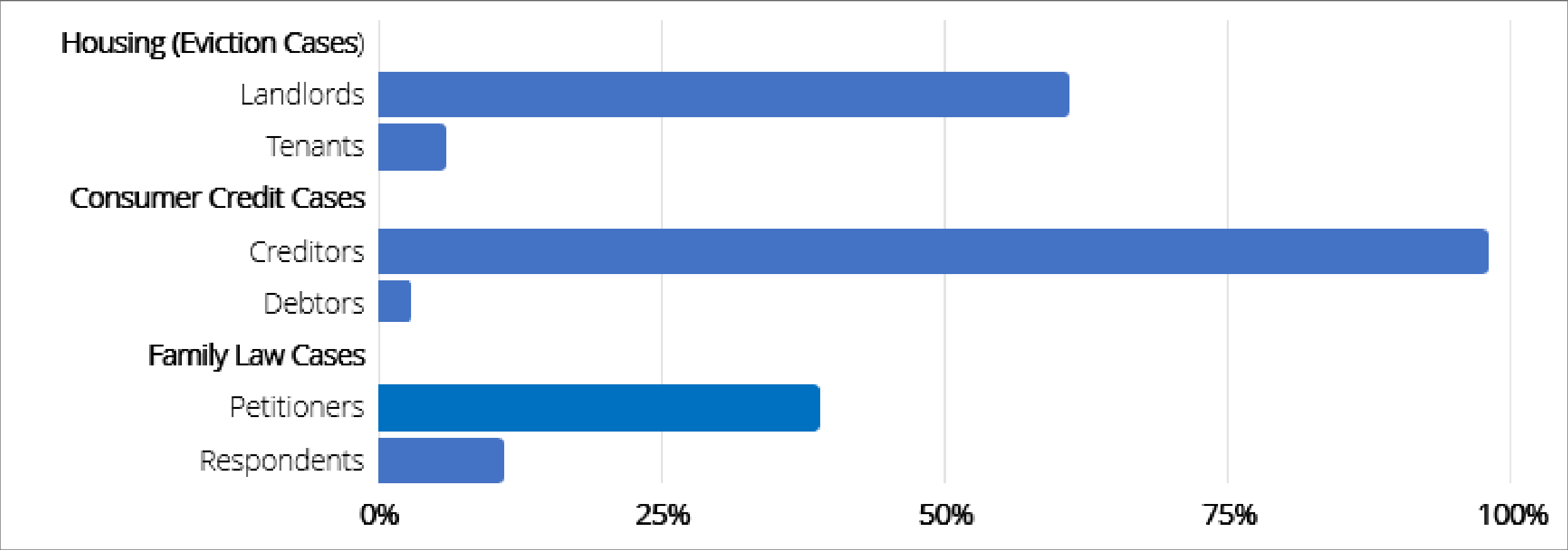
- An Overview of Civil Access to Justice
 - Why it is so important
 - Where and how services are provided
 - Who has access and who does not
 - What you can do to support (time, money, influence)
- A Summary of Court Access Initiatives
 - In-Person and Online Resources
 - Paraprofessional Pilot Program
 - Language Access
- A Deeper Dive into Pro Bono
 - Rule 6.1: Voluntary Pro Bono Publico Service
 - Rule 25: Uniform Reporting of Pro Bono Service and Financial Contributions
 - Considerations for government attorneys
- Insights from the Consumer Debt Litigation Report
- Q&A

Access to justice, and pro bono work, are very important to the Court system

- The access to justice gap
- The importance of legal pro bono to the legal system
- *Pro bono publico* – “for the public good”
- Legal pro bono is one part of the equation

2019-2021 Pro Se Data - Minnesota Civil Courts

Attorney Representation by Case Type





Court Access Initiatives

Digital/Online

- Increased online resources through judicial branch website
- Email/text reminders about court dates in some counties

Paraprofessional Pilot Program

Language Access



Court Access Initiatives

Self-Help Centers

- Assist with e-filing
- Answer questions about forms
- Some centers provide review of SRL forms before filing (for instance, Hennepin Family Court)
- 2023 – served almost 35,000 people by phone and email

Law Libraries – State and Local

- State Law Library assisted more than 7,000 members of the public in 2021
- State Law Library partners with pro bono attorneys for Appeals clinic and Unemployment Appeals clinic, many local clinics at County Law Libraries
- Video tutorials and other self-help materials
- Law Library Service to Prisoners (LLSP) – over 30,000 questions from Minnesota state inmates each year

Supportive Supreme Court Rules

CLE for Pro Bono

MN CLE Rule 6(c)

Uniform Pro Bono Reporting

MN Lawyer Registration Rule 25

Eased Conflicts for Limited Scope

MN Supreme Court Rule 6.5

Emeritus & Corporate Counsel Pro Bono Practice Rules

MN Lawyer Registration Rule 7D; MN Bar Admission Rule 10D (respectively)

Supportive Limited Scope and Remote Access Rules

Rule 6.5 and April 2022 MN Supreme Court Order

Civil Legal Aid is Essential for Strong Communities

Civil legal aid supports basic human needs

- Family
 - *Domestic violence, divorce, child custody, parenting time*
- Housing
 - *Eviction, foreclosure, repairs, reasonable accommodations*
- Economic Stability
 - *Health care, education, employment, veterans benefits, social security, consumer issues*

Civil legal aid addresses disparities in the Justice System

Key Access to Justice (ATJ) System Stakeholders Include:



Pro bono and legal aid nonprofit organizations



Other legal nonprofits



Courts and law libraries



Private bar
(law practices and firms of all sizes, in-house legal departments)



Bar associations and bar foundations



Community organizations



Law schools



Foundations and other institutional funders
(general and legal-focused)



Government agencies

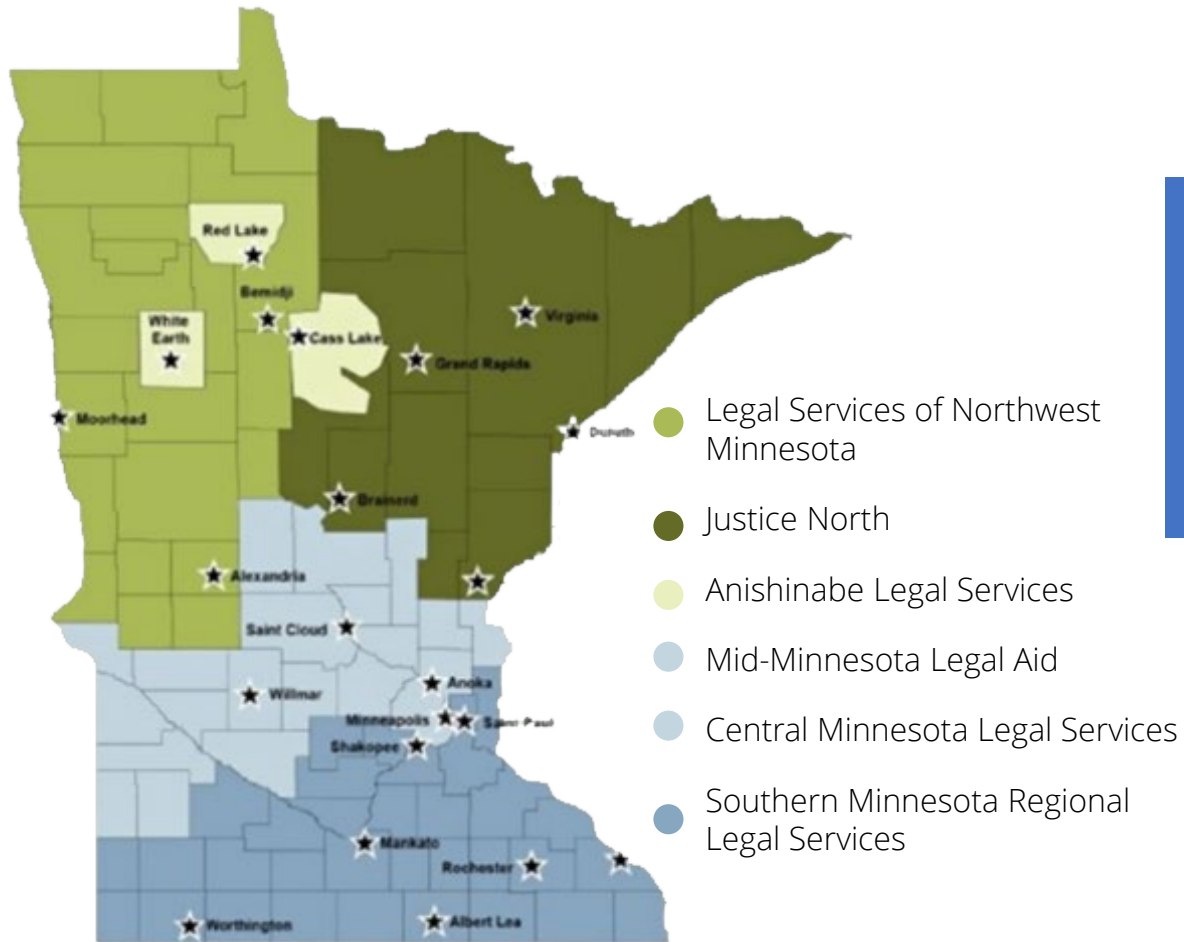


Connecting to Help: Law Help MN

Award-winning online hub where clients can search for legal assistance, apply to some legal aid organizations, and find legal or community resources for their issue.

Civil Legal Aid Network

Network Overview



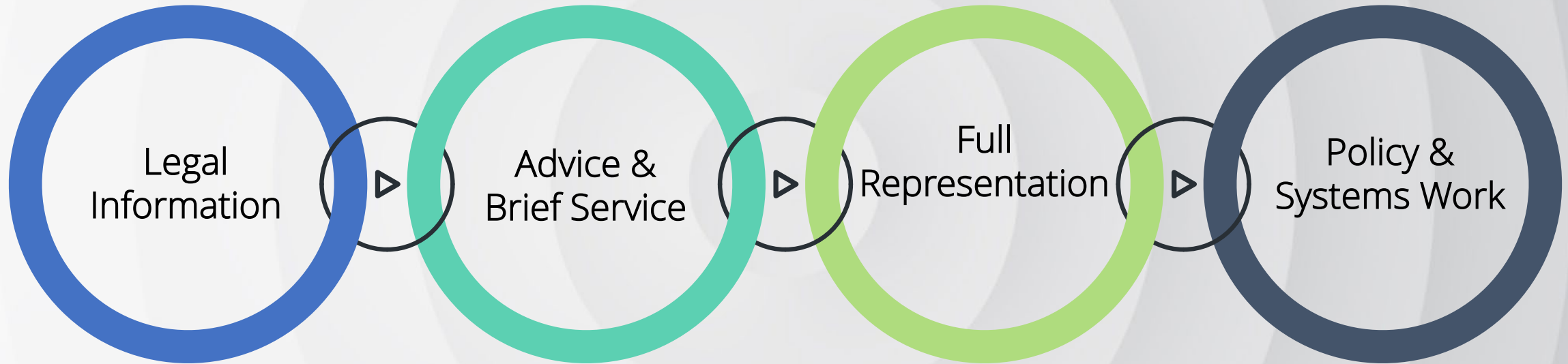
CIVIL LEGAL SERVICES PROGRAMS

There are six regional programs providing a range of civil legal services and covering all 87 counties in Minnesota. There are also targeted service programs that meet specific population or geographic needs.

TARGETED PROGRAMS

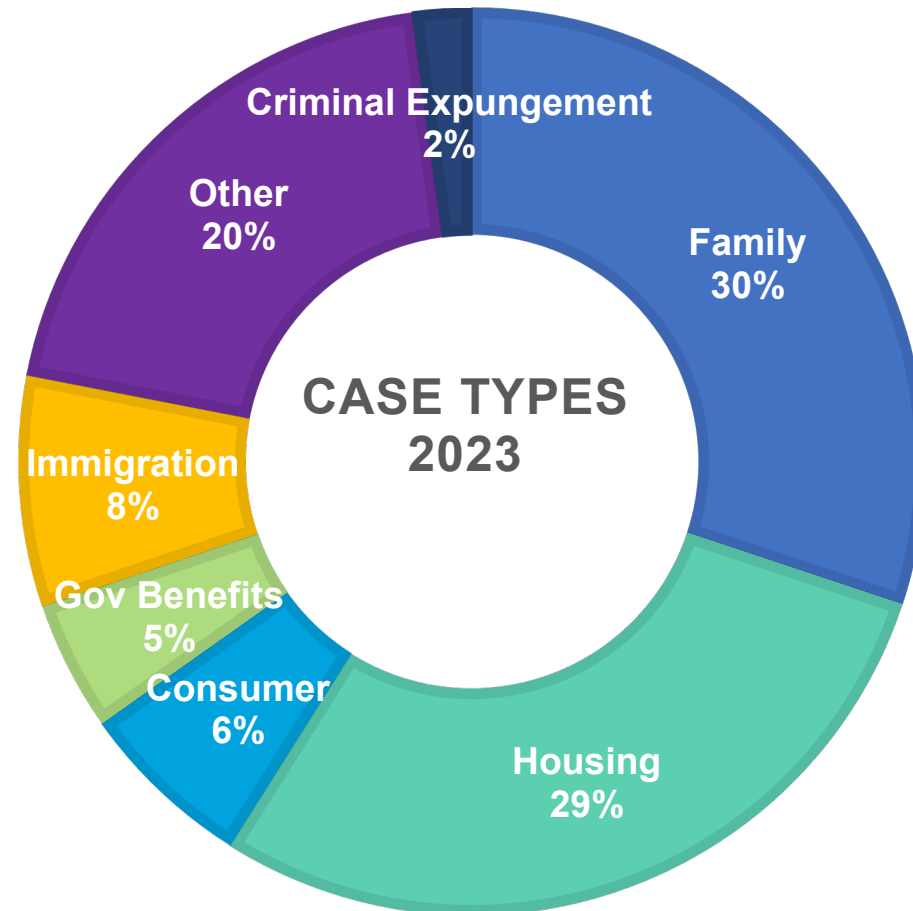
- Cancer Legal Care
- Children's Law Center
- Community Mediation Minnesota
- Farmers Legal Action Group
- HOME Line
- Housing Justice Center
- Immigrant Law Center of Minnesota
- Indian Child Welfare Act (ICWA) Law Center
- Legal Assistance of Dakota County
- Legal Assistance of Olmsted County
- LegalCORPS
- Legal Services State Support
- Loan Repayment Assistance Program of Minnesota
- Rainbow Health
- Minnesota Disability Law Center
- Minnesota Justice Foundation
- Standpoint
- The Advocates for Human Rights
- Tubman
- Volunteer Lawyers Network

Delivery Models Along the Continuum of Service



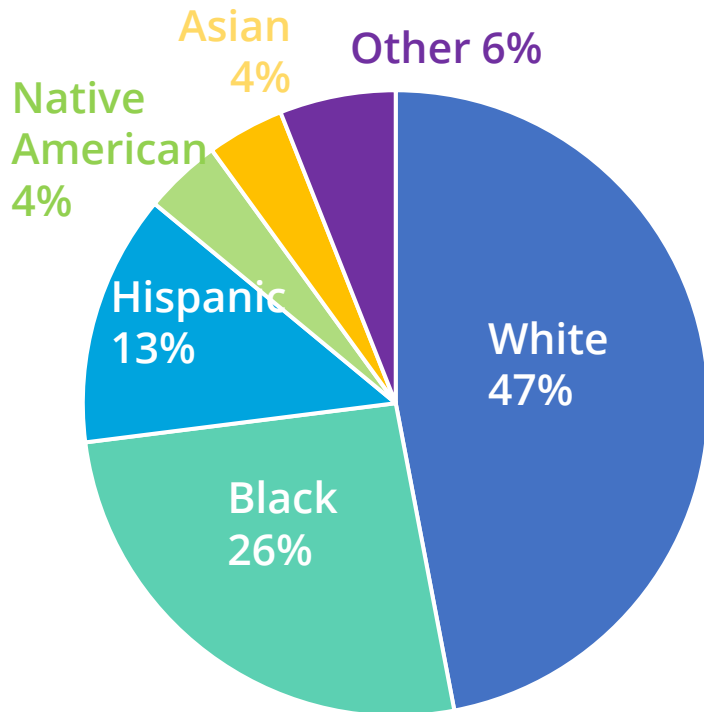
Services Provided

■ Family ■ Housing ■ Consumer ■ Gov Benefits ■ Immigration ■ Other ■ Criminal Expungement

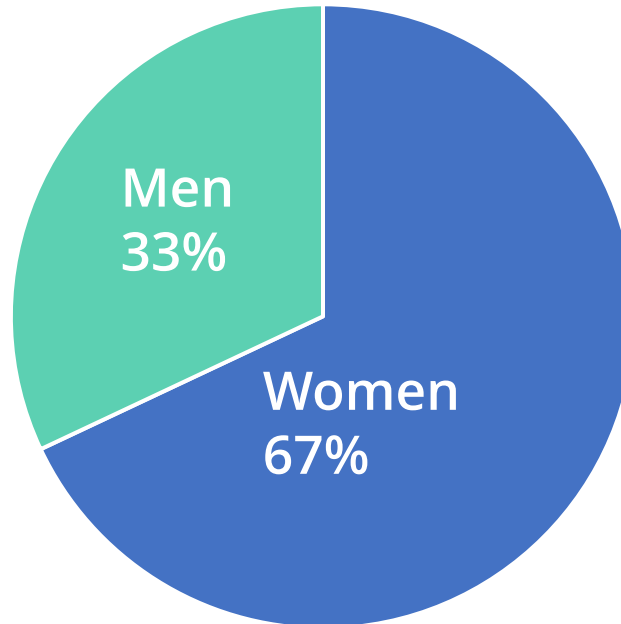


Demographics of Clients Served

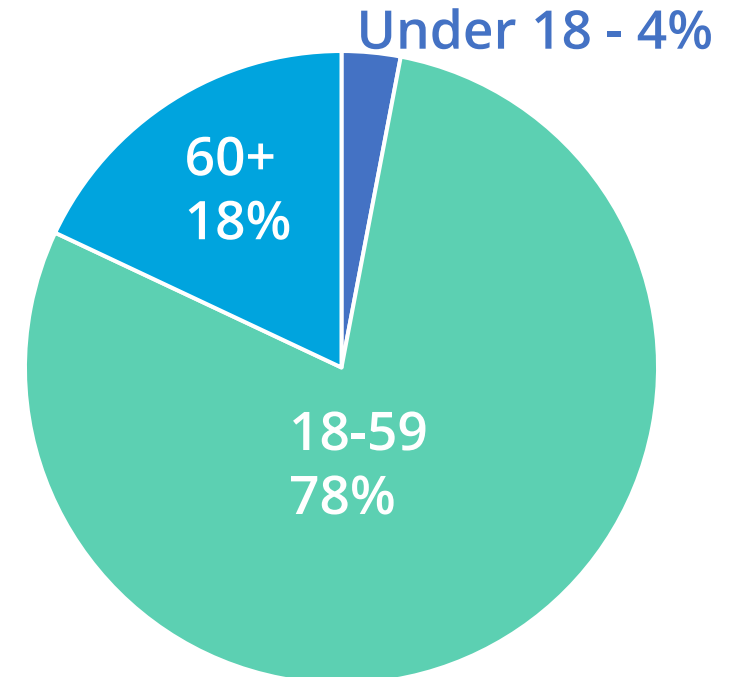
Race



Gender



Age



Screening Clients for Service

Criteria Include:

- **Income** - Have income & asset below set limits
- **Priorities** - Usually limited to cases that protect someone's safety, stability, health, and shelter
- **Merit** – Cases are screened to see if could be a legal solution to the problem
- **Geography** – Live or have a case venued in that organization's geographic service area
- **Capacity** - The organization must not already be at caseload capacity

Different civil legal aid programs have different standards depending on requirements and restrictions from funders, policies set by their board, etc.

Bonita's Story



Civil Legal Services Turn away rate - 2022

(Data is based on samplings from three MN Civil Legal Service programs.)



Minnesotans who apply and are eligible for legal assistance from a CLS organization.



45% receive services



28.6% are fully served
Sample data indicates 71.4% of advice-only cases needed further services.

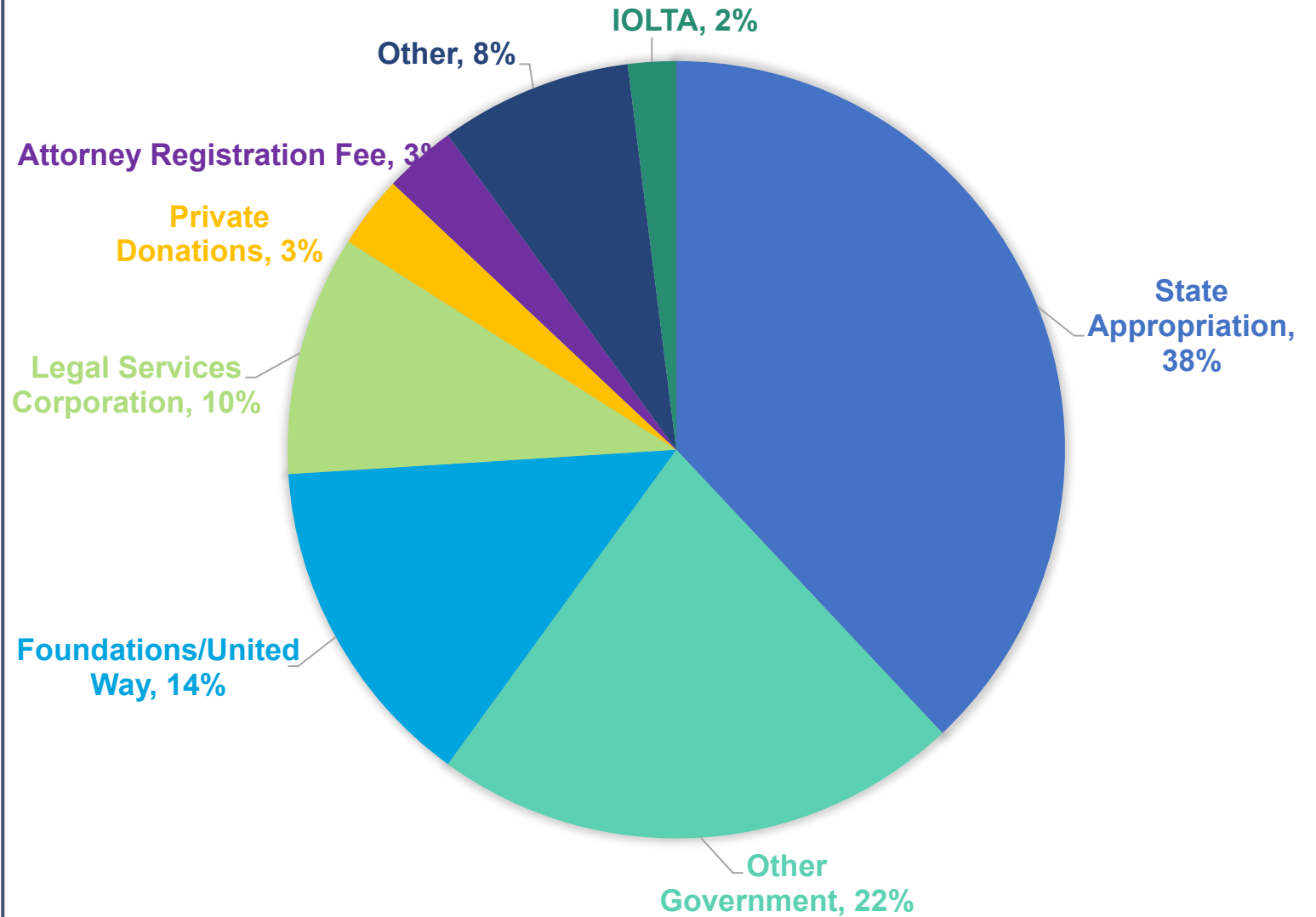


Legal Aid Funding



Civil Legal Aid Revenue Fiscal Year 2023

- Multiple revenue streams
- Some highly unpredictable



Minnesota Legislative Appropriation

- 38% of legal aid funding
- Appropriated to the **judicial branch**, which distributes funds to organizations as prescribed by law
- Funding levels are better than many states, but still working to increase funding so more civil legal needs can be met

**Individual
Donations
from
Lawyers are
Important
and All
Donations
are
Appreciated!**

\$25

- Phone advice for one client

\$100

- Writing a letter for a client to give their landlord

\$250

- Staffing a brief advice clinic

*We're counting
on you!*



**CHECK THE BOX
FOR LEGAL SERVICES**

**Uniform Pro Bono
Reporting**

**MN Lawyer
Registration Rule 25**

Key Takeaways

- Civil legal aid funding from legislature has increased to make salaries more competitive.
- Still turning away majority of eligible clients.
- Importance of increasing other revenue to reduce turndown rate and increase diversity of funding for healthy nonprofits.



Public Service Loan Forgiveness

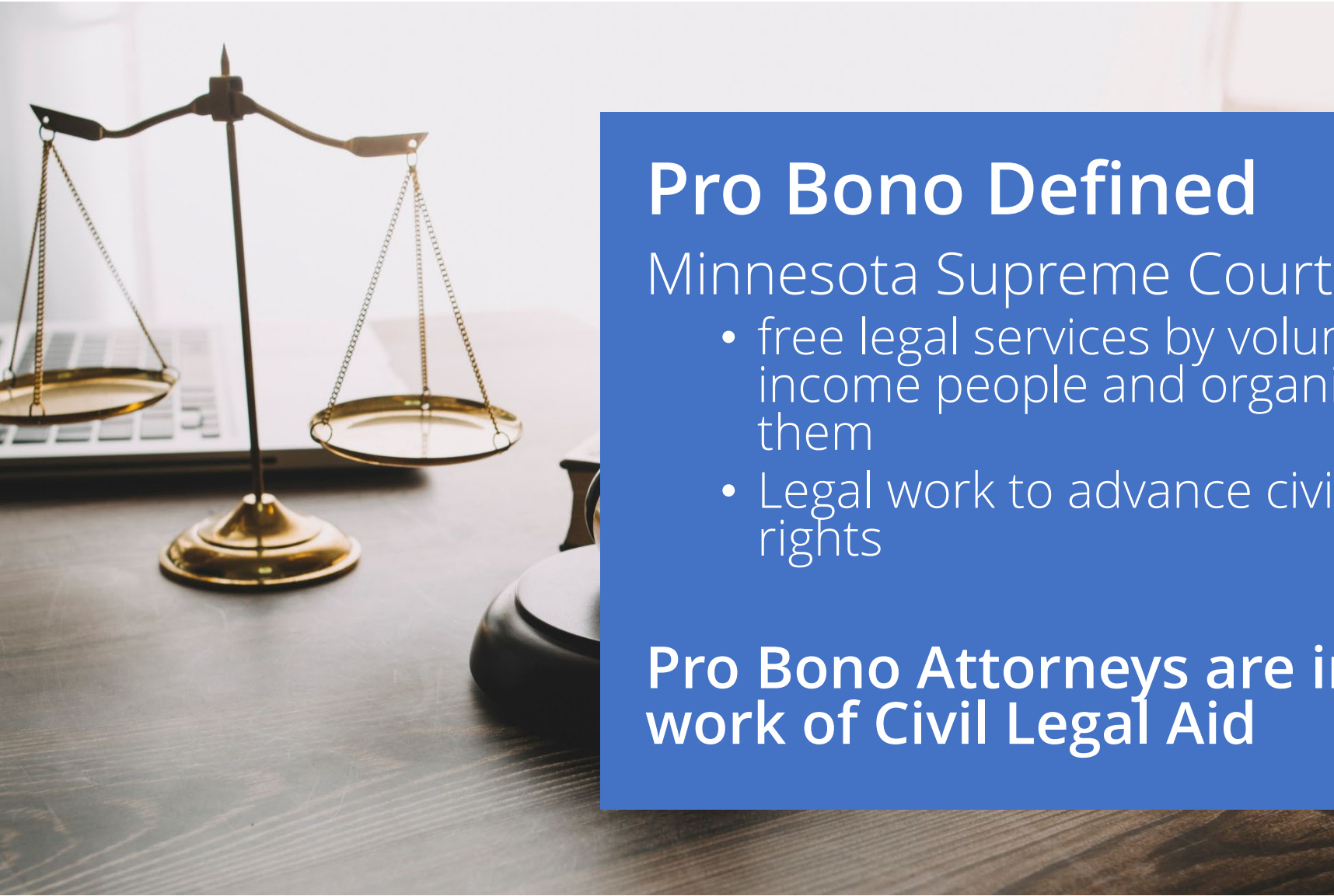
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Q&A



Pro Bono





Pro Bono Defined

Minnesota Supreme Court Rule 6.1

- free legal services by volunteer attorneys to low-income people and organizations that serve them
- Legal work to advance civil and other human rights

Pro Bono Attorneys are integral to the work of Civil Legal Aid

Why is Pro Bono Necessary?

When society confers the privilege to practice law on an individual, he or she accepts the responsibility to promote justice and to make justice equally accessible to all people.

- American Bar Association Standing Committee on Pro Bono and Public Service

Pro Bono Paths: there are many ways to do pro bono

Brief Services

- Phone advice, Minnesota Legal Advice Online, remote or in-person legal clinics

Full Representation

- Working on a case from start to finish, with support from the referring program

Policy Work

- Policy work and impact litigation through nonprofit partners
- Court appointments
- Bar programs

Pro Bono Considerations?

- Fast or slow?
- What are you passionate about?
- What area of your practice are you trying to fill?
- Where are the biggest needs?
- How much time do you want to commit?
- Employer or practice boundaries
- How much support do you want?



Example Volunteer Opportunities at VLN

But there are lots of other organizations to consider!!

Family: Housing court advice clinic, phone advice

Real Estate: Monthly phone advice shift

Landlord/Tenant: Eviction Expungement, Housing Court Clinics (limited/full rep), phone advice clinic

General Civil Law: Housing court advice clinic, conciliation court phone advice, letters to creditors

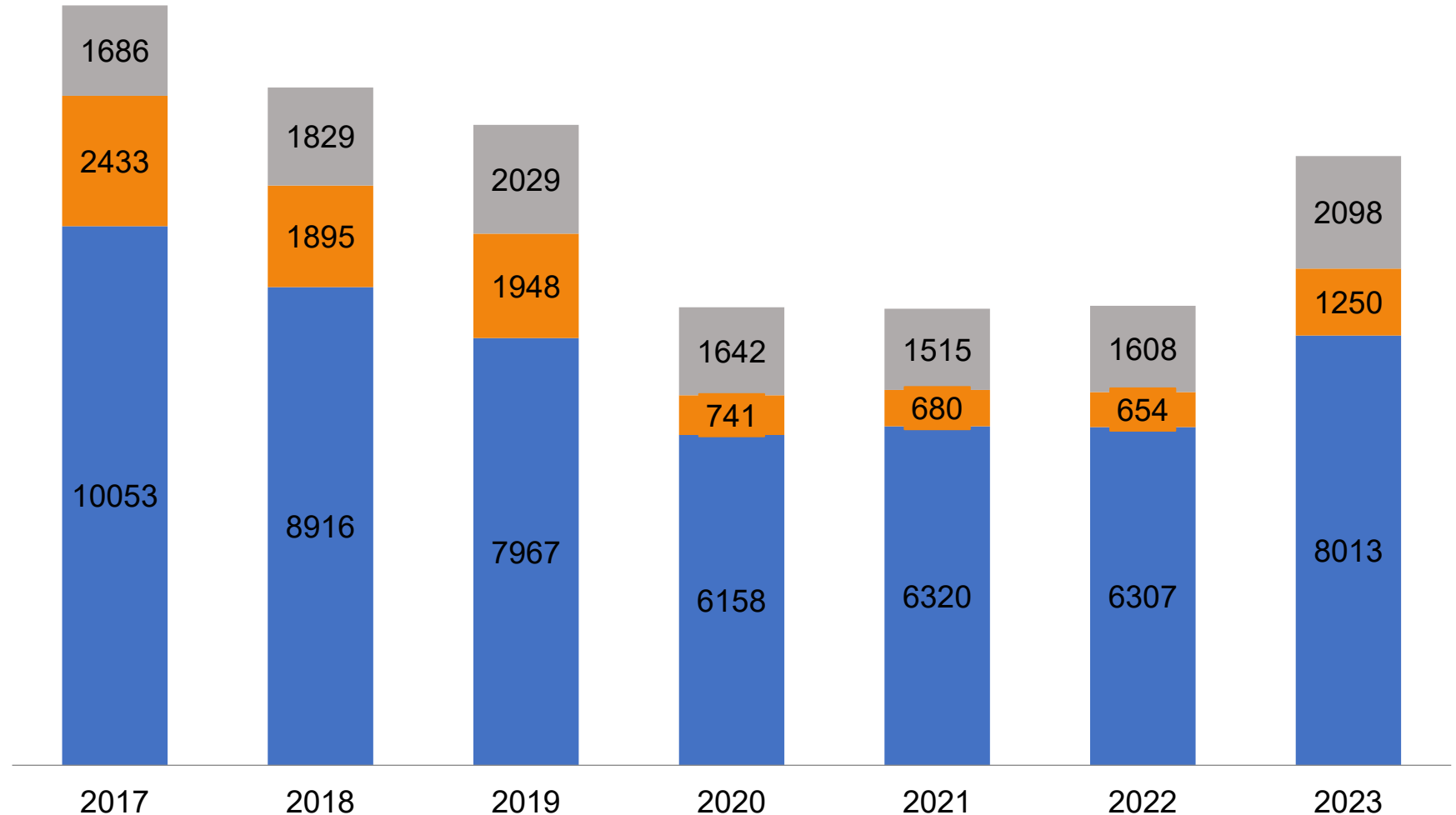
Immigration: Phone advice, full representation, in person legal clinics (in community), SIJS

Criminal Record Expungement: Full representation, advice clinics, phone advice

Pro bono trends

Number of MN Pro Bono Cases Closed by LSAC Grantees

- Advice Only
- Brief Service
- Extended Rep





The Office of
Minnesota Attorney General Keith Ellison

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PRO BONO FOR GOVERNMENT ATTORNEYS

Obstacles

What are the Top 4 Obstacles Preventing Government Attorneys From Engaging in Pro Bono Work?

1. Conflicts of Interest
2. Malpractice Insurance
3. Office Resources
4. Office Hours

Malpractice Insurance

You should **always** ensure that your pro bono program provides malpractice insurance to cover your legal work.

Your government employer will (likely) not provide it.

Use of Office Resources

Every government office should have a pro bono policy delineating what resources can and cannot be used.

Remember that when you engage in pro bono work, you are not acting as a governmental employee, but instead, you are acting in your **individual capacity** using your own resources or the resources provided by the pro bono program you are working with.

Office Hours

Again, check with your office's pro bono policy in determining when you can engage in pro bono work.

You may be able to do pro bono during traditional office hours, but you may need to flex your time or use annual leave.

Again, your pro bono work is done in your individual capacity, not your official capacity.

Solutions

Limited Legal Services Programs

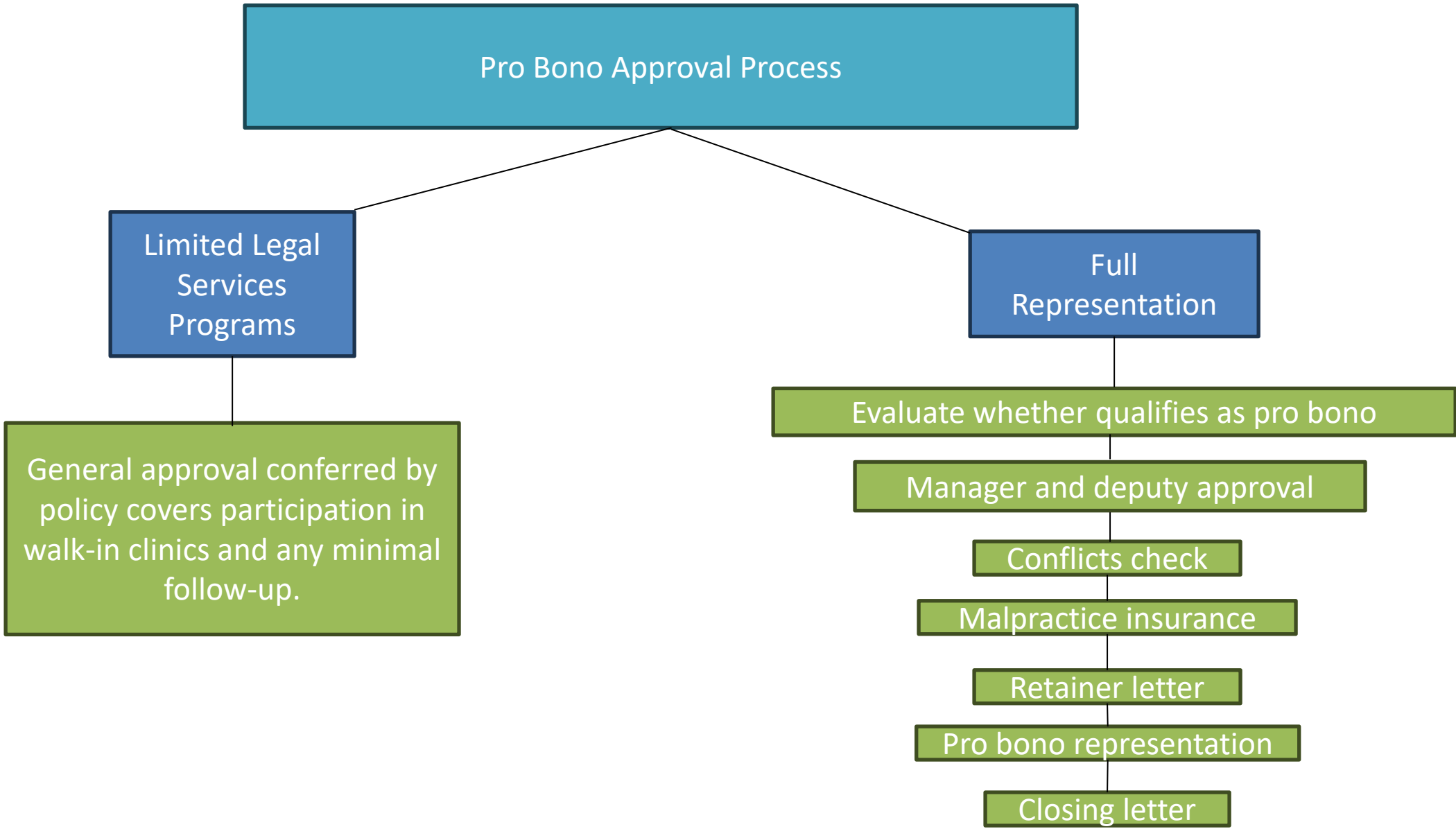
Minn. R. Prof. Conduct 6.5

- a) A lawyer who, under the auspices of a program offering pro bono legal services, provides short-term limited legal services to a client **without expectation** by either the lawyer or the client that the lawyer will provide continuing representation in the matter:
 - 1) is subject to Rules 1.7 and 1.9(a) **only if the lawyer knows** that the representation of the client involves a conflict of interest; and
 - 2) is subject to Rule 1.10 **only if the lawyer knows** that another lawyer associated with the lawyer in a law firm is disqualified by Rule 1.7 or 1.9(a) with respect to the matter.
- b) Except as provided in paragraph (a)(2), Rule 1.10 is inapplicable to a representation governed by the rule.

Pro Bono Limited Legal Services Programs

Examples of representation under Rule 6.5

- (short-term representation, under auspices of another program)
- Limited Legal Services Programs
 - Housing Court clinics
 - Expungement clinics
 - Minnesota Legal Advice Online
- Not Covered by 6.5, generally: Immigration and child protection
 - WHY?
 - *Generally*, requires long-term representation, opening the door for conflicts of interest



Pro Bono Q&A

- Q & A with AAG Lexie Robinson.
 - How do you incorporate pro bono work into your practice?
 - Any tips on overcoming the obstacles government attorneys face when engaging in pro bono work?
 - Pro bono and elimination of bias – how does your pro bono work enhance your practice?

Debt Collection Lawsuits in Minnesota:

Findings and Recommendations from the Access to
Justice Committee



Background

In October 2022, the Minnesota Judiciary, the MSBA and State Support Services, with support from The Pew Charitable Trusts and January Advisors, began analyzing the largest data sample of business to consumer debt cases ever compiled in the state.

- **663,745 consumer debt cases** from District and Conciliation Court over years 2011-2021
- Where it wasn't possible to use bulk data, a **random sample of 1,000 cases** between 2018-2021 was analyzed by hand
- Total cases represented over **\$2 billion dollars of debt**

The data were used to inform discussions of a committee convened by the MSBA Access to Justice Committee which met five times over April - July, 2023



Access to Justice Subcommittee Workgroup

Dori Rapaport, Chair

Executive Director, Justice North

Bridget Gernander,

Legal Services Grant Manager & Minnesota IOLTA Program Director, Minnesota Judicial Branch

Gregory Hanson,

Associate Attorney, D.S. Erickson & Associates, PLLC

Bennett Hartz,

Assistant Attorney General, Minnesota Attorney General's Office

Parker Maertz,

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Lori Mittag,

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Charles Nguyen,

Hennepin County Senior Self-Help Center Specialist, Minnesota Judicial Branch

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Daniel Wassim,

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Jessica Whitney,

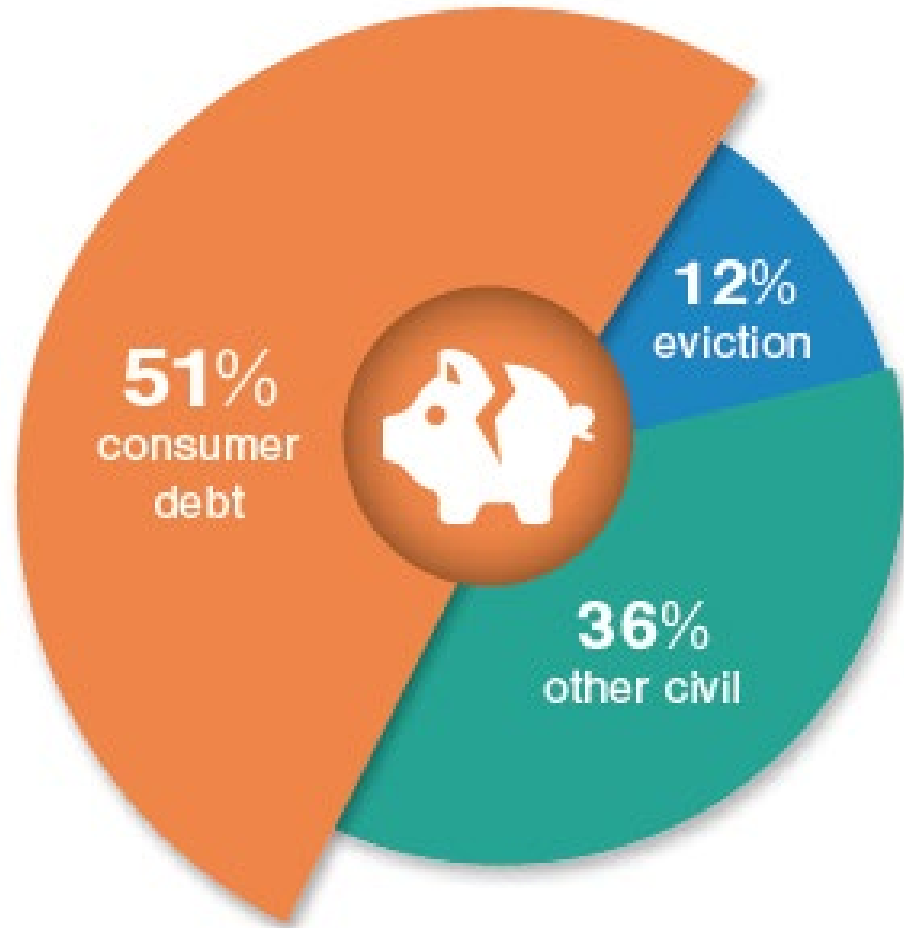
Deputy Attorney General, Minnesota Attorney General's Office

Lindsay Ziezulewicz,

Hennepin County Senior Self-Help Center Specialist, Minnesota Judicial Branch

Finding

Courts hear nearly four times as many debt cases as evictions



Medical debt is included

Finding

Minnesota has fewer debt filings, but a higher litigation rate, than other states

	MINNESOTA	MICHIGAN	WISCONSIN	INDIANA	UTAH	TEXAS
Debt Cases Filed (2019)	71,787	208,051	81,879	104,757	59,519	398,764
Debt Cases Per 100 Adults	1.68	2.64	1.8	2.03	2.6	1.86
% Residents with Any Debt in Collections	13%	26%	20%	28%	19%	37%
Litigation rate: <i>Debt Cases per 100 Adults with Any Debt in Collections</i>	12.9	10.2	9.0	7.2	13.7	5

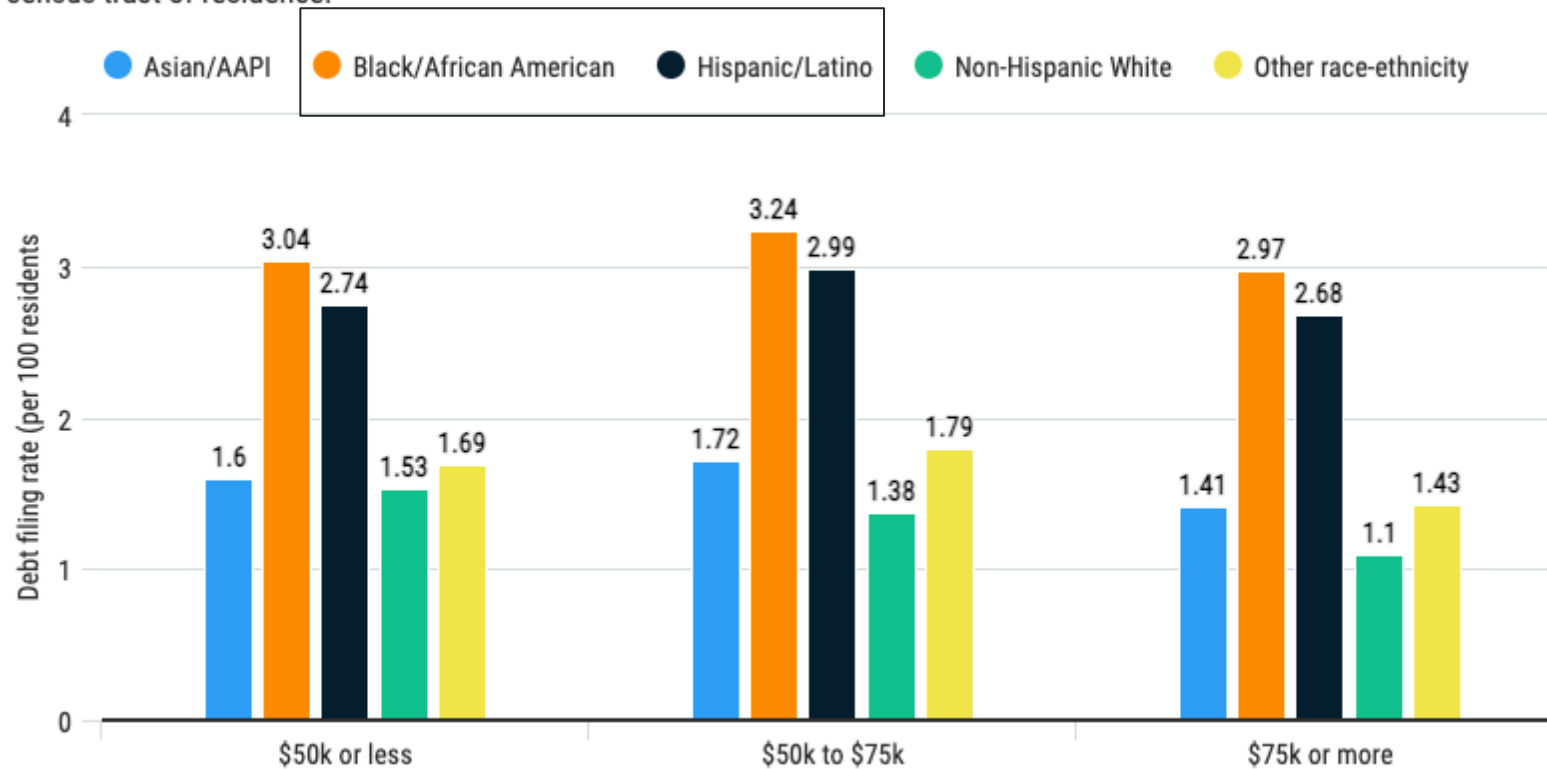
* Cases filed in 2019

**Debt Cases per 100 Adults with Any Debt in Collections

Finding

BIPOC Minnesotans at all income levels are more likely than White residents to have debt suits filed against them

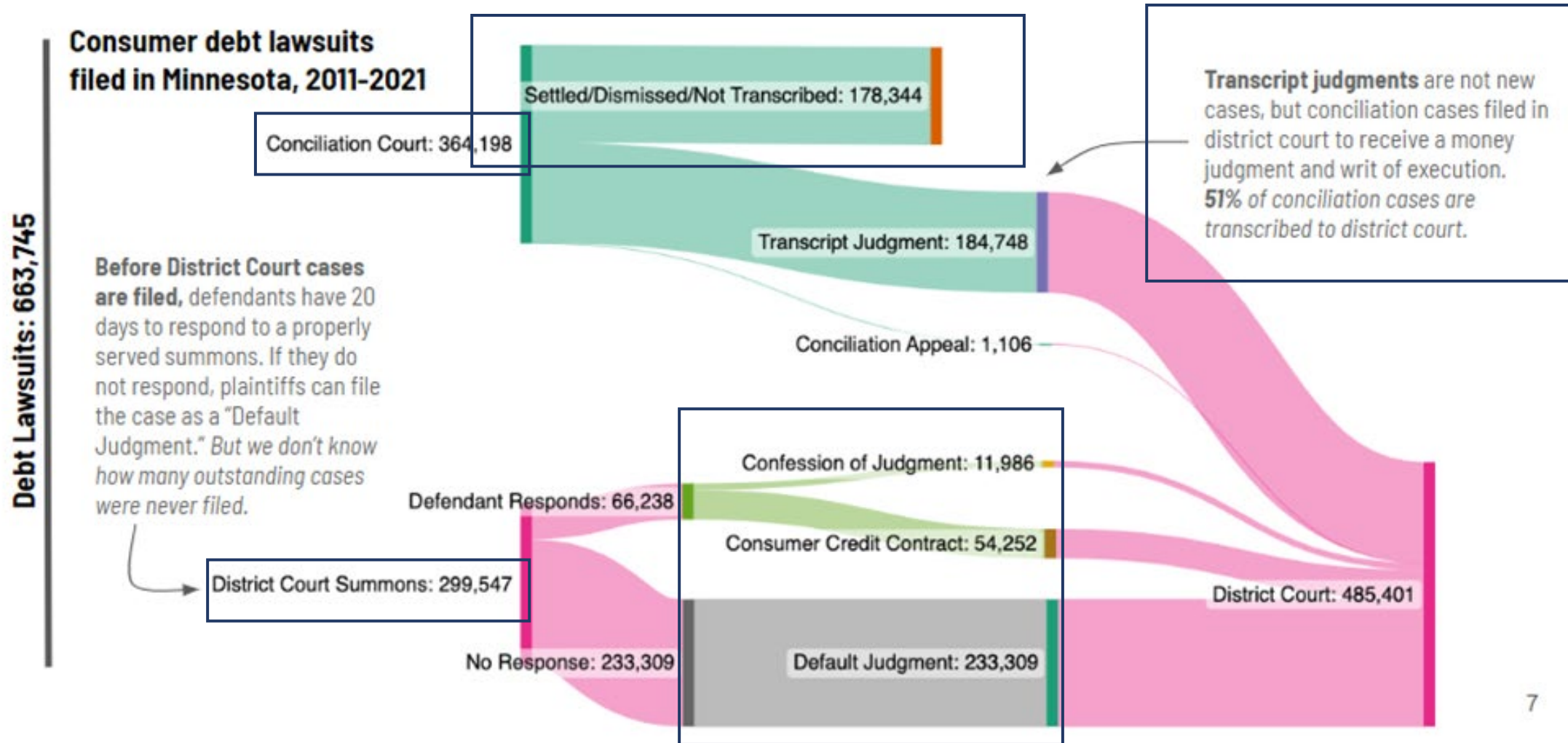
Number of debt lawsuits filed per 100 adults by race-ethnicity of defendant and neighborhood median household income, 2017-2019. Defendant's race-ethnicity estimated using first defendant's surname and race-ethnicity of census tract of residence.



Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019. American Community Survey.

Finding

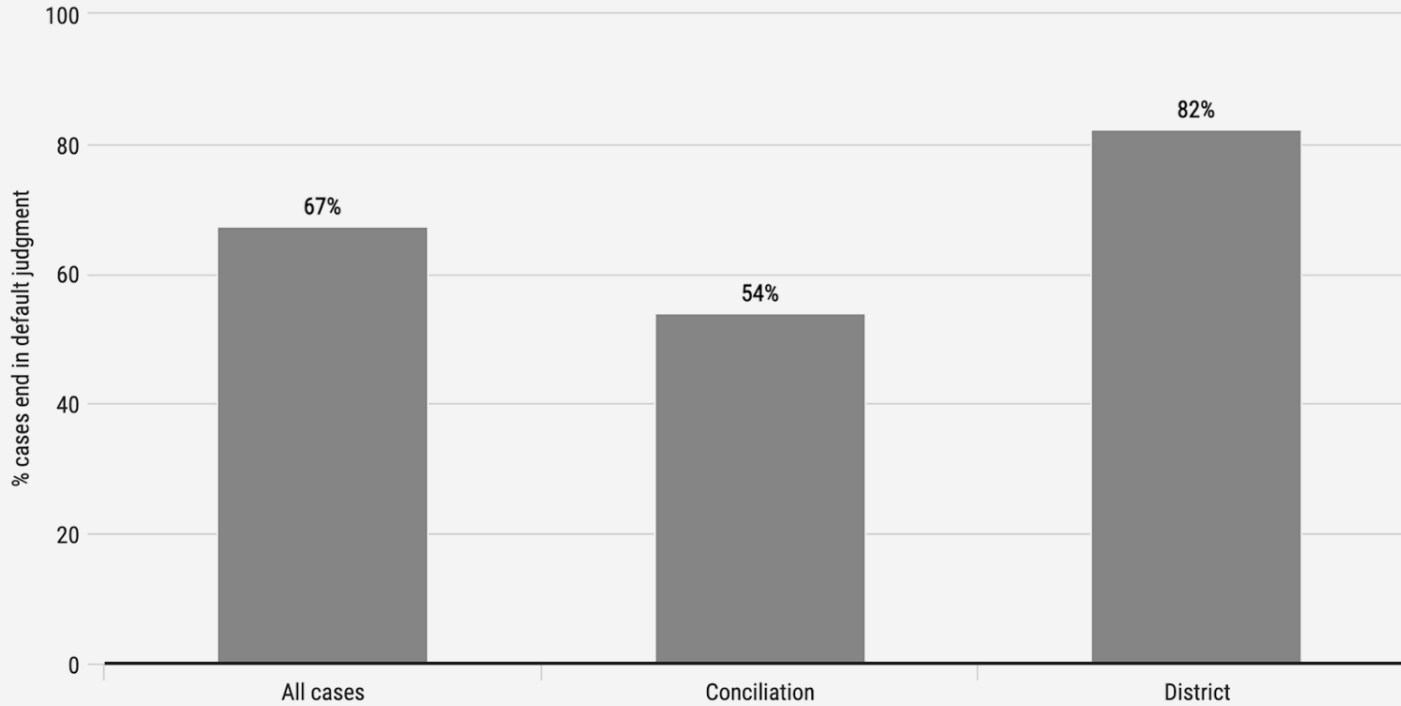
How the high-volume of debt cases move through the Minnesota Courts



Finding

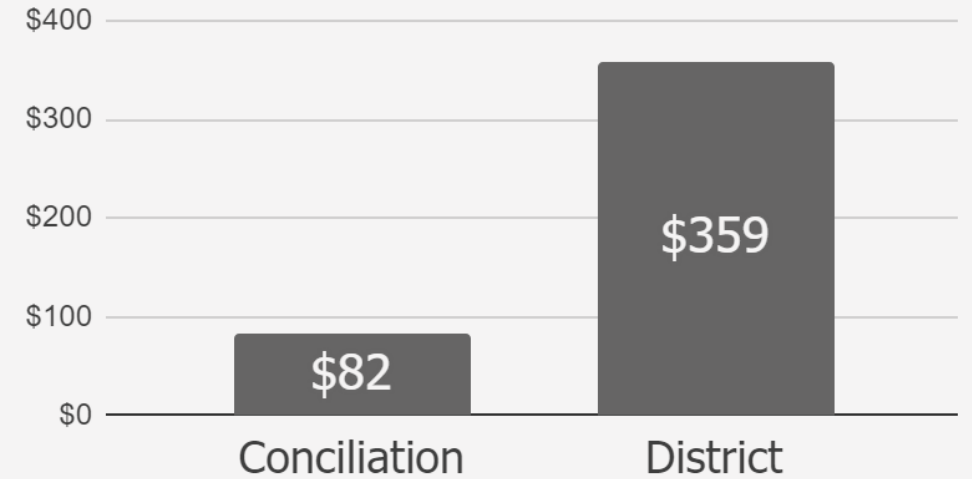
Outcomes are different between District and Conciliation Courts

Default judgment rate of debt collection case filings in Minnesota conciliation & district courts, 2018-2021. Does not include transcript judgments.



Source: Hand sample (N=1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021.

Median additional costs by venue



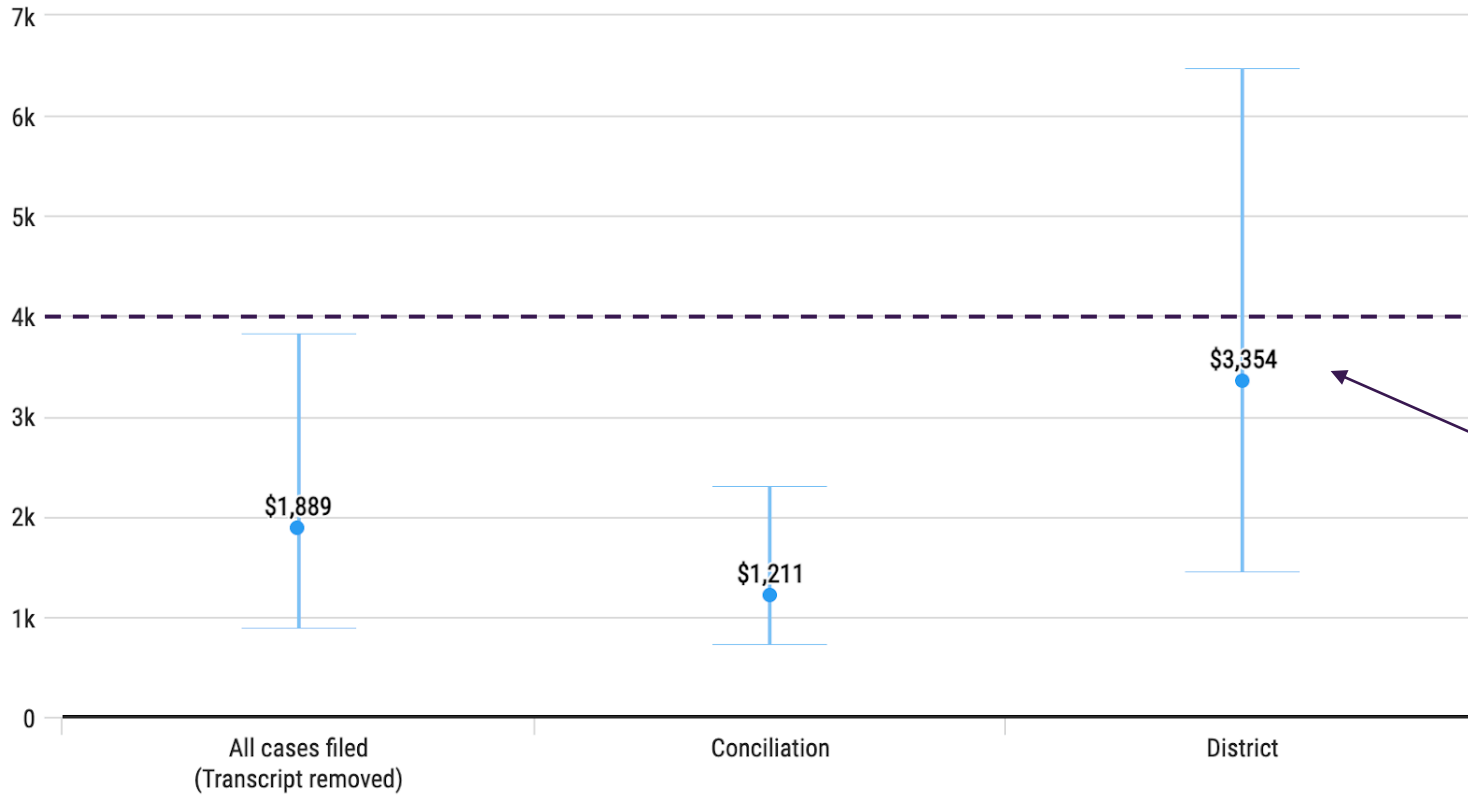
District court defendants are more likely to default

District court is more costly

Finding

Most debt cases involve amounts in controversy of \$4,000 or less

Median amount in controversy for district court cases by court type, 2018-2021. Excludes Transcript Judgments.



Median Amount in Controversy for:

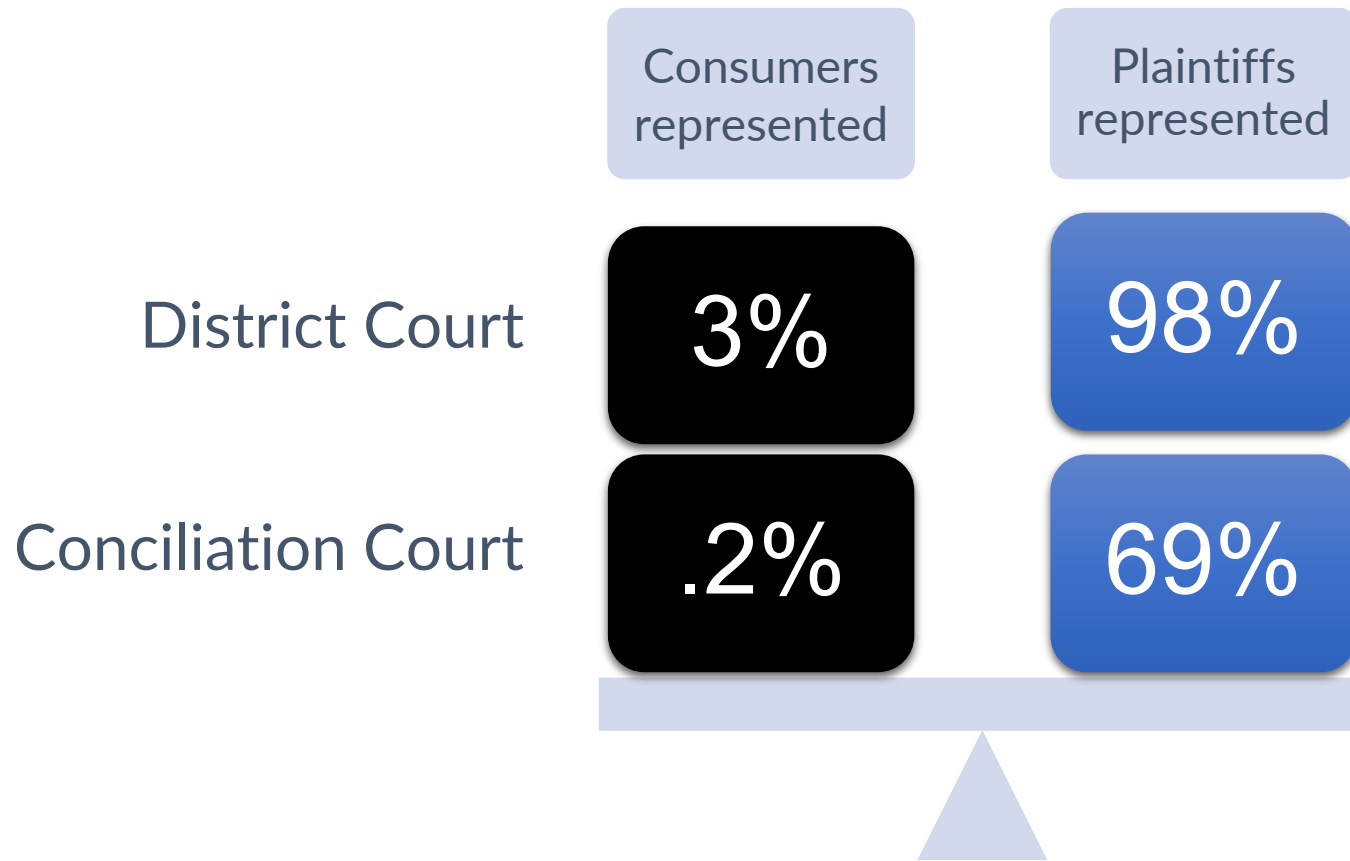
- All cases = **\$1,889**
- Conciliation Court = **\$1,211**
- District Court = **\$3,354**

More than half of cases filed in district court could have been filed in conciliation court

Hand sample analysis of Minnesota consumer debt cases, 2018-2021.

Finding

Defendants rarely have representation and plaintiffs almost always do



In 2020 & 2021, 66% of the debt lawsuits in Minnesota were filed by just 10 firms

Recommendations

Develop specialized procedural rules for debt cases to better manage consumer debt cases.

1.1 Require that all business-to-consumer debt cases with an amount in controversy less than \$4,000 be filed in conciliation court.

1.2 Improve how debt documentation requirements are implemented

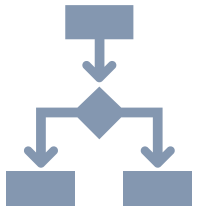
1.2.a Expand debt documentation requirements to all plaintiffs

1.2.b Require documentation of debt to be provided to defendants at the time of service

1.2.c Court adopts standardized practice to review documentation of debt

1.3 Mandate and enforce the use of a standard summons for debt collection lawsuits

1.4 Use “consumer credit” for all consumer credit cases, including those filed by plaintiffs seeking default judgment as a potential outcome



Finding

Most debt-buyer plaintiffs (57% of all consumer cases) submitted at least some of the required documentation materials, but many who didn't still received default judgments in their favor



■ **12%** documents are sealed

■ **79%** has both documents

Compliance status with documentation requirements for debt buyer cases filed in district court, 2018-2021.

Source: Hand sample (N=1,001 cases) analysis of Minnesota consumer debt cases, 2018-2021.

Finding

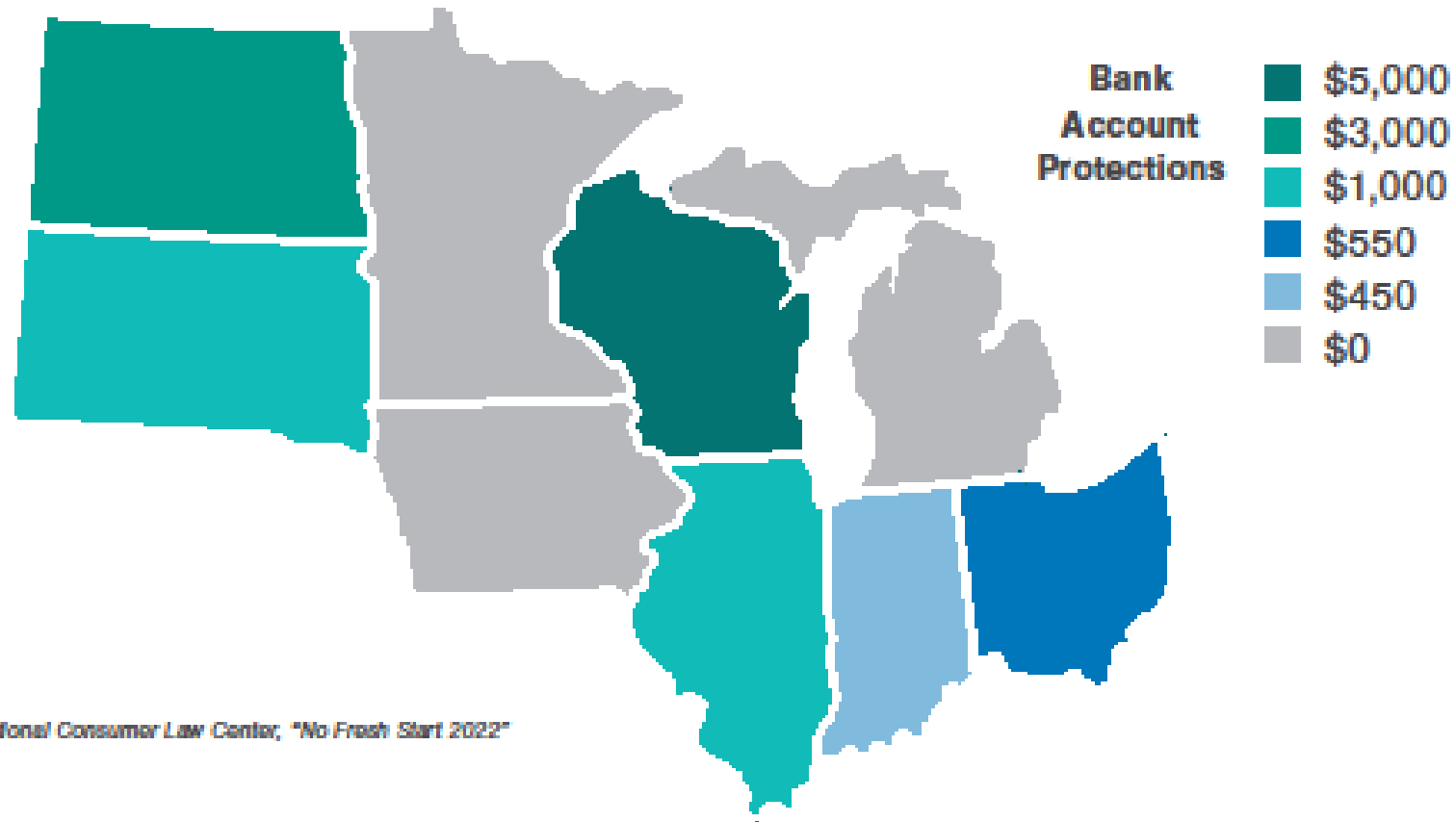
Minnesota courts have very little oversight of the garnishment process



Finding

Minnesota is 1 of 3 Midwest states with no bank account protections for consumers

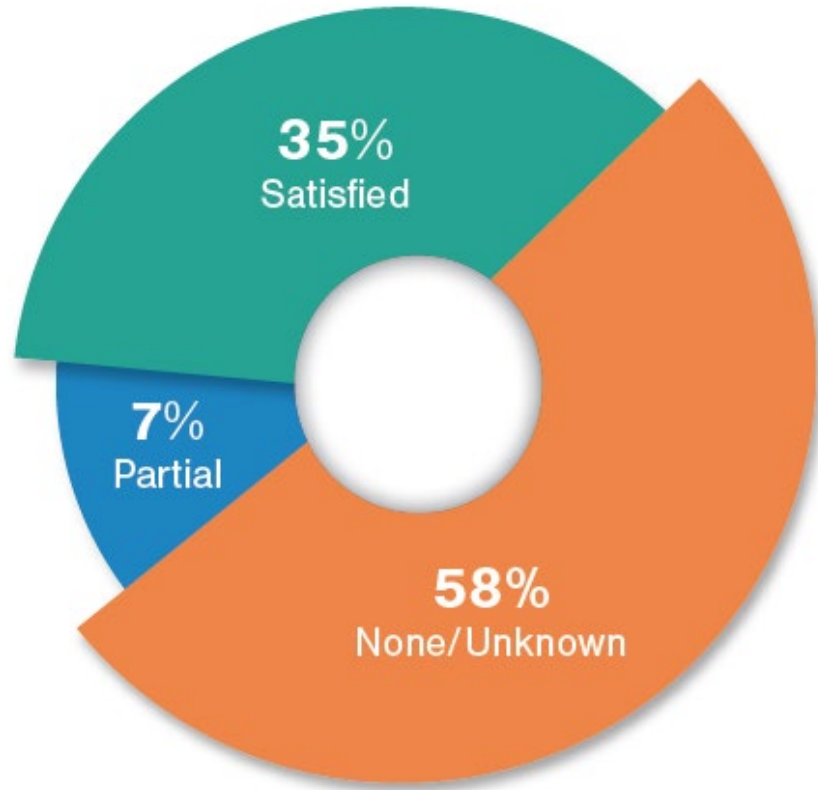
Figure 18: Minnesota 1 of 3 Midwest states with no bank account protections for consumers
Other states protect some amount in consumer bank accounts.



Source: National Consumer Law Center, "No Fresh Start 2022"

Finding

Consequences of debt judgments can follow consumers for years

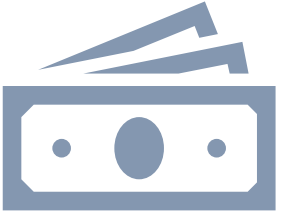


Only 35% of debt judgments between 2017 and 2019 were recorded as satisfied
58% of judgments during that period were either unsatisfied or not recorded.

Source: Minnesota Judicial Civil Case Extract, 2017-2019

Recommendations

Preserve economic stability for debt-burdened Minnesotans so they can afford basic needs while repaying their debts.

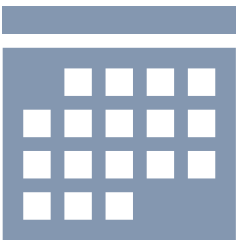


3.1 Exempt an amount of money in a consumer's bank account sufficient to meet basic needs

3.2 Electronically tag state benefit funds in a bank account to prevent exempt funds from being garnished

3.3 Revise Notice of Entry of Judgment to include plain language information about garnishment exemptions

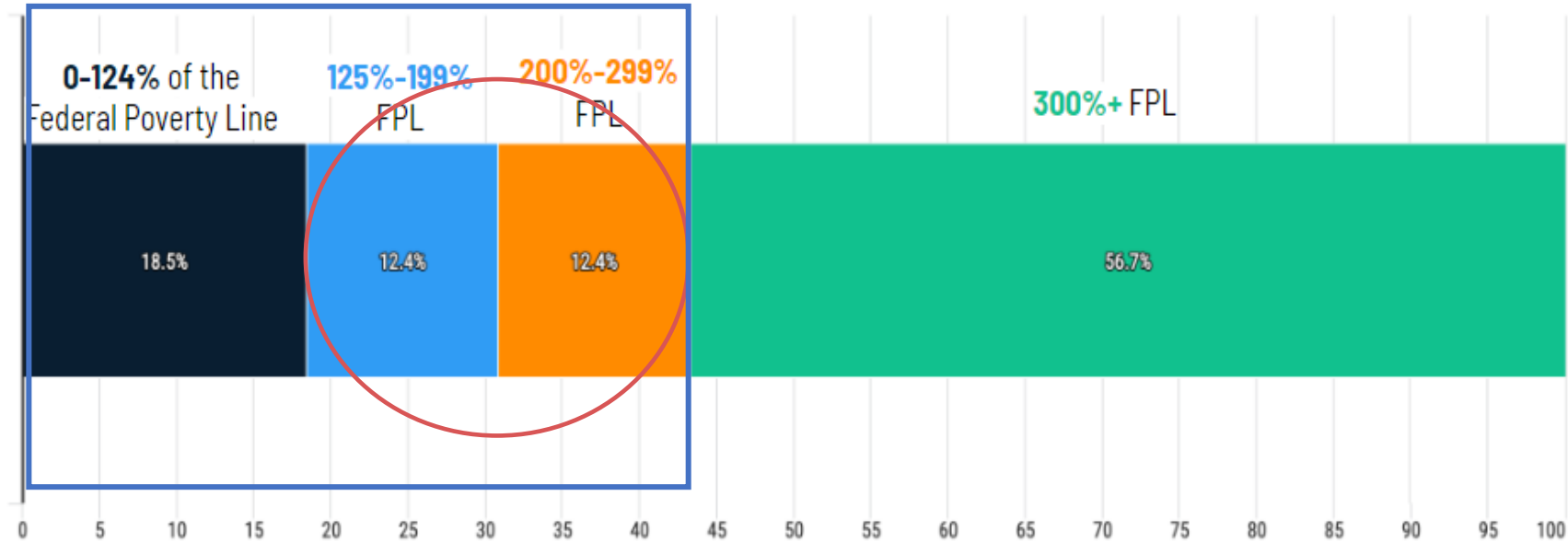
3.4 Increase the duration of the writ of execution from 6 months to 1 year



Finding

Half of all lawsuits are filed against Minnesotans who earn less than 300% of the federal poverty level (\$75,000 for a family of three)

Estimate share of debt collection lawsuits filed against adults living above and below the federal poverty line, 2017-2019.

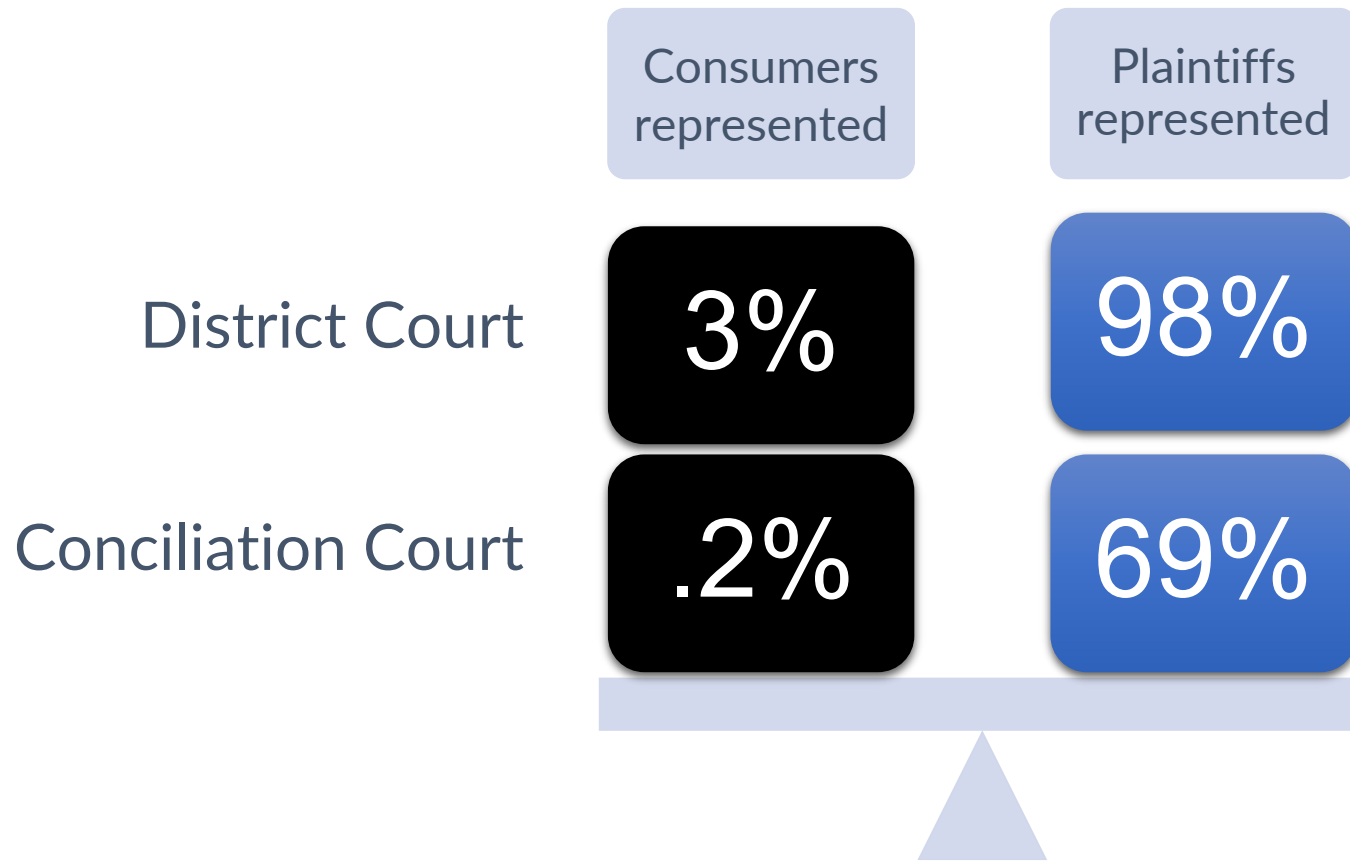


Source: Minnesota Judicial Branch Civil Case Extract, 2017-2019. American Community Survey.

The majority of people in that income band do not qualify for legal aid and would likely struggle to afford an attorney

Finding

Defendants rarely have representation and plaintiffs almost always do



In 2020 & 2021, 66% of the debt lawsuits in Minnesota were filed by just 10 firms

Recommendations

Create and improve resources that empower self-represented litigants to participate in their cases.

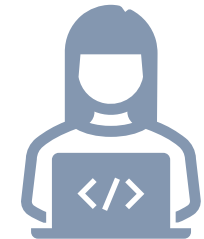
2.1 Improve the standard court answer form to include plain language descriptions of the common defenses to a debt lawsuit.



2.2 Expand resources and materials provided by self-help centers and legal aid.



2.3 Expand online resources that help litigants understand the impact of judgments.



Recommendations

Expand services for lower- and moderate-income people who are struggling with debt.

4.1 Expand lower-income services through civil legal aid programs by aligning priorities and adding resources for coordinated statewide provision of advice and brief services up to at least 200% of poverty guidelines.

4.2 Expand moderate-income services by increasing bar associations' unbundled services for people above legal aid income guidelines and expanding the Legal Paraprofessionals Pilot Program to include civil debt cases

4.3 Expand access to pre-judgment services for debt litigants to encourage early resolution of claims.



Questions?

**... and
thank you!**

Key Takeaways/Action Items

What can you do now?

Commit (or continue your commitment) to pro bono work.

Help foster the culture of pro bono and access to justice in your section, committee, or board.

Support your preferred legal aid organization, or the MSBF, HCBF, RCBF, with your time, money, or influence.

Continue to support legal aid funding at the federal and state level.



Thank you!

