



Improving E-Filing Adoption Rates

Practices from Other State Courts and Recommendations for Wisconsin

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Background:

Wisconsin has implemented an Electronic Filing which works in conjunction with their implemented case management system. The E-Filing system is voluntary and is fee based. The E-Filing system is currently in use in 18 out of 72 counties of varying sizes. The fee is \$5.00 for the first filing by each party. There is an additional bank fee of \$2.50 for an electronic check or 2.65% of credit card handling costs. The E-Filing system does not include initial Service of Process. The system handles Civil, Small Claims, and Family law case types.

Court rules have been adopted to enable the use of Electronic Filing. However, the rules do not provide for filing outside of the normal court hours. There still remain requirements for Notarization. The rules make some provisions for self represented individuals. The Wisconsin E-Filing system has a low adoption rate thus far and they would like to improve upon its usage. They have made limited efforts so far to market the E-Filing system to the attorneys or others.

Request:

The Director of State Courts Office requested technical assistance on other state best practices and how to gain greater participation from the practicing attorneys and the public.

The National Center for State Courts (NCSC) was asked to make contact with other states and provide some feedback on established practices which will potentially enable greater use of E-Filing in Wisconsin. NCSC was also asked to make several recommendations toward developing strategies which will serve to further increase adoption of the E-Filing system.

Conclusion and Summary of Other States' Experiences with E-Filing

NCSC notes the following in regards to the Wisconsin E-Filing adoption effort:

- NCSC recommends review of the current E-Filing access policy to allow for 24 x 7 (24 hours, 7 days a week) filing of electronic documents with the court. Doing so will

provide a greater incentive for attorneys to use E-Filing, and will also increase access to the court.

- The Wisconsin State Fee of \$5.00 is not significant as related to the cost of an individual going to the courthouse to file or to make copies of documents for filing. An analysis should be prepared to review the annual cost of operating and supporting E-Filing to ensure the court's financial position. The credit card fee may be a barrier that should be reviewed periodically.
- The court should develop a marketing plan for E-Filing in Wisconsin. The plan will need to include all groups of attorneys who are active within the legal community. These plans also need to be blended and synergized with a training and support strategy for the attorneys, which will serve to increase their proficiency in adopting electronic filing. Marketing and outreach efforts also need to include the legal secretaries and paralegals who work in Wisconsin. Further, outreach efforts should include collection companies and other large filers with the Court.
- With the statewide deployment of E-Filing, there is an obvious requirement to train and support a new group of users for the E-Filing system. Strategies will need to be designed to provide ongoing training and support (help desk) not only for the attorneys, but also for the legal secretaries and paralegals. The support considerations should include the other large filers with the Court.
- Attorneys represent a large segment of the new users to the E-Filing system. The Wisconsin Courts should consider sending staff to attend the attorneys' annual Continuing Legal Education (CLE) conferences. Information should be included in the attorneys' and State Bar's listservs and periodic newsletters. Descriptions of how to obtain training and support need to be part of these ongoing events and communication opportunities.
- Judges represent a significant part of the E-Filing experience. Significant efforts should be made to enable the use of electronic documents by judges. Wisconsin should ensure that the judges are well trained and have the necessary support to make electronic workflow and use of electronic documents part of their everyday work experience. An examination of how judges currently use paper information in their daily work should be conducted as well. Court staff and administrators should identify and work with a selected group of judges to develop solutions for ongoing use of electronic documents, and to ensure adequate training and ongoing support.
- Wisconsin should also recognize the needs of various user groups as the E-Filing system is deployed. There should be regular sessions with these groups to provide training, to

share ideas on how to improve the usability of the product, to share enhancement recommendations for the E-Filing system, and to provide a forum for user feedback.

These user groups should include the following:

- Attorneys
 - Judges
 - Legal secretaries and paralegals
 - Large court filers (collection companies, corporate landlords)
 - State agencies, prosecutors, public defenders, etc.
 - Public access
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- Wisconsin is currently a voluntary usage state. The best recommendable practice from a nationwide standpoint is to make E-Filing mandatory after the pilot phase of the project. to obtain a better return on the state's investment in developing the E-Filing system.. Once the E-Filing system has passed a user acceptance test, most court rules provide for E-Filing to be mandatory. It should be noted that the court rules in mandatory usage states have been vetted by the public, judges and attorneys. Wisconsin should move in the direction of becoming a mandatory usage state sooner rather than later. The states with mandatory use of E-Filing have adopted strategies to reduce the use of paper and paper files in a timely manner.
 - Another best practice involves periodic or annual reviews of the perceived and actual barriers to E-Filing adoption. Courts work to identify barriers, conceive solutions and to develop strategies intended to improve the use of E-Filing overall. This iterative improvement requires constant effort on the part of the court to improve its delivery of the E-Filing services to its customers.
 - The Court should develop strategies for large filers so they are encouraged to become ongoing and active users of the E-Filing system. Companies such as collection agencies and corporate landlords would be the prime targets for these strategies.
 - Self-represented customers of the court must also be considered in regards to the deployment of E-Filing. States with successful implementations have expended a great degree of effort to provide nearly the same access and benefits for pro se individuals using E-Filing. These states have employed work groups to develop strategies which assist in the development of E-Filing for self-represented individuals.

These recommendations are provided with the intention of improving overall electronic access in a realistic and cost-efficient manner. The National Center for State Courts supports and encourages your efforts to provide greater access to the courts in Wisconsin.

Interviews by Larry Murphy, NCSC consultant, with CIOs of Utah, Missouri, Iowa

Utah Experience with E-Filing

Utah took a multi-vendor approach to the attorney's filing interface. Currently we have three vendors certified to provide e-filing services for all civil filings state wide. We rely heavily on the vendor's marketing practices. Utah's case record is now paperless (no paper case files) statewide. The Judicial Council has mandated e-filing for all attorneys effective April 1, 2013.

1) Marketing strategies for judges and bar?

We make sure we have a presence at all state wide bar association meetings, and the systems analyst for the bar is a member of our planning groups. The bar has offered us space in their monthly newsletter. We also meet regularly with the family, defense, and other bars to make sure we are responsive to their needs. State and local bar associations have offered CLE credits for e-filing presentations. At the local level, each district meets with their local association usually monthly.

As for judges, we have a working group of judges that direct us in the development of applications that are designed to support their view of the case record rather than rely on the clerk's view of the record.

2) Why has your state decided to make E-Filing mandatory and what were repercussions or consequences?

Several independent initiatives came together to create an environment that was favorable to an e-filing mandate. These included: 1) the creation of the electronic case record, 2) the reorganization of the clerical support structure resulting in cross trained clerical teams designed to support judges, 3) reformation of the discovery process based on the amount in controversy, and 4) renewed emphasis and application of case management principals to ensure timely resolution.

Our electronic conversion team evaluated the impact on the structure of support services and estimated an annual savings of 13-18% of clerical operations, mostly at the front counter. Positions for the front counter were frozen as vacancies occurred and now require justification to fill the vacant slots. The savings are monitored and will be applied to upgrade the salaries of the clerks to better reflect their new duties and educational requirements under our personnel system. In 5 months, savings have produced enough on-going revenue to allow a 1% raise for all clerks. We anticipate additional savings through the remaining fiscal year.

3) Do you charge a fee? and can you provide information your fee structure.

Utah does not charge a fee. Electronic filings have the same costs as paper filings. Utah does not charge a convenience fee for credit card processing. Each vendor charges a fee for their service base on their value added. The AOC does not monitor vendor fees.

4) Do you have any useful ideas that increase participation or adoption?

In my opinion, e-filing serves as a strategy to promote communications between litigants, with the court sitting in the middle of those conversations - recording the events, ensuring due process, monitors case progression, and schedules events that require judicial intervention. Our system was designed to enhance this litigant communication by providing electronic access to all documents from all litigants who are a party to a case at no charge. The system supports notice but also provides courtesy notifications of events that occur on a case. The case management system schedules events and notifies the parties of future events based on case progression rules established by the discovery reforms. For self-represented litigants, the system informs them of the procedures they must follow for resolution and the time lines for actions to occur, e.g.; service, answer, schedule, etc.

5) What is your state's implementation strategy for deployment statewide?

Utah is a unified system. All courts use the same case/document management system. The e-filing system serves as a single gateway for all filings statewide.

6) What kind of training and support do you provide judges?

I mentioned the judge's work group. That group has designed a judge's view of the case management system designed specifically to meet the needs of judges. Their view includes applications for in-chambers and in-courtroom activities. We have published FAQs and video training for clerks and judges on our Intranet. Video training is included whenever new features are added to the system. Judicial support teams are trained to provide direct individual support for a judge. Training these support teams seems to provide the best support for a judge.

7) What kind of training and support do you provide attorneys?

Because Utah uses vendors, we don't train attorneys on the filing interface. We do provide training on procedures and requirements inherent in an electronic filing environment. We publish through the bar but also provide attorney FAQs and training videos. Documents can be viewed at www.utcourts.gov/efiling and a sample video can be viewed at: http://www.utcourts.gov/efiling/training/eFiling_Tips_for_Attorneys.htm

8) What efforts does your state provide for training and support for self-represented individuals?

Self-represented litigants are not required to file electronically, but can do so using the court's Online Court Assistance Program (OCAP). An interview process creates the necessary documents for a filing. They can be printed to file at the courthouse. They can be saved on-line then retrieved for e-filing at the courthouse. Or, they can be e-filed directly from OCAP. Litigants can use OCAP to view case status, be informed of the next step in the process, and they receive notification of events filed by other parties on their case. OCAP includes a case progression engine based on case type.

9) Does your state allow 24 x 7 filing and docketing of E-Filed documents?

Yes.

10) Did E-Filing change the workload of the Clerk of Court? Is so how?

Yes. An analysis of workload predicts a reduced demand for over-the-counter services and therefore reduced personnel dedicated to that function. Over-the-counter personnel are now trained to provide better support for self-represented litigants. Our weighted caseload system was modified to incorporate the impact of electronic filing on workload.

11) How is your E-Filing project funded?

Utah's e-filing system is supported by the General Fund.

Missouri Experience with E-Filing

1) Marketing strategies for judges and bar?

For the judges, we developed eBench to meet the needs of the electronic document. Since many of our courts are scanning documents, the judges can now see those documents on eBench. This is option available to all judges statewide if they choose to. Therefore when eFiling becomes available to that court, the judge may already be using eBench and many not have to make many changes for eFiling.

For the bar, it is a benefit for both a cost and time perspective. Although we do have some attorneys that do not like the change that eFiling has brought. We have a attorney focus group that we use to get input on features of the system and we have polled that members of the bar. We have gone to the bar meetings and conferences to educate them on the system and to help them register. Also, our help desk will take questions from the attorneys (in the month of November 2012, we answered 800+ questions from attorneys). We provide as much notice as possible for system outages and enhancements. We send many message about what is going on with the project.

2) Why has your state decided to make E-Filing mandatory and what were repercussions or consequences?

The eFiling system is mandatory for those courts that have implemented the system. The court determines what case type(s) and schedule of implementation - - It is a phased approach by case type.

3) Do you charge a fee?

There is no additional fee for eFiling

4) Do you have any useful ideas that increase participation or adoption?

Although the system is only implemented in 6 courts currently, we have over 10,000 attorneys registered. This is due to a few reasons, one, the first court we implemented was the Supreme Court and they required all attorneys that had a cases or a party on the case at the Supreme Court to be registered. All notices are done via the system. An other reason, we deployed electronic notification system statewide (all courts), not just the eFiling courts. This allows the attorneys to receive notices from the court via email, however the attorney have to be a registered eFiler to get the notice. This is an optional service that we added to help get the attorneys use to the system.

5) What is your state's implementation strategy for deployment statewide?

We plan to roll out 25 courts in 2013 and continue at that pace until we are statewide. We have 114 counties plus the City of St. Louis, so it will take us a few years to roll out statewide.

6) What kind of training and support do you provide judges?

There is specific training for the judges on eBench and case viewing. This is done via CBT's, video's and Instructor based training.

7) What kind of training and support do you provide attorneys?

We have provided several regional classes and allowed the attorneys to get CLE credit for attending the sessions. We have also provided videos, How to's on our website. We have also had articles in the attorney specific publications (e.g. Lawyers Weekly)

8) What efforts does your state provide for training and support for self-represented individuals?

At this time there is no pro-se filing in the system.

9) Does your state allow 24 x 7 filing and docketing of E-Filed documents?

The system is available for filings during non-traditional business hours. This system does come down for back-ups once a day, so it is close to 24 x 7

10) Did E-Filing change the workload of the Clerk of Court? Is so how?

Yes, there has been a shift in workflow to accommodate eFiling. The clerks are more data quality focused than data entry. There has been a shift in resources for areas of the court depending on the need. The workflow aspect is very court and case type specific and should be considered with the implementation of eFiling. (this could be a long discussion on this topic)

11) How is your E-Filing project funded?

Currently we are utilizing existing funds (re-allocated) to implement the project. Some courts are providing local funding for additional monitors, scanners, etc., but we do not have dedicated funding for eFiling at this time.

Iowa Experience with E-Filing

1) Marketing strategies for judges and bar?

Iowa's system is mandatory, by county as we implement in the county. We currently have 5 done and plan on 25-30 in the coming calendar year - 2013. Marketing began with attendance at state and local bar meetings about 7 years ago. We continue to attend the state bar meetings and when requested attend the local bar meetings in the counties.

A judge design team worked with us to develop the outline for the Judicial Interface which judges use both on the bench and in chambers. Judges provide direct feedback during training or on implementation for changes / enhancements which are vetted with other judges prior to actual implementation.

2) Why has your state decided to make E-Filing mandatory and what were repercussions or consequences?

The Supreme Court elected to make the system mandatory and take the system across the state versus having counties living in dual worlds. In consultation with the National Center, state bar groups, judicial officers, and clerks they decided on the mandatory system and have been very steadfast in their support ever since. There is some blowback from users (internal and external) at implementation particularly when they feel they had no input. Typically we are finding these users after implementation are satisfied with the system.

3) Do you charge a fee? and can you provide information your fee structure?

No additional fees are charged for e-Filing.

4) Do you have any useful ideas that increase participation or adoption?

I believe that the training model we are using (approximately a 4 week footprint in each county) for internal and external users increases participation as well as satisfaction. We train Law Enforcement, Prosecutors, private attorneys, agents (e.g. Landlord reps), some self-represented if they show up and of course all internal staff. This training model takes longer to completely implement, but leaves the users better prepared for the electronic system. We also provide a 24 x 7 helpdesk for external filer use and our own internal helpdesk for internal users. The external helpdesk refers those items dealing with some registration issues or possible legal issues back to our internal helpdesk and we work with the end users from there.

5) What is your state's implementation strategy for deployment statewide?

We are currently implementing by judicial sub-district. We have changed from implementation of a single county at a time to 2 - 3 smaller counties at once which moves things along much faster.

6) What kind of training and support do you provide judges?

We provide training on the Judicial Interface both during the training cycle in a county or counties as well as by subdistrict, district or individually when requested in some cases.

7) What kind of training and support do you provide attorneys?

We provide both training on the Rules for Electronic Filing and the application most typically during the training cycle in a county or counties. We also provide online videos (just getting more of these on line now) as well as online powerpoints and online documentation.

8) What efforts does your state provide for training and support for self-represented individuals?

Most of the time this is provided by clerk staff as the users come to the counter to file papers. Self represented filers can use the online documentation as well.

9) Does your state allow 24 x 7 filing and docketing of E-Filed documents?

Filers can now file 24x7 on their cases; however docketing is mostly done during normal weekday business hours. District 3 is providing judicial officer staff support on weekends and holidays who work the files required for initial appearances.

10) Did E-Filing change the workload of the Clerk of Court? Is so how?

Yes. At this point we estimate about 80-90% of the data entry for Civil cases is handled by the filer. Criminal cases still require quite a bit of data entry, but we are in the process of automating more of this as well. We have reports from several counties that they are now able to keep up with the filings and "complete a day's work in a day's time" usually within 3 - 4 months after implementation. How is accomplished not only by the data provided by the filers, but removing the necessity of creating and managing the paper file.

11) How is your E-Filing project funded?

Through tech funds not the general fund. One tech fund receives a set amount each year. The second fund amount is based on the Branch's total collections; when the limit is reached then the follow on dollars are put in the fund up to an amount set by the Legislature. The Legislature has also provided an additional funding amount for FY13 and FY14 in one time funds to assist the court in implementation of EDMS.