

Rhode Island General Assembly Proposed Legislation: The S.A.F.E. Act (Self-represented Access and Fairness Enforcement Act)

“An act to ensure ethical treatment and fair advocacy in civil and judicial proceedings involving self-represented litigants.”

SECTION 1. Legislative Findings and Purpose

The General Assembly finds that:

- An increasing number of Rhode Islanders appear in court without legal representation due to economic hardship or other barriers.
- Self-represented litigants (SRLs) often face procedural disadvantages and unethical tactics by opposing attorneys, undermining their constitutional rights to due process and equal protection.
- There is a lack of mechanisms in Rhode Island to monitor, report, or remedy attorney misconduct specifically impacting SRLs.
- This Act establishes protections, oversight, and remedies to promote fairness, integrity, and public confidence in the judicial process.

SECTION 2. Definitions

For the purposes of this chapter:

- "Self-represented litigant (SRL)" means an individual who appears in court without legal counsel in a civil or administrative proceeding.
- "Abusive litigation tactics" means conduct by an opposing party or attorney intended to harass, delay, burden, or intimidate an SRL, including but not limited to:
 - ❖ Filing excessive, frivolous, or duplicative motions
 - ❖ Misrepresenting facts to the court or SRL
 - ❖ Threatening unwarranted sanctions
 - ❖ Refusing to confer in good faith on procedural matters
 - ❖ Intentionally exploiting procedural rules to create confusion or hardship

SECTION 3. Establishment of the SRL Protection Ombudsman Panel

(a) An independent SRL Protection Ombudsman Panel (SPOP) is hereby established for the protection and oversight of cases where one party is Self-represented.

(b) The panel shall consist of the following:

- ❖ One retired judge
- ❖ One member of the Rhode Island Bar with at least 15 years of experience
- ❖ Two SRL advocates
- ❖ One academic with expertise in legal ethics or procedural law
- ❖ One public member with experience in administrative fairness or civil rights

(c) Members shall serve three-year terms.

SECTION 4. Duties and Powers of the Ombudsman Panel

(a) The Ombudsman Panel shall:

1)-Receive and investigate complaints from SRLs concerning attorney conduct or judicial irregularities.

2)-Issue public reports summarizing findings, trends, and recommendations.

3)-Refer substantiated cases of misconduct to the a special committee separate and apart from the Supreme Court Disciplinary Counsel.

4)-Impose administrative sanctions for abusive conduct, including:

- ❖ Written warnings
- ❖ Mandatory ethics training
- ❖ Civil fines not to exceed \$5,000 per violation
- ❖ Recommendations to courts for protective orders or procedural accommodations

(b) The Panel may also recommend judicial education or court-wide procedural reforms.

SECTION 5. Investigation Timeline

(a) All investigations initiated by the Ombudsman Panel must be completed within 30 calendar days from the date of complaint receipt.

(b) Extensions beyond this period are not permitted unless extraordinary circumstances are demonstrated and documented.

SECTION 6. Prohibition of Attorney Deceit

(a) Any attorney who, with intent to deceive, misleads the court or an SRL through false statements, fraudulent documents, or other deceptive practices, shall be subject to:

- ❖ Immediate referral to the special oversight committee.
- ❖ Civil penalties as determined by the Ombudsman Panel
- ❖ Potential criminal prosecution under applicable statutes

(b) The Ombudsman Panel shall have the authority to investigate allegations of attorney deceit and recommend appropriate actions.

SECTION 7. Reporting and Transparency

(a) All courts must provide SRLs with written information about the right to file complaints with the Ombudsman Panel, along with instructions on how to do so.

(b) Annual reports from the Ombudsman Panel shall be submitted to the General Assembly and published online, detailing:

- ❖ Number and types of complaints
- ❖ Actions taken
- ❖ Recommendations for legislative or judicial reform

SECTION 8. Protection Against Retaliation

(a) No attorney or court officer may retaliate against an SRL for submitting a complaint under this Act.

(b) Retaliation shall be grounds for disciplinary referral and may result in additional sanctions by the Ombudsman Panel.

SECTION 9. Severability

If any provision of this Act is deemed invalid by a court, the remaining provisions shall remain in full force and effect.

SECTION 10. Effective Date

This Act shall take effect immediately upon passage.

TITLE 9 – Courts and Civil Procedure

CHAPTER 9-30 – Litigation Fairness and Accountability

SECTION 9-30-XX. The S.A.F.E. Act – Self-Advocates Fairness and Equity Act

§ 9-30-XX.1. Purpose and Legislative Findings.

This act shall be known and may be cited as the "Self-Advocates Fairness and Equity Act" or "The S.A.F.E. Act." The purpose of this act is to provide protection for self-represented litigants (pro se parties) against abusive litigation tactics and unethical conduct by opposing counsel, particularly in cases where such tactics are intended to exhaust, intimidate, deliberately confuse, or coerce the self-represented party into abandoning their legal claims.

Legislative Findings:

1. Equal access to justice is a fundamental right under the Rhode Island Constitution.
2. Self-represented litigants, who constitute a growing percentage of court users, face systemic disadvantages, including judicial bias, procedural complexity, and unethical conduct by opposing counsel.
3. Judges have an ethical obligation to ensure self-represented litigants receive fair and equitable treatment, regardless of legal training.
4. There is currently no mechanism to report abuses by opposing counsel against self-represented parties.
5. With unchecked abuses, such as adversarial tactics designed to exploit self-represented litigants' non-lawyer status, public trust in the judiciary is undermined; there needs to be a resource and mechanism to protect against such abuses.
6. This Act seeks to promote accountability, transparency, and fairness in proceedings involving self-represented parties.

§ 9-30-XX.2. Definitions.

- (1) "Self-represented litigant" means an individual party to a legal proceeding who is not represented by legal counsel.
- (2) "Abusive litigation" means the use of legal process by a party or their attorney to harass, intimidate, overwhelm, or needlessly burden a self-represented litigant, including but not limited to: repetitive, meritless filings; excessive discovery demands; unnecessary continuances; or misuse of procedural rules.
- (3) "Unethical conduct" includes violations of the Rhode Island Rules of Professional Conduct, including but not limited to conduct involving dishonesty, fraud, misrepresentation, or actions taken solely to frustrate or disadvantage a self-represented party.

§ 9-30-XX.3. Judicial Accountability

Article 3.1: Mandatory Judicial Training

- (a) All judges shall complete annual training on:
 - (i) Recognizing and mitigating implicit bias against self-represented litigants;
 - (ii) Procedural accommodations to ensure self-represented litigants understand filings, deadlines, and court processes;

(iii) Case law and statutory obligations to afford self-represented litigants meaningful access to justice.

(b) Training compliance shall be reported publicly by the Rhode Island Supreme Court.

Article 3.2: Documentation of Judicial Decisions

(a) In any case involving a self-represented litigant, judges shall issue written rulings explaining the factual and legal basis for decisions adverse to the self-represented party. Such written rulings will be issued after a meaningful hearing.

(b) Failure to provide such documentation may constitute grounds for appeal or administrative review.

Article 3.3: Prohibition of Dismissal for Procedural Deficiencies

(a) Courts shall not dismiss a self-represented litigant's case solely for non-prejudicial procedural errors (e.g., formatting, filing deadlines) unless the litigant is given a reasonable opportunity to cure the defect.

§ 9-30-XX.4. Attorney Accountability

Article 4.1: Ethical Obligations

(a) Attorneys opposing self-represented litigants shall:

(i) Avoid tactics intended to harass, delay, or increase costs (e.g., excessive motions, obfuscatory language);

(ii) Make agreements and provide clear notice of procedural requirements to self-represented litigants when ordered by the court;

(iii) Refrain from exploiting legal knowledge gaps to secure unfair advantage.

(b) Violations may result in disciplinary action by the Rhode Island Bar, including fines, mandatory ethics training, or suspension.

Article 4.2: Expedited Sanctions for Bad-Faith Tactics

(a) Courts shall have authority to impose immediate sanctions on attorneys who engage in abusive litigation practices against self-represented litigants, including:

(i) Monetary penalties payable to the self-represented party;

(ii) Dismissal of frivolous claims or defenses.

Article 4.3: Attorney Deceit Statute

(a) An attorney or counselor-at-law who engages in deceit, collusion, misrepresentation, or other dishonest conduct with intent to deceive the court or a party to a legal proceeding shall be liable in a civil action for treble damages to any person injured by such conduct and may be charged with a misdemeanor.

(b) An action under this section may be brought independently of any disciplinary proceeding or professional misconduct review.

(c) The existence of regulatory oversight by the Supreme Court Disciplinary Counsel shall not preclude or bar a private right of action by an injured party under this statute.

(d) The remedies provided herein are cumulative and do not limit any other legal, equitable, or professional sanctions available under law.

§ 9-30-XX.5. Enforcement & Oversight

Article 5.1: Independent Fairness Review Panel

(a) Establish a Fairness Review Panel under the Rhode Island Supreme Court to:

(i) Investigate complaints from self-represented litigants alleging judicial bias or attorney misconduct;

(ii) Recommend corrective actions, including judicial reassignment or disciplinary referrals.

(b) The Panel shall issue annual public reports on trends, complaints, and systemic reforms.

Article 5.2: Public Transparency Portal

(a) Create an online portal where self-represented litigants may access:

(i) Plain-language guides to court procedures;

(ii) Templates for common filings (motions, responses);

(iii) A mechanism to report unethical conduct by attorneys or judges distinctly separate and apart from the Attorney Disciplinary Counsel, which has jurisdiction over attorney complaints by their clients, not self-represented litigants opposing their clients.

§ 9-30-XX.6. Severability.

If any provision of this act is found to be invalid or unconstitutional, the remainder shall remain in full force and effect.

§ 9-30-XX.7. Effective Date.

This act shall take effect on January 1, 2025