

**ISSUES COMMITTEE
SUBCOMMITTEE TO STUDY REGULATORY CHANGE**

North Carolina State Bar

Zoom Conference Call

May 26, 2021

2:30pm to 4:00pm

Ethics Act Statement

It is the duty of Committee members to avoid conflicts of interest and appearances of conflicts of interest in performing the duties as a member of the Committee to Study Regulatory Change and the North Carolina State Bar. Any member of the Committee who is aware of any personal conflicts or appearances thereof with respect to the matters before this Committee should disclose those at the meeting.

Agenda

- I. Welcome
- II. Approval of March 23, 2021 Minutes
- III. Presentation: Subcommittee Survey Results
- IV. Presentation: NC Equal Access to Justice Commission Legal Needs Assessment
(Jennifer Lechner, Mary Irvine)
- V. Discussion:
 - a. Regulatory Change and Legal Needs Assessment
 - b. Subcommittee Next Steps
- VI. Adjourn

Minutes of the Meeting of the Subcommittee to Study Regulatory Change March 23, 2021

The Issues Committee's Subcommittee to Study Regulatory Change met by Zoom videoconference on March 23, 2021. Mark Henriques, the chair of the subcommittee, presided. The following members of the subcommittee were present: A. Todd Brown; Ashley Campbell; Warren Hodges; Jeff Kelly; Joshua Malcolm; Dewitt F. "Mac" McCarley; Stephen Robertson. The following State Bar officers were also present: State Bar President Barbara R. Christy; State Bar Past President C. Colon Willoughby. The following guests were also present: Jessica Weiss and Peninah Brickman from the Law Society of Ontario; and Alicia Mercer-Mitchell, Rachel Royal, S.M. Kernodle-Hodges, and Shawana Almendarez of the North Carolina Justice for All Project. The following members of the staff were in attendance: Alice Neece Mine, executive director; Brian Oten, ethics counsel and director of special programs; and Mary Irvine, IOLTA director. Mr. Oten prepared these minutes.

At approximately 2:00pm, Mr. Henriques called the meeting to order and presided. He advised the members of the subcommittee of their responsibilities under the State Government Ethics Act. No conflicts or potential conflicts of interest were noted.

The first order of business was the review and approval of the minutes from the subcommittee's prior meeting on January 26, 2021. Upon motion duly made and seconded, those minutes were approved.

After providing a brief overview of the subcommittee's charge and progress made in studying the subject of regulatory change, Mr. Henriques introduced the guests joining the subcommittee for the day. Mr. Henriques noted that the subcommittee would first hear from the Law Society of Ontario regarding their licensed paralegal program, followed by a presentation from the North Carolina Justice for All Project concerning their proposal for a similar limited license in North Carolina.

Ms. Weiss and Ms. Brickman then began their presentation on the limited license offered to paralegals in Ontario. A copy of the slides used during the presentation is attached to these minutes. Ms. Weiss and Ms. Brickman provided the following information about the Law Society of Ontario (equivalent to the State Bar in terms of regulatory authority over members of the legal profession) and its licensed paralegal program:

- The Law Society of Ontario (formerly known as the Law Society of Upper Canada; hereinafter LSO) was created in 1797.
- LSO has regulated paralegal licensure since 2007 following a request in 2004 by Canada's Attorney General to create the limited license for paralegals.
- Prior to 2007, LSO did not impose any type of requirements on paralegals; no barriers existed for a person to serve as a paralegal.
- Prior to 2007, Ontario permitted "agents" to provide limited legal services before some tribunals and courts.
 - Limited legal services included less risky situations, such as representing family members on a traffic ticket.

- One of the purposes of creating the limited license for paralegals was to encompass/regulate that which was already permitted via “agents.”
- In creating the paralegal license, LSO prioritized public protection, mirroring law requirements, and keeping the process as uncomplicated as possible.
 - Licensed paralegals must contribute to LSO’s client security fund; maintain malpractice insurance (lawyers are also required to maintain insurance); and be subject to LSO’s disciplinary process.
- LSO offered a “grandparenting” period to allow current agents and paralegals to obtain the new paralegal license.
- To qualify for the paralegal license:
 - Must meet educational requirements, including graduation from an accredited institution/program (LSO accredits educational institutions; 4-5 audits by LSO staff of those institutions per year) with field placement as a component of education;
 - Must demonstrate good character; and
 - Must pass an exam:
 - LSO’s paralegal license exam covers substantive law (civil, criminal, and administrative), ethics, practice management, litigation process, and jurisdiction.
- Licensees can practice in the following areas:
 - Small civil claims (under \$35,000);
 - Highway or provisional offenses;
 - Limited criminal representation (cannot represent juveniles);
 - Administrative issues, including landlord/tenant disputes; and
 - Immigration – limited to pre-proceeding matters.
 - (Family law is not currently included, but is being studied for potential inclusion.)
- As of 2019, LSO has 55,000 licensed lawyers and 9,400 licensed paralegals.
 - Of those numbers, 38,000 lawyers are actively practicing, as are 3,700 paralegals.
 - Complaint ratio for paralegals is equivalent to ratio of active practitioners (10% of complaints received by LSO concern paralegals).
 - LSO admitted 2,400 new lawyers in 2019 and 1,000 licensed paralegals.
- LSO has a separate set of Rules of Professional Conduct for licensed paralegals
 - RPCs for paralegals are similar to lawyer rules.
 - Paralegals are subject to same trust account requirements.

In response to questions from the subcommittee, Ms. Weiss and Ms. Brickman offered the following information:

- LSO does not have any data on whether licensed paralegals are setting up independent practices vs. joining with law firms.
- LSO does not have any data regarding improvement to access to justice concerns via licensed paralegals, though Ms. Brickman noted anecdotally that the value of paralegals is recognized in the community.
- Lawyers were initially hesitant/concerned about the adoption of a limited paralegal license, but feedback on the licensed paralegal program has been positive.
- The benefits experienced by the legal profession via the licensed paralegal include an additional option for referrals from lawyers; the ability to streamline practices and allocate

resources in a more efficient and affordable manner; and an overall increase in trust regarding the licensing process.

- Paralegals can appear opposite lawyers in tribunals.
- Paralegals are not eligible for appointment by the courts for certain representations; that remains limited to lawyers.

With discussion on the presentation concluding, Mr. Henriques and members of the subcommittee thanked Ms. Weiss and Ms. Brickman for their time and informative presentation. Mr. Henriques then turned to Ms. Mitchell-Mercer for her presentation on the North Carolina Justice For All Project's (hereinafter "the Project") proposal for a limited license in North Carolina. A copy of the slides used for this presentation is attached to these minutes.

Ms. Mitchell-Mercer explained that one of the origins for the proposal was the 2015 report from the North Carolina Commission on the Administration of Law and Justice. In association with that Commission, the Legal Professionalism Committee recommended the creation of an innovation center that would, among other things, study whether North Carolina should license additional categories of legal service providers. The Project researched a variety of alternatives to increasing access to justice, including increased funding to programs such as Legal Aid of North Carolina or increased pro bono requirements, as well as different technological advancements in the legal services industry, but concluded that those efforts would not solve the problem facing North Carolina citizens who are unable to gain meaningful access to the justice system.

Ms. Mitchell-Mercer stated that the Project's proposal borrows from Utah's and Arizona's current limited licensing programs. In terms of scope, the Project proposes creating a limited license in North Carolina enabling licensees to offer legal services in the following areas of law:

- Family law
- Landlord/tenant disputes
- Administrative law
- Debtor/Creditor
- Estate planning and probate
- Limited criminal matters (expungements)

The Project proposes applicants qualify for the limited license by meeting the following criteria:

- Education – JD; AA or BA in paralegal studies; AA or BA in other field + paralegal certification; or AA or BA in other field + 15 credit hours in paralegal studies courses.
 - All should include certain foundational courses such as civil procedure, contracts, professional responsibility, etc.
 - Education requirement could be satisfied with 10+ years of documented experience as a paralegal.
- Certification – Paralegal certification through North Carolina State Bar or South Carolina State Bar, or one of the recognized national paralegal certification organizations.
- Experience – 1,500 hours of substantive law related work within 3 years of application; 5 years of experience in the practice area for which the license is sought.
 - Routine clerical work does not count toward experience requirement.
- (Applicants with a J.D. would be exempt from the certification and experience requirements.)

- Exam – each practice area would require successful completion of a practice-area specific exam, in addition to an exam on professional responsibility/legal ethics.

The Project also proposes a limited-time waiver for initial licensure, whereby applicants with 10+ years of experience over the previous 15 years could apply for licensure if their experience is attested to by a supervising lawyer/lawyers; the applicant must also be a certified paralegal and pass the practice area exam and a professional responsibility exam. The Project proposes the following criteria for active licensees:

- 12 hours of CLE per year;
- Licensees must provide clients with a non-lawyer disclaimer, clear scope of representation, and information on how to submit a claim to the State Bar for disciplinary action; and
- Licensees cannot charge contingency fees.

Ms. Mitchell-Mercer discussed the benefits of the limited license for citizens/consumers, lawyers, the court system, and the community. Such benefits included streamlining services provided to prospective clients, lower fees/expenses for legal services, and relieved stress on the administration of justice. Ms. Mitchell-Mercer then addressed some concerns raised by the proposal, including competition with lawyers and potential harm to the public. Ms. Mitchell-Mercer concluded that both concerns were not as significant as perceived. Limited licensees would not compete directly with lawyers because their services would likely be consumed by those who could not afford lawyers in the first place. On the topic of potential harm, other programs – including the ability of some nonlawyers to represent clients in certain federal processes – have demonstrated that the involvement of nonlawyers does not necessarily result in client harm any more than clients currently experience through the services received from lawyers.

With the presentation concluding, the subcommittee discussed a variety of questions with Ms. Mitchell-Mercer and the other members of the Project. Ms. Mine noted that the Legal Needs Assessment Report would soon be released that would inform future discussions on areas of legal needs for North Carolinians. With the discussion drawing to a close, Mr. Henriques and the subcommittee members thanked all participants for their contributions.

There being no further business to come before the subcommittee, the meeting was adjourned at approximately 4:00pm.

Brian Oten, Subcommittee Staff Counsel

Paralegal Licensing in Ontario

Jessica Weiss, Counsel and Acting Team Lead, Licensing and Accreditation
Peninah Brickman, Senior Counsel and Team Manager, Entry-Level
Competence



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Overview

- History of paralegal licensure in Ontario
- Scope of practice
- Current licensing process (college, examination, good character)
- Trends, data, and regulation of paralegals
- Future of paralegal licensure in Ontario



History of paralegal licensure in Ontario

- In 2004, the then-Attorney General attended Convocation to request that the LSO (then known as the Law Society of Upper Canada) assume responsibility for the regulation of paralegals
- A task force was established
- The decision was to keep existing “scope of practice” (applicable to non-lawyers), such as acting as agents before tribunals, appearing in small claims court, acting on certain types of offences

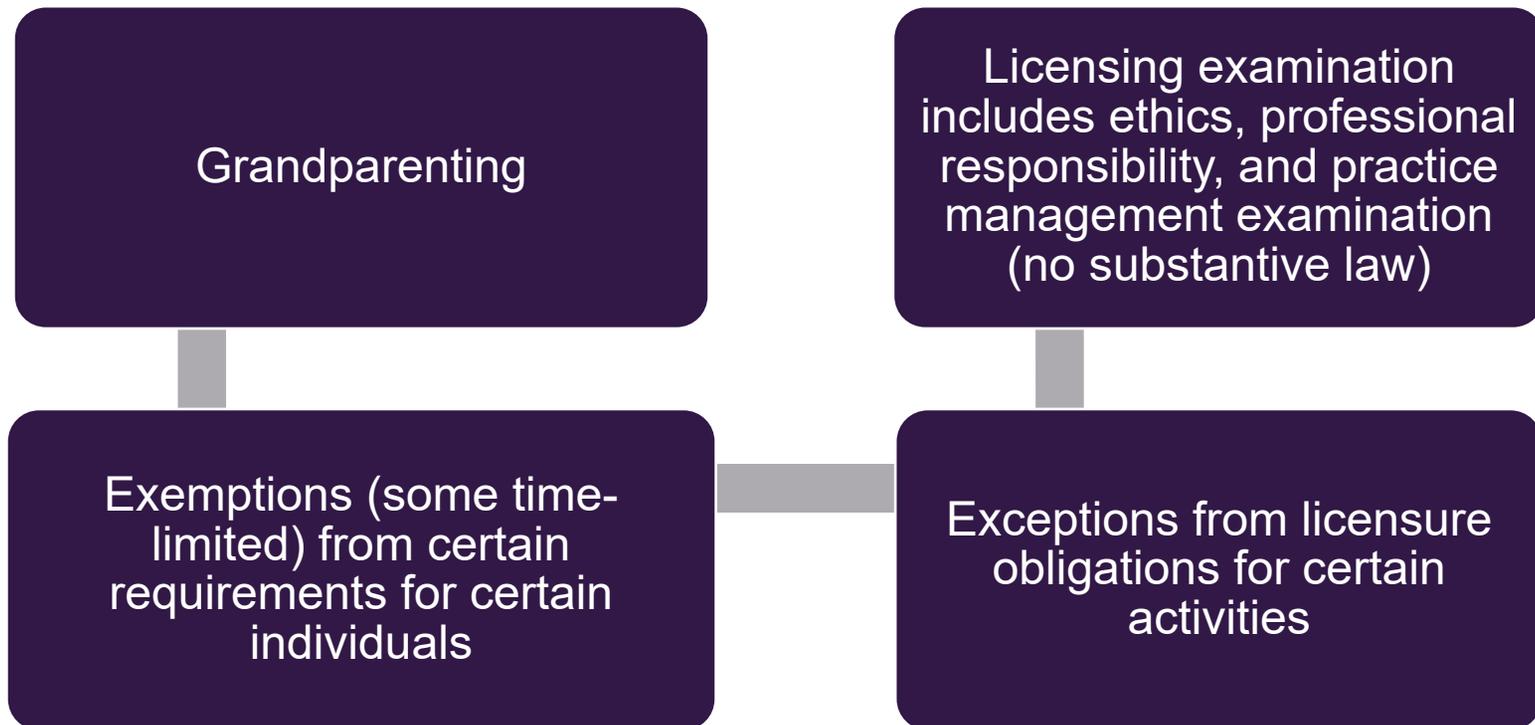
History of paralegal licensure in Ontario

Goals	General Features
Public interest (ethical and competent practitioners)	College course
Uncomplicated	Good character
Mirror lawyer regulation (where possible)	Licensing examination
	Code of conduct
	Insurance
	Compensation fund
	Discipline



History of paralegal licensure in Ontario

Initial Features



History of paralegal licensure in Ontario

Current Features

Limited exemptions remain

Exceptions from licensure obligations remain

Licensing examination now covers substantive law and professional responsibility, practice management, and ethics

Scope of practice

Scope of practice includes

- before Small Claims Court (i.e., claims for \$35,000 or less)
- in proceedings under Ontario's *Provincial Offences Act* before the Ontario Court of Justice (e.g., highway traffic offences)
- in proceedings under Canada's *Criminal Code*, before a summary conviction court*
- in a proceeding before an administrative tribunal established under federal or provincial legislation
- before a person dealing with a Statutory Accident Benefits Schedule (SABS) claim or a matter related to a SABS claim (excluding a claim of an individual who has or appears to have a catastrophic impairment within the meaning of the SABS), including mediation, evaluation, arbitration, or related proceedings under the *Insurance Act*.

*with some limited exceptions.

Scope of practice

If a specific proceeding or intended proceeding falls within the paralegal scope of practice as set out in the By-law, then the paralegal can, with respect to the proceeding

- give a party legal advice
- represent a party at the proceeding
- select, draft, complete, or revise documents for use in the proceeding or that affect the party's legal interests with respect to the proceeding or its subject matter
- negotiate the party's legal interests, rights, and responsibilities



Current licensing process requirements for virtually all candidates

To become a licensed paralegal, the applicant

- must have graduated from an accredited paralegal education program in Ontario
- must successfully complete the Law Society's paralegal licensing examination within approximately three years of registration
- must be of good character



Accreditation of paralegal education programs

- Paralegal education program accreditation policy
- Audits
- Complaints



Accreditation of paralegal education programs

- 23 colleges, but some have more than one program (e.g., diploma, degree, certificate, graduate certificate) and some have multiple campuses
- two types of colleges in Ontario (public and private)—both eligible
- some schools have 15 to 25 students a year; others have hundreds
- 4-5 audits per year
- frequent tracking of information (intakes, annual declarations)
- several complaints per year; some can be referred back to the college but others require investigation

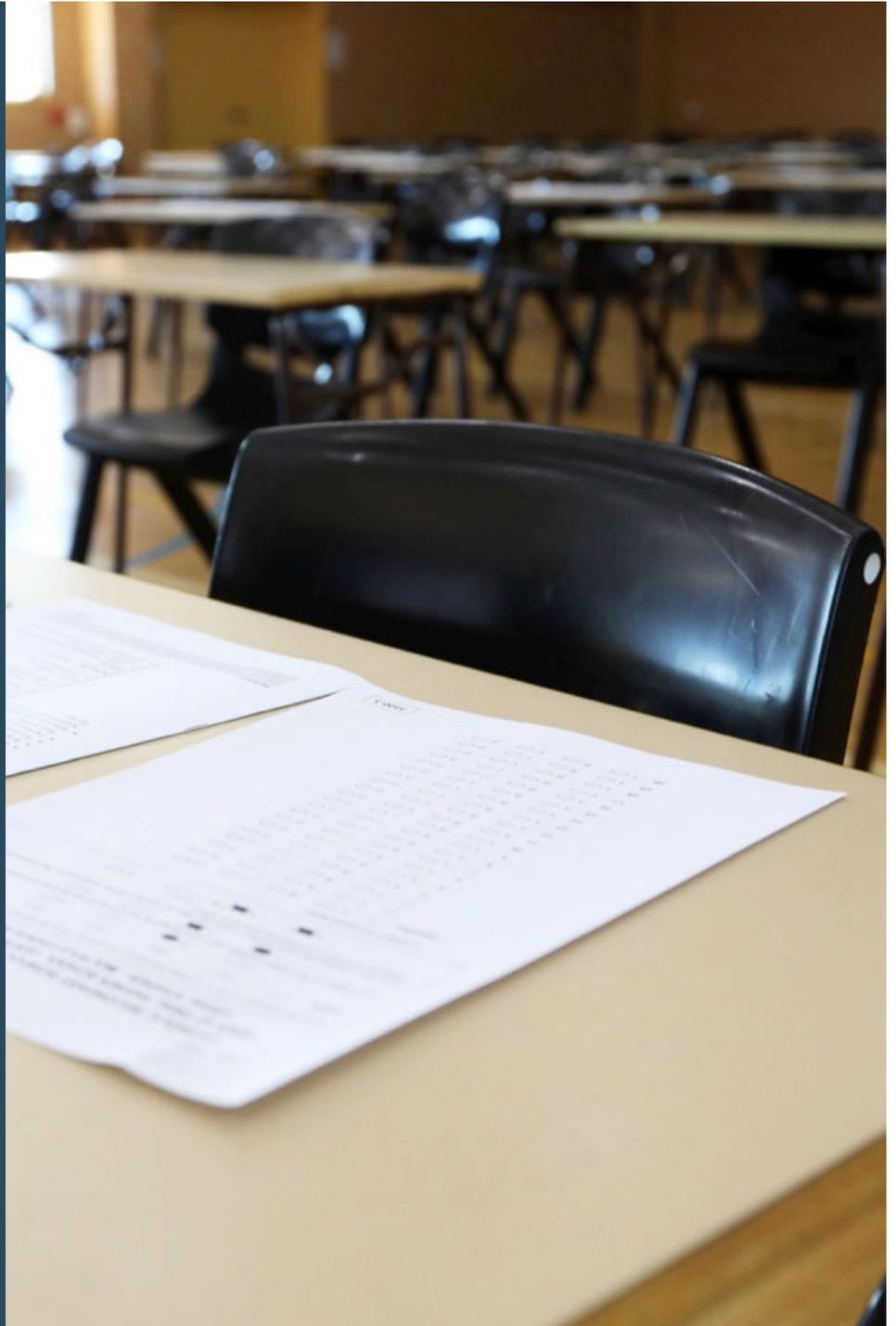
Licensing examinations

- One open book exam
- Currently online but previously was in person
- Previously 7 hours but now 4 hours
- Study materials
- Rules and protocol
- Examination guide



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Candidate supports for licensing examinations

- Examination accommodations
- Tutoring
- Member assistance program



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Trends, data, and regulation of paralegals

- ~1,000 paralegals licensed annually
- ~10% of practising licensees are paralegals and they generate ~10% of complaints



Annual Report 2019

At a glance

2,423 lawyers licensed
1,057 paralegals licensed

Membership:
55,360 lawyers
9,470 paralegals

37,900 lawyers practising law
3,700 paralegals providing legal services

4,379 complaints referred to Professional Regulation Division

48% of complaints in Professional Regulation were about service issues

144 discipline notices issued

Specialized Paralegals

Area of Legal Services	Paralegals devoting 25% + of time area
Ontario Court of Justice Provincial Offences Act Matters	985
Ontario Court of Justice - Summary Conviction Offences	101
Small Claims Court matters	1,023
Worker's Compensation	379
Property Tax Assessment	212
Statutory Accident Benefits Schedule matters (SABS)	438
Human Rights	93
Landlord and Tenant	728

Data from 2019 Paralegal Annual Report, relates to 3,596 paralegals who provided legal services in Ontario in 2019

Trends, data, and regulation of paralegals

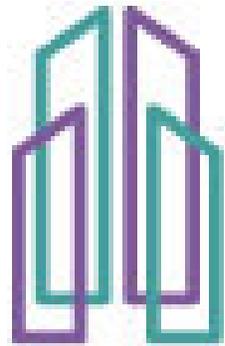
- Paralegal rules of professional conduct (similar to lawyers and continuing to align)
- Requirements regarding
 - trust accounts
 - insurance
 - continuing professional development
 - payment into a compensation fund
- Practice audits
- Subject to investigative and disciplinary processes

Trends, data, and regulation of paralegals

- In 2018, recognized as officers of the court
- In 2019, in connection with changes to the *Criminal Code*, scope of practice was effectively broadened
- In 2020, paralegals became eligible to be appointed as notaries in the same manner as lawyers



Future



Family Legal Services Provider

In 2020, the Law Society of Ontario's Access to Justice Committee launched a consultation on a proposed model for a Family Legal Services Provider licence, which builds upon the competencies of paralegals and would involve additional training and assessment for paralegals who wish to obtain the licence

Thank you!

Questions?

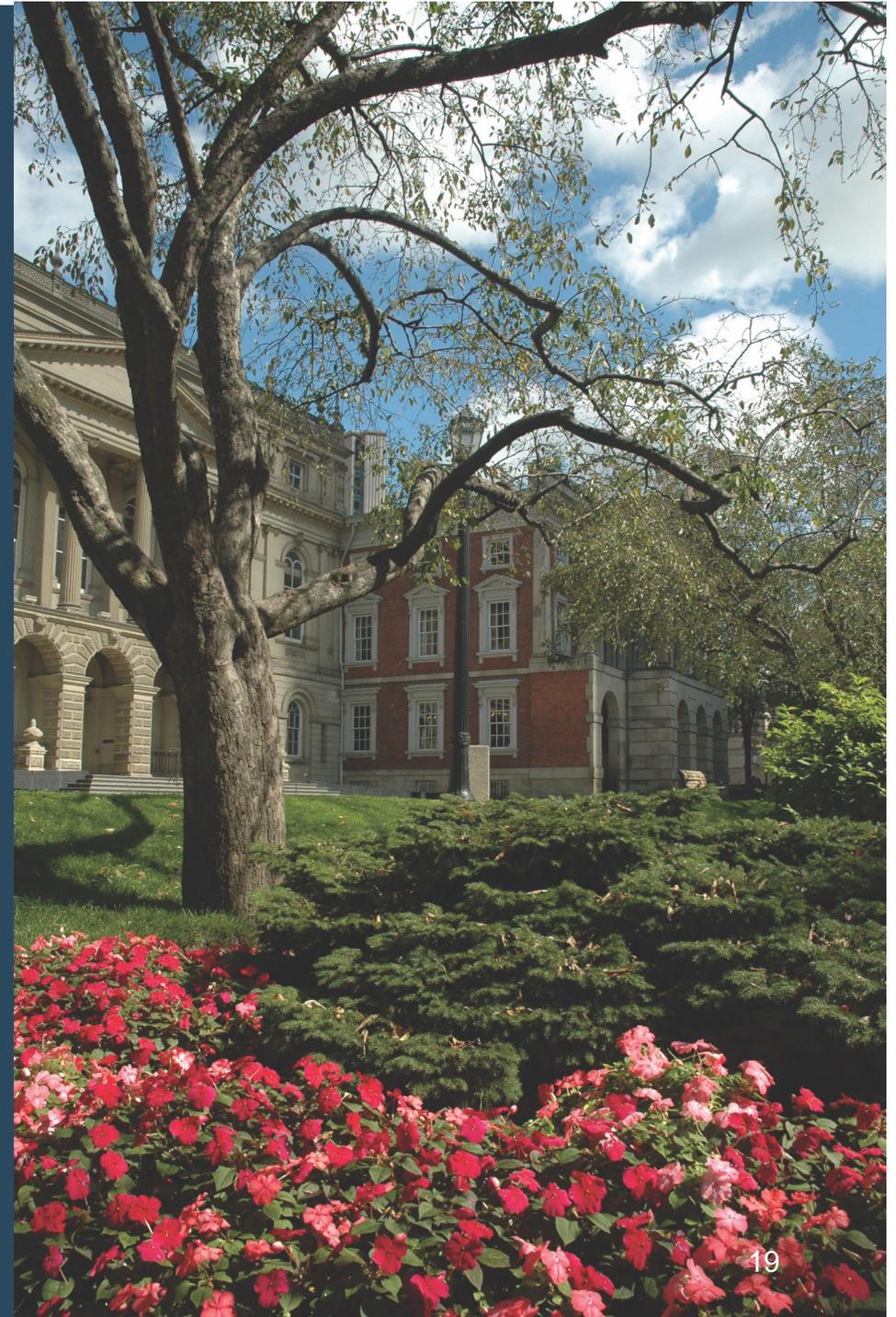
Contact:

- jweiss@lso.ca
- pbrickma@lso.ca
- 416-947-3300 ext. 2653 (Jess)
or ext. 2654 (Peninah)



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**Executive
Summary**

Proposal for Limited Licensing in North Carolina

North Carolina Justice for All Project



“...and justice for all”



“...and justice for all”

Authors

- Alicia Mitchell-Mercer, LPP, CSM, ACP, RP, NCCCP, SCCP
- S.M. Kernodle-Hodges, NCCCP, VSP, NCCMC

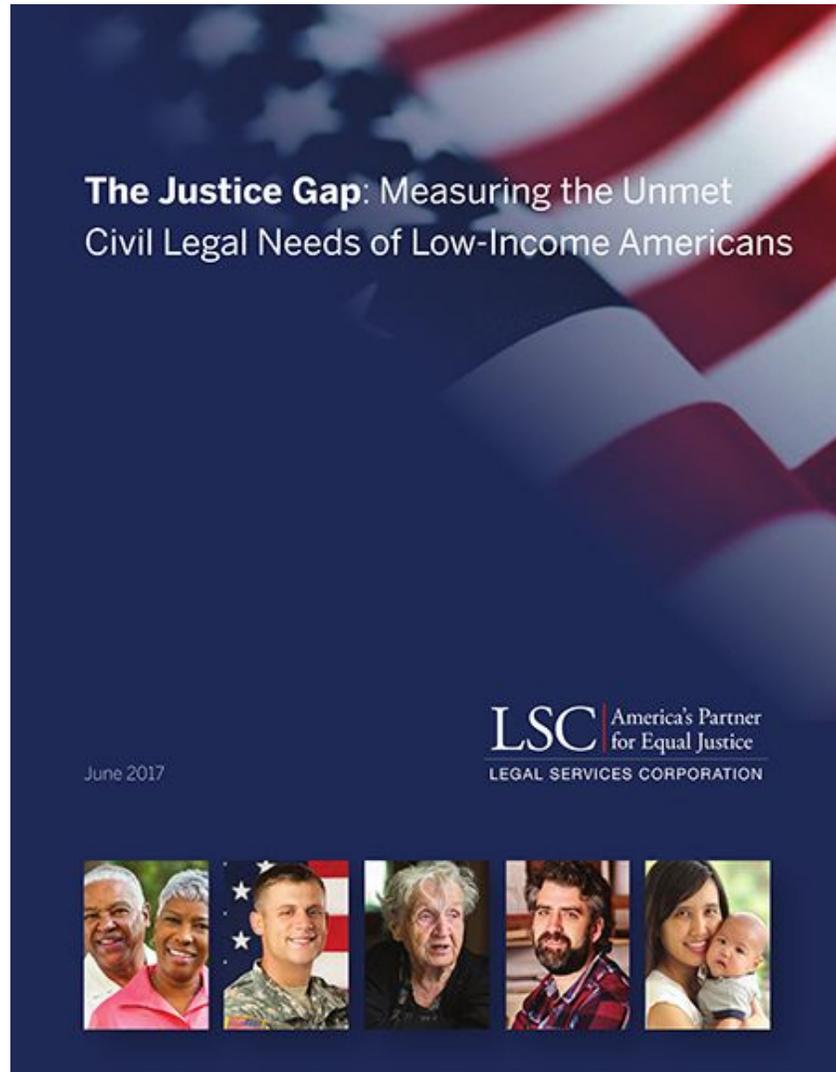
Contributors

- Rachel Royal, NCCCP
- Shawana W. Almendarez, NCCCP
- Morag Polaski, ACP, NCCCP

Contact us at justiceforallproject@gmail.com.

Research: Access to Justice Gap

- 86% of civil legal problems reported by low-income Americans received inadequate or no legal help.
- There is one legal aid attorney for every 8,000 North Carolina residents eligible for legal services, compared to one private lawyer for every 367 North Carolina residents.
- Although Legal Aid of North Carolina reports that about 37% of the state's population is eligible for their services, they can only serve 1 in 10 households requesting assistance.



Research: Justice Gap Reports Are Misleading

Reports from Legal Aid and Legal Services Corporation do not capture individuals above the eligibility guidelines who still cannot afford legal counsel. In 2019, the max income cut-off for legal aid was \$15,950/yr. for a single person and \$32,750/yr. for a family of four. Many North Carolina residents with income greater than these amounts still cannot afford legal counsel.



Research: Purpose of UPL Statutes

“UPL rules purport to protect consumers by maintaining the integrity and competence of people who render legal services. **However, in the name of providing protection to consumers, UPL rules have the effect of creating a monopoly for the legal profession...**” Matthew Longobardi, Unauthorized Practice of Law and Meaningful Access to the Courts: Is the Law Too Important to Be Left to Lawyers? 35 Cardozo L. Rev. 2043, 2045 (2014)

Do our UPL statutes still serve their purpose of protecting the community from bad actors or have they become a hedge of protection around the economic interests of lawyers? Monopolies mean higher prices and higher prices force consumers to make one of two choices: Pay the higher price or do without the service.

What is Limited Licensing Colloquially Speaking?

Limited licensees are to lawyers as nurse practitioners are to doctors:

- A nurse practitioner can treat patients and prescribe medication independently of a doctor, but a nurse practitioner cannot do everything a doctor does.
- Like lawyers, limited licensees can provide clients with legal advice and complete court documents, but the scope of a limited licensee’s practice is limited.

Limited Licensing - State Activity



See proposal for complete list.

Licensing Programs in Place:

- Arizona
- Utah
- Washington LLLT - Sunsetting but LPO still in place.

License Programs in Progress:

- Arizona
- California
- Colorado
- Minnesota
- New Mexico
- Oregon

Primary Goals of Limited Licensing

- Increase access to affordable legal services for low- to moderate-income residents by removing the monopoly on the delivery of legal services.
- Reduce the burden on North Carolina courts by reducing bottlenecks and inefficiencies through limited representation.
- Offer professional growth opportunities for paralegals and unlicensed law school graduates.
- Increase the number of licensed legal professionals in the state who are able and willing to provide pro bono services.

Limited Licensing Requirements



Education



Experience



Certification



Examination

Limited Licensing - Proposed Practice Areas



Limited Licensing Requirements



Education



1. Juris Doctor,
2. Associates or Bachelors in Paralegal Studies,
3. Associates or Bachelors + Paralegal Certificate, or
4. Associates or Bachelors + 15 credit hours of paralegal studies courses.
5. Foundational courses: Civil Procedure, Contracts, Interviewing and Investigation Techniques, Law and Legal Process, Law Office Procedures and Technology, Legal Research, Writing and Analysis, and Professional Responsibility
6. Waiver with at least 10 years of experience.

Limited Licensing Requirements



Certification

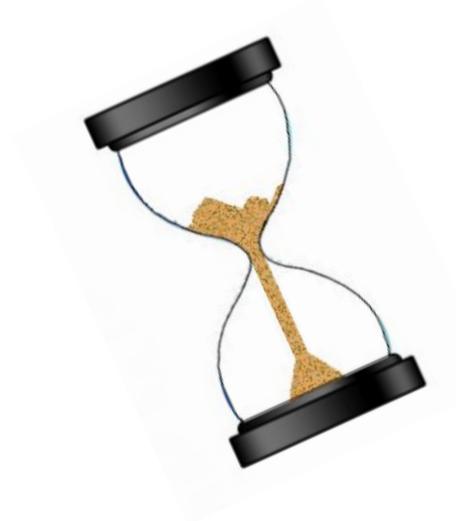


1. North Carolina State Bar (NCCP)
2. South Carolina Bar (SCCP)
3. NALA's Certified Paralegal (CP)
4. NFPA's Core Registered Paralegal (CRP)
5. NFPA's PACE Registered Paralegal (RP)
6. NALS' Paralegal Professional (PP)

**Juris Doctors exempt from certification requirement.

Limited Licensing Requirements

Experience



- 1,500 substantive law related work within 3 years.
- Experience within applicable practice area for 5 years.

**Juris Doctors exempt from experience requirements.

Defining Experience

- “Substantive Law-Related Experience” means drafting pleadings, legal documents or correspondence, completing forms, preparing reports or charts, legal research, and interviewing clients or witnesses.
- Substantive law-related experience **does not include** routine clerical or administrative duties.

Limited Licensing Requirements

Examination



- Practice area exam.
- Professional Responsibility / Ethics exam.

Limited Licensing Requirements

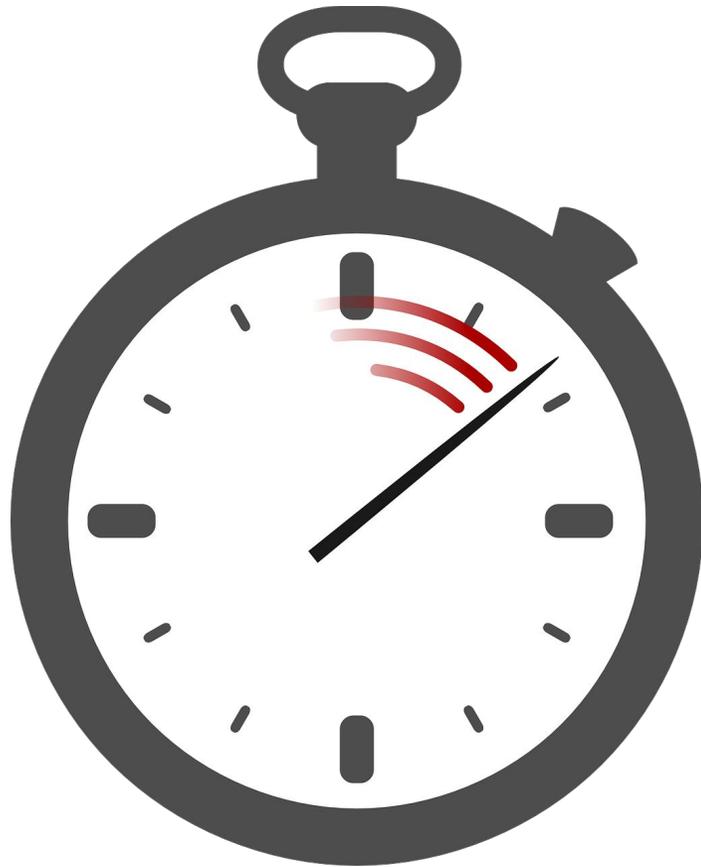


- Twelve CLEs (professional responsibility, trauma-informed legal advocacy, and technology).
- Two professional references to ensure good moral character.
- Other administrative requirements.

Engagement Agreement Requirements



- Clear provisions (e.g., scope, fees).
- Non-lawyer disclaimer.
- NCSB contact info for complaints.
- No contingency fees.
- See full proposal for more details.



Limited-Time Waiver

- 10 years of experience within last 15 years.
- Proof of experience signed by lawyers.
- Paralegal certification.
- Practice area and professional responsibility exams.

Benefits to Attorneys



as colleagues:

- collaboration and referrals to/from limited licensees.
- Increased market share by receiving business from licensee referrals.

as employers:

- Freeing up the attorney's time to work on more profitable matters.
- Increased market share by billing licensees at lower rate.

Benefits to Prospective Clients

- Affordable access to legal representation.
- Better outcome for legal matters.
- Client satisfaction.
- Assistants for tech-challenged clients.
- Assistance for clients with physical or developmental disabilities.
- Assistance to clients with other special needs.



Benefits to Community



- Economic Impact - cost savings to the state and local economies due to the advocacy of providers in legal cases (e.g. domestic violence, foreclosure, child support, and eviction prevention).
- Potential 40% increase in pro bono legal service providers.



Benefits to NC Courts



- Reduction in bottlenecks, log jams, re-filings, dismissal, continuances, and other delays due to insufficient legal filings and lack of knowledge concerning state and local procedural rules.
- Assistance with the backlog of cases due to COVID-19 restrictions that will likely change the Courts' daily operations for the foreseeable future.

Measuring and Monitoring Progress



- Create a provisional licensing process.
- Collect data (**data points on next slide**) from licensees on a quarterly basis.
- Create a risk management plan and collaborate with data analysts in legal academia to study “harm” and suggest changes to the program.
- Use key performance indicators to measure program success.
- Hold retrospectives or reviews on a quarterly basis.
- Create a change management plan to implement changes for next quarter based on data-driven feedback.
- Create a communications plan to communicate changes to stakeholders.
- Measure and monitor progress each quarter until the program produces desired outcomes.

Data Collected from Legal Technicians

- Method of Service Delivery: Lawyer/Lawyer Employee
- Method of Service Delivery: Software Provider with Lawyer Involvement (legal document/ form completion only)
- Method of Service Delivery: Software Provider with Lawyer Involvement
- Method of Service Delivery: Nonlawyer Provider with Lawyer Involvement
- Method of Service Delivery: Software Provider without Lawyer Involvement
- Method of Service Delivery: Nonlawyer Provider without Lawyer Involvement
- Amount Paid
- Legal Outcome
- Customer Financial Outcome Value
- Customer Geographic Location (requested)
- Provider Number
- Customer ID
- Service ID
- Scope of Service Sought
- Legal Category
- Legal Problem/Matter
- Start Date
- Complaints Between Start Date and Present
- Service Status
- End Date
- Scope of Service Received



“...and justice for all”

Justice Delayed is Justice Denied

justiceforallproject@gmail.com

Click the links below to view the full proposal.

**PROPOSAL FOR A LIMITED PRACTICE RULE TO NARROW
NORTH CAROLINA'S ACCESS TO JUSTICE GAP**

APPENDIX TO PROPOSAL

1. Limited License for Nonlawyers - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	8
● No	0
● Maybe	1



2. Please explain your answer to the prior question:

[More Details](#)

9
Responses

Latest Responses

"Limited licenses or other credentials for specific practice areas coul..

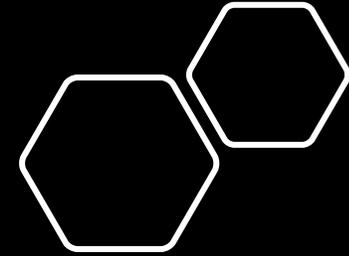
"Philosophically I think we should follow the model from the health ...

"This is an important resource and we have a strong certification pr...

3. Limited License for Nonlawyers - do you need more information on this idea/change?

[More Details](#)

● Yes	2
● No	7



ID	Limited License for Nonlawyers - is this something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:	Limited License for Nonlawyers - do you need more information on this idea/change?
1	Yes	Access to justice requires that some high demand services (landlord/tenant, domestic relations, consumer protection) be readily available and at a reasonable cost. lable at	No
2	Yes	I think it can be done without harm to the public and at great benefit.	No
3	Yes	The lawyers of North Carolina cannot field all of the work low income residents need done; and low income residents with legal needs cannot afford to pay even the overhead costs of attorneys in North Carolina. It is a matter of simple economics. We need a new, adjunct system.	Yes
4	Yes	I feel strongly that we should support this measure as a means of increasing access to justice to unserved, low income and and marginalized communities.	No
5	Yes	It will take multiple solutions to solve the A2J problem. We have a strong paralegal population in NC with many paralegal programs, along with our State Bar certification program. Gives us a good pool of applicants, along with (perhaps) a framework to work with.	No
6	Maybe	Only if under the supervision of a licensed attorney.	No
7	Yes	This is an important resource and we have a strong certification program. We should identify some high-need areas where there are not enough lawyers and start a Limited License Technician program.	No
8	Yes	Philosophically I think we should follow the model from the health care industry of seeking to allow properly trained professionals to provide certain services currently being provided by lawyers. It would be appropriate to assess where the greatest unmet needs for services are and focus on how to deliver those services to the public in a safe cost-effective manner.	Yes
9	Yes	Limited licenses or other credentials for specific practice areas could go a long way in reducing the costs of certain legal services, provided that it is not prohibitively expensive to obtain the limited license(s).	No
10	Maybe	It's unclear if such limited licensing provides a viable long-term solution for improving access to justice.	No

4. Court Navigators, Document Preparers, and Other Self-Help Programs - are these programs something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	8
● No	0
● Maybe	1



5. Please explain your answer to the prior question:

[More Details](#)

7
Responses

Latest Responses

"With North Carolina's migration to electronic filing, we will, hopeful...

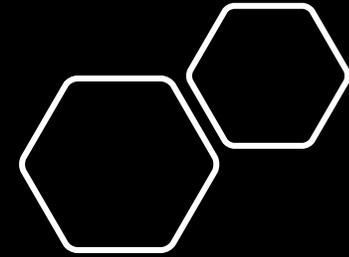
"Society has shifted its focus to online searches for almost all needs...

"Court Navigators have been successful in New York. My biggest qu...

6. Court Navigators, Document Preparers, and Other Self-Help Programs - do you need more information on this idea/change?

[More Details](#)

● Yes	1
● No	8

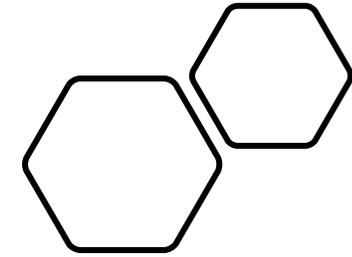


Court Navigators, Document Preparers, and Other Self-Help Programs - are these programs something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:2	Court Navigators, Document Preparers, and Other Self-Help Programs - do you need more information on this idea/change?
1 Yes	same as for question 2.	No
2 Yes		No
3 Yes	Several states have used similar self-help programs and they do work for some individuals. In North Carolina, they may work but only in some cases with a bi-lingual helper.	No
4 Yes	Self help centers are low cost and serve thousands of people. The self serve center in Mecklenburg County costs very little to run and serves thousands of people a year. It is a travesty that a person can walk into a mall and find a customer service desk and that there is no such service available in our state courthouses (and in my opinion, the clerk's office does not adequately cover this function)	No
5 Yes	Our courts are over-burdened, this option should be on the table for the public.	No
6 Maybe		No
7 Yes	Court Navigators have been successful in New York. My biggest question is the appropriate role of the NCSB in this effort.	No
8 Yes	Society has shifted its focus to online searches for almost all needs and services, and sought to develop do-it-yourself and self help avenues for meeting their needs. We should recognize this cultural shift and seek to make some legal services available that way.	Yes
9 Yes	With North Carolina's migration to electronic filing, we will, hopefully, begin to see an increasing uniformity in our local practice of law. There is an incredible opportunity to expand support for self-represented litigants through Navigator programs, expand the Guide and File program, and develop other self-help programs.	No
10 Maybe	Perhaps if there is solid evidence, and we can reach consensus, that such program provide a viable long-term solution for improving access to justice.	No

7. Alternative Business Structures (e.g. law firm partnership with non-legal service provider to provide both legal and non-legal services; business entity/corporation providing legal and non-legal services) - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	5
● No	1
● Maybe	3



8. Please explain your answer to the prior question:

[More Details](#)

8
Responses

Latest Responses

"The NC Equal Access to Justice Commission's recent Legal Needs S...

"We need to explore further whether this change will likely result in ...

"Not persuaded there is real impact on meeting needs here."

9. Alternative Business Structures - do you need more information on this idea/change?

[More Details](#)

● Yes	3
● No	6

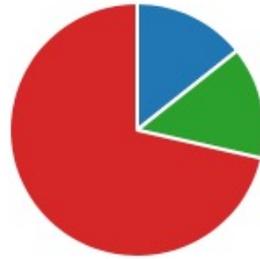


Alternative Business Structures (e.g. law firm partnership with non-legal service provider to provide both legal and non-legal services; business entity/corporation providing legal and non-legal s...	Please explain your answer to the prior question:3	Alternative Business Structures - do you need more information on this idea/change?
1 Maybe	Not a high priority issue for me. Pales in comparison to the good we can do with limited licensing of paraprofessionals.	No
2 Maybe	I think we should continue to consider, but it shouldn't be the top priority.	Yes
3 Yes	We need to consider a blend of traditional law practices using partners, associates and paralegals to deliver services along with alternatives which should include licensed paralegals operating independently in very limited areas of practice.	No
4 Yes		Yes
5 Yes	I like the idea of testing this out in a sandbox environment.	No
6 Yes	Needs to be further vetted, but yes should be considered.	No
7 No	Not persuaded there is real impact on meeting needs here.	No
8 Maybe	We need to explore further whether this change will likely result in the delivery of consumer legal services to the public in safer and more economical way than the traditional lawyer owned practices. I am not sure of whether it will or not but it deserves further study.	Yes
9 Yes	The NC Equal Access to Justice Commission's recent Legal Needs Study confirmed that our State's unmet legal needs heavily concentrate in practice areas that often overlap with other services/needs. (Housing Legal Services, Community Education, Public Benefits, and Family Legal Services were among the top legal needs identified in the Study). While there may be ABS's that warrant explicit adoption, it may be better to allow deviation from the normal Rules of Professional Conduct when a lawyer practices with an entity that is part of a Regulatory Sandbox.	No
10 Maybe	Perhaps if we can avoid conflicts of interest (e.g., investors seeking profits) and we can implement adequate oversight to protect the consuming (e.g., oversight authorities with adequate resources. funding, and disciplinary power).	No

10. Nonlawyer ownership (e.g. permitting nonlawyers to have an economic interest in a law firm) - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	1
● No	0
● Maybe	1
● Other	5



11. Please explain your answer to the prior question:

[More Details](#)

9
Responses

Latest Responses

"I'm in favor of relaxing the rules prohibiting non-lawyers ownershi..."

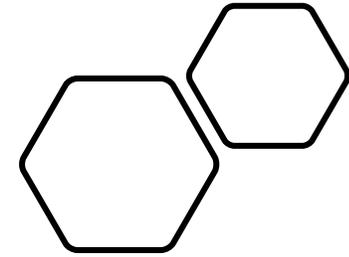
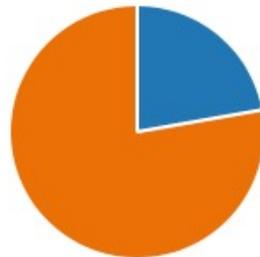
"See answer to #8"

"No proven impact."

12. Nonlawyer ownership - do you need more information on this idea/change?

[More Details](#)

● Yes	2
● No	7

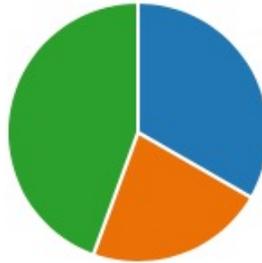


Nonlawyer ownership (e.g. permitting nonlawyers to have an economic interest in a law firm) - is this something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:4	Nonlawyer ownership - do you need more information on this idea/change?
1 Maybe	I don't remember the options. The only reason I would support this is if it will help commoditize some common services to the advantage of low to moderate income consumers who can't afford services under the present model.	No
2	Not sure I understand the Options.	Yes
3 Maybe	As I am not currently practicing in a firm, I feel uncertain about this whole topic. I understand the ethical issues, but also have seen absence of business skills reduce the effectiveness of small law firms.	No
4 No	No	No
5 Yes	yes, I like exploring this in a sandbox scenario.	No
6	I don't see an explanation for Opt 1 v. Opt 2.	No
7 No	No proven impact.	No
8 Maybe	See answer to #8	Yes
9 Yes	I'm in favor of relaxing the rules prohibiting non-lawyers ownership; however, addressing non-lawyer ownership through a Regulatory Sandbox program may be the appropriate way to test for (any) impacts on the lawyer's professional judgment or similar concerns.	No
10 No	Likely unavoidable conflicts of interest and inadequate protection of the public.	No

13. Fee Sharing with Nonlawyers - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	3
● No	2
● Maybe	4



14. Please explain your answer to the prior question:

[More Details](#)

7
Responses

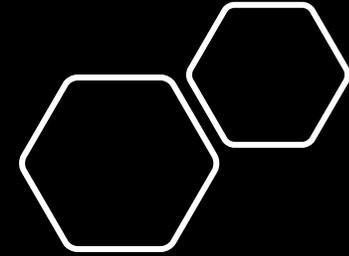
Latest Responses

"I'm in favor of allowing lawyers to share fees with non-lawyers. Si...
"We will need to carefully look at the relationships and services offe...
"I think the new rule changes addresses what we need here"

15. Fee Sharing with Nonlawyers - do you need more information on this idea/change?

[More Details](#)

● Yes	4
● No	5



Fee Sharing with Nonlawyers - is this something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:5	Fee Sharing with Nonlawyers - do you need more information on this idea/change?
1 Maybe	same as answer to question 11.	No
2 Maybe	I believe there are ways it could be done that wouldn't jeopardize independence of attorneys.	Yes
3 Maybe	I would want to review what information is available from areas of the U.S. where this may be taking place and see what their experiences have been.	Yes
4 Maybe		Yes
5 Yes	I believe this is an idea that has outlived it's use and could be implemented without harm to the public while innovating the practice of law.	No
6 No		No
7 No	I think the new rule changes addresses what we need here	No
8 Yes	We will need to carefully look at the relationships and services offered between lawyers and non-lawyers.	Yes
9 Yes	I'm in favor of allowing lawyers to share fees with non-lawyers. Similar to the last point on non-lawyer ownership, though, it may make sense to run pilot programs through a Regulatory Sandbox program.	No
10 No	Likely unavoidable conflicts of interest and inadequate protection of the public.	No

16. Regulatory Sandbox - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	4
● No	0
● Maybe	5



17. Please explain your answer to the prior question:

[More Details](#)

7
Responses

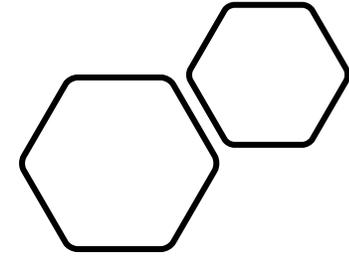
Latest Responses

- "The regulatory sandbox is an appropriate pressure valve that main...*
- "This may be practically difficult in NC where it would require Gener...*
- "We should encourage and explore innovative ideas in a controlled ...*

18. Regulatory Sandbox - do you need more information on this idea/change?

[More Details](#)

● Yes	3
● No	6

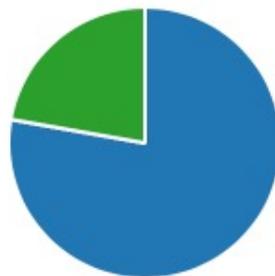


Regulatory Sandbox - is this something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:6	Regulatory Sandbox - do you need more information on this idea/change?
1 Maybe	Only if it increases access to justice for people who have little to no realistic access today. If its just a way for attorneys to make more money or enter new markets, I'm not interested.	No
2 Maybe		Yes
3 Yes	Because other states have developed alternatives doesn't mean that those are the best alternatives for North Carolina. We are a unique culture and population and have incredible intellectual resources which could produce in a sandbox even better solutions.	No
4 Maybe	I do not remember what regulatory sandbox means.	Yes
5 Yes	Great way to start something and test. Also, with models in other states we would have framework to go by.	No
6 Maybe		No
7 Yes	We should encourage and explore innovative ideas in a controlled way.	No
8 Maybe	This may be practically difficult in NC where it would require General Assembly action as opposed to those states where the regulatory authority is from the Supreme Court.	Yes
9 Yes	The regulatory sandbox is an appropriate pressure valve that maintains the traditional notions of lawyer and legal practice regulation while offering a supplemental regulatory track for new solutions to emerge and develop. Two larger law-related regulatory sandboxes (Utah and, now, the Law Society of Ontario) employ risk-based monitoring and reporting requirements, which allow the State Bar (or other regulatory offices) to facilitate a flexible environment in which innovation in the delivery of legal services can operate.	No
10 No	Likely unable to obtain adequate funding for necessary resources and disciplinary oversight.	No

19. Liberalization of UPL Statutes/Rules - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	7
● No	0
● Maybe	2



20. Please explain your answer to the prior question:

[More Details](#)

8

Responses

Latest Responses

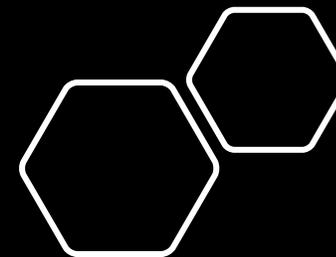
"I'm in favor of permitting the provision of legal services and inform..."

"I think our current rules are often unreasonably technical"

21. Liberalization of UPL Statutes/Rules - do you need more information on this idea/change?

[More Details](#)

● Yes	5
● No	4



Liberalization of UPL Statutes/Rules - is this something the State Bar should consider supporting or implementing?	Please explain your answer to the prior question:7	Liberalization of UPL Statutes/Rules - do you need more information on this idea/change?
1 Yes	Access to legal services for those who have little to none now.	No
2 Yes	I am in favor of liberalizing with respect to multi-state practice, and to allow some minor tasks to be handled by non-lawyers.	Yes
3 Yes	I think independent, licensed paralegals should be a focus of our state moving forward and this would need a clearly presented revision of those rules.	No
4 Yes	Absolutely 100%. The unauthorized practice laws particularly as they relate to law school legal clinics are too strict and do not allow lawyers who staff those clinics to provide legal services sufficiently absent student direct involvement. I could literally serve as least 100 clients more per year if I could provide direct legal services to our low income clients. There should be a carve out in the statute for this. It is such an easy fix.	Yes
5 Yes	UPL rules restrict in a way that is not helpful to lawyers, the public or emerging technologies.	No
6 Maybe	Not sure.	Yes
7 Yes	I think our current rules are often unreasonably technical	No
8 Yes		Yes
9 Maybe	I'm in favor of permitting the provision of legal services and information that may arguably constitute UPL under current rules and guidance; however, UPL rules are a valuable public protection. You might be sensing a theme in my responses, but allowing for a sandbox could avoid the over/underfitting issues that come with UPL.	Yes
10 No	Likely unable to obtain adequate funding for necessary resources and disciplinary oversight to ensure protection of the public.	No

22. Alternative Admission to the Bar (e.g., permitting individuals to either a) take the bar exam without going to law school or b) apply for admission to the bar without taking the bar exam; could be an alternative to creating a limited license) - is this something the State Bar should consider supporting or implementing?

[More Details](#)

● Yes	3
● No	5
● Maybe	1



23. Please explain your answer to the prior question:

[More Details](#)

8
Responses

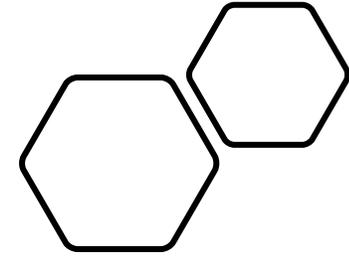
Latest Responses

- "I can't recall whether we've discussed this topic at length in this su..."*
- "Given the nature of modern day law practice I think this would be ..."*
- "I think this could improve access, not convinced there would be an..."*

24. Alternative Admission to the Bar - do you need more information on this idea/change?

[More Details](#)

● Yes	3
● No	6



Alternative Admission to the Bar (e.g., permitting individuals to either a) take the bar exam without going to law school or b) apply for admission to the bar without taking the bar exam; could be...	Please explain your answer to the prior question:8	Alternative Admission to the Bar - do you need more information on this idea/change?
1 Maybe	The limited license strikes me as a safer way to increase the supply of individuals available to provide services to unserved and underserved populations. Proving mastery of a limited field seems a reasonable way to protect the public from incompetent practitioners. Allowing full licensure to individuals without professional training or proof of mastery through examination seems riskier for the public. .	No
2 No		No
3 No	The practice of law should still be delivered by those who have demonstrated their competence to do so. The national practice is to test to meet basic entry level attorney competence and I believe that should still be the case going forward.	No
4 No	No, I believe an applicant must take and pass a bar exam or waive in with sufficient credentials from another state.	No
5 Yes	I don't think law school / bar exam is untouchable - drastic times call for innovation where ever we can try it.	No
6 No	Do not agree with eliminating exam requirements.	No
7 Yes	I think this could improve access, not convinced there would be any public harm	Yes
8 No	Given the nature of modern day law practice I think this would be difficult to accomplish.	Yes
9 Yes	I can't recall whether we've discussed this topic at length in this subcommittee, but I am concerned about whether the Bar Exam is an unreasonable barrier to entry relative to its public protection benefits. The pandemic certainly brought many of these points out in public debate, and several studies were concluded (see, e.g., IAALS: https://iaals.du.edu/projects/building-a-better-bar)	Yes
10 No	Maintaining the practice of law as a true profession is already under attack and/or in jeopardy of successful viability long term.	No

Support Idea?	Yes	No	Maybe
Limited License	8	0	2
Court Navigators	8	0	2
UPL Liberalization	7	1	2
ABS	5	1	4
Regulatory Sandbox	4	1	5
Fee Sharing w/ Nonlawyers	3	3	4
Alternative Admission to Bar	3	6	1
Nonlawyer Ownership	2	3	3



IN PURSUIT *of* JUSTICE

An Assessment of
the Civil Legal Needs
of North Carolina

APRIL 2021

NC
Equal Access
to Justice
COMMISSION

A COMMISSION OF THE
NORTH CAROLINA SUPREME COURT



NC Equal
Justice Alliance

The Civil Legal Aid Community

Legal Needs Assessment Steering Committee Members

The Hon. Anita Earls, Chair

North Carolina Supreme Court, Raleigh, NC

Shelby Duffy Benton

Benton Family Law, Goldsboro, NC

The Hon. Ashleigh Parker Dunston

Wake County District Court, Raleigh, NC

Rick Glazier

NC Justice Center, Raleigh, NC

George R. Hausen, Jr.

Legal Aid of North Carolina (LANC), Raleigh, NC

Jason Hensley

NC Bar Association, Raleigh, NC (Liaison)

Darrin D. Jordan

NC State Bar, Salisbury, NC (Liaison)

Robin Merrell

Pisgah Legal Services, Asheville, NC

TeAndra Miller

Domestic Violence Prevention Initiative, LANC, Raleigh, NC

Suzanne Reynolds

Wake Forest University School of Law, Winston-Salem, NC

Darwin Rice

Mecklenburg County Court, Charlotte, NC

Sorien Schmidt

Z. Smith Reynolds Foundation, Winston-Salem, NC

Kenneth Schorr

Charlotte Center for Legal Advocacy, Charlotte, NC

Audrey Snyder

Ward Black Law, Greensboro, NC (Liaison, NC Advocates for Justice)

Acknowledgments

We would like to express our gratitude to North Carolina IOLTA and the North Carolina Bar Foundation for providing funding to support this research. Many thanks to the Center for Housing and Community Studies at the University of North Carolina at Greensboro (UNCG) for conducting the first comprehensive legal needs assessment of our state in almost 20 years. The members of the research team were: Stephen Sills, PhD, Director of the Center; Bruce Rich, JD, MPA, Housing and Urban Policy Coordinator; Haiyang Su, PhD, Survey Research; and Meredith DiMattina, GIST, Mapping.

We deeply appreciate the willingness of the hundreds of legal aid and social services professionals and members of the legal aid client community who shared their experiences through surveys, focus groups, and in-depth interviews.

This document provides a brief summary of UNCG's extensive findings for a special meeting of the North Carolina Equal Access to Justice Commission (EATJC) held in April 2021. EATJC and the Equal Justice Alliance (EJA) are responsible for the content of this summary.

INTRODUCTION

Whereas the Sixth Amendment guarantees the right to legal counsel to most criminal defendants, there is almost no civil right to counsel in the United States.

A large percentage of the population in North Carolina cannot afford the services of a private attorney. Each year, thousands of North Carolinians must navigate complex civil legal issues such as foreclosure and child custody without the benefit of representation. As a result, basic human needs like food, safety, shelter, and healthcare go unmet.

In 2020, in partnership with UNC Greensboro's Center for Housing and Community Studies, the NC Equal Access to Justice Commission (EATJC) and the Equal Justice Alliance (EJA) completed the first comprehensive civil legal needs assessment in nearly two decades. The study provides an overview of the scope of civil legal needs in North Carolina, as well as the factors affecting the depth and type of civil legal problems people experience. Primary goals of this assessment included:

- Documenting the current resources and services available to meet civil legal needs.
- Understanding specifics regarding the gaps in availability of services and what resources are needed to address unmet legal needs.

UNCG researchers obtained economic and demographic contextual data from secondary data sources. They compiled data for 2015–2019 from the NC Administrative Office of the Courts (NCAOC) for the number and type of civil cases by county. Eight civil legal aid providers in North Carolina provided a snapshot of caseloads in 2019.

Fast Facts: Legal Aid in NC

Until the current study, an assessment of the unmet civil legal needs of North Carolinians had not been undertaken since 2003.

More than 2 million low-income North Carolinians were eligible for the services of legal aid providers in 2018.

71% of low-income families will experience at least one civil legal problem in a given year.

86% of these legal needs go unmet because of limited resources for civil legal aid providers.

The coronavirus pandemic has significantly increased the need for civil legal aid.

There is 1 legal aid attorney for every 8,000 North Carolinians eligible for legal services, compared to 1 private lawyer for every 367 North Carolina residents.

The UNCG team collected primary data over the course of 10 months in 2020 using the following methods:

- 28 semi-structured, in-depth, one-on-one interviews with leaders in the legal aid field that included managing attorneys, policy directors, program officers, executive directors, legal scholars, and frontline attorneys from agencies across the state.
- Focus groups with legal aid lawyers, people who work for nonprofits delivering services in the community, and people who have been legal aid clients or have struggled to find affordable legal help (57 total participants).
- Statewide surveys of 1,176 stakeholders and 708 potential, current, or past clients.

Primary Findings

- Legal aid and social services providers were unanimous on one point: low-income North Carolinians face a severe shortfall in affordable legal resources. Over the past 20 years, some of the resources available to serve people in poverty have expanded while some have contracted—but the needs have far outpaced the resources.
- Some populations are underserved even relative to the larger population of low-income people in need of civil legal services. These populations include veterans, the elderly, people with disabilities, and Native Americans.
- The income limits imposed by the Legal Services Corporation (LSC), a significant source of funding for many legal aid offices, excludes middle-income clients from eligibility for assistance, despite the fact that they often cannot afford a private attorney.
- Legal aid providers are forced to turn away many eligible people with meritorious cases due to lack of resources.
- Family law (particularly custody proceedings) was by far the most often mentioned area of underserved practice. The second most often cited underserved practice area was immigration.
- Funneling additional resources into more routine practice areas like expunctions and traffic law has the potential for tremendous impact on many individuals' ability to be economically self-sufficient.
- Significant barriers make it difficult for low-income people to gain access to legal services. Researchers asked client respondents to name the greatest barriers. By far the most frequent was costs, which 91.2% identified.
- A lack of internet access can significantly hamper the ability of rural and low-income communities to access legal services.
- The need for legal services for low-income families is growing, and poverty drives a large percentage of this need.

Impact of COVID-19

Since descending on our state in March 2020, COVID-19 has both exposed and increased the unmet need for civil legal aid. The pandemic has significantly impacted North Carolina unemployment rates, causing ripple effects for families in many areas such as food insecurity, collections, child custody, and access to affordable healthcare. Stakeholder survey findings indicate that housing, employment, and discrimination are the top three

categories of increased need. Stakeholders noted an increase in domestic violence cases, as well as a surge in people concerned about wills and advance directives. The full impact of the pandemic on legal needs will not be seen for months or even years as vulnerable populations recover.

The unemployment rate in our state more than tripled between October 2019 and July 2020, soaring from 3.5% to 12.7%. The number of unemployed workers during this same time period increased from 180,081 to 436,774. The unemployment rate had fallen back to 6.1% in October 2020 and remains at 6.1% as of this writing; this rate is significantly higher than before the pandemic.

Under difficult conditions, the civil legal aid community has helped families in every county of the state meet basic human needs. Attorneys and other staff adapted to working remotely, socially distancing, and implementing other safety measures. They ramped up technology use to serve more clients and provide vital information to the public. Zoom meetings, email, websites, videos, and social media have been critical advocacy tools and allowed legal aid providers to increase their reach. Facebook Live is one of many tools used to inform people about their rights in a rapidly changing environment.

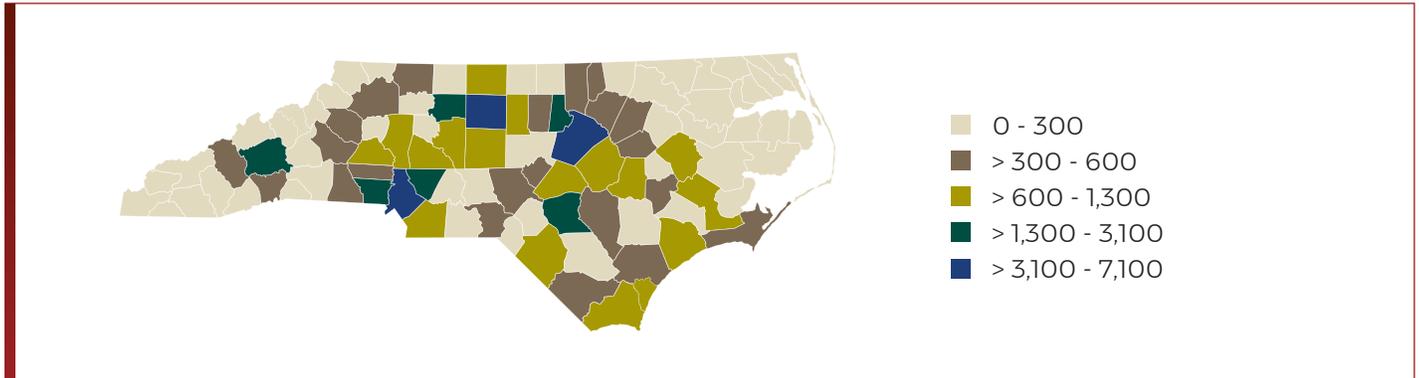
Courts have shifted a variety of hearings to virtual settings. Many study participants noted that people without access to reliable broadband and technology may fall through the cracks of the digital divide.

The unemployment rate in our state more than tripled between October 2019 and July 2020, soaring from 3.5% to 12.7%.

Overview of Need

The need for civil legal services for North Carolinians is generally acute. NCAOC records indicate there were more than 1.7 million civil legal cases for 26 civil issue types during the five-year period of 2015–2019, or 340,761 annual cases. Of these 26 case types for which researchers compiled data, 40% appeared in district court with less than 1% in superior court. Magistrates fielded about 45% of cases, and the remainder were primarily handled through special proceedings.

FIGURE 1: Civil Case Volume by County, 2019



Source: NC Administrative Office of the Courts.

FIGURE 2: 10 Most Prevalent Civil Legal Case Types Statewide (Annualized Incidence by Issue Type)

Issue	District Court	Magistrate Court	Superior Court	Estate	Special Proceedings	Registration	Annualized Rate per 10,000
Summary Ejectment	2,871	167,175	-	-	-	-	169.2
Divorce	37,070	-	-	-	-	-	36.9
Collection on Account	35,931	-	952	-	-	-	36.7
Domestic Violence	32,651	-	-	-	-	-	32.5
Foreclosure	-	-	-	-	23,778	-	23.7
Custody	18,521	-	2	-	-	-	18.4
Findings and Order of Foreclosure	-	-	-	-	13,949	-	13.9
Permanent Civil No-Contact Order	9,329	-	-	-	-	-	9.3
Incompetency	-	-	-	-	4,922	-	4.9
Guardianship of the Person	-	-	-	3,478	-	-	3.5

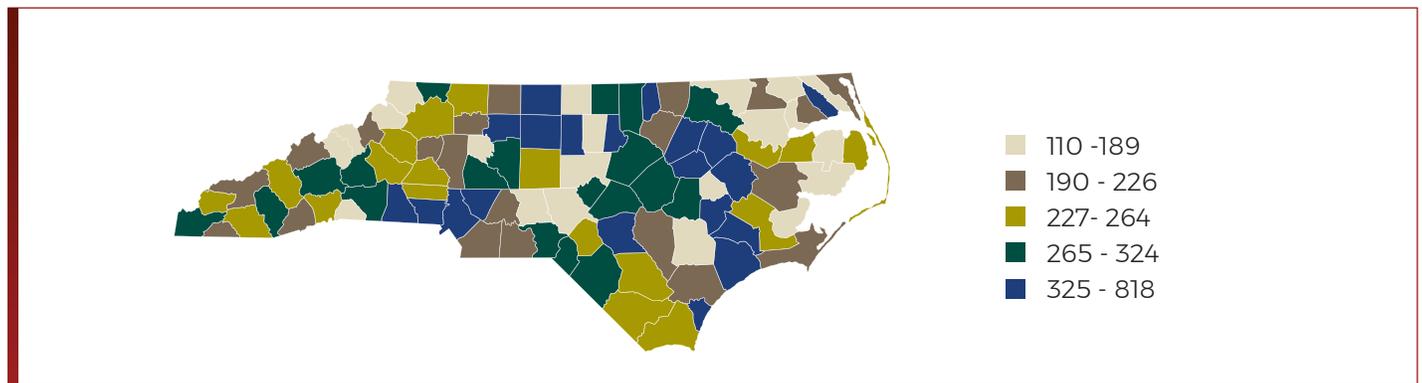
Source: NC Administrative Office of the Courts.

Large variations exist in both the rate and volume of civil cases in different counties across the state. County-level information is available upon request for these select case issue types: summary ejectment, collection on accounts, child custody, divorce, domestic violence, foreclosure, and guardianship. Additionally, UNCC researchers tabulated and mapped county-level information on the rate and volume of cases per court type and disposition. Figures for case issue type, court type, and dispositions are available both as annual rates per 10,000 population per year by county and as total annualized data by county, without consideration of the county’s population. This county-level information may be found at nclegalneeds.org.

The highest raw volume of civil court cases is centered around the larger metropolitan areas of the state, which are located in Wake, Mecklenburg, Guilford, Forsyth, Durham, and Cumberland Counties. Having a greater ratio of rental properties, these same counties are among the highest regarding the volume of summary ejectments, even when accounting for population density.

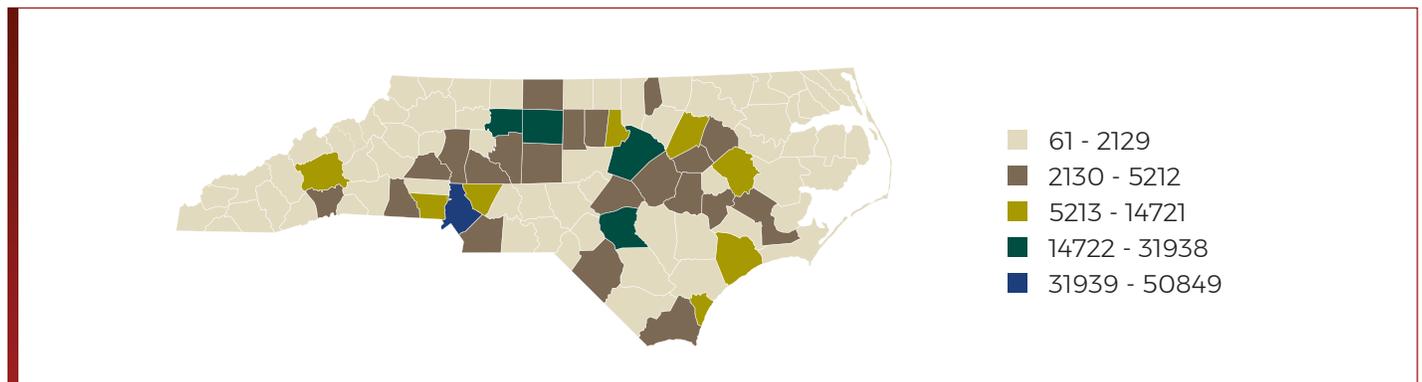
In contrast, foreclosure related cases were less correlated with population density, being highest in some of the eastern and western extremities of the state, as well as in Guilford, Forsyth, Hoke, and Cumberland Counties, while remaining relatively low in counties like Wake and Mecklenburg with major metropolitan areas. Even when low population density is accounted for, cases related to domestic violence were highly concentrated in the western half of the state and lower in the northeastern counties.

FIGURE 3: Rate of Civil Cases per 10,000 Population Per Year for Select Issue Types By County



Source: NC Administrative Office of the Courts, 2015-2019.

FIGURE 4: Total Count of Civil Cases for Select Issue Types per Year By County



Source: NC Administrative Office of the Courts, 2015-2019.

Note: The 26 case issue types included in the tabulations above are, in descending order, summary ejectment (eviction), divorce, collection on accounts, domestic violence, foreclosure, custody, findings and order of foreclosure, permanent civil no-contact order, incompetency, guardianship of the person, name change, temporary restraining order, domestic violence temporary custody, claim/designate exempt property, domestic violence temporary child support, renew permanent restraining order, general guardianship (incompetent), estate guardianship (incompetent), limited driving privilege, protective services (adult), power of attorney, permanent restraining order, renewal of permanent civil no-contact, general guardianship (minor), objection to exemptions claimed, and unlawful discriminatory housing practice.

Scope and Type of Cases Closed by Legal Aid Providers

Eight civil legal agencies provided data for this assessment from their 2019 records: Charlotte Center for Legal Advocacy, Council for Children’s Rights, Disability Rights North Carolina, Financial Protection Law Center, Land Loss Prevention Project, Legal Aid of North Carolina, NC Free Legal Answers program, and Pisgah Legal Services.

These eight organizations reported the following:

- Closing more than 33,805 cases.
- Serving more than 93,692 individuals, including 2,111 veterans.
- Preventing more than 1,897 evictions and 284 foreclosures.
- Assisting clients in obtaining 3,186 domestic violence protection orders.
- Assisting 628 individuals in expunging records.

Civil legal agencies disproportionately helped non-white clients. Approximately 55% of clients served in 2019 were non-white, whereas about 33% of the state’s population was non-white.

FIGURE 5: Top 10 Civil Legal Case Types Closed by Eight North Carolina Legal Aid Providers in 2019

Rank	Case Type	Closed 2019	Percent of All Cases Closed
1	Domestic Abuse	7,679	22.6%
2	Private Landlord/Tenant Issue	5,046	14.8%
3	Federally Subsidized Housing	1,873	5.5%
4	Other Miscellaneous	1,801	5.3%
5	Custody/Visitation	1,659	4.9%
6	Wills/Estates	1,568	4.6%
7	Advance Directives/Powers of Attorney	1,437	4.2%
8	Collection (including Repossession/Deficiency/Garnishment)	1,388	4.1%
9	SSI Benefits	1,050	3.1%
10	Immigration/Naturalization	1,021	3.0%

Source: Eight Legal Aid Providers.

In some geographic and issue areas, the gap between service need and service availability has reached a crisis stage. If a low-income individual is also a member of another marginalized group such as veterans, they are even more unlikely to obtain services. North Carolinians with incomes that just surpass the limit to be eligible for legal aid are particularly underserved because they earn too little to pay for the services of a private attorney.

In some geographic and issue areas, the gap has reached a crisis stage.

Difficult Choices

Legal aid providers must make difficult decisions about which individuals receive services based on their income eligibility, the importance of the issues being presented, the ability of the person to represent themselves, and whether the potential client's issue falls within one of the organization's priority subject areas.

The ability to meet the need for services will decline further post-pandemic.

Civil legal aid providers reported their ability to meet low-income families' legal needs will decline further post-pandemic due to anticipated increased demand. Stakeholder interviews indicated that the worst practice area shortfall is in family law, and the second most underserved practice area is immigration.

Geographic Disparities

Interviewees noted that it is much more challenging for low-income people in rural areas to access civil legal aid for a variety of reasons. They indicated that rural populations are:

- Less likely to have access to public transport.
- Less likely to reside near a legal aid office.
- Less likely to have access to high-speed internet.
- More likely to be older and have more health issues.
- More likely to suffer from the aftereffects of a weather-related disaster.
- More likely to be generally isolated and therefore less likely to know about available services.

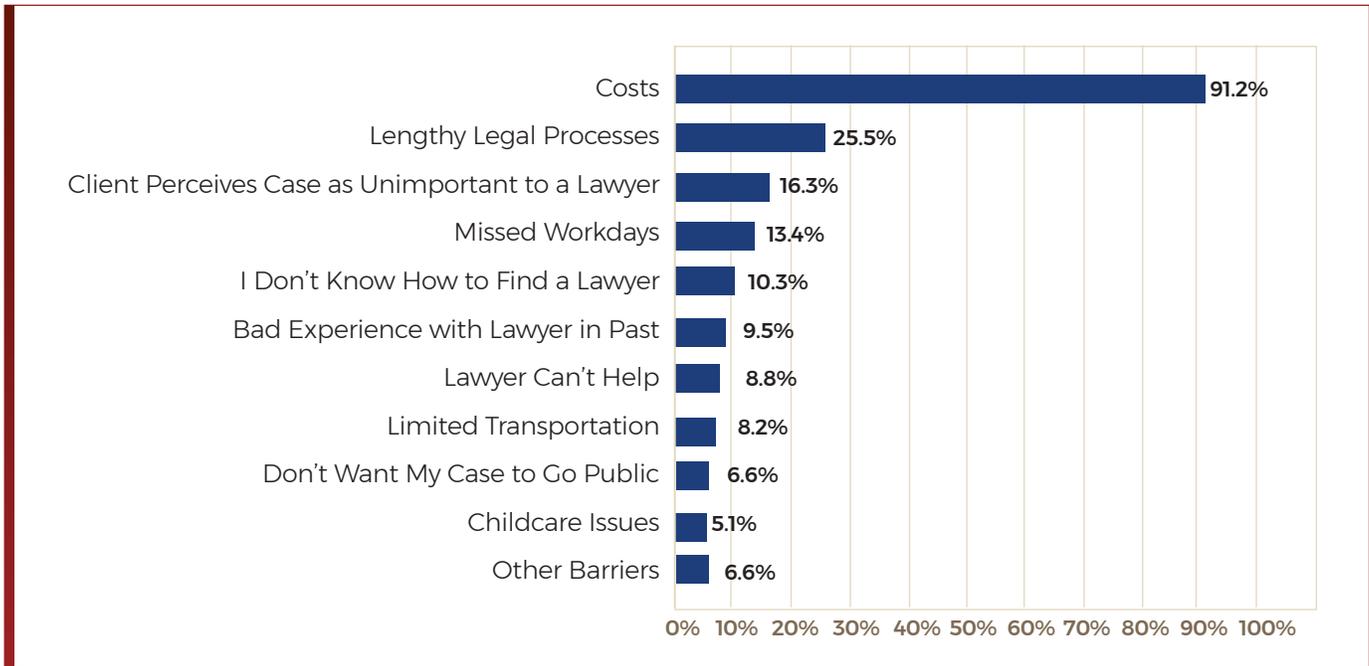
They also pointed out there are fewer pro bono attorneys and less locally-based philanthropic activity to support fundraising efforts in rural counties.

Costs Are Largest Barrier to Receiving Services

Clients overwhelmingly reported that costs are the most significant barrier to obtaining assistance with civil legal issues (Figure 6). In 2018, approximately 15% of North Carolinians lived in poverty, which is disproportionate by race and affects 23.5% of Black households and 12.1% of white households. The percent of households receiving SNAP (Supplemental Nutrition Assistance Program) in 2018 was 14.1%. One-in-five (20.7%) homeowners and 44.1% of renters were cost-burdened, spending more than 30% of income on housing-related costs. Finally, the median annual household income in North Carolina in 2018 was \$53,855, or about \$8,000 lower than that of the United States as a whole, with great variability between counties.

Clients overwhelmingly reported that costs are the most significant barrier to obtaining assistance with civil legal issues.

FIGURE 6: Barriers to Seeking Assistance with Civil Legal Issues, Client Survey Respondents, 2020



The top three most frequently mentioned barriers noted in Figure 6 were consistent across race, income, and level of trust in lawyers. The professionals interviewed further identified the following barriers: lack of childcare, inability to get time off work, lack of transportation, limited language and literacy, lack of internet access, health issues, lack of trust, and lack of awareness.

An additional barrier that came to light in the interviews and focus groups is that members of low-income and immigrant communities often have a low level of trust in lawyers, the court system, and the legal system in general. Client survey respondents were asked to rate on a scale from 0 (no trust) to 100 (total trust) their level of trust in lawyers. The average level of trust (mean) was 63.6. The highest trust level was seen among those with high incomes. Notably, veterans had the lowest level of trust in lawyers.

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FIGURE 7: Level of Trust in Lawyers, Client Survey Respondents, 2020

Client Group	Mean
All Clients	63.6
White	64.74
Non-White	62.75
Males	65.28
Females	63.43
Veteran	57.59
Non-Veteran	64.27
Very Low Income	64.49
Very High Income	81.33

Categories of Legal Services with High Need

UNCG researchers analyzed all data collected from the 28 in-depth interviews with leaders in the legal services field; focus groups with 57 total participants (including professionals, clients, and potential clients); and statewide surveys (1,176 stakeholders and 708 past, current, or potential clients). They identified multiple types of civil legal cases with high need for legal services.

Housing Issues for Owners: Housing legal services ranked at or near the top in each component of our assessment of civil legal needs in North Carolina. The most commonly filed legal issues for homeowners were foreclosure and mortgage issues, followed by home repair problems.

Housing Issues for Renters: Housing legal issues for renters were a top category of need and included general affordability issues, rent increases, threats of eviction, and tenants' rights.

Family Legal Services: Statewide NCAOC data and data supplied by legal aid providers indicated that family legal services are in high demand. Among the surveyed issues in the category of family law, more than half of respondents indicated a great need for services for domestic violence and partner abuse, followed closely by child custody, child visitation, and child support issues.

Immigration and Naturalization: Legal services for immigration and naturalization also ranked high on the overall assessment of legal needs, as well as in interviews and focus groups. All subfields ranked relatively high in need, and the most significant areas of need were related to deportation, immigration court hearings, problems resulting from not having a driver's license, and Deferred Action for Childhood Arrivals (DACA).

Seniors: The most prominent issues for seniors were fraud, Medicare/Medicaid issues, and powers of attorney and living wills. Guardianship and abuse of the elderly, while still high need, ranked lowest comparatively.

Healthcare: Medical-legal issues included addressing Medicaid eligibility issues and Medicaid nursing home benefits, as well as the provision of home and community-based services.

Income Maintenance: The most common legal services needs in this area were help with applying for or receiving SNAP, unemployment compensation, and Social Security Disability Insurance (SSDI).

Consumer Rights: Respondents indicated the greatest needs for consumer legal programs were related to collection agency abuse, student loan debt, and creditor harassment.

Employment Legal Services: Respondents agreed there was moderate to great need for addressing employment issues related to criminal records as well as issues concerning unemployment benefits.

Civil Rights/Discrimination: More services are needed for people facing discrimination due to race or ethnicity. Related was a high need for legal services for discrimination due to criminal record or police misconduct due to discrimination. The need was consistently high throughout all categories of civil rights cases.

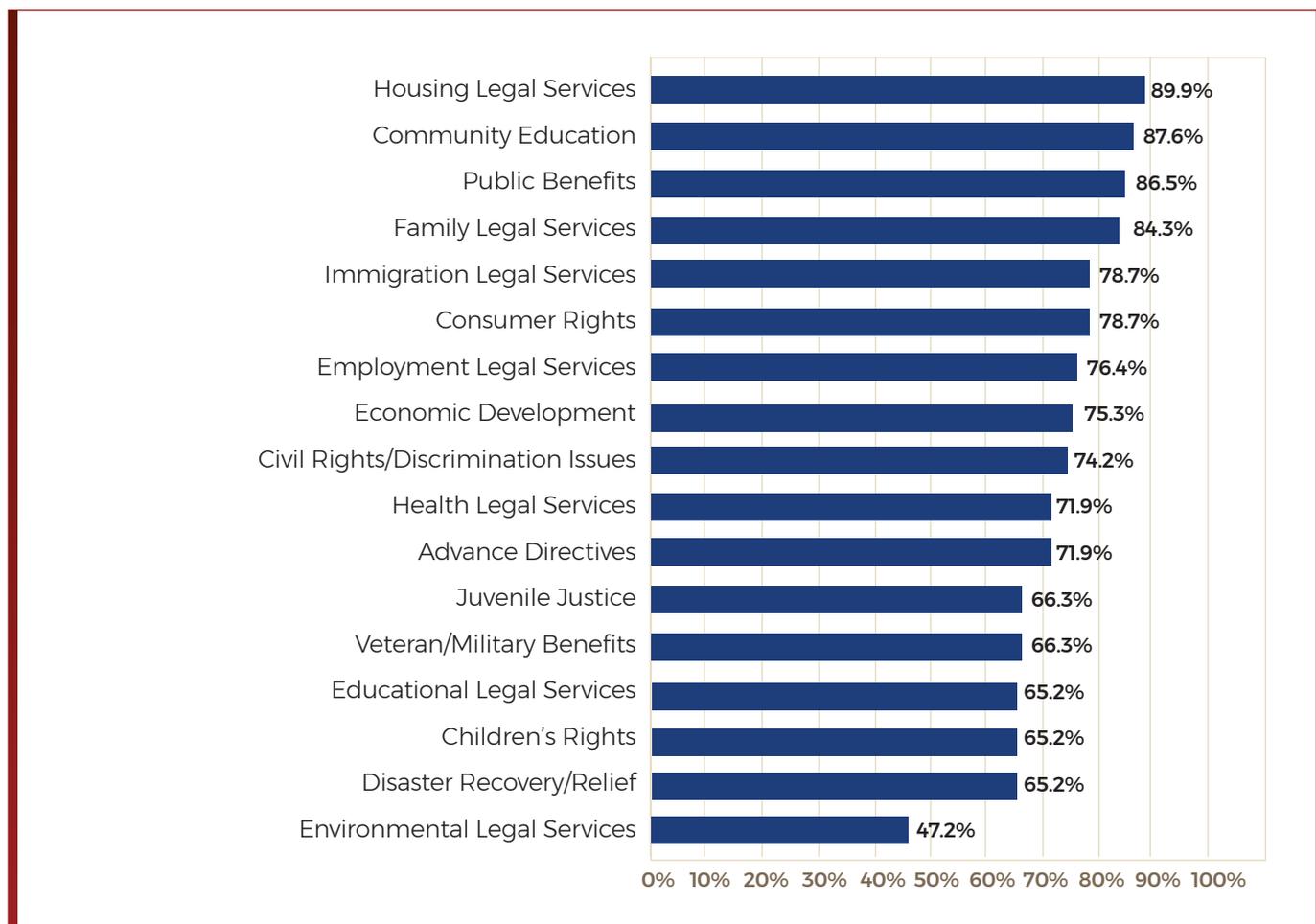
Veteran/Military Benefits: Denial of veterans benefits was the greatest area of legal need indicated by respondents, while discharge status upgrade or correction was the least needed service.

Education Legal Services: The majority of respondents agreed there was moderate to great need for addressing Individual Education Program (IEP) issues, school enrollment for homeless youth, and issues of youth being turned down for special education programs. The need was consistently high throughout all categories of educational legal cases.

Disability Benefits: The majority of respondents also recognized moderate to great need for legal services for cases where disability benefits were denied, reduced, or terminated; for Social Security Disability Insurance (SSDI) claims; and for mental illness or commitment hearings.

Wills and Estates: Respondents indicated roughly equal need in the following four areas of wills and estates: estate planning, probate, household members had problem with will or estate of deceased person, and unspecified legal problems with will or estate.

FIGURE 8: Top Needs Identified by Nonprofit Legal Aid Providers, 2020



Existing Financial and Human Resources

Researchers asked survey respondents to identify programs and efforts in their area that are successful in the current provision of civil legal services. Respondents provided 227 write-in responses, and key themes included the emergence of new programs, strong civil legal aid providers, effective community partnerships, and improvements in court training.

Funding: Legal aid providers throughout the state receive funding from a variety of sources. Federal funds through LSC furnish the greatest amount of funding for civil legal representation for low-income people in our state but exclude many people who need services. Additional federal, state, and local government grants are important sources as well. Respondents frequently mentioned the Governor's Crime Commission, which allocates funding to agencies under the Violence Against Women Act (VAWA) and the Victims of Crime Act (VOCA). These funds primarily support services to victims of domestic violence and sexual assault. Additional sources respondents identified were NC IOLTA, philanthropic foundations, individual and corporate contributions, attorneys' fee awards, and nominal fees from clients who exceed income levels.

As discussed, the funding for services to address North Carolinians' civil legal needs is severely inadequate. The lack of stability of funding emerged as a key issue. Many respondents also commented that restrictions on funding hampered their efforts to provide services efficiently.

Pro Bono: In our conversations about resources, study participants repeatedly mentioned the private bar as an important resource available to support the provision of legal services. Some legal aid providers reported receiving significant support from private attorneys who provide pro bono services to low-income families. These volunteers take on individual and appellate cases, as well as partner with legal aid attorneys for complex civil litigation cases. In many cases, bar associations also organize pro bono projects such as phone banks to provide answers to legal questions and clinics that help low-income people prepare documents. Training and supporting pro bono attorneys can, however, be labor intensive for legal aid providers. Opinions varied regarding the efficiency of utilizing pro bono services to assist clients.

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Leveraging Non-Lawyers: Civil legal aid providers struggling with limited resources told researchers they need community partners who can play a number of supporting legal roles. Respondents identified potential allies in local social services agency staff, social workers, navigators, advocates, housing counselors, victim witness assistants, paralegals, law students, and volunteers. Respondents also indicated that working closely with other social services organizations allows attorneys to meet client needs more effectively.

Partnerships within the Legal Civil Aid Community: Professionals serving low-income clients report dramatic growth in the effectiveness of their partnerships with other members of the civil legal aid community. Increasingly, they work together to support each other as well as their clients. They collaborate to educate clients and the wider community about legal issues. This interdependence sometimes also extends to the relationships between legal aid firms and the private bar.

Suggestions for Improvements from Justice System Stakeholders

After extensive discussion of needs, shortfalls, barriers, and resources, researchers asked study participants what changes they would like to see at the local, state, or federal level. We heard many suggestions for improvement, ranging from sweeping systemic change to modest tinkering with regulations. Recommendations generally fell into the three broad categories of structural change, funding, and regulatory reform.

Regarding structural change, some study participants recommended that steps be taken to reduce poverty and oppression. Ideas ranged from greater access to food and child care to increasing the minimum wage and the amount of affordable housing available. Many supported a civil right to counsel.

Short of sweeping systemic change, study participants generally felt that lack of funding is the key issue in explaining and remedying the shortfall in civil legal services. Many participants mentioned the need for far greater resources. Others advocated that funding be more flexible so that it can be used to cover nonprofit operational costs or small expenses of clients such as bus fare.

In terms of regulatory reform, several respondents mentioned Medicaid expansion. Other ideas were reinstating the earned income tax credit as an anti-poverty measure for children and reforming the unemployment insurance system in North Carolina.

The domestic violence sector gave rise to a number of policy recommendations. Among other suggestions, one practitioner urged that domestic violence protective orders be issued for longer periods and that courts take greater advantage of the statutory authority to award child and spousal support, as well as housing allowances, with protective orders. Reform of the campus sexual assault system was also mentioned.

Other ideas included:

Expansion of the property tax reduction available to disabled and elderly homeowners, liberalization of bankruptcy rules to permit restructuring of a mortgage on a primary residence, and expansion of Department of Agricultural rules to allow low-resource farmers to have more access to credit and conservation programs. Several informants recommended that the Self-Serve Center in Mecklenburg County be expanded to other counties. Remote court and administrative hearings and a system for remote notarizations were suggested as other ways to increase access.

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Many legal aid attorneys struggling to meet needs with limited resources advocated for training community partners and leveraging non-lawyers for support. Examples included providing more training for police and court officials regarding the dynamics of domestic violence, training housing counselors to assist in eviction and foreclosure cases, and utilizing prison staff to screen for needs like expungement. Non-lawyer advocates, with the appropriate support of lawyers, could be utilized to a greater extent to accompany clients to the courthouse to help them file *pro se* or represent themselves in court.

We do not yet know the full picture regarding the civil legal needs emerging from the pandemic. This study relied on court data from 2019 and interviews conducted throughout 2020. We know that unemployment, education deficiencies, housing instability, and other issues will have a prolonged impact on our state, and we will continue to monitor gaps in services over the coming months and years.

YOU CAN HELP

There are real steps that citizens can take to help bridge the justice gap.

Volunteer

Attorney volunteers bridge the gap between those with low/modest income and the court system.

**More information is available at
ncprobono.org.**

Donate

Support your community's second responders by giving to civil legal aid organizations in North Carolina.

**More information about civil
legal aid organizations is available at
ncequaljusticealliance.org.**

Spread the Word

Tell others how civil legal aid is vital for North Carolina citizens and how it can solve problems early, make communities more resilient, and strengthen the economy.

**More information is available at
ncaccesstojustice.org.**



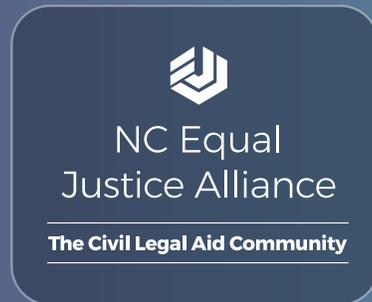
PO Box 2448

Raleigh NC 27602

919.890.1090

staff@ncaccesstojustice.org

ncaccesstojustice.org



PO Box 28802

Raleigh, NC 27611

919.890.1093

simmons@ncequaljusticealliance.org

ncequaljusticealliance.org

nclegalneeds.org