



THE CRISIS

Access to justice is high stakes. It routinely determines whether basic human needs for food, clothing, and shelter will be met, and it can mean everything for a person in crisis.

- Legal Service Corporation's April 2022 Justice Gap Report shows 92% of low-income Americans' civil legal problems received no or little help.
- Nearly 74% of low-income households experienced at least one civil legal problem in the previous year.
- In 2019, 18.2% of NC's population (1,859,610 people) were eligible for Legal Aid services.
- As of 2021, the income cutoff to receive assistance from Legal Aid of North Carolina is \$16,100 for one person and \$33,125 for a family of four.



Full Report: Looking Beyond Lawyers to Bridge the Civil Access to Justice Gap: Petition for Redress of Grievances Pursuant to N.C. Const. Art. I, § 12, Policy Analysis & Legislative Proposal (Feb. 2023)

PROBLEM AFFECTING MILLIONS OF NORTH CAROLINIANS

Civil legal issues affect basic human needs, including housing, safety, economic stability, and family structure. While Legal Aid of North Carolina (LANC) works to serve 18.2% of the population (with income below \$16,100 for a single person and \$33,125 for a family of four), limited resources mean LANC can only help 1 in 10 families that qualify for services. Further, 26.5% of North Carolina's residents are ineligible for LANC and cannot afford a lawyer during a legal crisis.

Despite the tireless efforts of private attorneys, pro bono practitioners, and legal aid organizations, as well as extensive research on the topic by stakeholders in the legal profession, access to affordable legal assistance remains a significant challenge for many residents of North Carolina facing civil legal issues. The limited availability of affordable legal assistance in North Carolina is partly due to restrictive state laws, specifically N.C. Gen. Stat. § 84, which prohibits non-lawyers from providing assistance to individuals in need, even if they possess the necessary knowledge and skills. This statute effectively creates a monopoly for lawyers and severely limits access to legal services for those who cannot afford representation.

POLICY ALTERNATIVES

The legislative proposal discusses the civil legal needs of North Carolinians and identifies four policy alternatives for mitigating the access to justice crisis, including:

- 1) licensing legal practitioners (reducing fees for services);
- 2) liberalizing N.C. Gen. Stat. § 84 (Unauthorized Practice of Law) for legal aid and pro bono services;
- 3) creating a legal regulatory sandbox; and



- Even when income requirements are met, LANC can only serve 1 in 10 households due to budgetary and human resources constraints.
- An estimated 26.5% of North Carolina's residents are ineligible for LANC and cannot afford a lawyer during a civil legal crisis
- If every single one of the 1.3 million licensed lawyers in the U.S. were to take on civil legal problems, they'd each have to put in 180 pro bono hours (1.5 months) each year!
- According to the 2021 NC Civil Legal Needs Assessment, the 10 most prevalent civil case types are:
 - ◆ Summary Ejectment
 - ◆ Divorce
 - ◆ Collection on Account
 - ◆ Domestic Violence
 - ◆ Foreclosure
 - ◆ Custody
 - ◆ Findings and Order of Foreclosure
 - ◆ Permanent Civil No-Contact Order
 - ◆ Incompetency
 - ◆ Guardianship of the Person

- 4) establishing a court navigator program.

POLICY RECOMMENDATIONS

In the full report, we analyze the policy alternatives in terms of economic efficiency, social equity, political feasibility, and legitimacy. We then explain how each policy solution would help the access to justice crisis. While ideally, all of these measures are needed to maximize opportunities for bridging the access to justice gap, we propose:

- 1) licensing legal practitioners (reducing fees for services); and
- 2) liberalizing N.C. Gen. Stat. § 84 (Unauthorized Practice of Law) for legal aid and pro bono services.

Implementing both options concurrently would allow legal aid to better leverage its non-lawyer workforce, while legal practitioners would be able to serve people who can afford to pay something for legal services but not the high rates attorneys generally charge. Legal practitioners' practice areas might include family law, landlord-tenant law, estate planning and probate law, debtor-creditor law, administrative law, and expungements. Many of these practice areas are identified as the greatest civil legal needs in North Carolina's 2021 Civil Legal Needs Assessment.

These policy alternatives are cost-effective. According to Utah's and Washington's licensing programs, there is an average cost of \$100,000 - \$200,000 per year with the potential to become self-sustaining with sufficient uptake and licensing fees. Further liberalizing UPL would not necessitate exorbitant funding if Legal Aid of North Carolina were permitted to create its own training programs. These programs would support the 18.2% of the population that qualifies for legal aid and the 26.5% that does not qualify for legal aid but cannot afford to hire a lawyer.

We also suggest forming a legislative committee to design a pilot program for these initiatives. The most challenging barrier to overcome is an entrenched bureaucracy that is reluctant to re-evaluate whether the current system still serves the people's interests. A program that better addresses the civil legal needs of the residents of North Carolina can be developed by working cooperatively with input from the public and the legal community. Furthermore, gathering data throughout the pilot project would allow for the collection of important data early in the process, when incremental improvements to the program could still be made without incurring high costs.

View our full report and letters of support from access-to-justice policy experts and institutions at www.ncjfab.org/2023-legislative-proposal-to-ncga.