

Civil Legal Regulatory Reform Task Force of the District of Columbia Courts



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The Task Force's purpose

- ▶ Investigate allowing nonlawyers who have sufficient qualifications and training to provide certain kinds of legal help in civil cases to people whose important interests are involved. Current rules only allow licensed lawyers to provide legal advice and representation.



Why is the Task Force exploring this idea?

- ▶ Thousands of District residents try to solve their civil legal problems and navigate our complex court and administrative systems on their own without legal advice and representation, often because they cannot afford attorney fees or because there are not enough free or pro bono legal services available to help.
- ▶ The human stakes are high if legal outcomes are not good: families are separated; houses are lost; financial support and benefits are not received; victims of domestic abuse remain at risk.

The magnitude of the problem

- ▶ About ½ of litigants in D.C. Court of Appeals civil matters are *not* represented by lawyers
- ▶ In D.C. Superior Court, percentages of litigants who lack representation:
 - ▶ 83% plaintiffs & 93% respondents in divorce and custody
 - ▶ 88% tenants in landlord/tenant (while 95% of landlords are)
 - ▶ 75% plaintiffs in housing conditions
 - ▶ 97% parties in small estates
- ▶ At D.C. Office of Administrative Hearings, 86-91% of litigants in public benefits, rental subsidies, unemployment insurance, and more

The Reality...

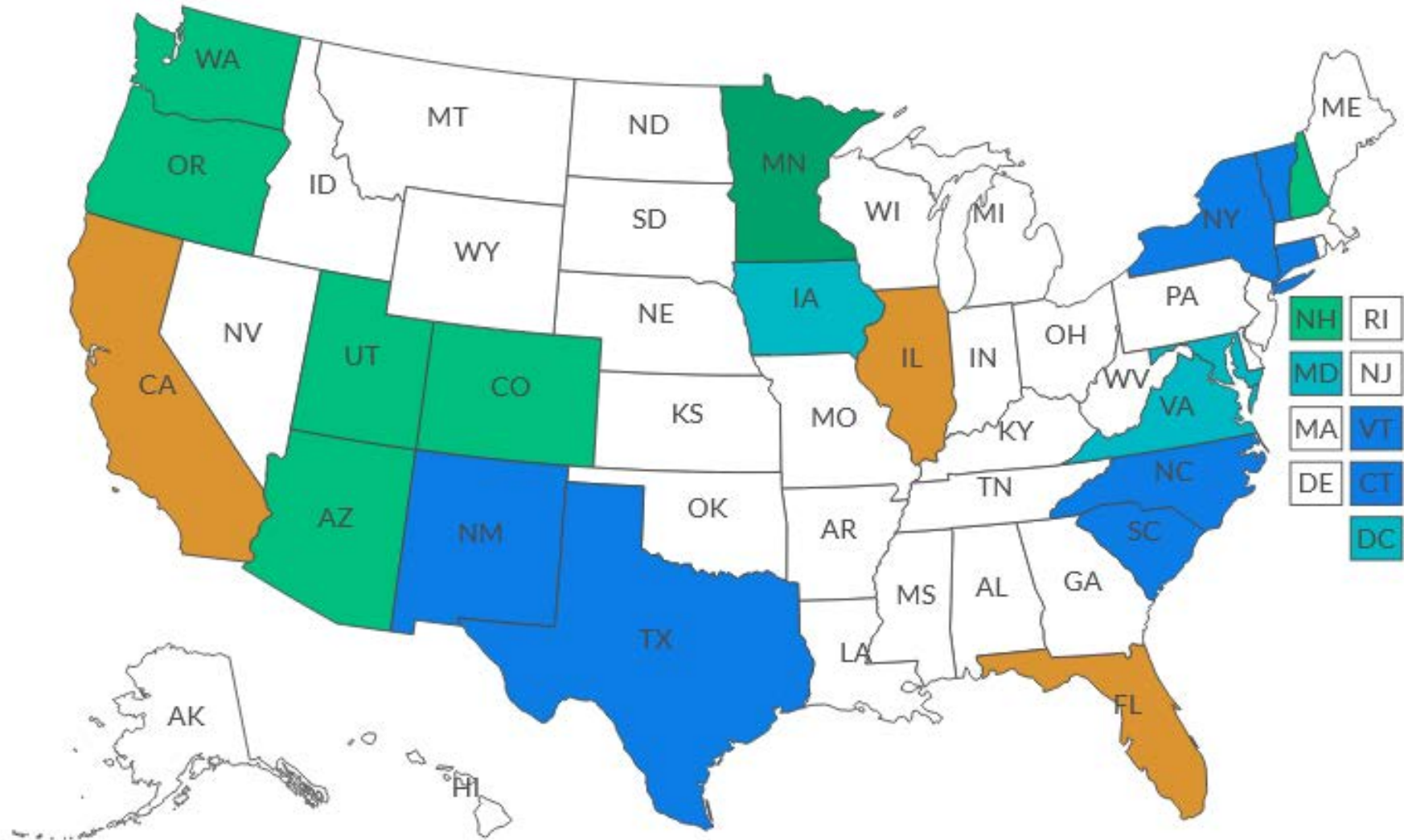
- ▶ The realistic alternative for most litigants is *no legal assistance*.
- ▶ When considering the use of nonlawyers in addressing our access to justice gap, the practical choice often is between *no assistance vs. assistance by a nonlawyer* not between *assistance by a lawyer vs. assistance by a nonlawyer*



An approach being considered elsewhere...

- ▶ Other jurisdictions have successfully incorporated nonlawyer assistance into their civil justice system to help address this problem or are actively considering it. Some administrative agencies already allow it (e.g., immigration courts).
- ▶ Learn more at the Institute for the Advancement of the American Legal System (IAALS):
<https://iaals.du.edu/projects/allied-legal-professionals>

■ Implemented ■ Approved and Under Development ■ Under Consideration ■ Being Studied ■ Currently Not Moving Forward



Graphic from the Institute for the Advancement of the American Legal System

The Task Force will...

- ▶ Get input from a broad range of D.C. stakeholders
- ▶ Review the draft report of the Specially Licensed Legal Professional Working Group of the DC Bar's Innovations in Legal Practice Committee on this topic. Click [THIS LINK](#) for the draft report.
- ▶ Prepare and finalize recommendations to the D.C. Courts. Recommendations will include reactions to the D.C. Bar's draft report *but will not be limited to them.*
- ▶ Click [THIS LINK](#) for the administrative order creating the Task Force and [an amendment](#).

Task Force Members

Co-Chairs:

- ▶ Roy W. McLeese III, Associate Judge, D.C. Court of Appeals
- ▶ Alfred S. Irving, Jr., Associate Judge, D.C. Superior Court

Members:

- ▶ Laura A. Cordero, Associate Judge, D.C. Superior Court
- ▶ Darlene M. Soltys, Associate Judge, D.C. Superior Court
- ▶ Herbert Rouson Jr., Executive Officer, D.C. Courts
- ▶ Julio Castillo, Clerk of the Court, D.C. Court of Appeals
- ▶ WonKee Moon, Special Counsel to the Chief Judge, D.C. Court of Appeals
- ▶ Willa Obel, Special Counsel to the Chief Judge, D.C. Superior Court
- ▶ Erin Larkin, Director, D.C. Courts Access to Justice Unit
- ▶ James Sandman, Vice Chair, D.C. Access to Justice Commission (Chair, External Outreach Committee)
- ▶ Nancy Drane, Executive Director, D.C. Access to Justice Commission (Chair, Outreach Committee)
- ▶ Charles (Rick) Talisman, Chair (Former), Innovations in Legal Practice Committee, D.C. Bar
- ▶ Amy Neuhardt, Chair, Innovations in Legal Practice Committee, D.C. Bar
- ▶ Carla Freudenburg, Director, Regulation Counsel, D.C. Bar
- ▶ Kirra Jarratt, Chief Executive Officer, D.C. Bar Foundation
- ▶ Sharon Goodie, Administrative Law Judge, D.C. Office of Administrative Hearings
- ▶ Toni Marsh, President, American Association for Paralegal Education (Chair, Scope and Qualifications Committee)

Current Task Force Committees

- ▶ **External Outreach Committee** is examining similar efforts in other jurisdictions
- ▶ **Scope and Qualifications Committee** is exploring how this might operate in DC, including potential nonlawyer qualifications, legal areas to target services, range of tasks they'd assist with, and more
- ▶ **Outreach Committee** has developed a plan to inform, engage, and get input from DC stakeholders



We will now provide a brief overview of the ideas the Task Force is investigating and then ask for your reactions...

Three potential solutions being considered by the Task Force:

- ▶ Independent licensure of nonlawyer, legal professionals (*various titles have been used here; the D.C. Bar draft report suggests Specially Licensed Legal Professionals; others have used Legal Paraprofessionals, Licensed Legal Practitioners, etc.*)
- ▶ Community Justice Workers
- ▶ Court-authorized program that is already allowed under an exception to the unauthorized practice rule

Solution 1: Licensure of legal paraprofessionals/practitioners

- ▶ Could be licensed by the D.C. Court of Appeals to perform specific tasks in specific types of cases
- ▶ Could work independently, without lawyer supervision
- ▶ May charge fees (typically lower than attorneys' fees) or could be hired by an organization to supplement the legal services it offers
- ▶ Requirements might include:
 - ▶ Sufficient educational background
 - ▶ Character and fitness review
 - ▶ Pass exams on legal ethics and relevant law
 - ▶ Prior work under lawyer supervision or legal training
 - ▶ Compliance with relevant DC Rules of Professional Conduct and other Court and Bar rules that regulate lawyers

Potential tasks they might perform

- ▶ Review, explain, prepare documents
- ▶ Serve and file documents
- ▶ Interview clients
- ▶ Represent clients at settlement or mediation
- ▶ Communicate with other parties about relevant forms and matters
- ▶ Explain possible legal rights, remedies, defenses, options and strategies
- ▶ Prepare and answer discovery
- ▶ Prepare for or attend depositions
- ▶ Stand or sit with clients at tribunal for emotional support
- ▶ Talk to clients when judge questions clients
- ▶ Represent clients at hearings

These are some potential tasks the Task Force may consider. The specific parameters of scope of practice and permitted activities would be defined in any final scheme.

Potential Areas of Practice

- ▶ Family law
- ▶ Probate (small estates)
- ▶ Housing
- ▶ View is that licensed paraprofessionals/practitioners would be most effective in increasing access to justice in these areas, especially recognizing that many will operate independently and will require some fee

Solution 2: Community Justice Workers

- ▶ Typically, professionals employed by, or volunteers associated with, service-related organizations who can expand the non-legal help they currently provide through community justice worker training, such as social workers in domestic violence shelters, tenant advocates, public health workers, and financial counselors.
- ▶ They are not paid by clients. Community justice workers would not necessarily provide legal assistance on a full-time basis. Instead, they might incorporate legal assistance into work they are already doing.
- ▶ Trained by and work under lawyer supervision.

What *might* Community Justice Workers do?

- ▶ May provide direct legal assistance for specific matters as to which the worker has been trained and is supervised.
- ▶ Community Justice Workers have been instrumental in expanding access to justice in jurisdictions like Alaska and are being explored in other jurisdictions. Seven different community-based justice worker models have been authorized at the state level, in five jurisdictions.
- ▶ Community Justice Workers might do some but not necessarily all of the same tasks as licensed paraprofessionals in areas where they receive training, but under supervision and not independently. The specific parameters would be defined in any final scheme.

Potential Areas of Practice

- ▶ Housing – evictions, conditions, rental subsidies, etc.
- ▶ Family law – divorce, alimony, child support, custody, etc.
- ▶ Domestic Violence (petitioners and respondents) - civil only
- ▶ Public benefits – food support, rental assistance, health benefits, etc.
- ▶ Debt collection
- ▶ Probate – estate administration and estate planning

Solution 3: Court-authorized program

- ▶ Nonlawyers are already allowed to provide advice and representation as part of a court-authorized program under an exception to Rule 49 – the unauthorized practice of law rule. (D.C. App. R. 49(c)(10))
- ▶ In highlighting this current rule, the court could encourage the submission of proposals that could offer creative solutions to address the unmet need for legal assistance in D.C. through the use of nonlawyers.



We want your input!

- ▶ The Task Force is convening focus groups to get feedback and reactions to the ideas being considered.
- ▶ We will also be releasing an online survey soon for any and all interested parties to complete.
- ▶ Your feedback is important and will help inform the Task Force's recommendations.
- ▶ We have some questions to get the discussion started ...

Discussion

- ▶ What types of issues do the people you work with need help with?
- ▶ What do you think about the solutions the Task Force is exploring related to allowing qualified nonlawyers to provide limited legal services directly to individuals in need of legal assistance?
- ▶ What type of tasks do you think nonlawyers would be particularly good at helping with?
- ▶ Are there tasks that you think nonlawyers should not be permitted to do?
- ▶ Could you see your organization working with these nonlawyers to expand service? How?
- ▶ What type of education and/or training should nonlawyers have?
- ▶ What else should we know about? Is there anything that we didn't ask that you wish we had?
- ▶ Any final thoughts or comments you wish to share with us?



THANK YOU!

- ▶ Look out for an online survey soon
- ▶ In the meantime, you are welcome to send comments to CLRRTaskForce@dcsc.gov
- ▶ Final recommendations will be issued in January 2025