

# Expanding Access to Justice Through Authorized Justice Practitioner Programs

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In state courts, which handle an estimated 98 percent of civil disputes, lawyers represent both sides in less than 25% of the cases. In some high-volume dockets such as housing, family law, and debt collection, 80 to 90 percent of cases have at least one party without a lawyer. These figures only capture those who make it to court; countless more community members struggle with serious legal problems outside the formal judicial process.

Traditional solutions — like increasing the overall number of lawyers or encouraging pro bono service — have not meaningfully addressed this issue. The number of lawyers has increased in absolute terms and proportional to the American population, and yet the number of people without lawyers continues to grow. Increasing funding for civil legal aid providers, while important, will not address this problem on its own. Many of those in need of help, including small businesses and middle-income families, often fall outside the priorities and eligibility criteria of civil legal aid.

State supreme courts play a pivotal role in fostering innovative solutions that bridge the justice gap. Recognizing the seriousness of this shortage, several state supreme courts have explored new pathways to expand access to justice, by authorizing new categories of authorized justice practitioners who can practice law in defined contexts. There are two primary categories of new authorized justice practitioner programs: (1) Allied Legal Professional (ALP) Programs<sup>1</sup> and (2) Community-Based Justice Worker (CBJW) Programs.<sup>2</sup> ALPs are historically licensed by a state regulatory body, and once accredited as independent legal practitioners, can offer fee-based legal services in discrete areas of law and for specific legal tasks. CBJWs are trained to provide limited scope legal services for free to people facing civil legal issues as part of a community-based organization's existing work, often under the supervision or mentorship of a licensed attorney.

State supreme courts individually, and collectively through The Conference of Chief Justices and the Conference of State Court Administrators, play a pivotal role in advancing access to legal representation through the exploration of Authorized Justice Practitioners. By leveraging their authority and influence, state supreme

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<sup>1</sup> <https://iaals.du.edu/projects/allied-legal-professionals>

<sup>2</sup> <https://iaals.du.edu/blog/diverse-landscape-community-based-justice-workers>



courts can foster discussions focused on where and how Authorized Justice Practitioners may be helpful to address underserved legal needs.

This white paper offers several considerations for thoughtful exploration and implementation of Authorized Justice Practitioner programs. As jurisdictions grapple with pressing access-to-justice challenges, the exploration of Authorized Justice Practitioners presents a promising opportunity to address unmet legal needs in a structured and controlled manner.

Access to justice is inherently dynamic, shaped by changes in the legal landscape and societal needs. As things continually change, it is important for state supreme courts to engage in ongoing exploration of authorized justice practitioner programs, and whether they may play an important role in meeting legal needs. This iterative process will not only allow for the adaptation and development of new and improved strategies to better serve those who most need it, but it also facilitates emerging opportunities to enhance legal representation and support. This white paper offers guidance for state supreme courts and their partners committed to fostering such innovation in legal service delivery.

## **1. Develop a Clear Framework and Scope of Practice for Authorized Justice Practitioner Programs**

Establish clear guidelines and regulations that define the scope of practice for authorized justice practitioners (either ALPs and CBJWs), allowing them to offer legal assistance in defined areas without compromising client protection. Work with system actors across a state's legal ecosystem to identify areas for new legal practitioners to provide value, especially with common unmet legal needs such as family law, small claims, probate, housing, and criminal records. Data collection and surveys that measure unmet civil legal needs may serve as an initial step towards innovation and provide guidance for authorizing new pathways for legal practitioners. It is also important to consider consumer's ability to pay. In practice areas like family law, there may be a market for ALPs to charge for their services, but in practice areas like debt collection and eviction, the free services of CBJW programs may be more effective at filling the unmet need. Defining the intended needs, populations, and goals of any new authorized justice practitioner program is key to long-term success.

**2.****Ensure Wide Representation in Committees Tasked with Authorized Justice Practitioner Program Oversight**

Committees, commissions, and/or working groups tasked with developing recommendations for creating or expanding new legal practitioner programs should leverage the perspectives of a wide variety of system actors, including members of the private bar, judges, legal educators, social service providers, and community members with lived experience navigating civil legal challenges. It is important to leverage different perspectives and experiences, which can lead to increased creativity, innovation, and problem-solving.

Committees, commissions, and working groups should take the time to understand who in the community is positioned to help, what capacity they have for engaging in the provision of legal services, and how to best include those voices in decision-making from the outset and throughout the design process. States should consider who in the community is positioned to provide the legal education and credentialing that new legal practitioners will need as well as which community-based organizations, within and beyond the legal profession, can host CBJWs. The inclusion of a wide range of system actors will support the effective design and implementation of new authorized justice practitioner programs.

**3.****Ensure High Standards and Quality Control Measures Through Training, Certification, and Ongoing Support**

Work with courts, practicing attorneys, and legal educators to develop certification programs and training opportunities for authorized justice practitioners, equipping them with the necessary legal knowledge and ethical standards to practice effectively within defined boundaries. While developing program requirements and standards, take care to balance the need to ensure a high quality of service and maintain ethical standards against the risk of creating unnecessary barriers to entry that may interfere with new authorized justice practitioner programs functioning as intended.

Identify and implement support structures such as mentorship, continuing education, and resources to help new legal practitioners succeed in their roles and build trust with community members and other justice system stakeholders. Research shows that when implementing supervision, there should be a focus on mentorship within supervision, as authorized justice practitioners benefit the most from mentorship models that recognize and prioritize best practices in the provision of legal services. Once training is completed and advocates are certified, experts recommend requiring continuing education to maintain certification.

#### **4. Creating an Ecosystem for Authorized Justice Practitioner Programs to Operate in Collaboration with Licensed Attorneys**

The rules governing new legal practitioner programs and the process for licensure and training are critical first steps. However, care must be taken to focus on how these programs fit into the broader legal service ecosystem. ALPs, CBJWs, licensed attorneys, court navigators, and others should collaborate to ensure community members with legal needs can access the appropriate civil legal service for their needs and budgets. It is important to cultivate a service ecosystem that fosters collaboration between new and existing justice professionals, streamlines referrals across the ecosystem, encourages a culture of transparency, and ensures that complex matters receive necessary legal expertise.

#### **5. Develop Authorized Justice Practitioner Programs with a Client-Centered Focus**

Promote a client-centered approach to legal service innovation by ensuring that the services provided by ALPs and CBJWs are easily accessible, culturally conscious, and responsive to client's human needs beyond the legal system. Center client resiliency in how services are designed and delivered, with a focus on empowering community members to navigate legal challenges.

#### **6. Monitor and Evaluate Impact of Authorized Justice Practitioner Programs**

In coordination with system actors across the state's legal ecosystem, establish clear and intentional mechanisms to monitor the impact of authorized justice practitioner programs on access to justice, client satisfaction, and legal outcomes. Develop metrics for measuring impact and success at the outset of the program and continue to adjust program operations as necessary based on evidence and feedback.

Where oversight is required by the court, work to ensure that courts have the resources to administer additional regulation and provide oversight such that the program does not become overly burdensome to authorized justice practitioners or program administrators.

## **Build Awareness and Education of Authorized Justice Practitioner Programs Among Justice Partners and the General Public**

Promote public awareness of the roles and capabilities of ALPs and CBJWs in providing legal services, so members of the public can make informed decisions about their legal representation options. Identify processes and resources for disseminating information to the public about new programs and legal service options. Consider adopting strategies for sharing information with licensed attorneys, law firms, court navigators, paralegals, and paralegal programs to continue supporting the sustainable expansion of new legal practitioner programs.

Also, identify processes for offering educational programming and regular updates for judges, clerks, court staff, court navigators, and members of the bar to ensure all stakeholders are kept updated on new programs and any relevant changes to the ecosystem of authorized justice practitioners.

### **Historical resolutions of interest:**

- Resolution 2 (2020), [\*Urging Consideration of Regulatory Innovations Regarding the Delivery of Legal Services\*](#)
- Resolution 2 (2022), [\*Endorsing Standards for Regulatory Reform Assessment Metrics\*](#)
- Resolution 5 (2015), [\*Reaffirming the Commitment to Meaningful Access to Justice for All\*](#)
- Resolution 3 (2018), [\*Expanding Meaningful Access to Justice for All\*](#)