

April 29, 2026

The Honorable Justices of the Tennessee Supreme Court
c/o James Hivner
Clerk of the Appellate Courts
100 Supreme Court Building
401 7th Avenue North
Nashville, TN 37219-1307

SENT VIA EMAIL

Email: appellatecourtclerk@tncourts.gov

RE: PUBLIC COMMENTS ON POTENTIAL REGULATORY REFORMS TO INCREASE ACCESS TO QUALITY LEGAL REPRESENTATION (DOCKET NO. ADM2025-01403)

Dear Honorable Justices of the Tennessee Supreme Court,

Thank you for the opportunity to provide public comment in response to Docket No. ADM2025-01403 (In Re: Public Comments on Potential Regulatory Reforms to Increase Access to Quality Legal Representation).¹ We submit these comments as empirical researchers who use the tools of social science to investigate access to justice and the effectiveness of both new and established ways to respond to America's persistent access to justice crisis.² We commend the Tennessee Supreme Court for their leadership in addressing the issue of how regulatory reforms might help to address access to quality legal representation in Tennessee.

The United States' crisis of access to civil justice is so well documented at this point that its facts require little rehearsal. Whichever measure of the *lack* of access to justice one chooses as a standard, the crisis has only deepened, at the same time that the number of American lawyers has grown, both in absolute terms³ and relative to the size of the population.⁴ More civil justice problems go unserved and unresolved than ever.⁵ US courts have seen rising numbers of people appearing

¹https://s3.amazonaws.com/membercentralcdn/sitedocuments/tnbar/tnbar/0459/2865459.pdf?AWSAccessKeyId=AKIAIH KD6NT2OL2HNPMQ&Expires=1777343415&Signature=vf6%2BMJfGzK%2BRDmTISVUSsYnRR4U%3D&response-content-disposition=inline%3B%20filename%3D%22TennesseeSupremeCourt_OrderSolicitingPublicComment_091625%2Epdf%22%3B%20filename%2A%3DUTF-8%27%27TennesseeSupremeCourt%255FOrderSolicitingPublicComment%255F091625%252Epdf&response-content-type=application%2Fpdf

² The authors of this public comment are Matthew Burnett, JD, Director of Research and Programs for the Access to Justice Research Initiative at the American Bar Foundation and Adjunct Professor of Law at Georgetown University Law Center, and Rebecca Sandefur PhD, Professor in the School of Social and Family Dynamics at Arizona State University and Faculty Fellow at the American Bar Foundation. Together they are co-founders of Frontline Justice and the Justice Worker Lab.

³ The population of U.S. lawyers has grown by 400% since 1970. See *Demographics*, A.B.A. PROFILE OF THE LEGAL PRO. 2023, <https://www.abalegalprofile.com/demographics.html>.

⁴ To illustrate, the U.S. had one lawyer for every 695 people in 1951 and one lawyer for every 252 people in 2005. See CLARA N. CARSON WITH JEEYOON PARK, AM. BAR FOUND., *THE LAWYER STATISTICAL REPORT: THE U.S. LEGAL PROFESSION IN 2005* 2 (2012).

⁵ Americans experience an estimated at least 150 million new civil justice problems annually. See Rebecca L. Sandefur & James Teufel, *Assessing America's Access to Civil Justice Crisis*, 11 U.C. IRVINE L. REV. 753, 765 (2021). At least 120 million of those go unresolved. See THE HAGUE INST. FOR INNOVATION OF LAW & THE INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., *JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA* 235 (2021), <https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>. The Legal Services Corporation's 2022 study of the legal needs of the low-income population finds an increase in the proportion of the civil justice issues of the poor that receive no or inadequate service, from 86% in 2017 to 92% in 2022. *Justice Gap Research*, LEGAL SERVS. CORP., <https://www.lsc.gov/initiatives/justice-gap-research>.

without representation.⁶ Civil legal aid offices routinely turn away as many eligible people as they serve for lack of resources.⁷ And Tennessee is no exception, with only 10 civil legal aid attorneys per 10,000 low-income residents.⁸

The proposed options outlined in the request for public comments do not specifically outline potential rule changes that would authorize Community Justice Workers (CJWs). However, they contemplate this option under the question, “Whether any legal services currently provided by lawyers could be competently provided by paraprofessionals and, if so, what qualifications, limitations, or subject matter restrictions the Court should consider.” As discussed below, empirical evidence from research into existing CJW programs in other states shows that these programs have been both effective and impactful.⁹ If this Court authorizes CJWs, Tennessee would be among more than 20 states considering CJW regulatory reforms to tackle the access to justice crisis and 13 jurisdictions (including Alaska, Montana, Arizona, South Carolina, Delaware, Hawai’i, Texas, and the District of Columbia, among others) that have already recommended or authorized community justice worker programs.¹⁰ The following recommendations are grounded in empirical evidence and insights drawn from our analysis of reform proposals in other states. While other areas of professional practice, such as medicine, have a robust history of using empirical evidence to inform providers’ work and practice, law has been less engaged with empirical evidence about the design and impact of legal services to the public. Systematic empirical evidence goes beyond anecdote or personal experience to offer insight into “what works” and reveal consistent patterns of effectiveness, sustainability, and scalability in models for providing people access to justice, illuminating promising opportunities and showing when traditional approaches are less effective than desired.

A key focus of our empirical research for over a decade has been on community justice worker and other lay advocate models, both established and emerging.¹¹ Our most recent publication on the Alaska Community Justice Worker Program, based on in-depth quantitative analysis of over three

⁶ See, e.g., Stephan Landsman, *The Growing Challenge of Pro Se Litigation*, 13 LEWIS & CLARK L. REV. 439, 440–41 (2009).

⁷ *Justice Gap Research*, *supra* note 5.

⁸ National Center for Access to Justice, Justice Index: Attorney Access, at <https://ncaj.org/state-rankings/justice-index/attorney-access>.

⁹ See e.g. Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. “Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025).” American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation. See also, Teufel, James, Matthew Burnett, and Rebecca L. Sandefur. 2026. “Analysis of the Social and Economic Impact of the Delaware Qualified Tennant Advocates Program (2022-2025).” American Bar Foundation Access to Justice Research Initiative. Chicago, IL: American Bar Foundation.

¹⁰ See Frontline Justice, Progress to Date, at <https://www.frontlinejustice.org/about#progress>.

¹¹ See, e.g. Rebecca L. Sandefur and Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 Alaska Law Review 23-44 (2024); Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 Fordham Urb. L.J. 1509 (2024). Burnett, Matthew and Rebecca L. Sandefur. 2022. “*Designing Just Solutions at Scale: Lawyerless Legal Services and Evidence-Based Regulation*.” Public Law, 19 (102); Rebecca L. Sandefur and Emily Denne. 2022. “*Access to justice and legal services regulatory reform*.” Annual Review of Law and Social Science 18: 27-42. Rebecca L. Sandefur, Thomas M. Clarke, and James Teufel. 2021. “*Seconds to Impact? Regulatory Reform, New Kinds of Legal Services, and Increased Access to Justice*.” Law and Contemporary Problems 84:69-80; Rebecca L. Sandefur. 2020. “*Legal Advice from Nonlawyers: Consumer Demand, Provider Quality and Public Harms*,” Stanford Journal of Civil Rights and Civil Liberties 16: 283-314; and Rebecca L. Sandefur and Thomas M. Clarke. 2016. “*Designing the Competition: A Future of Roles Beyond Lawyers? The Case of the USA*.” Hastings Law Journal 67:1467-1492.

years of data, demonstrates the transformative potential of community justice workers, especially in rural communities.¹² This research finds that:

- Community justice workers assisted in the recovery of over \$23.6 million dollars to Alaskan families, children, and older adults (including disproportionately to people with disabilities, veterans, domestic violence survivors, and Alaska Natives).
- These supports resulted in an additional \$14.5 million dollars in economic benefit to the communities where people received them.
- During the study period, the number of ALSC cases served by community justice workers increased by 1,575%.
- Community justice work touched over half of the state’s zip codes, including towns and villages with no attorneys and those off the road system.
- The estimated financial return on investment from public benefit value for people and their communities under a federal grant focused on disaster legal assistance was approximately \$25 of benefit for every \$1 invested.

In addition to this research, we are working with CJW programs in other states (including Texas, Montana, Oklahoma, and Minnesota) to understand both required inputs and resulting social and economic benefits, particularly to rural and other underserved communities. We look forward to sharing these additional findings in the coming year as these programs mature.

RECOMMENDATIONS

As Tennessee considers the design and implementation of justice worker authorization and staffing, we offer five recommendations grounded in empirical evidence. These reflect our recognition that service models capable of helping to meet America’s enormous crisis of access to civil justice must not only be able to provide competent and effective services to people in need, they must also be *scalable* to meet vast unmet need and *sustainable* over the long term for both justice worker programs and justice workers themselves.¹³ We encourage program regulators and designers to craft these models and the rules that authorize them in ways that are supportive of both sustainability and scale.

1. *Designing for scale.*

- a. Enable a wide range of types of organizations to host justice workers.

Regulatory regimes that permit many different types of organizations to host justice workers are likely more effective at supporting scaling than are those that limit authorization to only legal services organizations. This may be especially true in rural contexts where many areas have few or no legal aid offices or other lawyers. Wider authorization supports scale in two critical ways. First, authorizing community-based organizations such as libraries or faith-based organizations and nonlaw professional organizations such as health clinics to host justice workers allows those organizations to upskill existing staff to assist clients and community members with legal matters related to the problems they are already assisting

¹² See, Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. “*Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)*.” American Bar Foundation Access to Justice Research Initiative. Chicago, IL.

¹³ Matthew Burnett and Rebecca L. Sandefur, *A People-Centered Approach to Designing and Evaluating Community Justice Worker Programs in the United States*, 51 *Fordham Urb. L.J.* 1509 (2024). Matthew Burnett and Rebecca L. Sandefur. 2022. “*Designing Just Solutions at Scale: Lawyerless Legal Services and Evidence-Based Regulation.*” Public Law, 19 (102)

with. These include issues like rental code violations that create health-harming housing conditions and the range of issues that people bring to librarians in hopes of finding routes to resolution.¹⁴ These models permit growth in the justice worker frontline workforce without the costs and effort of finding and hiring new staff for legal aid offices because these individuals already volunteer or are employed by these organizations.

Second, because these organizations are more widely distributed across states than are legal services organizations, they reach into more areas and communities. As we reported above for Alaska, which permits many types of organizations to host justice workers, in a short time justice workers extended the reach of legal aid into over half the state's zip codes.¹⁵

b. Permit people with a wide range of life experiences to serve as justice workers.

We encourage a process for applying to operate justice worker programs that allows applicant organizations flexibility in designing training, eligibility, and post-authorization support models for justice workers. An openness to a diversity of models, combined with the targeted collection of evidence about impact (see below), holds promise to allow learning about what training, eligibility, and post-authorization support models are effective at creating justice worker programs that are effective in connecting people to the legal help they need when they need it, sustainable for communities served, justice worker programs, and justice workers themselves, and scalable to meet America's vast crisis of unmet legal need.

Research evidence indicates that some elements of existing justice worker program design are likely unnecessary to ensure competent and effective service and run the risk of limiting the growth and impact of authorized programs. These elements can include degree or experience requirements, character and fitness assessments, and criminal background checks. Part of the reason past limited license practitioner models have failed to grow has been the imposition of high bars to admission. For example, Washington State's now sunset Limited License Legal Technician (LLLT) program's admission requirements included multiple examinations, formal coursework in both college and law school, thousands of hours of supervised practice, and the purchase of malpractice insurance.¹⁶ These structural factors of program design contributed to the LLLT model's failure to scale up.¹⁷ We recommend removing barriers to justice workers' participation that evidence does not support as effective means of ensuring competence and quality; those barriers are unnecessarily restrictive and likely to limit the model's ability to scale up to meet the vast unmet civil legal needs of Tennesseans. Other states that have authorized justice workers have approached justice workers' eligibility in flexible and accessible ways. For example, Alaska's community justice worker program does not include degree or experience requirements. Instead, the designers of Alaska's program

¹⁴ National Center for Access to Justice. 2021. [Working with Your Hands Tied Behind Your Back: Non-Lawyer Perspectives on Regulatory Reform](#).

¹⁵ See, Burnett, Matthew, Rebecca L. Sandefur, and James Teufel. 2025. "Research Brief: Analysis of the Social and Economic Impact of the Alaska Community Justice Worker Program (2021-2025)." American Bar Foundation Access to Justice Research Initiative. Chicago, IL.

¹⁶ Thomas M. Clarke and Rebecca L. Sandefur. 2017. "Preliminary Evaluation of the Washington State Limited License Legal Technician Program." American Bar Foundation and National Center for State Courts.

¹⁷ *Id.* See also Jason Solomon and Noelle Smith. 2021. "The Surprising Success of Washington's Limited License Legal Technician Program." Stanford Center on the Legal Profession.

worked with adult education specialists to design effective, competence- based trainings.¹⁸ Initial training is reinforced and supported by giving justice workers access to “an online portal... which provides resources such as templates, forms, and legal guides as well as a forum for collaboration and support among CJW volunteers and [supervising] staff.”¹⁹ They are also supported by a Community Justice Worker Resource Center.²⁰ Utah, in its legal services regulatory sandbox, employs an active, evidence-based model for monitoring competence of service. Utah authorizes entities to develop their own models for training and deploying justice workers, and then requires those entities to report on a regular basis data on client outcomes, complaints, and other elements of service.²¹ We encourage Tennessee to create authorization processes that are open to these and other alternate routes that both support the competence of CJWs and keep the role accessible to people with a wide range of experiences and skill sets.

c. Consider authorization processes that regulate CJW-hosting organizations rather than individual justice workers.

The way justice worker authorization is designed can make scaling easier or harder. A model that requires each justice worker to be authorized individually may require more regulatory resources and therefore grow more slowly than a model that authorizes entities (e.g., nonprofit organizations) to train and supervise justice workers. For example, paralegal regulation follows the model of individual authorization. These models have been very slow to scale.²² By contrast, a model that authorizes organizations to train, certify and field justice workers holds promise to scale more quickly.²³ Entity regulation of this type has been effective in the immigration space, where organizations like Catholic Social Services and others are currently authorized to host over 2,000 accredited immigration representatives.²⁴ It has also facilitated scale in Utah’s legal services regulatory sandbox, which delivered over 75,000 services in first four years.²⁵

2. Designing for sustainability.

a. Implementation should include data collection.

¹⁸ See Joy Anderson and Sarah Carver. 2024. “Community Justice Workers – Alaska’s Response to the Access to Justice Crisis.” MIE JOURNAL 38(1):33-36.

¹⁹ Joy Anderson et al., Community Justice Workers: Part of the Solution to Alaska's Legal Deserts, 41 *Alaska Law Review* 9-22 (2024)

²⁰ <https://www.alsc-law.org/leadership/>

²¹ Rebecca L. Sandefur and Lucy Ricca. 2024. “Outside the Box: How States are Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law.” JUDICATURE 108(1) <https://judicature.duke.edu/articles/outside-the-boxhow-states-are-increasing-access-to-justice-through-evidence-based-regulation-of-the-practice-of-law/>

²² Rebecca L. Sandefur and Emily Denne. 2022. “Access to justice and legal services regulatory reform.” *Annual Review of Law and Social Science* 18: 27-42.

²³ Rebecca L. Sandefur and Matthew Burnett, *Building Successful Justice Worker Programs: Emerging Insights from Research and Practice*, 41 *Alaska Law Review* 23-44 (2024)

²⁴ Rebecca L. Sandefur and Matthew Burnett. “Justice Futures: Access to Justice and the Future of Justice Work.” In *Rethinking the Lawyer’s Monopoly: Access to Justice and the Future of Legal Services*, edited by David Engstrom and Nora Freeman Engstrom. Cambridge University Press.

²⁵ Rebecca L. Sandefur and Lucy Ricca. “Increasing Access to Justice through Evidence-Based Regulation of the Practice of Law: New State Approaches.” *Judicature*

We encourage the Courts to embed reasonable data collection into the reporting of authorized organizations supporting CJWs and to make those data public. We further encourage the Courts to ensure that adequate resources are invested in staffing and supporting data collection and analysis. This investment will help to ensure that the Courts, the Access to Justice Commission, local service providers, legislators, researchers, and other residents of Tennessee can learn in real-time about the impact of these programs and how they may be made more effective.

For example, data collected as part of the routine work of Alaska's community justice worker program enabled critical assessments of the programs' impact and reach. These data demonstrated that Alaska's CJWs have connected with people in over half of the state's zip codes, including in rural and remote parts of Alaska where there are no lawyers. It also permitted assessment of the impact of the program through the analysis of return on investment presented above.

b. Funding sources should be diverse.

A critical source of resilience and sustainability is durable funding. Community justice worker programs will live with many of the same constraints faced by legal aid, where government funding is inadequate to support programs of sufficient size to meet actual needs. There are ways to surmount this barrier. Resource streams will likely need to include support not only from foundations, government, individuals, and corporate donors, but also opportunities for earned income. For example, organizations can be permitted to charge nominal or sliding scale fees for services to some clients based on their income, where appropriate.

Kind regards,

Matthew Burnett, JD

Director of Research and Programs, Access to Justice Research Initiative, American Bar Foundation;
Visiting Scholar, Justice Futures Project, Arizona State University; Adjunct Professor of Law,
Georgetown University Law Center

Rebecca Sandefur, PhD

Professor, Sanford School of Social and Family Dynamics and (by courtesy) Sandra Day O'Connor
College of Law, Arizona State University; Faculty Fellow and Founder of the Access to Justice Research
Initiative, American Bar Foundation