

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0765

ACCESS TO JUSTICE
COMMISSION: IN RE THE
PROPOSAL TO ADOPT RULES
AUTHORIZING CERTIFIED LAY
ADVOCATES TO PROVIDE
LIMITED LEGAL SERVICES IN
JUSTICE AND CITY COURTS

COMMENT OF THE
STATE BAR OF MONTANA

That America has a problem delivering needed legal services to low-income citizens is, at this point, beyond reasonable question. That this urgent problem extends to Montana is equally clear. The scope of this crisis and the urgency to address it require creative and tested solutions. For those reasons, the State Bar of Montana (State Bar) writes today in support of the pending Petition from Montana Legal Services Association (MLSA Petition) to pilot a Community Justice Worker (CJW) Project in Montana.

I. BACKGROUND

Montana has long wrestled with how best to address what remains a growing access-to-justice gap, including the State Bar's "need to provide for the availability of legal services to all." *In re Petition of the State Bar of Montana for a Dues Increase*, 2001 MT 108, ¶ 20, 305 Mont. 279, 53 P.3d 854. We remain mindful of the Court's admonition that "the State Bar of Montana must continue to address the Court's and the legal profession's responsibilities to the public...." *Id.*

For example, in 2010, a group, including the State Bar, petitioned this Court to amend Rule 1.2 of the Montana Rules of Professional Conduct to allow limited-scope representation. The State Bar has sought other answers as well, crafting an emeritus membership status program in 2013 to pair experienced lawyers who want to retire from active practice with access-to-justice organizations that will benefit from their skills, allowing those attorneys the opportunity to continue to practice law without paying active member dues, so long as they meet certain requirements and only in association with a "qualified provider of legal services in Montana to persons unable to pay for such services." State Bar Bylaws, art. I, § 3(g). Several years ago, the State Bar also partnered with MLSA and the Blewett School of Law at the University of Montana to support the former Rural Incubator for Lawyers Program (RIPL), and we have operated a modest means referral program in cooperation with MLSA.

In 2017, this Court explored the idea of limited license legal technicians (LLLTs) by creating a working group to study a LLLT program developed in Washington state. The group noted in its report:

What is needed is training on filling out the forms that must be completed in dissolution matters which could be accomplished through webinars and by educating staff at self-help centers. The question of course is who are the persons who will be trained – volunteers? Persons certified as form completers? Pro bono lawyers? Given Montana’s demographics and far-flung districts, there is no easy answer.

Working Group on Limited Licensed Legal Technicians (LLLT) Rpt., AF 11-0765, Oct. 11, 2017. The working group ultimately endorsed expanding existing programs, such as self-help law centers and the use of uniform forms, rather than piloting a limited licensure program in Montana.

Despite these many efforts, and numerous others by other organizations, not to mention the over \$17 million in free and reduced-fee legal services Montana attorneys report to the Court each year, the scope of the problem has continued to grow. As MLSA notes in its proposal, the Access to Justice Commission estimates that “9 out of 10 low-income Montanans do not get enough or any legal assistance.” MLSA Petition at ¶ 13.

Recognizing this stubborn challenge and determined to pursue further study of solutions, in 2024, the State Bar created a Task Force on the Future of the Legal Profession with a charge that included examining Montana’s growing access-to-

justice gap. As part of that work, the State Bar surveyed our members. Perhaps unsurprisingly, 73% of respondents agreed that addressing the gap in access to justice in Montana was critical and urgent. That same survey revealed that Montana lawyers overwhelmingly agree that low-income citizens face barriers to legal help, followed by rural Montanans. *See* State Bar Survey Executive Summary, attached as Ex. A.

Montana is not unique in its vast landscapes and few lawyers, which led the subcommittee to examine a pioneering program in similarly situated Alaska, where the nation's first CJW model was developed. The CJW model uses attorney-adjacent and trained lay individuals, who work through a court-supervised program and alongside an access-to-justice organization. They assist with certain specific problems and limited settings of high need, including orders of protection and certain consumer matters. The model has shown great promise in Alaska and is under consideration or has been deployed in other states, including Arizona, Illinois, Delaware, Texas, and Utah.

In May of 2024, the elected State Bar leadership, after learning of the Alaska program, received a briefing from its developers. As noted in the comment filed by the Office of the Court Administrator (OCA), in December of that year, the OCA received a grant from the State Justice Institute to begin planning work for a CJW program with MLSA, the State Bar, and the Access to Justice Commission. After

refining its own proposal, MLSA presented it to the State Bar Board of Trustees in June of 2025, which endorsed it.

It is with that background that the State Bar comes to the Court, voicing its support for the CJW Project and offering its assistance in designing the specific rules to implement a pilot program in Montana. The MLSA Petition raises several questions for the Court, which we summarize as follows and address below:

- (1) does the Court have the authority to approve the CJW Project;
- (2) does the proposal raise unworkable unlicensed practice of law issues;
- (3) how does the CJW Project interact with the Montana Rules of Professional Conduct to safeguard the public; and
- (4) what are the specific rules needed for the CJW Project?

II. DISCUSSION

Should this Court join with its national colleagues to address the justice gap by piloting the proposed CJW Project and allowing CJWs to represent clients in justice and municipal courts, it will be acting well within its constitutional authority. Importantly, the proposed project structure should alleviate any concerns about the unlicensed practice of law and is thoughtfully designed to protect the public. The CJW model is sound, tested, and we believe it is appropriate to pilot in Montana.

- A. This Court has the constitutional authority to adopt and revise the Montana Uniform Rules for Justice and City Courts, including Rule 14 governing representation in court, allowing for lay advocates in a manner that aligns with established public policy.

It is without question that this Court has “general supervisory control over all other courts.” Mont. Const. art. VII, § 2(2). That authority includes making rules governing “practice and procedure for all other courts...” Mont. Const. art. VII, § 2(3). Likewise, and importantly, the Montana Constitution grants this Court exclusive authority to regulate the practice of law in Montana, including “admission to the bar and the conduct of its members.” *Id.* These matters, having been constitutionally delegated to the judicial branch, cannot be exercised by another branch of government. *Coate v. Omholt*, 203 Mont. 488, 497-98, 662 P.2d 591, 596 (1983)(rejecting a legislatively enacted statute that interfered with the internal operations of the judicial branch). And while, under the Montana Constitution, the legislative branch may disapprove of certain rules of procedure enacted by this Court, “As to rules which might be promulgated by the Court relative to practice, admission to the Bar, and conduct of members of the Bar, the legislature is given no such veto authority.” *In re McCabe*, 168 Mont. 334, 339, 544 P.2d 825, 828 (1975). “Under the principle of separation of powers it follows then that the Supreme Court was given exclusive authority to promulgate such rules.” *Id.*

In furtherance of its constitutional authority, this Court has promulgated the Montana Uniform Rules for the Justice and City Courts, which, together with the Montana Justice and City Court Rules of Civil Procedure, “govern the practice in all justice and city courts of the State of Montana.” U.M.C.R. 1. Rule 14, the focus of the MLSA Petition, mandates that, with an exception only for LLCs in justice court, “no representation can be made on behalf of a party by another person except an attorney duly licensed by the State of Montana.” U.M.C.R. 14.

Montana’s justice courts and city (municipal) courts are often the “first responders” to many legal problems and are somewhat unique in their history and operation. A distinctive characteristic is that Montana’s justices of the peace are not required to be licensed attorneys but must complete initial and ongoing training specified by this Court. Mont. Code Ann. § 3-10-203 (2025). Judges in Montana’s municipal courts, located in larger communities (municipalities with over 4,000 residents), must be licensed attorneys and be admitted to the practice of law for three years (as opposed to five years for district court judges). Mont. Code Ann. § 3-6-202(1) (2025). However, municipal judges are also required to undergo both initial and annual training as a requirement of office. *Id.* In fact, this Court recently amended the Montana Rules for Continuing Legal Education to ensure that attorneys may receive teaching credit for teaching certain non-lawyers, including limited-jurisdiction judges who are not licensed attorneys, a proposal supported by

the State Bar and the Court’s Commission on Continuing Legal Education. *See* Order, AF 06-0163, August 26, 2025.

In 2016, this Court had occasion to examine why Montana’s justices of the peace are not required to be attorneys in a case challenging the constitutionality of that exemption in the context of a criminal proceeding. In *State v. Davis*, the Court noted that delegates to the 1971 Montana Constitutional Convention specifically “considered whether to retain justices’ courts and whether to require that a justice of the peace be a lawyer,” 2016 MT 102, ¶ 19, 383 Mont. 281, 371 P.3d 979, cert. denied, 580 U.S. 1091, 137 S.Ct. 811, 196 L.Ed. 2d 599 (citing Montana Constitutional Convention, Verbatim Transcript, February 26, 1972, Vol. IV, p. 1014). The Court noted that delegates agreed that “justices courts are important, particularly in Montana's small towns, and that justices of the peace do not have to be lawyers so long as they undergo mandatory training in the law.” *Id.* (citing Montana Constitutional Convention, Verbatim Transcript, February 26, 1972, Vol. IV, pp. 1014, 1020). It specifically noted that the training these non-lawyer judges are required to undertake is protective. *Id.* at ¶ 28. In finding no due process violation to trial before a non-lawyer judge, the Court determined, “We find no basis upon which to conclude that properly trained non-lawyer judges are incapable of making factual determinations or exercising discretion appropriately, or that a license to practice law would improve their ability to do so.” *Id.* at ¶ 31.

While, to be certain, *Davis* also hinged, in part, upon the availability of judicial review of decisions of non-lawyer judges, in many ways, the aims of the proposed CJW Project align with the public policy considerations the Court noted, namely that conclusion of the Constitutional Convention Delegates that due to “the lack of lawyers in many small Montana counties... justices courts should be retained in order to provide prompt, local justice to Montanans.” *Davis* at ¶ 27. As noted throughout the comments filed in response to the MLSA Petition to date, the lack of attorneys continues today.

Montana law allows the use of non-attorney justices of the peace in order to bridge the access-to-justice gap in rural areas (though justice courts exist in Montana’s most populous counties as well). Similarly, the CJW Project proposes allowing trained non-lawyer lay advocates to appear in these same courts before non-lawyer justices of the peace in very limited cases. While municipal court judges are required to be attorneys in Montana, perhaps because there are presumably more lawyers in a community of over 4,000 residents, the jurisdiction of Montana’s municipal courts, with certain exceptions, is also limited. Similarly, the types of matters CJW Project lay advocates may be involved in, namely, orders of protection and certain consumer matters, are also limited.

The Court undoubtedly has the authority to revise Rule 14 related to practice before justice and municipal courts, as the Petition proposes. Further, the

State Bar believes that the Court actually exercising this authority would better align that rule of practice with the public policy of addressing access to justice in Montana's rural communities. More Montanans could be served by allowing trained non-lawyer lay advocates, under the ultimate supervision of an attorney and an access-to-justice provider, to step in on certain limited matters where a lawyer with a law degree would otherwise be required. Just as there is required training, supervised by this Court, for non-lawyer justices of the peace and municipal judges, the proposed CJW Project would require similar training and certification, resulting in greater access to the justice system.

B. The proposed CJW Project, supervised by this Court with assistance from the State Bar, does not offend Montana's public policy concerning the unlicensed practice of law.

As discussed above, Montana has a long history of using trained non-lawyers as judges to ensure access to the courts, but any proposal to involve trained lay advocates assisting individuals in court will raise questions about whether such activities constitute the impermissible, unlicensed practice of law (UPL). MLSA appropriately notes those concerns in its Petition. MLSA Petition at ¶ 27. However, a fair and harmonious reading of Montana's UPL statutory rubric, the recent history of the regulation of the unlicensed practice of law in Montana, and the CJW Project's aims and objectives should resolve those concerns.

As the Court is aware, the unlicensed practice of law in Montana has a somewhat complicated modern history. In 2006, this Court issued its decision in *Mont. Supreme Court Comm'n on the Unauthorized Practice of Law v. O'Neil*, 2006 MT 284, 334 Mont. 311, 147 P.3d 200, cert. denied, 549 U.S. 1282, 127 S. Ct. 1868, 167 L. Ed. 324 (2007). At the time of the decision, enforcement of the unlicensed practice of law was handled by the Commission on the Unlicensed Practice of Law (UPL Commission). The defendant in that case, Jerry O'Neil, advanced a constitutional challenge to Montana's unlicensed practice of law statutory rubric found at Mont. Code Ann. § 37-61-201, et seq. Specifically, he challenged the definition of who was considered to be practicing law found at Mont. Code Ann. § 37-61-203, as well as the punishment for the same found in Mont. Code Ann. § 37-61-210. *Id.* at ¶ 71. Of importance here, the latter section states: "If any person practices law in any court, *except a justice's court or a city court*, without having received a license as attorney, the person is guilty of a contempt of court." Mont. Code Ann. § 37-61-210 (2025)(emphasis supplied). The Court found the statutes constitutional as applied. *O'Neil* at ¶ 83.

Following that decision, the UPL Commission attempted to further define what was, and was not, the practice of law by amending the Court's Rules on the Unauthorized Practice of Law. That effort created broad-based concern by those individuals and businesses fearing that they might be deemed to be practicing law.

This concern was so apparent that, when considering the proposed changes, the Court noted, “we cannot recall a matter on which there has been more comment by members of the public on a matter before us.” *In re Dissolving the Commission on the Unauthorized Practice of Law*, 2010 MT 82, ¶ 1, 365 Mont. 109, 242 P.3d 1282. Reviewing the comments filed in the docket, organizations ranging from the American Insurance Association to the Missoula Crime Victims’ Advocates to the Commission on Self-represented Litigants expressed concern that the proposed definitions were too broad. Addressing those concerns, the Court observed:

We conclude that the array of persons and institutions that provide legal or legally-related services to members of the public are, literally, too numerous to list. To name but a very few, by way of example, these include bankers, realtors, vehicle sales and finance persons, mortgage companies, stock brokers, financial planners, insurance agents, health care providers, and accountants. Within the broad definition of § 37-61- 201, MCA, it may be that some of these professions and businesses “practice law” in one fashion or another in, for example, filling out legal forms, giving advice about “what this or that means” in a form or contract, in estate and retirement planning, in obtaining informed consent, in buying and selling property, and in giving tax advice.

Id. at ¶ 6. Seeking to clarify that it was not the role of this Court to start policing these other individuals and entities, it wrote:

This Court has no Constitutional authority to define, generally, what constitutes the practice of law, except within the context of a case or controversy properly before this Court. Moreover, it follows that this Court has no Constitutional authority to define the “unauthorized practice of law,” again, except within the context of a case or

controversy properly before this Court. And, finally, it follows that we have no Constitutional authority, except within the context of a case or controversy properly before this Court, to sanction or remedy the “unauthorized practice of law.”

In re Dissolving the Commission on the Unauthorized Practice of Law, 2010 MT

82, ¶ 7. However, and importantly, the Court held:

We conclude that our proper role in matters involving the practice of law or the unauthorized practice of law is to exercise the authority granted to us under Montana's Constitution. We will hear and determine cases and controversies properly before the Court, and we will continue to exercise our exclusive, original jurisdiction to supervise all other courts of Montana and the admission to, and conduct of members of, the bar, pursuant to Article VII, Section 2(1), (2), and (3) of Montana's Constitution.

Id. at ¶8.

As noted in the decision, after a working group to address the proposed rules was established, the UPL Commission withdrew the proposed rule changes, requested the Commission be dissolved, and filed with the Court a Memorandum of Understanding (MOU) between the State Bar and the Office of the Montana Attorney General (OAG), which effectively “conveyed to the Office of Consumer Protection” the Commission’s “responsibilities.” *See* Montana Commission on Unauthorized Practice’s Motion to Withdraw the Petition and Memorandum in Support of Revision to the Rules on the Unauthorized Practice of Law and to

Dissolve the Commission, No. AF 09-0068, March 17, 2010, attached hereto as Ex. B.

Pursuant to the MOU, it was agreed that the prosecution of those engaged in the unauthorized practice of law would reside with the Office of Consumer Protection under the auspices of Montana’s Consumer Protection Act (MCPA). MOU at ¶ B(1). The MOU noted that OCP would evaluate and prosecute unauthorized claims against non-lawyers “pursuant to Mont. Code Ann. § 30-14-103,” which regulates “unlawful practices” as part of MCPA. MOU at ¶ B(3). Importantly, and likely in response to the significant concerns raised in response to the UPL Commission’s proposed rules, the MOU noted that “OCP will consider whether it can be proven that the person has, for economic gain, misrepresented their status and/or abilities to perform services that properly require a law license.” Additionally, the MOU also stated: “In evaluating whether a person has engaged in unfair acts or practices, the OCP will consider whether it can be proven that the person has engaged in an act or practice that ‘offends established public policy and which is either immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers.’ *Rohrer v. Knudson*, 2009 MT 35 ¶ 31.” MOU at ¶ B(3)(a) and (b).

Having received the MOU, this Court unanimously granted the Commission’s motion and dissolved the Commission, while thanking the State Bar

and the OAG for their work on the MOU and “establishing a better way of handling complaints of unauthorized practice of law.” *In re Dissolving the Commission on the Unauthorized Practice of Law*, 2010 MT 82, ¶ 9.

That history is particularly important here. In essence, two things occurred when this Court disbanded the UPL Commission. First, while noting that it was not within its province to define what was and what was not the practice of law, this Court reasserted that it would do so within a particular case or controversy and would exercise its supervisory control over other courts, which, of course, includes rule-making authority, including Rule 14 governing representation. That effectively also preserved this Court’s own Student Practice Rule, which has existed for over 50 years and allows students to “practice,” after completing certain educational requirements, upon certification of the law school dean, and under the supervision of a licensed attorney. *See Shapiro v. Jefferson Cty.*, 278 Mont. 109, 115, 923 P.2d 543, 547 (1996).

Second, other than contempt as set forth in Mont. Code Ann. § 37-61-210, the post-*O’Neil* agreed-upon enforcement mechanism for UPL was the MCPA, but only in cases where the OCP agreed “it could be proven” there was “misrepresentation,” about one’s status as a lawyer for “economic gain,” and the conduct “offends established public policy.” *See MOU; accord Elansari v. Montana*, No. CV 21-57-H-BMM-KLD (D. Mont. Oct. 6, 2021), 2021 U.S. Dist.

LEXIS 210829, at *8 (noting that the Office of Consumer Protection is charged with enforcement of UPL under the MCPA, and contempt is the remedy).

However, because contempt is the legislatively created remedy for UPL, but specifically does *not* apply to justice and municipal courts, it is not entirely evident what remedy now exists for UPL before those courts, perhaps—though not clearly— other remedies specified under the MCPA.

But it is also not necessary to resolve that question here when assessing the CJW Project because a deceptive practice for personal gain, constituting the unlicensed practice of law, is not what the CJW Project represents at all. It is the *opposite*. A community justice worker acting under a specific court rule constitutionally promulgated by this Court, and only after training and then certification by the State Bar, and with supervision from MLSA, would not be acting for his or her own economic gain. Rather, that community justice worker would be acting in accordance with a specific court rule promulgated by this Court to provide those without economic means access to assistance in justice and municipal courts. Rather than undermining public policy, the CJW Project will underscore the compelling need to address the access-to-justice crisis, much like the public policy of allowing non-lawyer justices of the peace. The CJW Project is not a shift that allows non-supervised, untrained non-lawyers carte blanche permission to engage in the unauthorized practice of law, thereby injuring Montana

consumers. Quite the contrary, it is a very specific, modest, and measured approach under this Court's authority. The CJW Project is consistent with public policy underpinning Montana's frontline justice and municipal courts, as well as the MOU between the State Bar and the OCP as to how the unlicensed practice of law would be handled following the dissolution of the UPL Commission.

Finally, and importantly, the inverse is also true. An unscrupulous individual, holding themselves out as a community justice worker for their own economic gain, who was not in fact certified to act as one or who had a certification lapse or was removed from the program (see discussion in Section D below), presumably would be not only in violation of a court rule, but subject to referral to OCP and potential prosecution under the MCPA for deceptive practices (again, with a potential question as to the remedy).

- C. The CJW Project training and certification requirements, as well as the Montana Rules of Professional Conduct, which provide for attorney oversight of non-lawyer assistants, will provide continued protection of the public.

The preamble to the Montana Rules of Professional Conduct provides the bedrock for the State Bar's support for the CJW Project, and how the Rules should assist in its implementation:

A lawyer should be mindful of deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance. Therefore, all lawyers should devote professional time and resources and use civic

influence to ensure equal access to our system of justice for all those who because of economic or social barriers cannot afford or secure adequate legal counsel. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest.

Preamble at ¶ 7, Mont. R. Prof. Conduct.

Addressing the access-to-justice challenges in our state is the work of every attorney, but attorneys do not work in a vacuum; they frequently rely on non-attorney assistants, including legal assistants and paralegals. For that reason, the Montana Rules of Professional Conduct impose obligations on attorneys to supervise non-lawyer assistants involved in the delivery of legal services. These rules will continue to protect the public.

To begin, the Rules require clients to provide informed consent. *See e.g.* Mont. R. Prof. Conduct 1.0(g), and 1.4(b). They also define what constitutes written consent. Mont. R. Prof. Conduct 1.0(d). Moreover, Rule 5.3 establishes a broad supervisory obligation on lawyers, and for non-lawyers who are “employed, retained by or associated with a lawyer.” Mont. R. Prof. Conduct 5.3. Such a lawyer “having direct supervisory authority over the nonlawyer shall make reasonable efforts to ensure that the person’s conduct is compatible with the professional obligations of the lawyer.” Mont. R. Prof. Conduct 5.3(b).

The MLSA Petition squarely addresses these Rules and the policy behind them. The proposed rules for the program require that CJWs complete training in

the “Montana Rules of Professional Conduct, including but not limited to conflicts of interest, confidentiality and duty of candor....” Proposed Rule 2(a), (proposed rules attached as Ex. C). A CJW “will inform all clients in writing that they are not a lawyer and obtain consent in writing from the client to their representation by the lay advocate....” Proposed Rule 2(d). Importantly, there will also be an assigned “CJW Project Attorney” who will “provide legal advice, brief services, limited scope legal services, and full representation to service area survivors” of domestic violence, sexual assault, and stalking. MLSA Petition at ¶ 10. “MLSA will assign a CJW Project Attorney to offer shadowing and mentoring to the CJWs.” MLSA Petition at ¶ 9.

The MLSA Petition also notes a concern about Mont. R. Prof. Conduct 5.5(a), which prevents a lawyer from assisting another in practicing law in violation of the regulation of the legal profession in a particular jurisdiction. MLSA Petition at ¶ 27. As noted previously, however, a supervisory lawyer for a court-sanctioned program like the CJW Project, operating pursuant to an express rule of court and program rules adopted by this Court, which matches Montana’s public policy toward its justices and municipal courts, and which does not offend the enforcement of the unlicensed practice of law under the MCPA, would hardly seem to be in violation of Mont. R. Prof. Conduct 5.5(a). Again, this Court has long maintained its student practice rule, allowing certain law students to assist with

cases during law school. This practice has been deemed offensive to Mont. R. Prof. Conduct 5.5(a) and the supervisor's professional license only when the students' qualifications failed and, therefore, the required supervision under Mont. R. Prof. Conduct 5.3, not when there was compliance with the rule. *See, e.g., In re Parker* PR 15-0625.

The proposed CJW Project does not create a new class of licensed professionals operating outside the oversight of attorneys. Rather, it will involve lay advocates, trained on the Montana Rules of Professional Conduct, under the oversight of MLSA. The further requirement of informed consent in writing provides for a clear mechanism to avoid any misunderstanding as to the status of a CJW as a non-lawyer. We believe that these sideboards will serve the public well.

D. The proposed rules for the CJW Project, with minor modifications, provide a starting point for implementation; however, it may be advisable for the Court to establish a working group of stakeholders to refine the rules and assist with implementation of the program.

MLSA has submitted a thoughtful set of proposed rules for the Court's consideration. Ex. C. The draft rules provide training, certification, and oversight of the CJW Project. Rules in programs in Alaska and Arizona may provide a helpful comparison for the Court, and we are attaching those. *See* Ex. D. The process set out by Arizona is almost identical to the process in the rules proposed here.

While here, the proposed modest change to Rule 14 of the Montana Uniform Rules for the Justice and City Courts is necessary and self-contained, where the rest of the CJW Project rules ultimately “reside” is a question for the Court to consider. To be sure, the Court has created stand-alone programs and rules that the State Bar administers, and the State Bar is ready and able to provide that support here. For example, the Court’s Fee Arbitration program is administered by the State Bar on behalf of the Court by the executive director and a board appointed by the State Bar. In other licensure contexts, the State Bar provides administrative support to the Court for the admissions process, which is overseen by the Board of Bar Examiners and the Character and Fitness Commission, both appointed by this Court. Here, although MLSA and the State Bar would be responsible for ongoing reporting and oversight, the reporting is directly to the Court. That may be the best scenario at present, though there may be other options as well.

That future consideration aside, insofar as the proposed rules include a role for the State Bar in approving CJW applications, we are equipped to provide the necessary administrative support for the Project. However, we do have some modest changes to the proposed draft rules as evidenced in Ex. C.

Specifically, in Rule 3(a) and (b), we believe that the application should be made to the State Bar itself on forms approved by the State Bar, rather than denoting the Board of Trustees, as proposed. The Board of Trustees could certainly

approve the form if the Court wishes, but this task seems purely ministerial. Likewise, under Rule 4, approval should be made by the State Bar's Executive Director rather than the Board of Trustees for administrative ease, as the Board meets only four times per year. This comports with the Executive Director's role in approving dues waivers, and applications for the emeritus program, etc. *See e.g.* State Bar Bylaws, art. I, §§ 3(e)(iii) and 3(g).

One other suggestion at this stage is to add a more descriptive termination process. Arizona's rule specifies termination due to cause, employment, or volunteer work separation, which might be helpful to explain and require within the rules. Thus, we propose adding Rule 7 to address that issue, with the following language:

7. Termination. An active waiver is terminated if the person no longer works for or volunteers with MLSA. A community justice worker's authorization may be terminated or suspended as a result of disciplinary action because of misconduct.

Given the nature of this innovative program and the importance of the Rules to implement it, the current absence of an existing board or commission designated to oversee implementation of the program may be something for this Court to consider carefully. Again, while the State Bar is comfortable with assuming some or all of that role in the future, we believe it may be beneficial to gather the

stakeholders together in a working group or form a standing committee to address any other necessary changes to the proposed rules.

CONCLUSION

The CJW Project is a new and innovative way for this Court, acting under its constitutional authority, to address the access-to-justice gap, particularly in rural Montana. The State Bar stands ready to assist in any way we can in implementing and supporting this important program to better guarantee equal justice under the law.

Respectfully submitted this 15th day of January, 2026.

STATE BAR OF MONTANA

By: /s/ Aislinn W. Brown
Aislinn W. Brown,
President

By: /s/ John J. Mudd
John J. Mudd,
Ex. Dir. & Gen. Counsel

Exhibit A

SB
MT

2024 Taskforce on the Future of the Legal Profession Survey

STATE BAR OF MONTANA



2024 Survey Timeline

A total of **789** State Bar of Montana members out of **4,479** completed the survey for a response rate of **18%**.



PROJECT DISCOVERY

Discovery and
survey prep Nov.



SURVEY LAUNCH

Distributed in Dec.
to active
members



DATA COLLECTION

Responses
collected
Dec.



REVIEW AND ANALYSIS

Analysis and
report prep Jan.



RESULTS DELIVERY

Delivery of
findings March
2025



Assessing the Problem

SCOPE OF PROBLEM

- Overwhelming agreement that there is a justice gap in Montana – particularly in rural areas
- 72% believe that addressing access to justice gaps is “critical and urgent”
- 73% consider low income to be the biggest barrier to accessing legal services

MAIN BARRIERS

- Not enough lawyers, and not enough lawyers who provide free or affordable services
- Poor access to information on potential legal resources
- Underinvestment in court technologies by the state
- Lack of incentives, support and low desirability for lawyers to practice in rural areas

Evaluating Solutions



PERSONNEL

- Increase the number of low-cost or free lawyers, especially in rural areas
- 31% believe expanding the number of licensed paraprofessionals is a potentially high impact strategy
- Strong backing for incentivizing and supporting rural practice by lawyers

RESTRUCTURE LEGAL SERVICE DELIVERY & BILLING

- 22% of respondents believe unbundling services could help
- Respondents under 60 and those in private practice or government more likely to believe unbundling will have a positive effect
- 33% consider themselves extremely or very familiar with limited scope representation strategies and 39% have practiced limited scope under Rule 1.2(c)
- 62% have practiced in a civil law court of limited jurisdiction
- 21% offer a sliding fee scale in their practice

Evaluating Solutions



LIMITED LICENSURE OF PARAPROFESSIONALS

- 36% of respondents strongly support exploration of limited licensure programs for non-lawyers
- Over half of all respondents support limited licensure in the areas of housing, government benefits and family law
- Non-profit respondents and those who have practiced less than one year are more likely to support exploration of limited licensure for non-lawyers
- Respondents in the judiciary have more expansive views on potential areas of licensure for non-lawyers
- Low familiarity with alternative access to justice programs correlates with stronger emphasis on lawyer-based solutions, rather than non-lawyer solutions, such as licensed paraprofessionals

COURTS & GOVERNMENT FUNDING

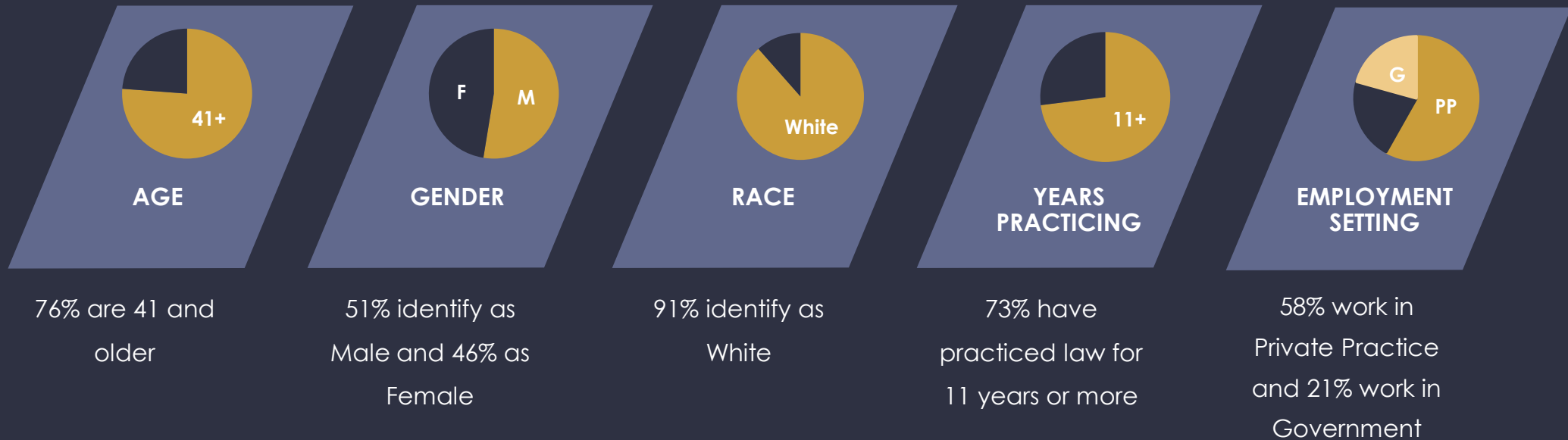
- Advocate for increased public funding for Montana Legal Services Association and other non-profits
- Improve court access through public online access to court records, electronic filing and remote court appearances

Respondents' Profile

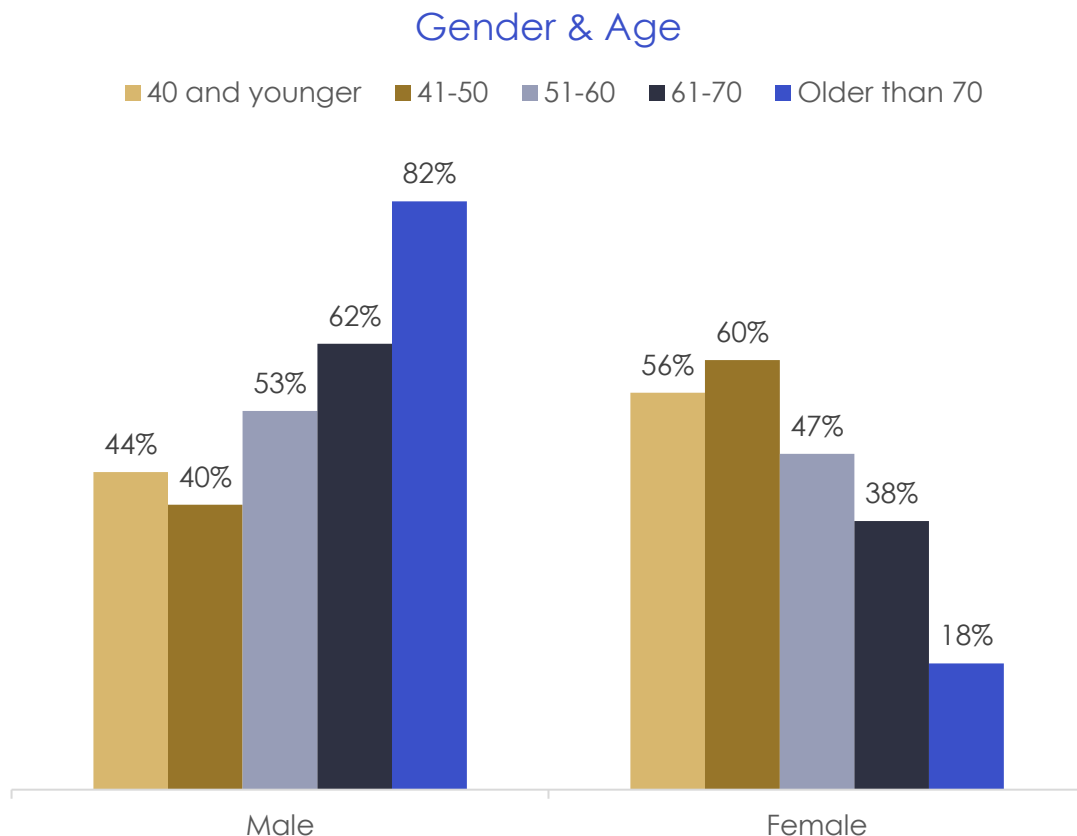


Survey Demographics

Respondents are predominately white, 41 and older, experienced and work in private practice or government.



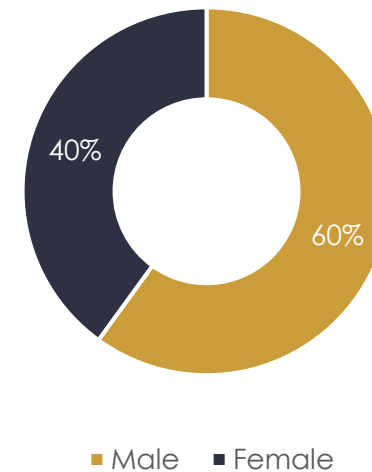
Respondents Over 60 are More Likely to be Male



Overall survey sample is close to gender breakdown for all active lawyers in Montana



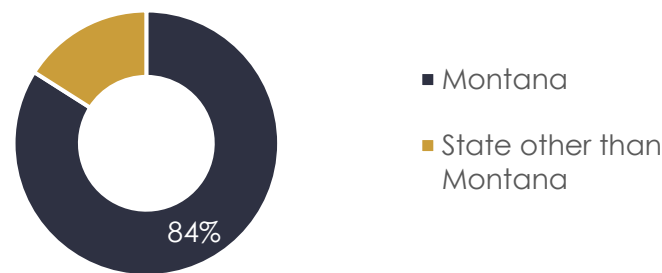
Total Active Lawyers Montana 2023



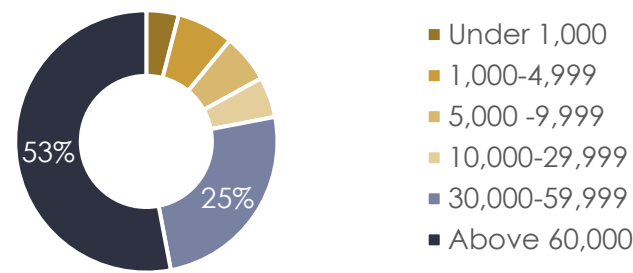
Source: ABA National Lawyer Population Survey

Respondents Concentrated in Urban Settings

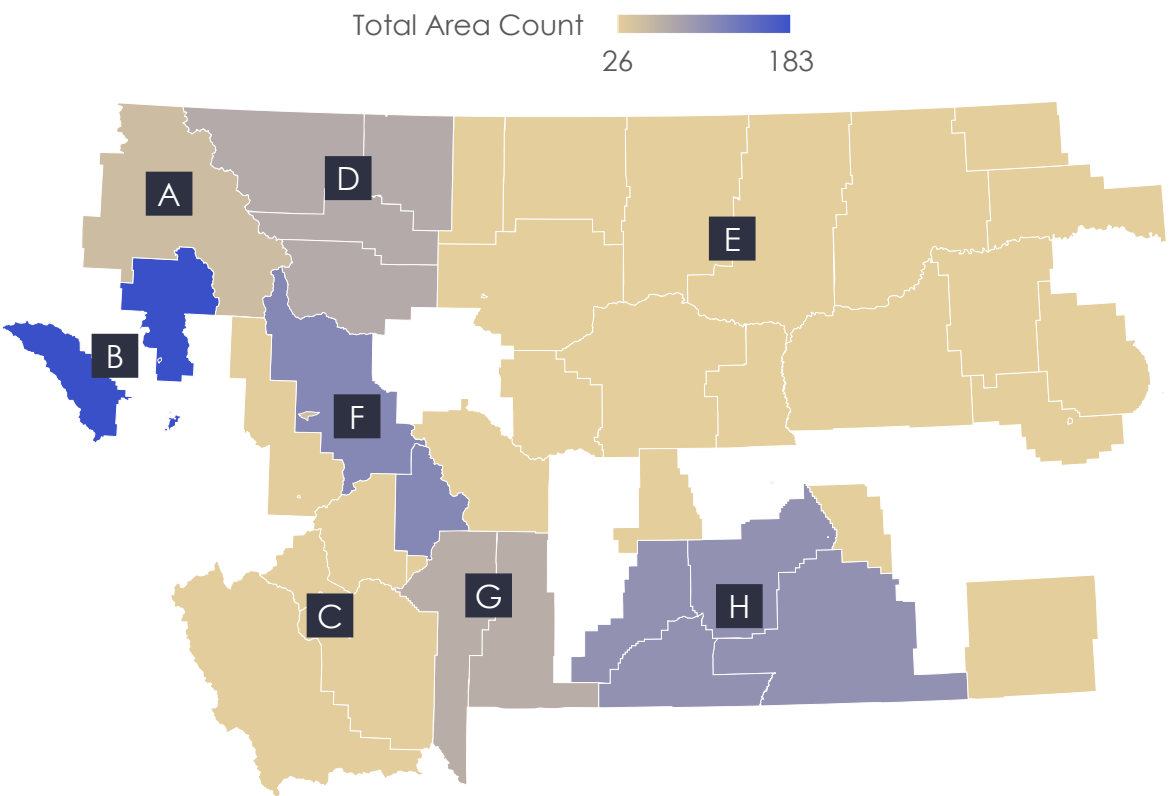
Most have primary office in Montana



78% work in cities with a population size of 30,000 or more



Employment Location
State Bar Trustee Areas: B, F, H & D



Access to Justice



The background of the slide features a warm, golden-yellow color scheme. The top portion shows the lower sections of several classical columns with fluted shafts, resting on a series of wide, light-colored stone steps. The bottom portion of the slide is a solid, dark navy blue horizontal band. Centered within this band is the title text in a white, elegant serif font.

I. Evaluating the Access to Justice Gap in Montana

Respondents Agree That There is a Justice Gap in Montana



89%

Residents in some parts of the state have better access to justice than residents in other parts.

73%

Residents in some racial, gender, age or income groups have better access to justice than others.

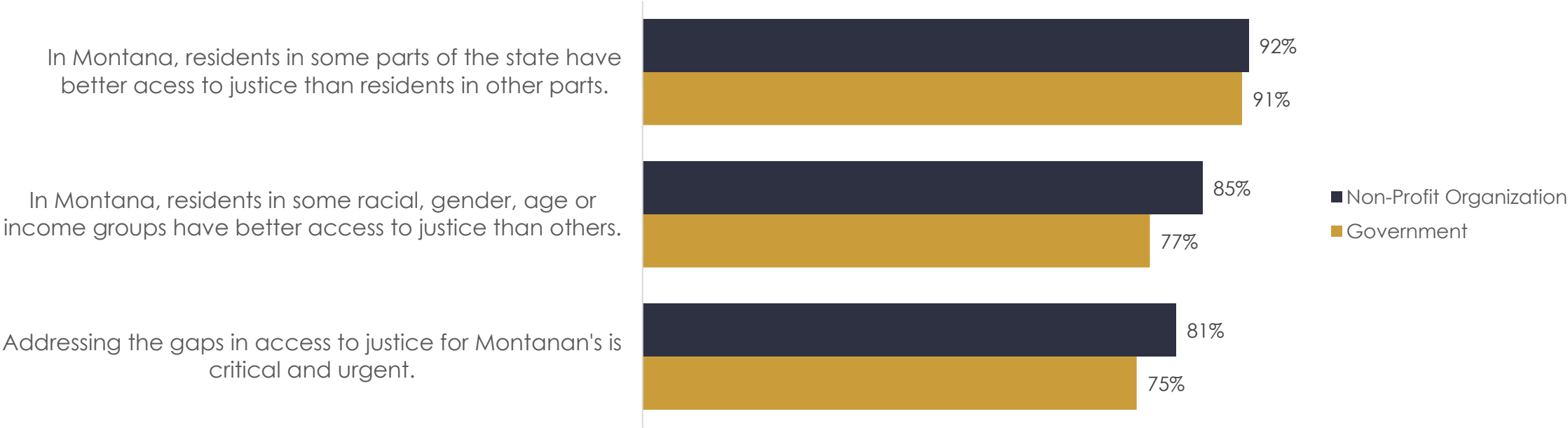
73%

Addressing the gaps in access to justice for Montanan's is critical and urgent.

Collapsed categories: Strongly Agree & Agree

Government and Non-Profit Respondents More Likely Than Private Practitioners to Agree That There is a Justice Gap

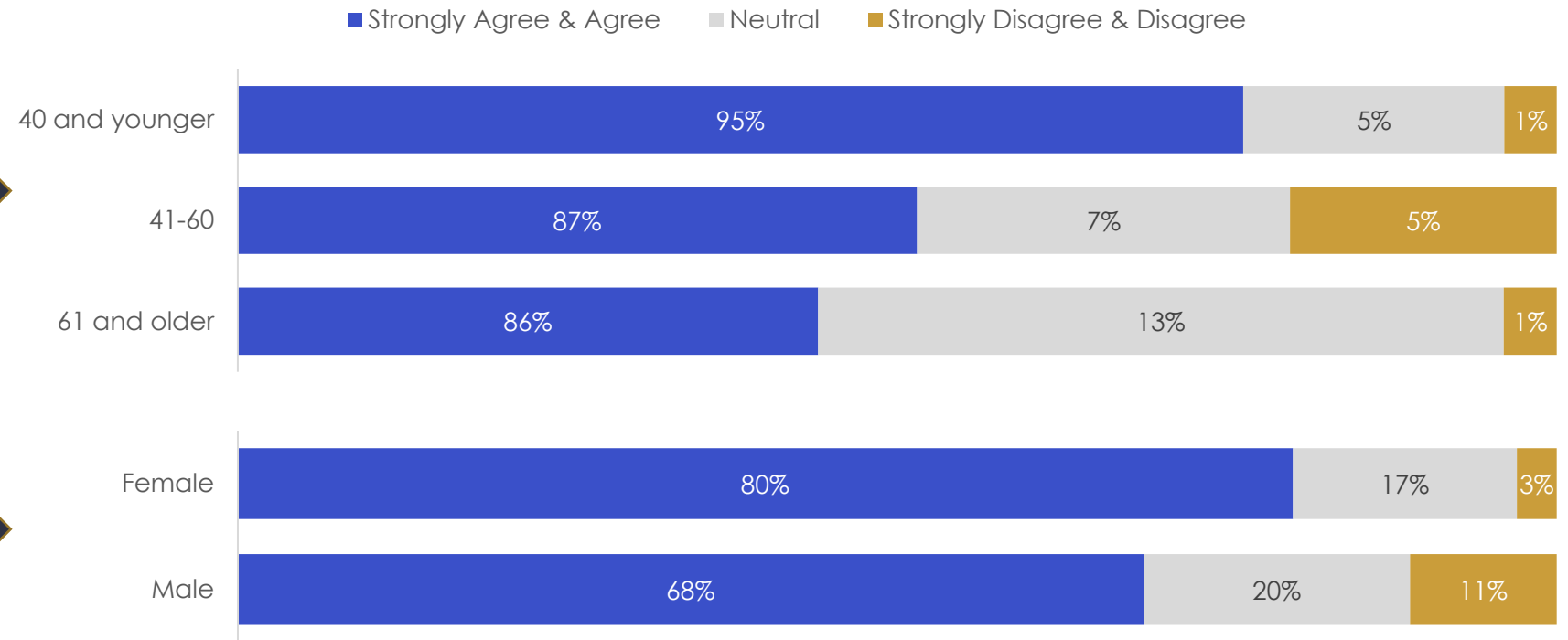
Strongly Agree & Agree



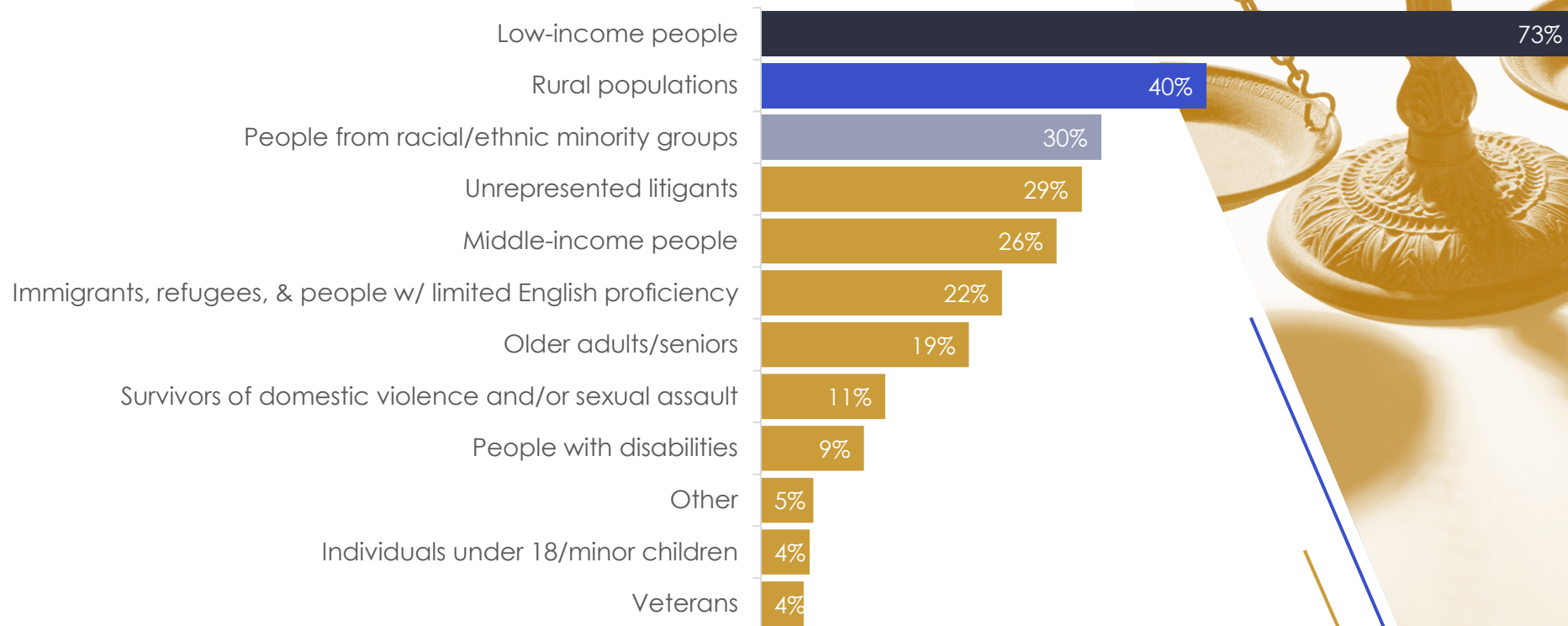
Younger Respondents More Likely to Agree That There is a Justice Gap; Female Respondents Believe the Issue is Urgent

In Montana, residents in some parts of the state have better access to justice than residents in other parts.

Addressing the gaps in access to justice for Montanans is critical and urgent.

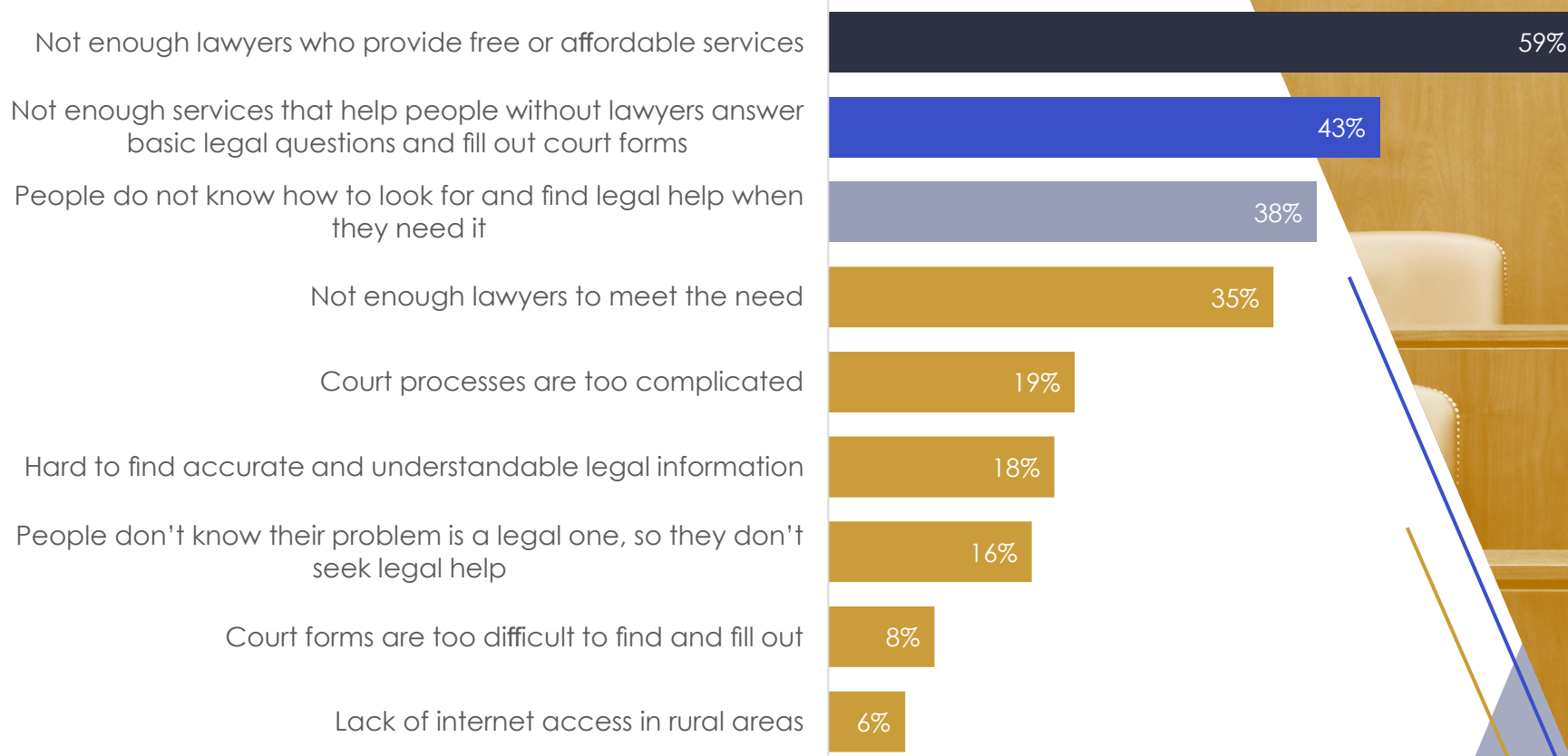


Who Faces Barriers to Legal Help?

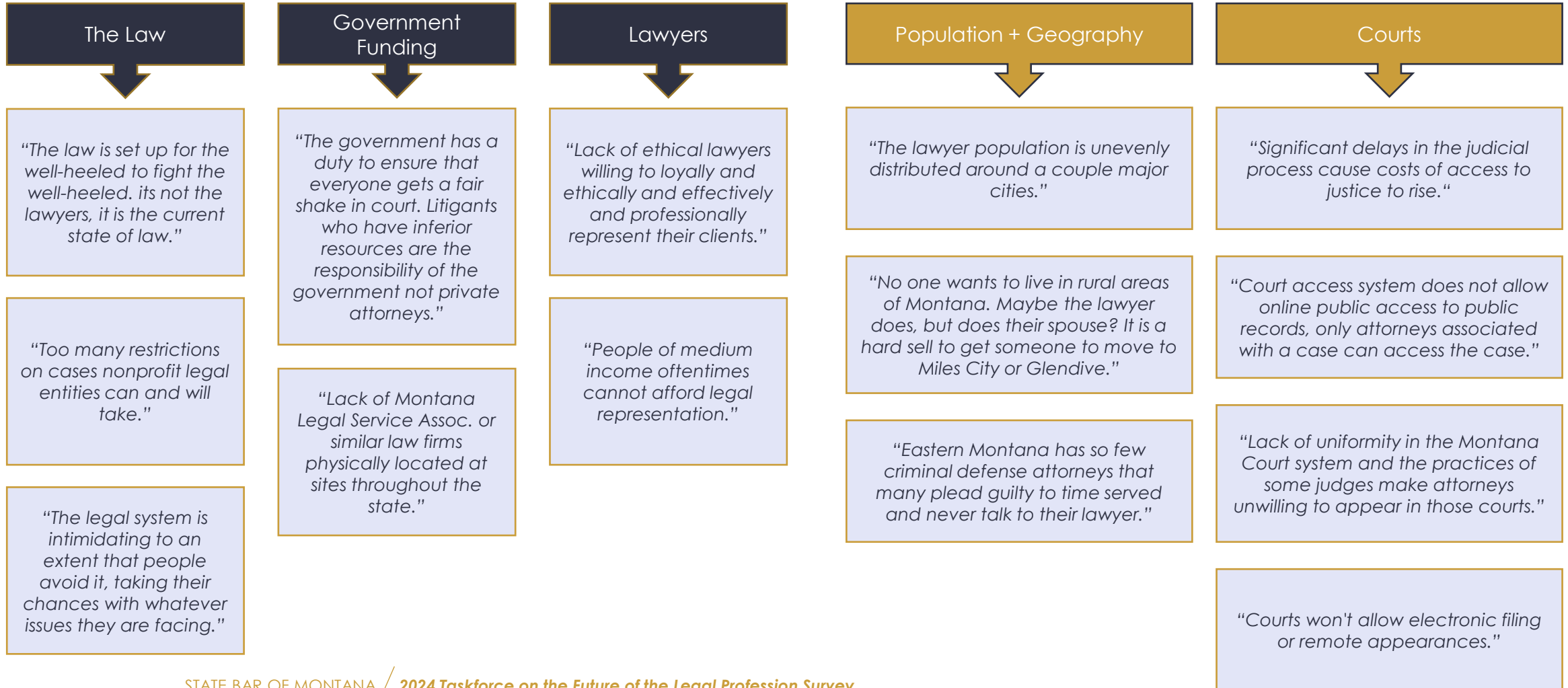


While low-income has the highest response rate, respondents also recognize the intersecting and overlapping identities at work

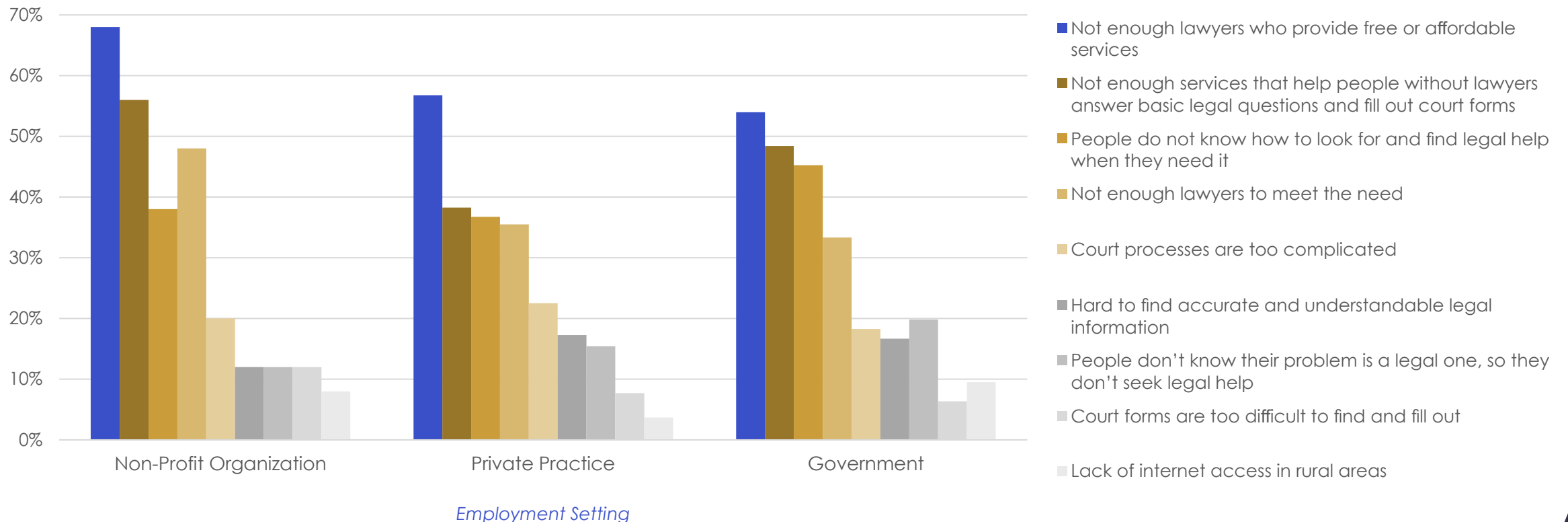
What are the Barriers to Getting Legal Help?



There are Other Barriers to Accessing Legal Help in Montana...



Broad Agreement Across Employment Settings on Primary Barriers to Accessing Legal Services



The background of the slide features a warm, golden-yellow color scheme. The top portion shows the fluted capitals and bases of several classical columns. Below the columns, a series of wide, light-colored stone steps lead downwards. The bottom half of the slide is a solid dark blue band containing the title text in white.

II. Addressing the Access to Justice Gap in Montana

Strategies for Closing the Justice Gap

Respondents don't think the answer is to just increase total number of lawyers, but rather to increase lawyers offering services at reduced rates.

Low-cost legal services: Increasing the number of lawyers offering services at reduced rates

Rural services: Increasing the number of legal professionals in rural Montana

Free legal services: Increasing the number of lawyers providing free services to low-income people

More paralegals and non-lawyer advocates: Increasing the number of Licensed Paralegals and other types of non-lawyer legal advocates

Unbundled services: Increasing the number of lawyers offering help with specific parts of a case rather than the entire case

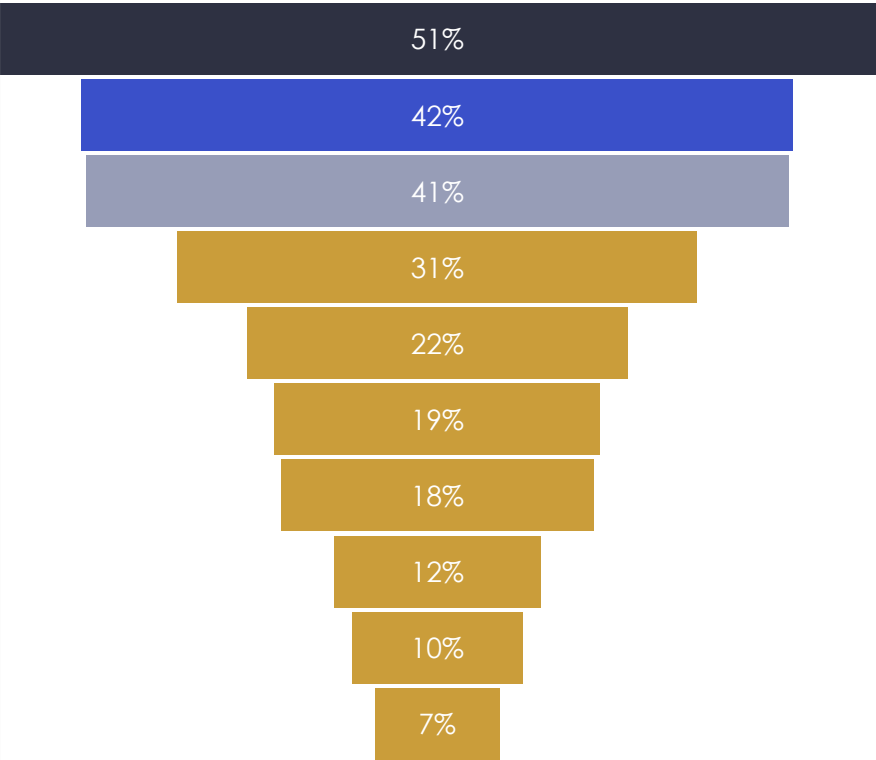
More lawyers: Increasing the total number of licensed lawyers

Pro bono services: Increasing the number of lawyers providing pro bono services

More diversity: Increasing the racial and demographic diversity of legal professionals

Other

Language access: Increasing the number of multilingual legal professionals



Focus on Lawyers

Lawyers



Pro Bono + Relocation Incentives

- *"I'll provide more pro bono services when my student loans are paid off. That's something older generations of lawyers absolutely do not, or refuse, to understand. For many years, my student loan payment cost more than my mortgage."*
- *"All lawyers should be required to provide pro bono work, not just associates and those willing."*
- *"Incentives leaving the major markets (help with student loan debt; provide health insurance; provide mentorship/good forms)."*

Billing

- *"The Montana bar generally looks down upon high-billable rate lawyers, which depresses rates and prevents lawyer from earning enough to have the margin to devote to these types of services."*
- *"Limit fee-shifting to a single attorney, impose limits on cost-shifting and malpractice (to lower attorney costs) and adjust ethics standards for 'competence' to allow more protection for work outside a lawyer's comfort zone."*

Licensure + Ethics

- *"Allow unbundled licensure so lawyers from other jurisdictions can assist without large pro-hac fees."*
- *"Go back to a Montana bar exam and graduate people that are ready to practice on day one from UM. UM teaches to a test and not practice based education."*

Courts, Education and Expanded Services

Courts

Technology + Independence + Simplified Rules

- "Allowing electronic filing and remote appearances in court."
- "Facilitating a better way to weed out the legitimate need legitimate legal problem folks from the ones who are not as legitimate in either category."
- "Judges who apply the law equally to everyone and who do not decide cases based on the identity of the litigants or political biases."
- "Pro Se Court"
- "Stop making it so difficult and unprofitable to practice in state court on appointed cases. Certain courts appear to punish appointed counsel while other courts go out of their way to attract competent attorneys to practice in their courts."
- "Increase judicial system's budget 2x, hire more judges, create more drug courts, more funding for public defenders' offices."
- "Invest in computer systems that work."

Education

Client Expectation + Access

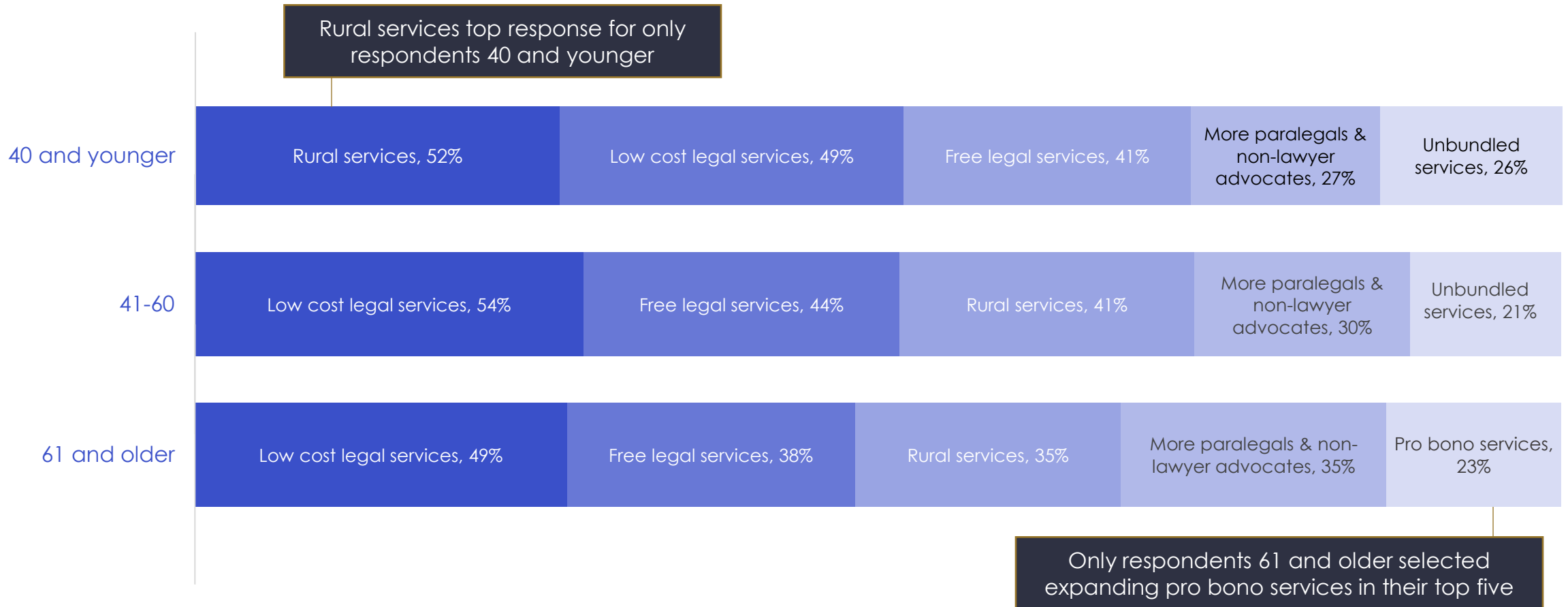
- "In my experience, "free" legal assistance often results in disregard/abuse of the attorney's time; the recipient needs to have some "skin in the game" so that they do not abuse the services of the attorney."
- "Increase access to plain language FAQs/legal synopses top 20 court case types/issues."
- "Form driven court processes"

Expanded Services

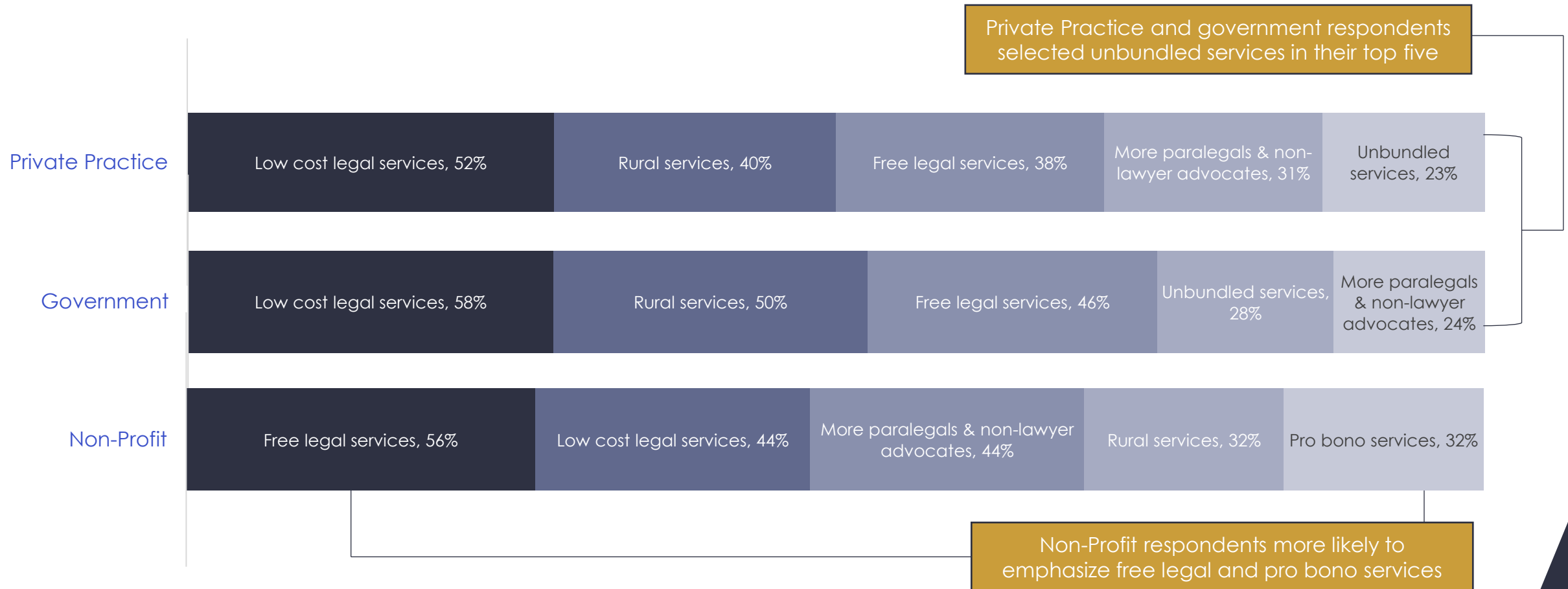
Paraprofessional Licensing + Civil legal Aid

- "The effectiveness of non-lawyer advocates and paralegals will depend on the authorities granted them."
- "There should be a publicly funded legal services office in all rural county seats which provides legal services, either free or reduced charge, to those who qualify for services, much like the public defender's office. And it should be personally staffed; no internet service to rural areas from a central location to save money."
- "Certainly, the biggest barrier is cost, however, I don't think "free" attorneys for all is a valid solution as the money has to come from somewhere."

Top 5 Strategies to Increase Access to Legal Services by Age

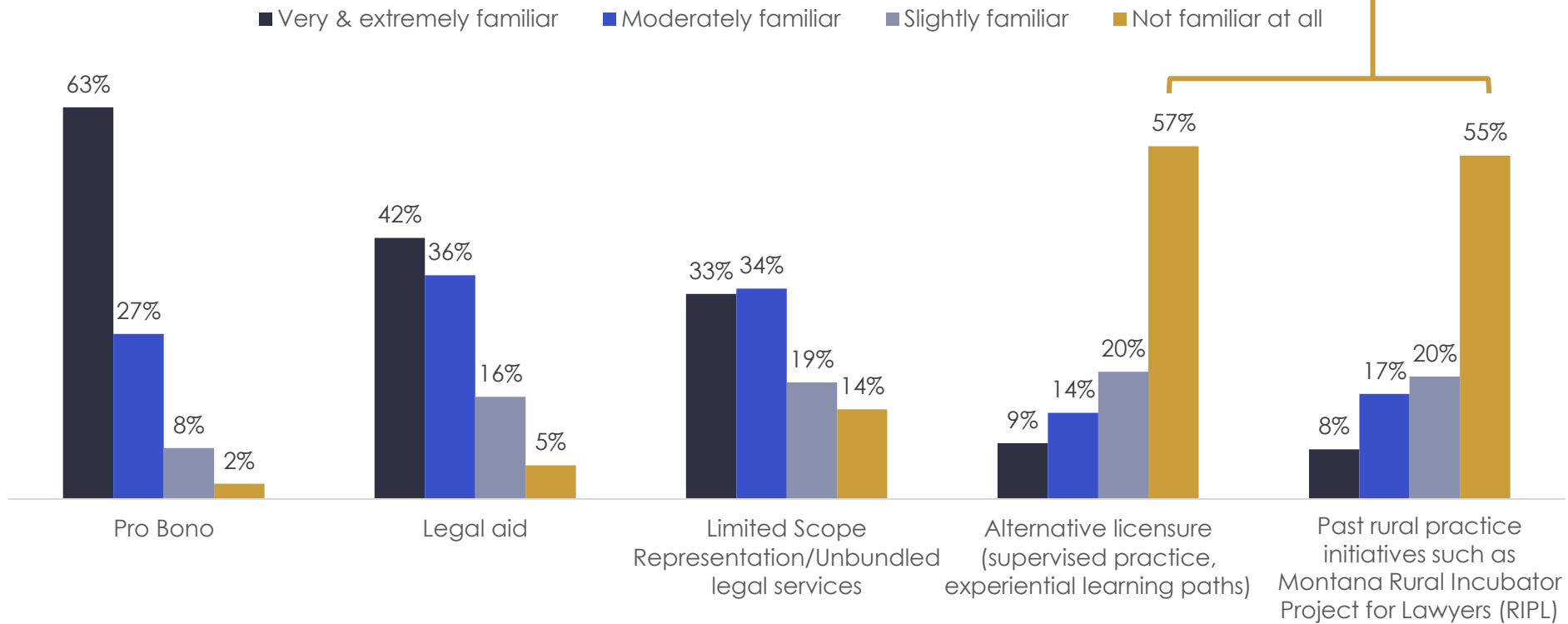


Top 5 Strategies to Increase Access to Legal Services by Employment Setting



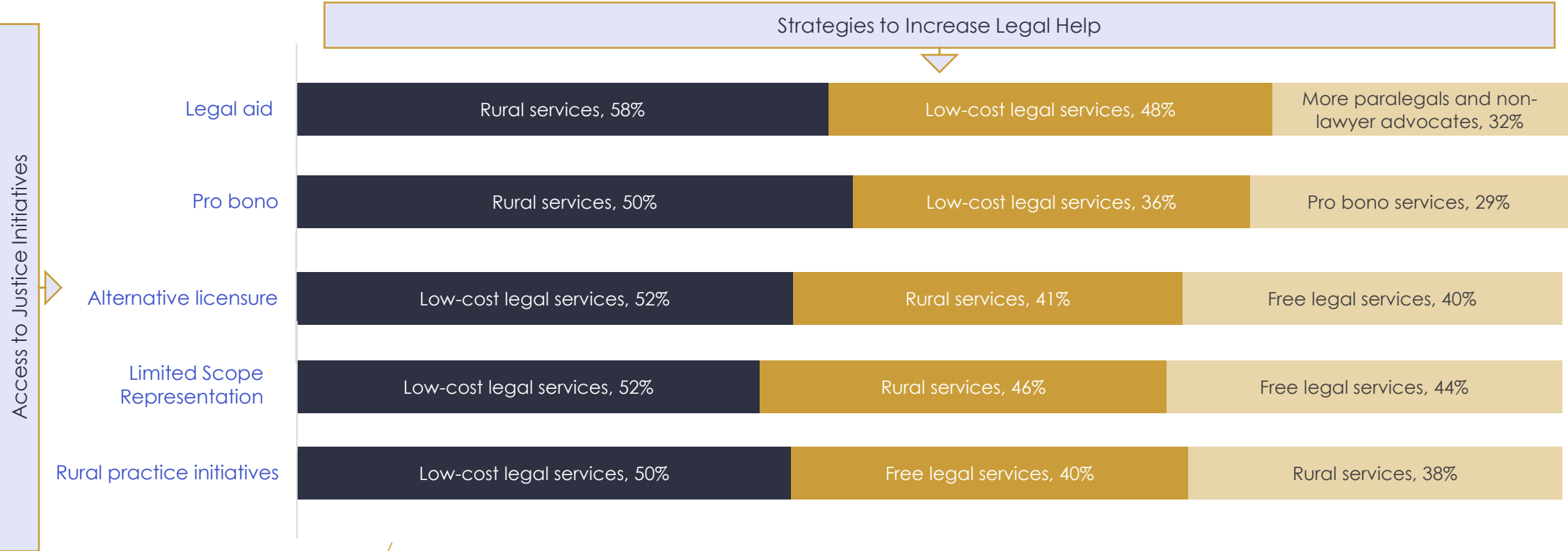
Awareness of Access to Justice Initiatives

Respondents are least familiar with rural practice initiatives and alternative licensure.



Low Familiarity With Alternative Access to Justice Programs Correlates With Stronger Emphasis on Lawyer-Based Solutions, Rather Than Non-Lawyer Solutions

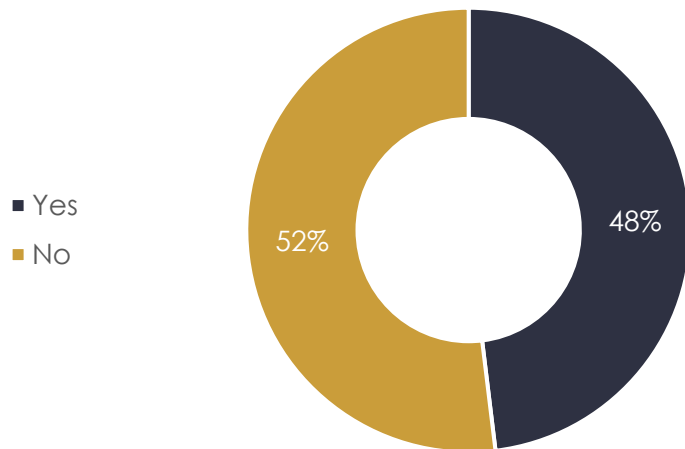
Cross-tabulation of 'Strategies to increase legal help' top selections with those who are least familiar with access to justice initiatives.



Limited Scope Representation

PRIVATE PRACTICE EMPLOYMENT SETTING

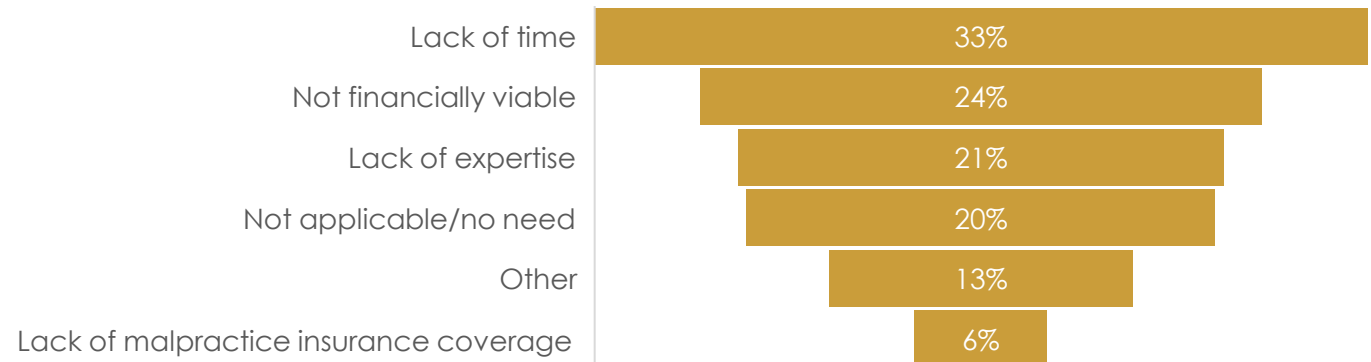
48% of respondents in private practice have utilized limited scope representation



Respondents use limited scope legal advice the most



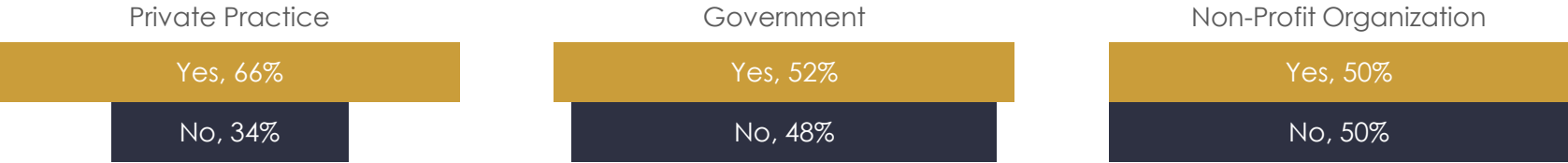
Respondents are not utilizing limited scope representation because:



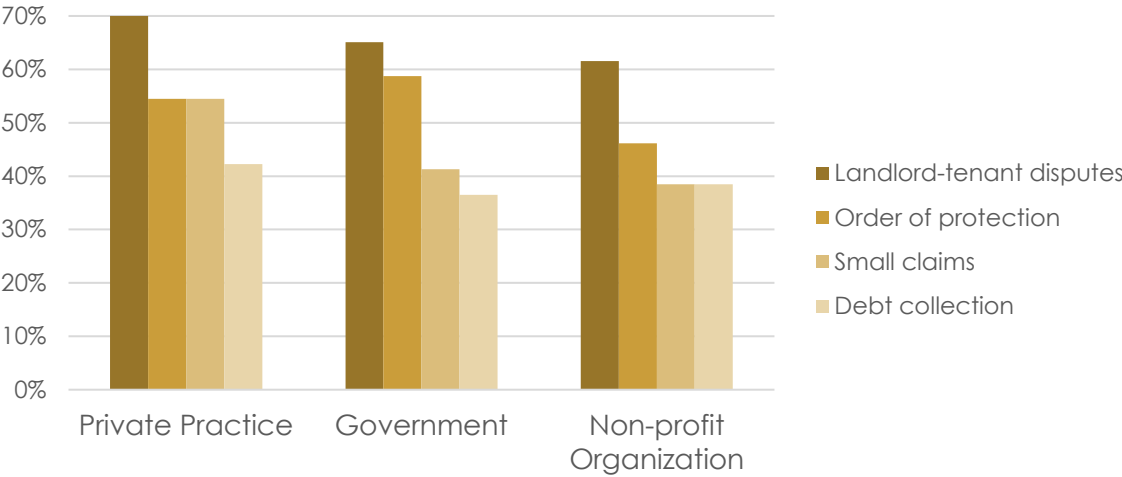
Practicing in Courts of Limited Jurisdiction

BY EMPLOYMENT SETTING

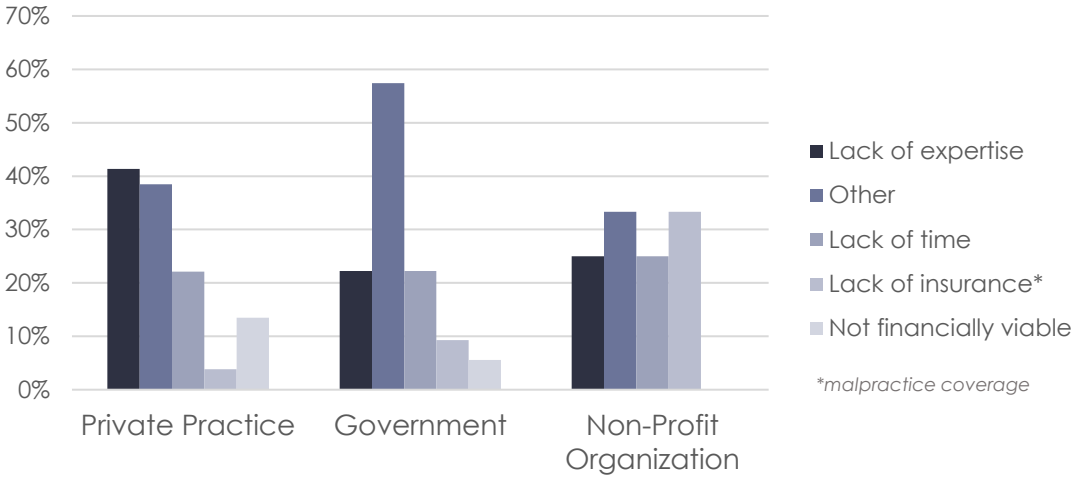
Have you practiced civil law in a court of limited jurisdiction?



If yes, have you handled:



If no, why not?

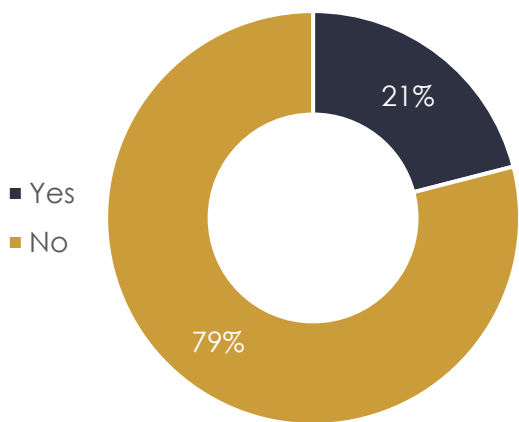


*malpractice coverage

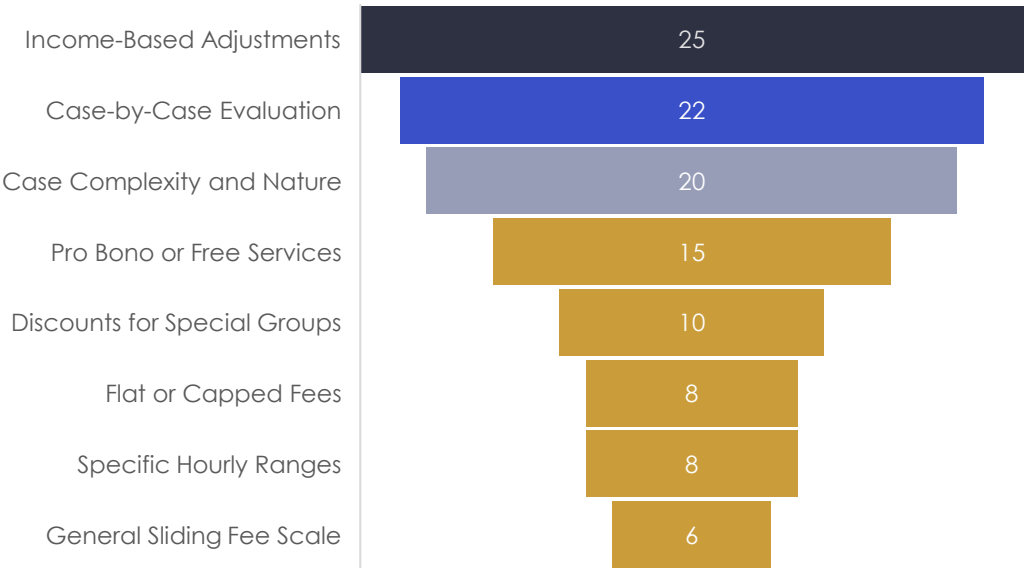
Sliding Fee Scales

21% of respondents offer a sliding fee scale and the most common rationales are income-based adjustments, case-by-case evaluation and case complexity and nature.

In your law practice, do you offer a sliding fee scale?



Describe your sliding fee scale:



My sliding fee scale:

"Arbitrary and capricious based upon what is involved in the case."

"I give discounts for veterans and first responders."

"What the client can afford , including trade."

"I give discounted hourly rates for certain kinds of cases like adoptions and guardianship cases."

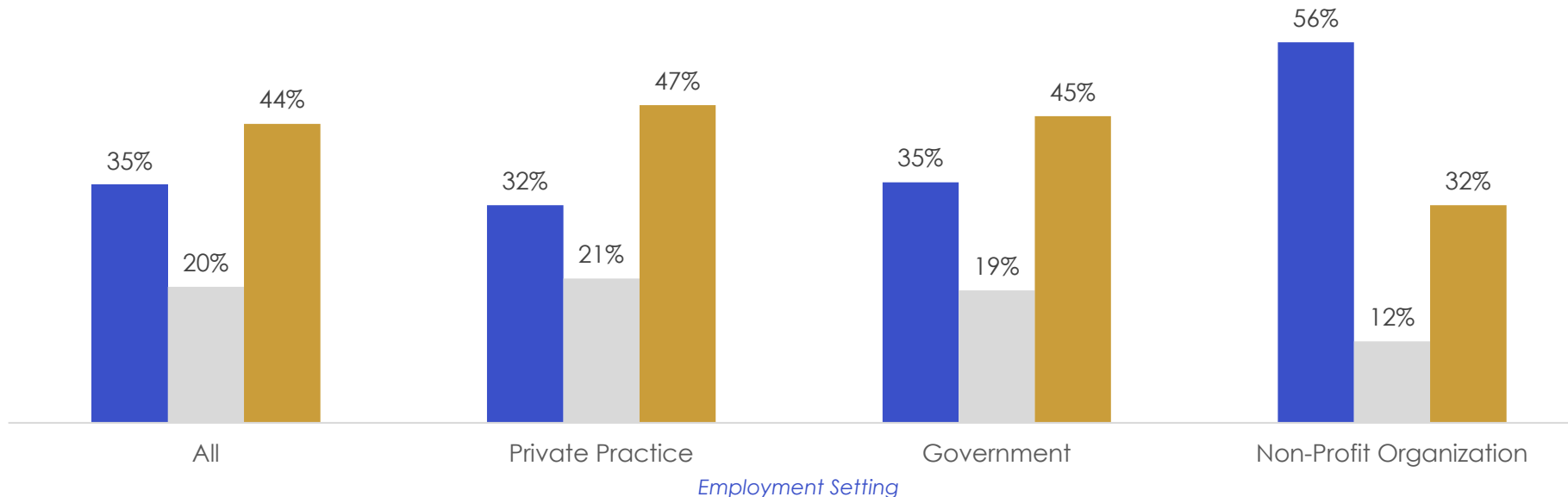
"We offer a discount for individuals fleeing DV if they do not have the current ability to pay a normal rate."

"I used to have a "low-bono" rate for clients with limited means. The low-bono rate was negotiated."

Non-Profit Respondents More Likely to Support Exploration of Licensed Paraprofessionals

"I support the exploration of limited licensure of non-licensed individuals in Montana." 1=strongly against to 10=strongly support

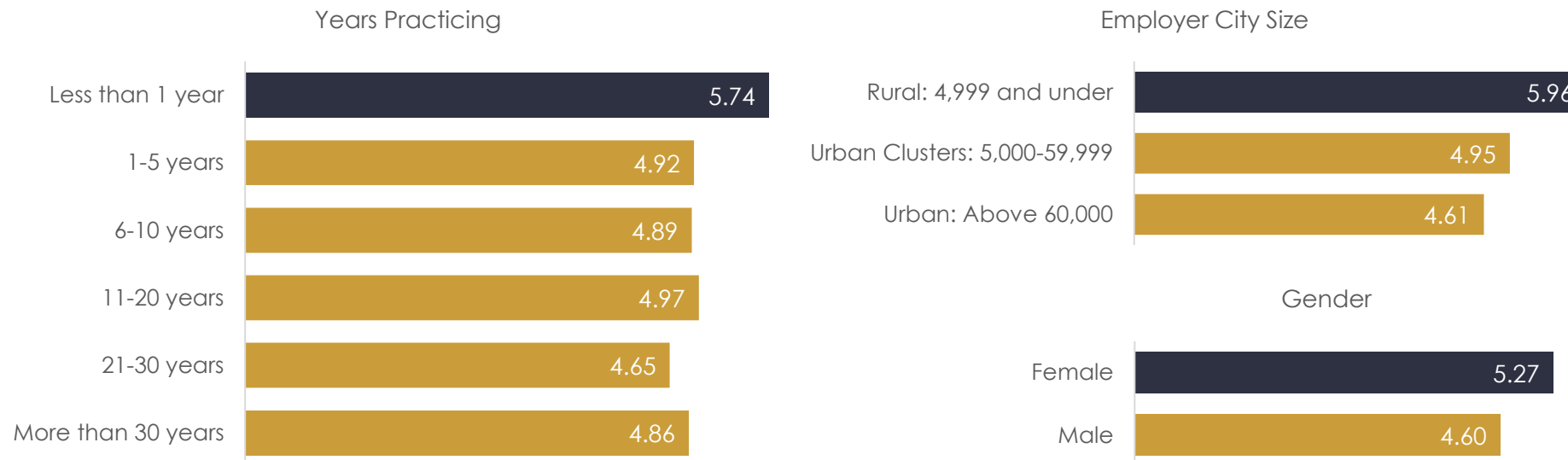
■ Supports: 7-10 ■ Neutral: 5-6 ■ Against: 1-4



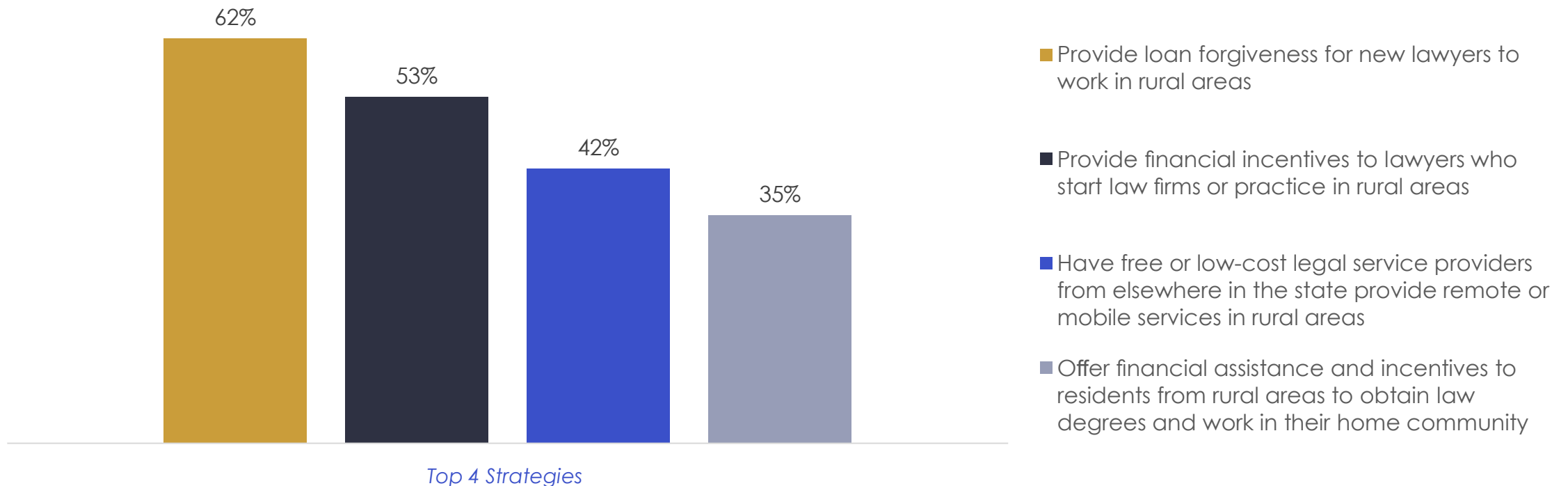
Female, Rural and Newly Qualified Lawyers More Likely to Support Limited Licensure

BY YEARS PRACTICING, EMPLOYER CITY SIZE & GENDER

"I support the exploration of limited licensure of non-licensed individuals in Montana." (Average)



Top 4 Strategies to Increase Access to Legal Help in Rural Areas



Other Solutions to Increase Access to Legal Services in Rural Areas

Technology

"Request a virtual consultation with an attorney (or advocate depending on the issue)" to the self-help services and/or the services available to request in an available "install[ed] kiosk."

"Combine non-lawyer services with remote service providers and kiosks to help people access and navigate these resources."

"Allow electronic filing and remote appearances in all courts."

"Increase the use of remote representation and provide better infrastructure in the courts in the state to support remote work."

"Expand use of services through technology and court appearance."

Incentivizing Lawyers

"Montana give MD's tax credits just for being here Why not JD's?"

"Recruiting in high COL, urban settings coupled with loan forgiveness to encourage those new lawyer to move. Once they are here, they will stay. Too often, the pitch is to recruit in similar areas (ND, SD, or other rural areas), but those areas have the same issues as MT."

"To avoid conflicts of interest & desire for neighbors knowing your business, increase incentives for lawyers to visit small towns 75+ miles from their primary office."

"Change the culture in eastern Montana. Most refuse to live there."

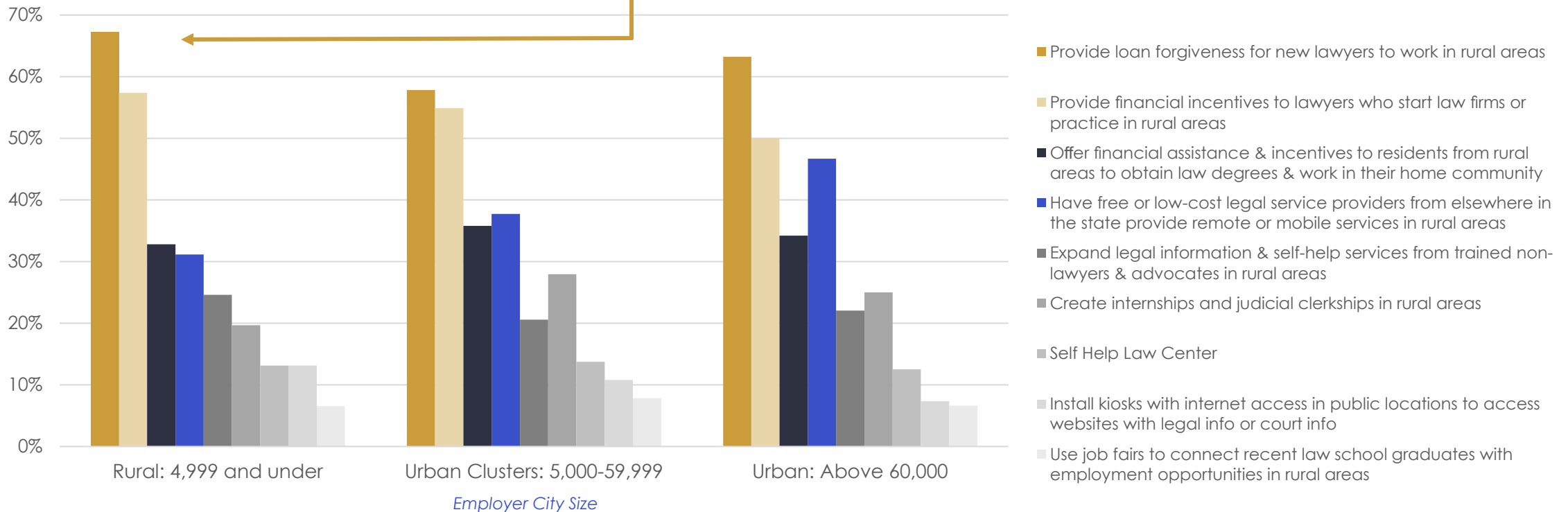
Support Lawyers

"Use your existing lawyers in rural areas as a bridge to connect to lawyers in the bigger cities. This could even be a business cooperation."

"Improve education and resources for new attorneys to start their own practice. Much of the fear of going to a rural area is not knowing what to expect or how to get started. The issue is not money, it is fear of the unknown."

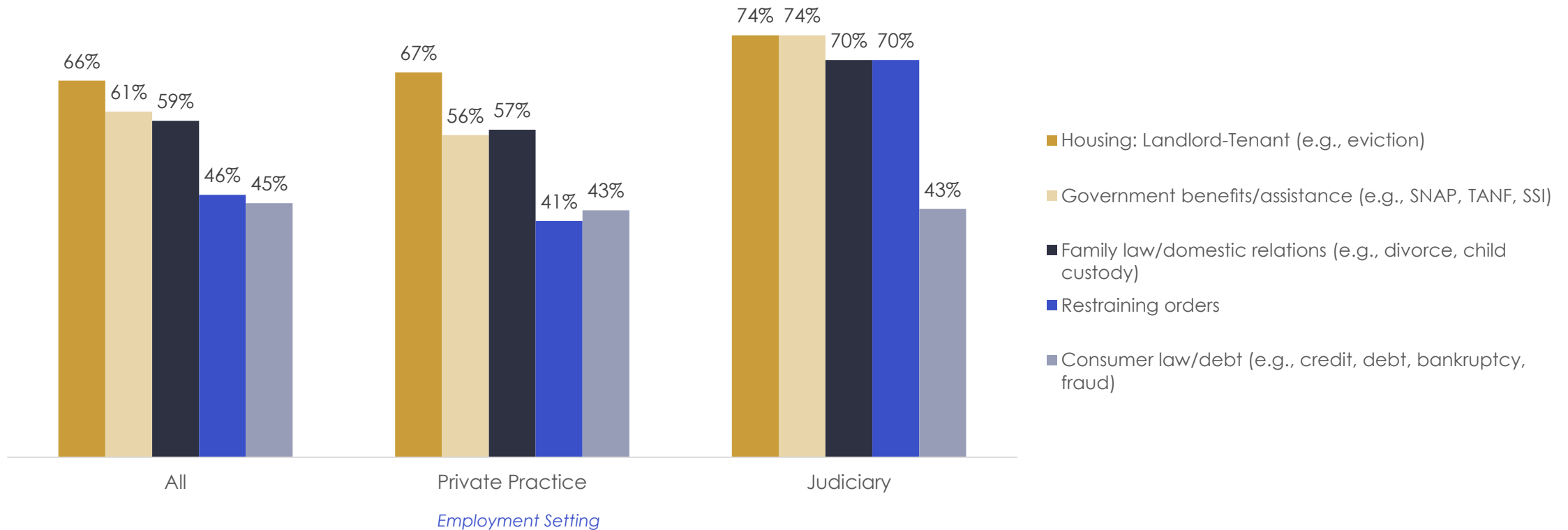
Strategies to Close Justice Gap in Rural Areas by City Size

Rural lawyers rate loan forgiveness and providing financial incentives to help start law firms as the most promising strategies to expand rural access to justice.



Top 5 Areas Non-Lawyers Can be Trained to Help

Judges are more confident than lawyers about the potential efficacy of licensed legal paraprofessionals



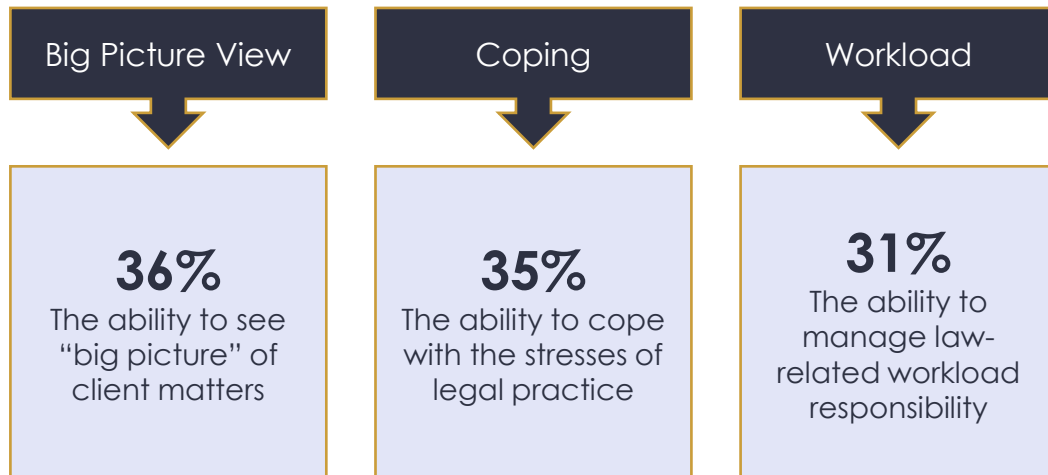
Law School & Bar Admissions



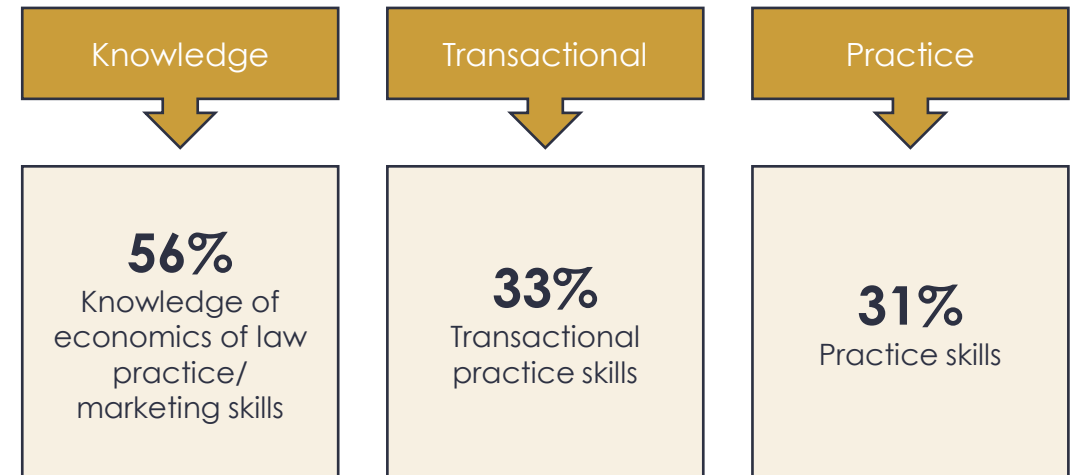
Areas Where Law Graduates are Least Prepared and Have Weakest Skills

The 2020 Institute for the Advancement of the American Legal System report, Building a Better Bar, identifies 12 interlocking components or “building blocks” that are critical for new lawyer success. Respondents ranked their views of new and young lawyer’s preparedness and skills on a scale of 1=Weak to 10=Strong. The graphs below show the percentage of respondents that selected Weak (1-4).

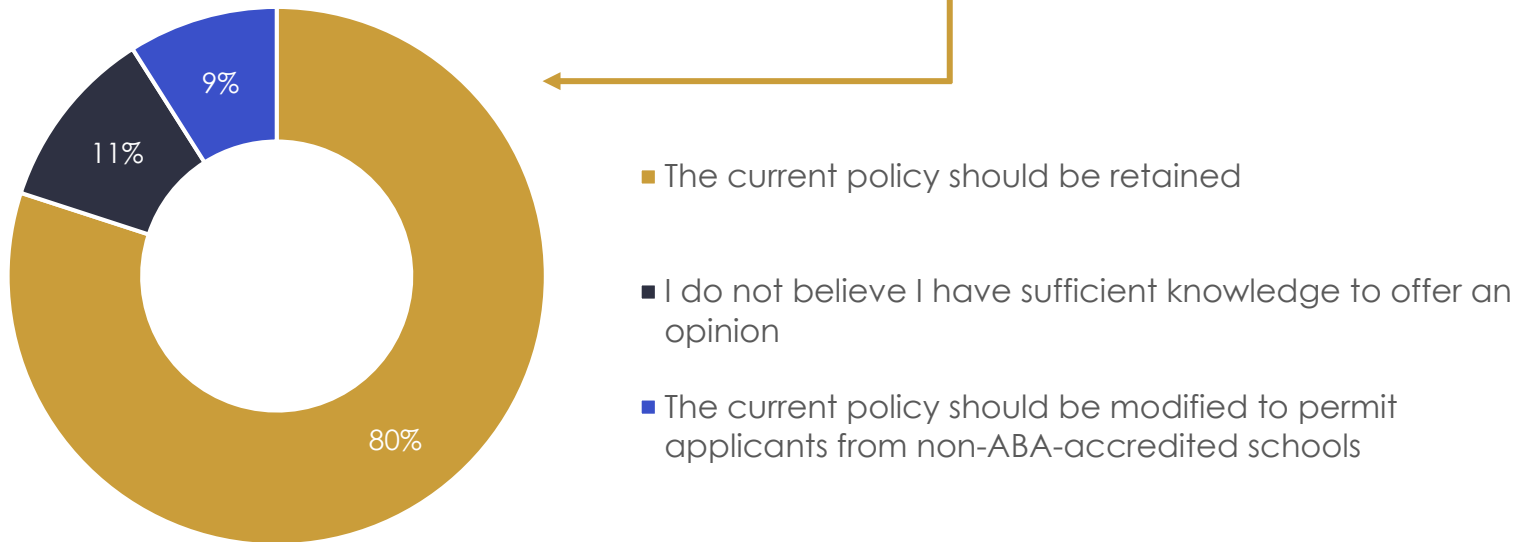
Bottom 3: Least Prepared



Bottom 3: Weakest Skills



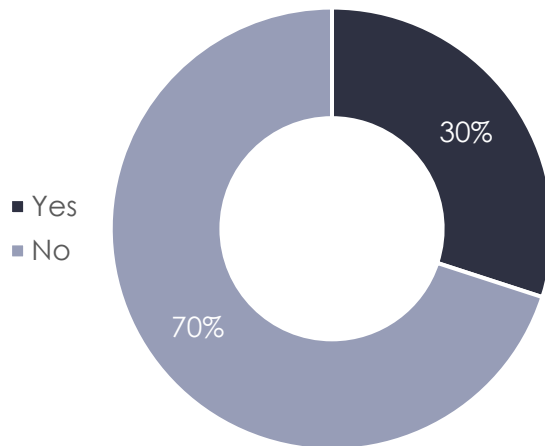
Respondents Strongly Support Maintaining the ABA Accredited Law School Requirement



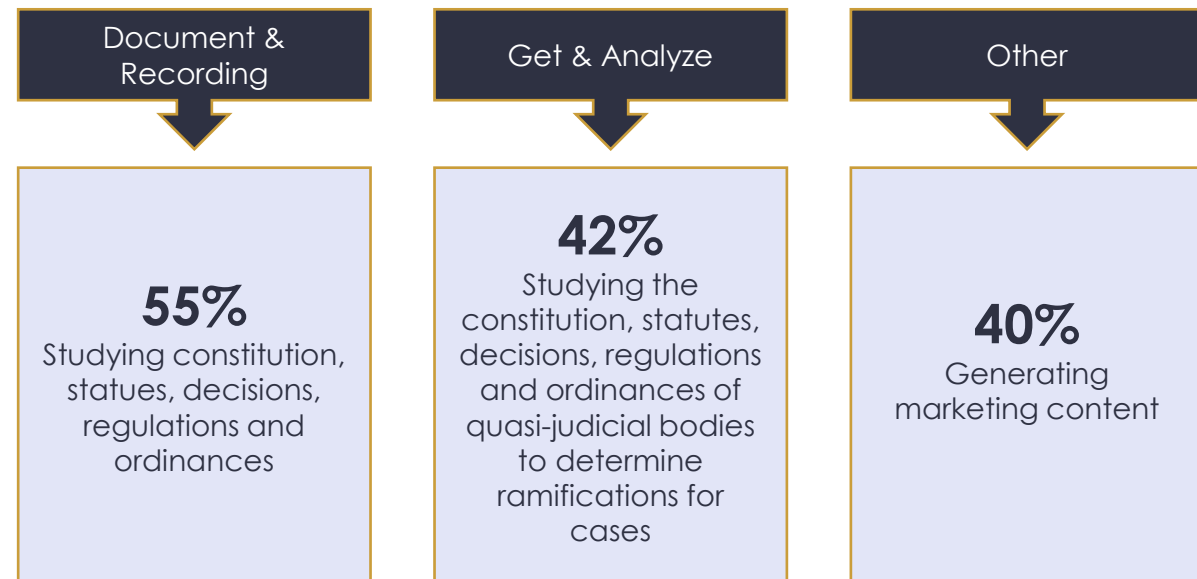
Artificial Intelligence Use

Only 30% of respondents are using AI to assist in the practice of law.

Are you currently using AI to assist in the practice of law?



Top Tasks Respondents Use Generative AI Technology





STATE BAR
OF MONTANA

Exhibit B

IN THE SUPREME COURT OF THE STATE OF MONTANA

No. AF 09-0068

THE MONTANA COMMISSION ON
UNAUTHORIZED PRACTICE'S
MOTION TO WITHDRAW THE PETITION
AND MEMORANDUM IN SUPPORT OF
REVISION OF THE RULES ON
THE UNAUTHORIZED PRACTICE
OF LAW AND
TO DISSOLVE THE COMMISSION

FILED

MAR 19 2010

Ed Smith
CLERK OF THE SUPREME COURT
STATE OF MONTANA

The members of the Unauthorized Practice Commission
("Petitioners") hereby move to withdraw the Petition to Adopt Proposed
Revisions to the Rules on the Unauthorized Practice of Law (2000).

The Commission further requests dissolution of the Commission.

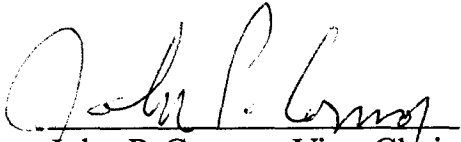
Attached to this Motion is a Memorandum of Understanding (MOU)
completed between the Office of Consumer Protection in the Montana
Attorney General's Office and the State Bar of Montana. The MOU
addresses procedural, jurisdictional and policy matters relating to
unauthorized practice of law issues in Montana.

Given that the Commission's responsibilities are conveyed to the
Office of Consumer Protection in the MOU, the Commission requests that it

be dissolved.

Respectfully submitted this 17th day of March, 2010.

COMMISSION ON UNAUTHORIZED PRACTICE


John P. Connor, Vice-Chair

MEMORANDUM OF UNDERSTANDING

A. INTRODUCTION

By letter dated September 30, 2009, Chief Justice McGrath appointed an Unauthorized Practice of Law Working Group to discuss and decide practical approaches to disbanding the Commission on Unauthorized Practice of Law ("the Commission"). Based on the discussions of the Working Group, this Memorandum of Understanding ("MOU"), between the State Bar of Montana ("SBM") and the Office of Consumer Protection in the Montana Attorney General's Office ("OCP"), addresses procedural, jurisdictional and policy matters relating to unauthorized practice of law issues in Montana. It is not intended to address in detail every potential issue that may arise with respect to unauthorized practice of law.

This Memorandum creates no rights that may be legally enforced by either the SBM or the OCP or by any other person. The parties agree that no person or entity is a third-party beneficiary of this MOU. It may not be introduced as evidence in any legal proceeding involving issues relating to the unauthorized practice of law.

B. COMPLAINTS AND/OR ENFORCEMENT ACTIONS AGAINST NON-LAWYERS

1. Complaints alleging that a person has engaged in the unauthorized practice of law should be directed to the OCP:

Office of Consumer Protection
2225 11th Ave.
PO Box 200151
Helena MT 5920-0151
406-444-4500
800-481-6896
email: contactocp@mt.gov

2. The OCP will designate an employee who will have primary responsibility for receiving and processing complaints alleging unauthorized practice of law. In appropriate cases, the attorneys in the OCP will be involved in addressing unauthorized practice of law complaints.
3. The OCP will evaluate complaints alleging the unauthorized practice of law against non-lawyers pursuant to Mont. Code Ann. § 30-14-103, which declares that "unfair or deceptive acts or practices in the conduct of any trade or commerce are unlawful." As general principles, and without in any way limiting the authority of the OCP to enforce any statute within its jurisdiction:

- a. In evaluating whether a person has engaged in deceptive acts or practices, the OCP will consider whether it can be proven that the person has, for economic gain, misrepresented their status and/or abilities to perform services that properly require a law license.
- b. In evaluating whether a person has engaged in unfair acts or practices, the OCP will consider whether it can be proven that the person has engaged in an act or practice that "offends established public policy and which is either immoral, unethical, oppressive, unscrupulous or substantially injurious to consumers." Rohrer v. Knudson, 2009 MT 35 ¶ 31.

C. COMPLAINTS AGAINST OUT OF STATE ATTORNEYS

1. An attorney licensed in another state who engages in the unauthorized practice of law in Montana is subject to the disciplinary authority of the Montana Supreme Court pursuant to Rule 8.5 of the Montana Rules of Professional Conduct, and Rule 7 of the Montana Rules for Disciplinary Enforcement.
2. As a general principle, the Office of Consumer Protection does not intend to be the primary regulatory or enforcement authority concerning matters relating to licensed attorneys.

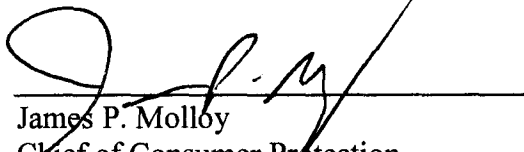
If an unauthorized practice of law complaint against an attorney not licensed to practice in Montana is filed with the OCP, the OCP will direct the complaint to the SBM for possible referral to the Montana Office of Disciplinary Counsel. If the circumstances of the complaint indicate that the matter involves harm to Montana consumers as the result of unfair or deceptive business practices by the attorney, the OCP may pursue appropriate action, in addition to any action taken by the SBM and/or the Office of Disciplinary Counsel.


D. TRANSITION

1. The SBM will cooperate with and assist the OCP with respect to logistical and practical issues that may arise during the transition of jurisdiction for unauthorized practice claims from the Commission on Unauthorized Practice to the OCP. Following completion of the transition, the SBM agrees to consult with employees of the OCP on unauthorized practice matters as each agency may deem appropriate.
2. Pending the decision by the Supreme Court, the Commission will -- with the staff assistance provided by the SBM -- continue to process unauthorized practice complaints pending as of the date of this MOU, with the objective of bringing to a conclusion as many of those pending complaints as possible.
3. Any unauthorized practice complaints that are filed after the effective date of this MOU will be processed according to the terms of this MOU.

4. If the Supreme Court decides to disband the Commission, any unauthorized practice complaint that is pending as of the date the Commission is disbanded will be referred according to the terms of this MOU.

DATED this 19th day of March, 2010.


James P. Molloy
Chief of Consumer Protection
Montana Department of Justice


Chris Manos
Executive Director
Montana State Bar

c: Steve Bullock, Hon. James Nelson

Exhibit C

IN THE SUPREME COURT OF THE STATE OF MONTANA

AF 11-0765

IN RE THE PETITION TO ADOPT RULES
AUTHORIZING CERTIFIED LAY ADVOCATES
TO PROVIDE LIMITED LEGAL SERVICES IN
JUSTICE COURTS AND CITY COURTS

ORDER

Montana Legal Services Association (“MLSA”) has filed a petition requesting that this Court modify certain rules regarding the provision of legal services and representation in courts of limited jurisdiction. The Montana State Bar Association supports MLSA’s petition, which is well-supported with law and facts reflecting the need for the services requested.

This Court recognizes the Montana State Constitutional emphasis on access to the courts. While the ability to represent oneself in civil matters is well-established, the assistance of a representative who is trained in court procedures, the law, and the representational role cannot be overstated. Such provision of service improves access to justice and the Court acknowledges that the need for these services is high among certain underserved populations. This is particularly true for those who are victims and survivors of domestic violence and those whom do not have the resources to obtain legal counsel due to their low-income status. Moreover, the need cannot currently be met by the provision of service by licensed attorneys only.

Given the above, and in light of the undisputed need, the Court acknowledges that trained lay advocates, when appropriately mentored and certified, can competently and ethically provide limited legal services to litigants who might otherwise lack legal representation.

Thus, upon MLSA’s petition, for good cause appearing therefore, and pursuant to Article VII of the Montana Constitution,

IT IS HEREBY ORDERED that the Community Justice Worker program is hereby approved under the following conditions and requirements:

1. Definitions. For purposes of this Order:

“**Advice and counsel**” means legal assistance that is limited to the review of information relevant to the client’s legal problem or problems and counseling the client on the relevant law. Advice and counsel may include a suggested course of action but does not include drafting documents, making third-party contacts on behalf of the client, or representing the client in an administrative proceeding.

“Legal assistance” means the services provided by the Community Justice Worker (CJW) with respect to orders of protection, consumer and debt relief issues, housing, or public benefits matters, providing advice to a client; preparing a document, in any medium, on behalf of a client for filing in any court of limited jurisdiction; negotiating legal rights or responsibilities on behalf of a client; preparing a document, in any medium, intended to affect or secure a client’s legal rights; or representing a client in an action or proceeding in a court of limited jurisdiction. Legal assistance does not include providing services or advice in criminal litigation in any state court proceeding.

“Legal information” means general, substantive information about the law that is not specific to a client’s individual situation and does involve applying legal judgment or recommending a specific course of action.

2. **Eligibility.** A person not admitted to the practice of law in this state may receive permission to provide legal assistance in a limited capacity in certain civil matters in the state if such person meets all of the following conditions:
 - (a) The person has completed the required training provided by (MLSA) in the following areas: Montana Rules of Professional Conduct, including, but not limited to conflicts of interest, confidentiality and duty of candor, the substantive area of law in which the person will practice, and appropriate tribunal procedures;
 - (b) The person has been evaluated by MLSA and found competent to provide legal assistance in at least one of the following areas: orders of protection, consumer and debt relief issues, or housing;
 - (c) The person will engage in the limited practice of law exclusively for MLSA on a full-time or part-time basis or as a volunteer and will not charge for their services;
 - (d) The person will inform all clients in writing that they are not a lawyer and obtain consent confirmed in writing from the client to their representation by the lay advocate; and
 - (e) The person provides legal assistance only as authorized under this order.
 - (f) An established CJW must be recertified periodically as deemed appropriate by MLSA.
3. **Application.** Application for such permission shall be made as follows:
 - (a) The executive director of MLSA shall apply to the ~~Board of Trustees of the~~ **State Bar of Montana** on behalf of a person or persons eligible under Section 1;
 - (b) Application shall be made on forms approved by the ~~Board of Trustees~~ **State Bar of Montana** and shall include the proposed scope of each applicant’s practice;
 - (c) Proof shall be submitted with the application that the applicant meets the eligibility requirements as set forth in Section 2.

4. **Approval.** The State Bar of Montana shall consider the application(s) as soon as practicable after it has been submitted. If the ~~Board~~ **Executive Director** finds that the applicant meets the requirements of Section 2 above and the applicant has completed training adequate for the scope of practice sought, they shall grant the application and issue a waiver to allow the applicant to provide legal assistance in the state of Montana in the substantive areas of law in which they have completed requisite training.
5. **Authorized Legal Assistance.** To protect the rights and interests of clients and to ensure accountability, a Community Justice Worker (CJW) may provide legal assistance only if all of the following are satisfied:
- (a) The CJW successfully completes all training required by the MLSA;
 - (b) The CJW provides legal assistance to clients only in the areas of orders of protection, consumer and debt relief issues, or housing;
 - (c) Before providing legal assistance to a client, the CJW has informed the client in writing that the CJW is not a lawyer and has obtained the client's written consent to representation by the CJW;
 - (d) The CJW provides legal assistance in matters in which the legal assistance is free of any charges, costs, fees, or other financial obligations to the client;
 - (e) The CJW provides legal assistance, in excess of providing legal information, only after MLSA has conducted MLSA's required process for eligibility screening and conflict checks, has opened a file in the matter, and provided the existing or prospective client with written information about how to make a complaint concerning the manner or quality of legal assistance, and the client has signed the appropriate retainers;
 - (f) If the client's legal issue cannot be resolved by the CJW, the file will be reviewed by MLSA for further consideration within MLSA's available resources; and
 - (g) When a CJW's representation of a client for legal assistance is terminated or completed:
 - 1. The outcome of the legal assistance will be recorded (if known);
 - 2. A closing letter or email will be given to the Client that:
 - a. Details the assistance provided;
 - b. Includes a client satisfaction survey; and
 - c. Informs the client about how to complain and utilize the available grievance procedure concerning the legal assistance received.
6. **Reporting.** MLSA shall provide the names of the authorized CJWs and the areas of law in which they have been certified. MLSA shall provide regular reports to the Montana Supreme Court, and the State Bar of Montana regarding the number of clients served by approved non-lawyers and case outcomes, as well as any complaints related to client harm, and the termination of any active waivers.
7. **Termination. An active waiver is terminated if the person no longer works for or volunteers with MLSA. A community justice worker's authorization may be terminated or suspended as a result of disciplinary action because of misconduct.**

IT IS FURTHER ORDERED that Montana Uniform Rules for the Justice and City Courts, Rule 14, is hereby revised as follows:

Rule 14. Representation.

- (a) A party may represent oneself, or be represented by counsel *or a non-lawyer Community Justice Worker, as provided in (b) below.*
- (b) Except as provided in (c) below, no representation can be made on behalf of a party by another person except an attorney duly licensed by the State of Montana *or by a non-lawyer Community Justice Worker who is authorized to provide limited legal assistance to clients in specified areas of law, under the jurisdiction of the Montana Supreme Court and the Montana State Bar Association.* A nonresident attorney may be permitted to represent a party upon motion of a licensed resident attorney as allowed under Section IV, Pro Hac Vice, of the 1998 Rules for Admission to the Bar of Montana.
- (c) Unless the articles of organization state otherwise, a member with a majority interest in a limited liability company may represent the limited liability company as an attorney in justice's court as provided in 25-31-601.
- (d) Death or removal of an attorney shall be governed by Rule 10 of the Uniform District Court Rules.

Dated this ____ day of _____, 2026.

Exhibit D

Introduction to Proposed Alaska Bar Rule 43.5

“Expanding access to justice requires innovation and moving past the idea that an attorney or a courtroom is the best or only solution for Alaskans.” *Alaska Court System’s Justice for All Statewide Action Plan*.

In 2019 Alaska Legal Services Corporation (ALSC), in partnership with Alaska Pacific University (APU) and Alaska Native Tribal Health Consortium (ANTHC), created the Community Justice Worker (CJW) Project, an innovative new step toward addressing Alaska’s escalating access to justice crisis. Now to make the project more effective, ALSC seeks a waiver that would allow properly trained and supervised CJWs to provide legal assistance to ALSC clients who otherwise would go without.

The Challenge

The Alaska Court System’s “*Justice For All*” *Statewide Action Plan* estimates that Alaskans experience 2.1 civil legal issues per person, or nearly 1 million legal issues among adult Alaskans, every 18 months. Comparing the number of cases filed in court to the number of estimated legal issues, it is clear that most Alaskans are not accessing the justice system to address their legal needs. ALSC is the only statewide provider of free, comprehensive civil legal aid, and operates the largest pro bono program in Alaska. As such, we are tasked with the enormous challenge of addressing the civil legal needs of the over 170,000 Alaskans who can’t afford legal help. However, there are only 1.13 ALSC attorneys available per every 10,000 Alaskans in poverty. Each year our limited resources force us to turn away one person for every individual we help. This doesn’t even take into account the many Alaskans who need legal help but can’t or don’t reach us. Given this reality, the need for a new strategy utilizing non-attorney resources to address Alaska’s civil justice crisis was clear, and the Community Justice Worker Training Program was launched in 2019.

Community Justice Worker Training Program

ALSC identified several areas of law where non-lawyer advocates could supplement existing ALSC staff and pro bono attorney efforts: addressing public assistance delays and denials, accessing unemployment benefits, debt collection defense, estate planning, domestic violence protective order advocacy, and Indian Child Welfare Act matters. The CJW Project recruits and comprehensively trains qualified non-lawyer volunteers (such as paralegals, tribal legal advocates, tribal employees, village health aids, undergraduate and law school students) to serve Alaskans who can’t afford or otherwise access civil legal help.

We have successfully recruited and trained CJWs in forty different Alaska communities (many off the road system). CJW placement in remote areas of Alaska enables us to better match clients with legal help in their same geographic region, whereas the vast majority of our staff and pro bono attorneys are located in the urban areas on the road system and may not have a firm understanding of the challenges their clients are facing. Once trained, the CJWs assist ALSC clients on cases specific to the substantive area in which they have been trained. Each CJW is also mentored and supervised by an ALSC or pro bono attorney. The CJWs have advocated for individuals in administrative proceedings, drafted letters and other documents and provided legal information to clients in court proceedings. To date 88 cases have been placed with CJWs. SNAP cases are an example of the impact of CJWs. CJWs have helped low-income clients increase or maintain their monthly benefits, successfully reduce or eliminate overpayments, and identify back-owed benefits. Through their SNAP advocacy, CJWs have helped low income households maintain thousands of dollars in benefits. Additionally, CJWs have drafted and assisted in executing wills for elderly, mostly rural clients as well as put on informational will clinics for elders interested in learning about will drafting. In all, CJWs have achieved positive outcomes for clients in 74 of the 88 cases they have handled, in the other 14 cases clients did not follow through with their cases. These are positive outcomes for clients who otherwise would have gone without legal help.

The success of the CJW project has drawn attention from national Access to Justice researchers as a potential solution for not just Alaska, but the nation's growing civil justice crisis. It is currently being studied by Harvard's Access to Justice Lab and will shortly be the subject of another study conducted by the American Bar Foundation's Access to Justice Research Initiative including Macarthur Award winning researcher Dr. Becky Sandefur.

Building on this success and inspired by regulatory reform efforts in the Lower 48 in states such as Utah, Arizona and Delaware, and with oversight and support from the Alaska Supreme Court's Access to Civil Justice Subcommittee on Regulatory Reform and national Access to Justice researchers and policy voices, ALSC seeks a pathway for qualified CJWs to expand their practice and allow limited legal advocacy in certain civil cases where clients would otherwise go without help..

The proposed limited practice waiver has been carefully crafted as a measured approach towards expanding those who may provide legal assistance and representation within a very defined scope. The individuals would be granted waivers to provide limited legal assistance to ALSC clients on specific legal issues after completing required training

on ethics, procedure and substantive law, all while receiving ongoing oversight and supervision by ALSC. The proposed rule also requires ALSC to provide quarterly reports to the Board of Governors and the Supreme Court's Access to Civil Justice Subcommittee on Regulatory Reform.

Rule 43.5: Waiver to Engage in the Limited Practice of Law for Non-Lawyers Trained and Supervised by Alaska Legal Services Corporation.

Section 1. Eligibility. A person not admitted to the practice of law in this state may receive permission to provide legal assistance in a limited capacity in certain civil matters in the state if such person meets all of the following conditions:

- (a) The person has completed the required training provided by Alaska Legal Services Corporation in the following areas: Rules of Professional Conduct, including, but not limited to conflicts of interest, confidentiality and duty of candor, the substantive area of law in which the person will practice, and appropriate tribunal procedures;
- (b) The person will be supervised by Alaska Legal Services Corporation;
- (c) The person will engage in the limited practice of law exclusively for Alaska Legal Services Corporation on a full-time or part-time basis or as a volunteer;
- (d) The person will inform all clients in writing that they are not a lawyer and obtain consent confirmed in writing from the client to their representation by the non-lawyer.

Section 2. Application. Application for such permission shall be made as follows:

- (a) The executive director of the Alaska Legal Services Corporation shall apply to the Board of Governors on behalf of a person or persons eligible under Section 1;
- (b) Application shall be made on forms approved by the Board of Governors and shall include the proposed scope of each applicant's practice;
- (c) Proof shall be submitted with the application that the applicant has completed the requisite training and that appropriate supervision is in place as set forth in Section 1.

Section 3. Approval. The Board of Governors shall consider the application(s) as soon as practicable after it has been submitted. If the Board finds that the applicant meets the requirements of Section 1 above and the applicant has completed training adequate for the scope of practice sought, it shall grant the application and issue a waiver to allow the applicant to provide legal assistance in the state of Alaska in the substantive areas of law in which they have completed requisite training and have supervision as required in Section 1. The scope of legal assistance will be limited to that approved by the Board pursuant to Section 2(b) of this Rule.

Section 4. Conditions. A person granted such permission may provide legal assistance in the scope approved pursuant to Section 3 of this Rule and only as required in the course of representing clients of Alaska Legal Services Corporation and shall be subject to the provisions of Part II of these rules to the same extent as a member of the Alaska Bar Association.

Section 5. Reporting. Alaska Legal Services Corporation shall provide regular quarterly reports to the Alaska Supreme Court, and the Board of Governors regarding the number of clients served by approved non-lawyers and case outcomes, as well as any complaints related to client harm, and the termination of any active waivers.

ARIZONA CODE OF JUDICIAL ADMINISTRATION
Part 7: Administrative Office of the Courts
Chapter 2: Certification and Licensing Programs
Section 7-211: Community-Based Justice Work Service Delivery Models

A. Definitions. In addition to the definitions in 7-201(A), the following definitions apply:

“Approval by the AOC” means approval by the Administrative Director, Administrative Office of the Courts, or the Administrative Director’s designee.

“Approved area of law” means each the following specified areas of civil law, approved by the Arizona Supreme Court, for which services may be provided to participants by authorized community justice workers or certified community legal advocates: (1) domestic violence (regarding orders of protection and family law matters); (2) evictions/housing stability; (3) public benefits; (4) debt/debt relief; (5) unemployment law; and (6) consumer issues. Approved areas of law may be added, removed, or changed in accordance with 1-201.

“Approved community-based organization” means a public or private not-for-profit organization, including a designated community action agency, approved to provide services to participants as a result of having submitted a completed application form to the Division for approval by AOC, having received notice from the Division confirming the organization’s approval, and for which that approval has not expired or been revoked.

“Approved legal services organization” means a non-profit legal entity that has as one of its primary purposes the provision of free legal assistance to low-income individuals and that has obtained approval under Rule 38(d), which approval has not expired or been revoked.

“Approved certified community legal advocate training” means training for certified community legal advocates provided by a public or private not-for-profit organization approved by the Division to provide such training as a result of having submitted a completed application form to the Division for approval by the AOC, having received notice from the Division confirming the organization’s approval, and for which that approval has not expired or been revoked.

“Authorized community justice worker” means an individual, supervised by an approved legal services organization licensed attorney, who is authorized under this section to provide specified legal assistance and legal advice in one or more approved areas of law to a participant client of an approved legal services organization.

“Board” means the Board of Nonlawyer Legal Service Providers.

“Certified community legal advocate” means an individual certified under this section, mentored by volunteer attorneys admitted to practice in Arizona, including attorneys admitted to practice in Arizona for at least five years but who are now on inactive or retired status and are in compliance with Rule 38(d)(2)(B)(i)(b)-(d), with subject-matter expertise, or by instructors of the organization providing approved certified community legal advocate training, to provide specified legal assistance and legal advice in one or more approved areas of law to a participant client of an approved community-based organization.

“Division” means the certification and licensing division of the AOC.

“Participant” means a low-income individual experiencing challenges in one or more approved areas of law and who is a client of an approved legal services organization or an approved community-based organization.

“Rule” means one of the Rules of the Arizona Supreme Court.

B. Applicability. This section applies to individuals authorized under this section as community justice workers and certified as community legal advocates to provide legal services, as specified in this section, within the Rule 31.2 and Rule 31.3(e)(10) exception to the prohibition against the unauthorized practice of law. This section is read together with 7-201. In the event of any conflict between this section and 7-201, the provisions of this section govern.

C. Purpose. The supreme court has inherent regulatory power over all individuals providing legal services to the public, regardless of whether they are lawyers or nonlawyers. Accordingly, this section is intended to protect the public and to result in the effective administration of the authorized community justice worker and certified community legal advocate programs.

D. Administration. The supreme court is responsible for administering the authorized community justice worker and certified community legal advocate programs. The roles and responsibilities of the AOC officers and employees involved in administering these programs are governed by 7-201(D) to the extent applicable and not in conflict with this section.

E. Authorization or Certification.

1. **Necessity.** An individual may not represent that they are an authorized community justice worker or a certified community legal advocate unless the individual holds a valid authorization or certification under this section. An organization may not represent that they are affiliated with an authorized community justice worker or a certified community legal advocate unless the organization is an approved legal services organization or an approved community-based organization, as applicable.

2. **Ineligibility.** An individual who has been disbarred by the highest court in any state; has been denied admission to the practice of law in any state for any reason other than the failure to secure a passing examination score; or has been denied certification, or whose certification has been revoked or suspended, by a regulatory governing body is not eligible to become an authorized community justice worker or a certified community legal advocate.

3. **Community justice worker authorization.**

a. **Authorization.** To be authorized as a community justice worker, an individual must:

(1) Be nominated in writing by the applicable approved legal services organization and

- (2) Have the following minimum qualifications as confirmed in writing by the approved legal services organization:
 - (a) Be a citizen or legal resident of the United States;
 - (b) Be at least eighteen years of age;
 - (c) Be of good moral character;
 - (d) Have obtained a high school diploma, or a general equivalency diploma (GED) evidencing the passing of the general education development test;
 - (e) Be employed (full or part time) by, or provide volunteer service for, the applicable approved legal services organization;
 - (f) Have successfully completed study and training provided by, or with the approval of, the applicable approved legal services organization;
 - (g) Have successfully completed applicable training provided by the approved legal services organization, or provided by an organization providing approved certified community legal advocate training, on professional conduct obligations, including conflicts of interest, confidentiality, and the duty of candor, and training in any approved area of law in which the individual will provide authorized legal services;
 - (h) Have been evaluated by the approved legal services organization and found competent to provide authorized legal services in any approved area of law in which the individual will provide authorized legal services;
 - (i) Have satisfactorily completed a background check conducted by the approved legal services organization and cleared that check to the satisfaction of the approved legal services organization; and
 - (j) Agree in writing to comply with all applicable rules and regulations of the approved legal services organization and to provide authorized services under the supervision of an attorney affiliated with the approved legal services organization and in accordance with this section.
- b. Issuance of authorization. An individual meeting the requirements of (E)(3)(a) may be designated an authorized community justice worker by the applicable approved legal services organization to provide, in any approved area of law in which the individual has received training and been found competent, authorized legal services to participants while under the supervision of a lawyer affiliated with the approved legal services organization.
- c. Record of authorization. The approved legal services organization must keep written records identifying each authorized community justice worker affiliated with that organization; the date when the community justice worker became authorized; the approved areas of law in which the community justice worker is authorized to provide specified legal assistance and legal advice; and other information relevant to the authorized community justice worker's services.
- d. Expiration of authorization. A community justice worker's authorization expires on the occurrence of the earlier of the following:
 - (1) Termination of the authorized community justice worker's program; or
 - (2) The individual is no longer employed by, or providing volunteer services for,

the approved legal services organization for more than 30 days without obtaining a waiver from the AOC.

- e. Termination or suspension of authorization. A community justice worker's authorization may be terminated or suspended as a result of disciplinary action by the Board.

4. Certification as a community legal advocate.

- a. Certification. To be certified as a community legal advocate, an individual must:

- (1) Be nominated in writing by the applicable approved community-based organization and
- (2) Have the following minimum qualifications as certified in writing by the approved community-based organization:
 - (a) Be a citizen or legal resident of the United States;
 - (b) Be at least eighteen years of age;
 - (c) Be of good moral character;
 - (d) Have obtained a high school diploma or a general equivalency diploma (GED) evidencing the passing of the general education development test;
 - (e) Be employed (either full or part-time) by or provide volunteer service for the applicable approved community-based organization;
 - (f) Have successfully completed study and training provided by, or with the approval of, the applicable approved community-based organization;
 - (g) Have successfully completed approved certified community legal advocate training provided by an organization providing approved certified community legal advocate training on professional conduct obligations, including conflicts of interest, confidentiality, and the duty of candor, and training in any approved area of law in which the individual will provide authorized legal services;
 - (h) Have been evaluated by the entity providing the approved certified community legal advocate training and found competent to provide authorized legal services in any approved area of law in which the individual will provide authorized legal services;
 - (i) Have obtained a passing grade on the certified community legal advocate substantive law examination administered by the AOC in any approved area of law in which the individual will provide authorized legal services;
 - (j) Have satisfactorily completed a background check conducted by the approved community-based organization and cleared that check to the satisfaction of the approved community-based organization;
 - (k) Agree in writing to comply with all applicable rules and regulations of the approved community-based organization and to provide authorized legal services as a certified community legal advocate in accordance with this section; and
 - (l) Agree in writing to timely respond to communications from the AOC or the Division.

- b. Issuance of certification. An individual meeting the requirements in (E)(4)(a) may be certified as a community legal advocate by the applicable organization providing approved certified community legal advocate training and the applicable approved community-based organization to provide, in any approved area of law in which the individual has received training and been found competent, authorized legal services to participants otherwise being served by that approved community-based organization.
 - c. Record of training. Any organization providing approved certified community legal advocate training must keep written records identifying each certified community legal advocate trained by that entity; the date when the training occurred; the subjects addressed in the training; and other information relevant to the training and education of that individual.
 - d. Record of certification. The approved community-based organization must keep written records identifying each community legal advocate certified by that entity; the date when the certified community legal advocate obtained certification; the approved areas of law in which the community legal advocate has been certified to provide specified legal assistance and legal advice; and other information relevant to the certified community legal advocate's services.
 - e. Expiration of certification. A certified community legal advocate's certification expires on the occurrence of the earlier of the following:
 - (1) Termination of the certified community legal advocate program; or
 - (2) The individual is no longer employed by, or providing volunteer services for, the approved community-based organization for more than 30 days without obtaining a waiver from the AOC.
 - f. Revocation or suspension of certification. A certified community legal advocate's certification can be revoked or suspended as a result of disciplinary action by the Board.
 - g. Mentoring. A certified community legal advocate must be mentored by instructors from an organization providing approved certified community legal advocate training or attorneys with subject-matter expertise in the approved areas of law in which the community legal advocate has been certified.
5. Directory. The AOC will establish a directory of all authorized community justice workers and certified community legal advocates based on records maintained by each approved legal services organization and authorized community-based organization and reported to the Division as specified in (N)(1)(a)-(d). The reports to the Division must contain:
- a. A list of all authorized community justice workers or certified community legal advocates providing legal assistance and legal advice to participants of the organization, including:

- (1) The name of each authorized community justice worker or certified community legal advocate;
 - (2) The contact information for each authorized community justice worker or certified community legal advocate; and
 - (3) The approved areas of law in which each community justice worker or community legal advocate is authorized or certified to provide legal assistance or legal advice.
- b. Information on all deletions, additions, corrections, and revisions to the list reported for the prior quarter.

F. Fee Schedule.

- | | |
|---|----------|
| 1. Community Legal Advocate Test | \$100.00 |
| 2. Community Legal Advocate Test Re-examination
(For any applicant who does not pass the examination on the first attempt.
The \$100.00 fee applies to each reexamination for up to 3 times under 7-201(E)(1)(f)(2).) | \$100.00 |
| 3. Community Legal Advocate Test Re-registration for Examination
(For any applicant who registers for an examination date and fails to appear at the designated site on the scheduled date and time.) | \$100.00 |
| 4. Nonsufficient Funds Fee | \$40.00 |
| 5. The fee for Online Exam Administration, Remote Proctoring is set by the Administrative Director. | |

Although the individual seeking to become a certified community legal advocate is responsible for making sure any applicable fees are paid, these fees may be paid by an approved community-based organization, an organization providing approved certified community legal advocate training, a third party, or the individual seeking to become a certified community legal advocate.

G. Role and Responsibilities.

1. Authorized legal services.
 - a. Authorized community justice worker. An authorized community justice worker may provide authorized legal advice and legal assistance to participant clients of the applicable approved legal services organization, in the approved areas of law in which the authorized community justice worker has been authorized, while supervised by a lawyer at that approved legal services organization.
 - (1) An authorized community justice worker is only authorized to:
 - (a) Provide advice to the participant client;
 - (b) Prepare a document, in any medium, on behalf of a participant client for

- filing in any court, administrative agency, or tribunal;
 - (c) Negotiate legal rights or responsibilities on behalf of the participant client;
 - (d) Prepare a document, in any medium, intended to affect or secure a participant client's legal rights; or
 - (e) Represent a participant client in an administrative proceeding.
 - (2) An authorized community justice worker is not authorized to provide legal assistance and legal advice of any kind in the area of criminal litigation.
 - b. Certified community legal advocate. A certified community legal advocate is only authorized to provide legal assistance and legal advice, without a lawyer's supervision, to a participant otherwise being served by a certified community-based organization regarding issues individuals commonly experience in the approved areas of law in which the community legal advocate has been certified, as follows:
 - (1) Concerning the rights and obligations of individuals involved in such proceedings, dispute resolution strategies, and screening for legal defenses;
 - (2) Concerning the process and timeline of such proceedings, the completion of court forms and other documents for filing, and how to assert viable claims and defenses in a timely and procedurally accurate manner;
 - (3) By taking on an advocacy role in negotiations;
 - (4) Concerning preparation for hearings and mediations;
 - (5) By sitting at counsel table during administrative and court hearings to advise and assist participants who are representing themselves;
 - (6) By responding to requests for information from the administrative law judge or judicial officer presiding over a hearing; and
 - (7) By assisting with directly related post-hearing issues.
 - 2. Practice area limitation. When legal needs or matters of the participant are outside of the authorized areas of law in which the authorized community justice worker has been authorized or in which the certified community legal advocate has been certified, the authorized community justice worker or certified community legal advocate must refer the participant to a licensed attorney and will not provide any legal assistance, advice, or services regarding such matters.
 - 3. Identification. On all documents prepared by the authorized community justice worker or certified community legal advocate, unless expressly prohibited by an agency or court, an authorized community justice worker and a certified community legal advocate must include: the name, address, and contact information for the authorized community justice worker or certified community legal advocate; the title of "Arizona Authorized Community Justice Worker" or "Arizona Certified Community Legal Advocate," as applicable; the name and contact information of the applicable approved community-based organization or approved legal services organization; and, for authorized community justice workers, the name of the supervising attorney.
- H. No Fees May Be Charged to Participants.** Participants must not be charged any fees or costs for legal assistance or legal advice provided by authorized community justice workers or certified community legal advocates. Neither an authorized community justice worker, a

certified community legal advocate, an approved community-based organization, nor an approved legal services organization may ask for or receive any compensation or remuneration of any kind from a participant for legal assistance or legal advice provided to a participant.

I. Written Consent of Participant Required.

1. Before providing authorized legal assistance or legal advice to a participant, an authorized community justice worker or certified community legal advocate must enter into a written agreement with the participant that:
 - a. Advises the participant that the authorized community justice worker or certified community legal advocate is not a lawyer;
 - b. Advises the participant of the limited scope of legal assistance and legal advice the authorized community justice worker or certified community legal advocate is authorized to provide in the areas of law in which they are authorized or certified; and
 - c. Is signed by the participant consenting to receiving such limited legal assistance and legal advice from the authorized community justice worker or certified community legal advocate.
2. For authorized community justice workers, in addition to any requirements for written consent of, and signed agreement by, the applicable approved legal service organization, the agreement must include rights and responsibilities substantially similar to the sample in Appendix 1.
3. For certified community legal advocates, the written agreement must also:
 - a. Advise the participant that the certified community legal advocate is not supervised by a lawyer; and
 - b. In addition to any requirements for written consent of, and signed agreement by, the applicable approved community-based organization, the agreement must include rights and responsibilities substantially similar to the sample in Appendix 2.
4. Each authorized community justice worker and certified community legal advocate must maintain a copy of each fully signed agreement with any participant for whom they provide authorized legal assistance or legal advice.

- J. Privilege and Confidentiality.** A communication between an authorized community justice worker or a certified community legal advocate and a participant is privileged if it is made for the purpose of securing or giving legal advice, is made in confidence, and is treated confidentially. This privilege is co-extensive with, and affords the same protection as, the attorney-client privilege. An authorized community justice worker and a certified community legal advocate must maintain a separate, confidential file for each participant for whom authorized they provide legal assistance or legal advice. These separate files must be treated

confidentially and not accessible to the public or other employees or volunteers of the approved legal service organization or approved community-based organization who are not authorized by the participant to access such information. For authorized community justice workers, their supervising attorney is authorized to access the participant's file.

K. Complaints, Investigations, and Disciplinary Proceedings. The process for complaints, investigations, and discipline involving authorized community justice workers and certified community legal advocates are governed by 7-201(H) and under the jurisdiction and authority of the Nonlawyer Legal Service Providers Board under 7-208.

L. Policies and Procedures for Board Members. The policies and procedures in 7-201(I) are applicable to members of the Nonlawyer Legal Service Providers Board.

M. Continuing Legal Education Policy.

1. Purpose. Ongoing continuing legal education is one method to ensure authorized community justice workers and certified community legal advocates maintain competence in the approved areas of law for which they are authorized to provide legal assistance and legal advice. Continuing legal education also provides opportunities for authorized community justice workers and certified community legal advocates to keep abreast of changes in the law and the Arizona judicial system.
2. Applicability. All authorized community justice workers and certified community legal advocates must participate in 4 hours of continuing legal education each year between the period of July 1 and June 30 of the following year. Those 4 hours must include 1 hour of ethics continuing legal education. Continuing legal education must be related to the authorized areas of law in which they are authorized or certified to provide legal assistance and legal advice.
3. Responsibilities. It is the responsibility of each authorized community justice worker and certified community legal advocate to ensure compliance with the continuing legal education requirements, maintain documentation of completion of continuing legal education, and submit documentation to the applicable approved legal service organization or approved community-based organization. Upon request by the Division, an approved legal service organization or approved community-based organization must provide documentation and any other requested information regarding compliance with continuing legal education requirements by the authorized community justice workers or certified community legal advocates affiliated with the organization.

N. Reporting and Auditing.

1. Reporting requirements.
 - a. Notice of changes. An approved legal service organization, approved community-based organization, an organization providing approved certified community legal advocate training, an authorized community justice worker, and a certified community legal advocate must notify the Division in writing by U.S. Post, facsimile, or email within 30 days of the following events, as applicable to the

individual or organization:

- (1) Any change in individual's or organization's name, address, telephone number, or email address;
 - (2) Any designation of an authorized community justice worker by an approved legal service organization, including the date of designation and identification of the approved areas of law in which the community justice worker is authorized to provide specified legal assistance and legal advice;
 - (3) Any certification of a community legal advocate by an approved community-based organization, including the date of certification and identification of the approved areas of law in which the community legal advocate has been certified to provide specified legal assistance and legal advice;
 - (4) Any change in an individual's affiliation, employment, or volunteer status with an approved legal services organization or approved community-based organization;
- b. Quarterly reports. Each approved legal service organization and organization providing approved certified community legal advocate training must provide quarterly reports to the Division for the periods ending March 31, June 30, September 30, and December 31 of each calendar year.
 - c. Annual report. Each approved community-based organization must provide an annual report to the Division for the period ending December 31 of each calendar year.
 - d. Report timing and content. These quarterly and annual reports must be provided to the Division within 15 days after the end of the reporting period and must include the number of participants served, the outcomes achieved, the authorized areas of law in which participants were served, and information regarding the implementation and potential improvement of the applicable authorized community justice worker or certified community legal advocate program.

2. Auditing.

- a. The Division is authorized to request information concerning an individual's or organization's status under this section at any time. An approved legal service organization, approved community-based organization, organization providing approved certified community legal advocate training, authorized community justice worker, or certified community legal advocate must respond to the Division's request for information in writing by U.S. Post, facsimile, or email within 30 days of receiving the request.
- b. The Division is authorized to audit an individual's or organization's compliance with this section at any time. An approved legal service organization, approved community-based organization, organization providing approved certified community legal advocate training, authorized community justice worker, or certified community legal advocate must cooperate with such an audit and must

make all records required to be kept under this section available for inspection.

3. **Enforcement.** The failure of an approved legal service organization, approved community-based organization, organization providing approved certified community legal advocate training, authorized community justice worker, and certified community legal advocate to comply with any record-keeping, reporting, or audit provision of this section is grounds for summary, administrative suspension by the Division of any approval, authorization, or certification issued under this section to remain in effect until the individual or organization is in compliance.
- O. Code of Conduct.** Each authorized community justice worker and certified community legal advocate must comply with the following Code of Conduct. The purpose of this Code of Conduct is to establish minimum standards for performance by authorized community justice workers and certified community legal advocates.

1. **Definitions.** For purposes of this Code of Conduct, the following definitions apply in addition to the other definitions provided in this section.

“Belief” or “believes” means that the person involved actually supposed the fact in question to be true. A person’s belief may be inferred from circumstances.

“Confirmed in writing,” when used in reference to the informed consent of a person, means informed consent that is given in writing by the person or a writing that the Individual promptly transmits to the person confirming an oral informed consent. If it is not feasible to obtain or transmit the writing at the time the person gives informed consent, then the Individual must obtain or transmit it within a reasonable time period.

“Fraud” or “fraudulent” means conduct that is fraudulent under the substantive or procedural law of the applicable jurisdiction and has a purpose to deceive.

“Individual” means an authorized community justice worker or a certified community legal advocate as the context requires.

“Informed consent” means the agreement by a person to a proposed course of conduct after the Individual has communicated adequate information and explanation about the material risks of, and reasonably available alternatives to, the proposed course of conduct.

“Knowingly,” “known,” or “knows” means actual knowledge of the fact in question. A person’s knowledge may be inferred from circumstances.

“Reasonable” or “reasonably,” when used in relation to conduct by an Individual, means the conduct of a reasonably prudent and competent attorney.

“Reasonable belief” or “reasonably believes,” when used in reference to an Individual means that the Individual holds a belief that is equal to that expected of an attorney that

the matter in question and that the circumstances are such that the belief is reasonable.

“Reasonably should know,” when used in reference to an Individual, means that an attorney of reasonable prudence and competence would ascertain the matter in question.

“Signed writing,” in addition to a person’s signature, means an electronic sound, symbol, or process attached to, or logically associated with, a writing and executed or adopted by a person with the intent to sign the writing.

“Substantial,” when used in reference to degree or extent, means a material matter of clear and weighty importance.

“Tribunal” means a court, an arbitrator in an arbitration proceeding, or a legislative body, administrative agency, or other body acting in an adjudicative capacity.

“Writing” or “written” means a tangible or electronic record of a communication or representation, including handwriting, typewriting, printing, photography, audio, or video recording, or electronic communications.

2. Competence. An Individual must provide competent legal assistance and legal advice to a participant. Providing competent advice and assistance requires the legal knowledge, skill, thoroughness, and preparation reasonably necessary.
3. Diligence. An Individual must act with reasonable diligence and promptness in providing legal assistance and advice to a participant.
4. Independence. An Individual must exercise independent professional judgment in providing legal assistance and advice to a participant and not be influenced by the Individual’s position as an employee of, or volunteer for, the approved legal service organization or approved community-based organization.
5. Communications. An Individual must:
 - a. Promptly inform the participant of any decision or circumstance with respect to which the participant’s informed consent, as defined in this Code, is required by this Code.
 - b. Reasonably consult with the participant about how the participant’s objectives are to be accomplished.
 - c. Keep the participant reasonably informed about the status of the matter.
 - d. Promptly comply with reasonable requests for information.
 - e. Consult with the participant about any relevant limitation on the Individual’s

conduct when the Individual knows that the participant expects legal assistance or legal advice not permitted under this section or other rule or law.

- f. Explain a matter to the participant to the extent reasonably necessary for the participant to make informed decisions regarding the legal assistance or legal advice.
- g. Inform the participant in writing, before providing authorized legal assistance or legal advice to a participant, if they are not covered by professional liability insurance. An Individual who is covered by professional liability insurance before providing authorized legal assistance or legal advice to a participant but who later, at any point while continuing to provide legal assistance or legal advice, is no longer covered by professional liability insurance, must inform the participant in writing within 30 calendar days of the date the Individual knows or reasonably should know that the Individual no longer has professional liability insurance.

6. Confidentiality of Information.

- a. An Individual must not reveal information relating to the legal advice and assistance provided to a participant unless the participant gives informed consent, the disclosure is impliedly authorized to carry out the advice and assistance, or the disclosure is permitted or required under (O)(6)(b).
- b. An Individual, to the extent the Individual reasonably believes necessary, may reveal information relating to the legal advice and assistance to:
 - (1) Prevent the participant from committing a crime.
 - (2) Secure legal advice about the Individual's compliance with this section.
 - (3) Comply with other laws or final orders of a court or tribunal of competent jurisdiction directing the Individual to disclose such information.
 - (4) Prevent reasonably certain death or substantial bodily harm.

7. Conflict of Interest: Current Participants.

- a. Except as provided in (O)(7)(b), an Individual must provide legal assistance or legal advice to a participant if the assistance or advice is a concurrent conflict of interest. A concurrent conflict of interest exists if:
 - (1) Providing legal assistance or legal advice to one participant will be directly adverse to another participant; or
 - (2) There is a significant risk that providing legal assistance or legal advice to one or more participants will be materially limited by the Individual's responsibilities to another participant, a former participant, or a third person or by a personal interest of the Individual.
- b. Notwithstanding the existence of a concurrent conflict of interest under (O)(7) (a), an Individual may provide legal assistance or legal advice to a participant if each affected participant gives informed consent, confirmed in writing, and:

- (1) The Individual reasonably believes that the Individual will be able to provide competent and diligent legal assistance and legal advice to each affected participant; and
- (2) The legal assistance and legal advice are not prohibited by law.

8. Conflict of Interest: Current Participants: Specific Rules.

- a. An Individual must not enter into a business transaction with a current participant.
- b. An Individual must not use information relating to advising and assisting a participant to the disadvantage of the participant unless the participant gives informed consent, except as permitted or required by this Code.
- c. An Individual must not solicit any substantial gift from a participant, including a testamentary gift, or prepare on behalf of the participant an instrument giving the Individual or a person related to the Individual any substantial gift unless the Individual, or other recipients of the gift are related to the participant. For purposes of this paragraph, related persons include spouse, child, grandchild, parent, grandparent, or other relative or individual with whom the Individual or the participant maintains a close, familial relationship.
- d. Prior to the conclusion of advice and assistance to a participant, an Individual must not make or negotiate an agreement giving the Individual literary or media rights to a portrayal or account based in substantial part on information relating to the assistance.
- e. An Individual must not advance or guarantee financial assistance to a participant while advising and assisting a participant in connection with contemplated or pending litigation.
- f. An Individual must not:
 - (1) Make an agreement limiting the Individual's liability to a participant for malpractice; or
 - (2) Settle a claim or potential claim for such liability unless the participant is advised in writing of the desirability of seeking, and is given a reasonable opportunity to seek, the advice of an independent lawyer in connection with the settlement.
- g. An Individual must not acquire a proprietary interest in the cause of action or subject matter of litigation in which the Individual is assisting a participant.
- h. An Individual must not have sexual relations with a current participant of the Individual unless a consensual sexual relationship existed between them at the time the participant-Individual relationship commenced.

9. Declining or Terminating Advice or Assistance.

- a. An Individual must not provide legal assistance or legal advice to a participant or, where the assistance or advice has commenced, must cease to provide legal assistance or legal advice to a participant if:
 - (1) The legal assistance or legal advice will result in violation of this Code of Conduct or other laws;
 - (2) The Individual's physical or mental condition materially impairs the Individual's ability to assist or advise the participant;
 - (3) The Individual's abilities are inadequate for the assignment; or
 - (4) The Individual is discharged.
- b. An Individual may withdraw from providing legal assistance or legal advice if:
 - (1) Withdrawal can be accomplished without material adverse effect on the interests of the participant;
 - (2) The participant persists in a course of action involving the Individual's services that the Individual reasonably believes is criminal or fraudulent;
 - (3) The participant may or has used the Individual's services to perpetrate a crime or fraud;
 - (4) The participant insists on taking action that the Individual considers repugnant or with which the Individual has a fundamental disagreement;
 - (5) The participant fails substantially to fulfill an obligation to the Individual regarding the Individual's services and has been given reasonable warning that the Individual will withdraw and not provide additional legal assistance or legal advice unless the obligation is fulfilled;
 - (6) Providing the legal assistance or legal advice will result in an unreasonable financial burden on the Individual or has been rendered unreasonably difficult by the participant; or
 - (7) Other good cause for withdrawal exists.
- c. When terminating the Individual's relationship with the participant, the Individual must take steps, to the extent reasonably practicable, to protect a participant's interests, such as by giving reasonable notice to the participant, allowing time for employment of a lawyer or another Individual, or surrendering papers and property to which the participant is entitled.

10. Truthfulness in Statements to Others. In the course of providing legal assistance or legal advice to a participant, an Individual must not knowingly:

- a. Make a false statement of material fact or law to a third person; or
- b. Fail to disclose a material fact when disclosure is necessary to avoid assisting a criminal or fraudulent act by a participant unless disclosure is prohibited under (O) (6).

11. Reporting Professional Misconduct.

- a. An Individual who knows that another Individual has committed a violation of the Code of Conduct that raises a substantial question as to that person's honesty, trustworthiness, or fitness as an Individual in other respects, must inform the appropriate professional authority, except as otherwise provided in this Code or by law.
- b. An Individual who knows that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office must inform the appropriate authority.
- c. This Code does not permit an Individual to report the professional misconduct of another Individual, a lawyer, or a judge to the appropriate authority if doing so would require the Individual to disclose information otherwise the Individual is prohibited from disclosing under (O)(6).

12. Misconduct. It is professional misconduct for an Individual to:

- a. Violate or attempt to violate this Code of Conduct, knowingly assist or induce another to violate this Code of Conduct, or violate this Code of Conduct through the acts of another;
- b. Commit a criminal act that reflects adversely on the Individual's honesty, trustworthiness, or fitness as an Individual in other respects;
- c. Engage in conduct involving dishonesty, fraud, deceit, or misrepresentation;
- d. Engage in conduct that is prejudicial to the administration of justice;
- e. State or imply an ability to improperly influence a government agency or official or to achieve results by means that violate this Code of Conduct or other rule or law;
- f. Knowingly assist:
 - (1) A judge or judicial officer in conduct that is a violation of an applicable Code of Judicial Conduct or other rule or law; or
 - (2) A lawyer in conduct that is a violation of Rule 42 or other rule or law;
- g. Engage in conduct that the Individual knows, or reasonably should know, is harassment or discrimination on the basis of race, sex, religion, national origin, ethnicity, disability, age, sexual orientation, gender identity, marital status, or socioeconomic status in conduct related to the practice of law; or
- h. Engage in any misconduct described in 7-201(H)(6).

Adopted by Administrative Order No. 2025-60, effective March 19, 2025. Amended by Administrative Order 2025-186, effective October 29, 2025.

APPENDIX 1 – Sample Authorized Community Justice Worker Limited Scope Agreement.

This Agreement is made between [INSERT NAME] (the Participant) and [INSERT NAME] (the Authorized Community Justice Worker) and supplements the agreement between Participant and the [INSERT NAME OF APPROVED LEGAL SERVICES ORGANIZATION]. The Participant wishes to receive legal advice and assistance from the Authorized Community Justice Worker in dealing with certain [INSERT SCOPE OF WORK HERE] issues that Participant is facing.

Notice of Limited Authority – Scope of Service

Notice is hereby given that the Authorized Community Justice Worker is not a lawyer and is not authorized to advise and assist the Participant in all legal matters that Participant may be facing. Instead, under the supervision of a lawyer affiliated with [INSERT NAME OF APPROVED LEGAL SERVICES ORGANIZATION], the Authorized Community Justice Worker's authority is limited by the Arizona Supreme Court to the following specific current approved area(s) of law [INSERT HERE] and specific types of authorized legal services, as follows:

1. Issues individuals commonly experience in the applicable approved area(s) of law, including the rights and obligations of individuals involved in such proceedings, dispute resolution strategies and screening for legal defenses;
2. Legal assistance and legal advice regarding the process and timeline of proceedings, the completion of court forms and other documents for filing, and how to assert viable claims and defenses in a timely and procedurally accurate manner;
3. Taking on an advocacy role in negotiations;
4. Providing legal assistance and legal advice with respect to preparing for hearings and mediations;
5. Sitting at counsel table during administrative and court hearings to advise and assist participants who are representing themselves;
6. Responding to requests for information from the administrative law judge or judicial officer presiding over a hearing; and
7. Assisting with directly related post-hearing issues.

Participant Responsibilities

1. Participant understands that, although an Authorized Community Justice Worker will be handling the Participant's case, the Participant will remain in control of the case and be responsible for all decisions made in the course of the case.
2. Participant understands that the Authorized Community Justice Worker cannot speak for, appear for, or sign papers on Participant's behalf, and will not make decisions for the Participant about any aspect of the Participant's case.
3. Participant understands that the Authorized Community Justice Worker is not authorized to provide legal assistance or legal advice with any legal problem, other than those identified above, and that any additional legal assistance or legal advice will require that the Participant seek advice and assistance from a licensed attorney.
4. Participant agrees to cooperate with the Authorized Community Justice Worker and provide

all information and documents that Participant has access to that are relevant to their case.

5. Participant agrees to provide only truthful information in responding to the Authorized Community Justice Worker's questions.
6. Participant understands that the Authorized Community Justice Worker will diligently pursue all appropriate legal actions within the Authorized Community Justice Worker's authority to resolve Participant's issues. The Authorized Community Justice Worker will not pursue legal actions in matters other than those identified above or actions outside of the Authorized Community Justice Worker's authority.

Participant Consent

By signing below, I agree that I have read this Agreement and I understand that the area(s) of law listed above are the only area(s) of law for which the Authorized Community Justice Worker can provide me with advice and assistance. I further understand that, although supervised by a lawyer, the Authorized Community Justice Worker who is advising and assisting me is not an Arizona licensed attorney and is not my lawyer.

Participant:

Authorized Community Justice Worker:

Signature

Signature

Printed Name

Printed Name

Date

Date

APPENDIX 2 – Sample Certified Community Legal Advocate Limited Scope Agreement

This Agreement is made between [INSERT NAME] (the Participant) and [INSERT NAME] (the Certified Community Legal Advocate). The Participant wishes to receive legal assistance and legal advice from the Certified Community Legal Advocate in dealing with certain [INSERT SCOPE OF WORK HERE] issues that Participant is facing.

Notice of Limited Authority – Scope of Service

Notice is hereby given that the Certified Community Legal Advocate is not a lawyer and is not authorized to advise and assist the Participant in all legal matters that Participant may be facing. Instead, the Certified Community Legal Advocate's authority is limited by the Arizona Supreme Court to the following specific current approved area(s) of law [INSERT HERE] and specific types of authorized legal services, as follows:

1. Issues individuals commonly experience in the applicable approved area(s) of law, including the rights and obligations of individuals involved in such proceedings, dispute resolution strategies and screening for legal defenses;
2. Legal assistance and legal advice regarding the process and timeline of proceedings, the completion of court forms and other documents for filing, and how to assert viable claims and defenses in a timely and procedurally accurate manner;
3. Taking on an advocacy role in negotiations;
4. Providing legal assistance and legal advice with respect to preparing for hearings and mediations;
5. Sitting at counsel table during administrative and court hearings to advise and assist participants who are representing themselves;
6. Responding to requests for information from the administrative law judge or judicial officer presiding over a hearing; and
7. Assisting with directly related post-hearing issues.

Participant Responsibilities

1. Participant understands that, although a Certified Community Legal Advocate will be handling the Participant's case, the Participant will remain in control of the case and will be responsible for all decisions made in the course of the case.
2. Participant understands that the Certified Community Legal Advocate cannot speak for, appear for, or sign papers on Participant's behalf, and will not make decisions for the Participant about any aspect of the Participant's case.
3. Participant understands that the Certified Community Legal Advocate is not authorized to provide advice and assistance with any other legal problem, other than those identified above, and that any additional advice and assistance will require that the Participant seek advice and assistance from a licensed attorney.
4. Participant agrees to cooperate with the Certified Community Legal Advocate and provide all information and documents that Participant has access to that are relevant to their case.

5. Participant agrees to provide only truthful information in responding to the Certified Community Legal Advocate's questions.
6. Participant understands that the Certified Community Legal Advocate will diligently pursue all appropriate legal actions within the Certified Community Legal Advocate's authority to resolve Participant's issues. The Certified Community Legal Advocate will not pursue legal actions in matters other than those identified above or actions outside of the Certified Community Legal Advocate's authority.

Participant Consent

By signing below, I agree that I have read this Agreement and I understand that the approved area(s) of law listed above are the only area(s) of law for which the Certified Community Legal Advocate can provide me with advice and assistance. I further understand that the Certified Community Legal Advocate who is advising and assisting me is not an Arizona licensed attorney, is not my lawyer and is not supervised by a lawyer.

Participant:

Certified Community Legal Advocate:

Signature

Signature

Printed Name

Printed Name

Date

Date

CERTIFICATE OF SERVICE

I, John J. Mudd, hereby certify that I have served true and accurate copies of the foregoing Correspondence - Comments to the following on 01-15-2026:

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Electronically signed by Regina Mercado on behalf of John J. Mudd
Dated: 01-15-2026