



Testimony In Support of Senate Bill 306

On behalf of IAALS, the Institute for the Advancement of the American Legal System at the University of Denver, please accept this testimony in support of Senate Bill 306 that modifies statutes to allow for non-attorney associate members of the Oregon State Bar to practice law in certain scope of practice.

IAALS is a national, independent research center dedicated to continuous improvement of the civil justice system. Over the past year, IAALS has researched the landscape of allied legal professional (“Licensed Paralegal”) programs across the country—including evaluations of their successes and limitations—and published our findings in [The Landscape of Allied Legal Professional Programs in the United States](#). Building on this research, IAALS convened a group of experts to create recommendations and best practices for a national approach that states can use when developing new and existing programs, which will be published in a report later this year. Based on the extensive work IAALS has done on this topic, we emphatically support SB 306.

A well-documented and critical access to justice problem exists in the U.S. today. According to a national 2021 joint study—[US Justice Needs](#)—by IAALS and HiIL, The Hague Institute for Innovation of Law, two-thirds of Americans faced at least one legal issue in the past four years.¹ Of the issues experienced, 46 percent either have no expected future resolution or were resolved in a way perceived as unfair. A [Pew Research Center study](#) found that, in 2018 alone, less than half of all U.S. households that experienced legal issues sought relief in court.² And those who sought such relief largely did so on their own. Studies suggest that over 70 percent of [civil](#)³ and [family](#)⁴ law cases have at least one party that is self-represented, with over 90% of [eviction](#)⁵ cases in some jurisdictions involving an unrepresented

¹ THE HAGUE INST. FOR INNOVATION OF LAW & INST. FOR THE ADVANCEMENT OF THE AM. LEGAL SYS., JUSTICE NEEDS AND SATISFACTION IN THE UNITED STATES OF AMERICA 31 (2021),

<https://iaals.du.edu/sites/default/files/documents/publications/justice-needs-and-satisfaction-us.pdf>.

² THE PEW CHARITABLE TRS., HOW DEBT COLLECTORS ARE TRANSFORMING THE BUSINESS OF STATE COURTS 4 (2020),

<https://www.pewtrusts.org/-/media/assets/2020/06/debt-collectors-to-consumers.pdf>.

³ NAT’L CTR. FOR STATE CTS., THE LANDSCAPE OF CIVIL LITIGATION IN STATE COURTS IV (2015),

https://www.ncsc.org/_data/assets/pdf_file/0015/25305/civiljusticereport-2015.pdf.

⁴ NAT’L CTR. FOR STATE CTS., FAMILY JUSTICE INITIATIVE: THE LANDSCAPE OF DOMESTIC RELATIONS CASES IN STATE COURTS 20 (2018), https://www.ncsc.org/_data/assets/pdf_file/0018/18522/fji-landscape-report.pdf.

⁵ Russell Engler, *Connecting Self-Representation to Civil Gideon: What Existing Data Reveal about When Counsel Is Most Needed*, 37 FORDHAM URBAN L.J. 37, 47 n.44 (2010),

<https://ir.lawnet.fordham.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=2321&context=ulj>.

defendant. And, while legal aid services and pro bono work are critical in mitigating this issue, reliance on lawyers and these programs is not enough. According to law professor and economist Gillian Hadfield, it would cost roughly \$70 billion to provide just one hour of legal help to all the households in America currently facing legal problems.⁶ And relying on pro bono work alone is just as unrealistic. If every lawyer in the country did 100 hours more of pro bono work on top of what they already do, this would provide just 30 minutes of legal help to all the households in America currently facing legal problems.⁷ (The average amount of pro bono hours provided by the 52 percent of lawyers who provide such services is around 37.⁸)

IAALS has conducted national research on the experience of self-represented litigants, particularly in family law cases. In one of these major studies, IAALS partnered with the Multnomah County Family Court, thanks to the leadership of Judge Maureen McKnight.⁹ Our Cases Without Counsel interview protocol included a line of inquiry designed to assess whether study participants might have been receptive to receiving assistance from an authorized non-authority professional. The response in favor was overwhelming.¹⁰

“It’s better to have someone that at least has some working knowledge of the system,” said one individual, rather “than trying to navigate it alone when you know nothing.” Another remarked, “When you’re going through it, honestly, at that point, anybody— whether they’re a lawyer or not—if they’re qualified to give you that advice, you would appreciate it.”

On the topic of qualifications, there are extensive education and practical training requirements to ensure that Licensed Paralegals are competent to provide legal services. Applicants must complete one of three

⁶ GILLIAN K. HADFIELD & JAMIE HEINE, LIFE IN THE LAW-THICK WORLD: THE LEGAL RESOURCE LANDSCAPE FOR ORDINARY AMERICANS 37 (2015), https://papers.ssrn.com/sol3/papers.cfm?abstract_id=2547664.

⁷ *Id.*

⁸ AM. BAR ASS’N STANDING COMM. ON PRO BONO & PUB. SERV. AND THE CTR. FOR PRO BONO, SUPPORTING JUSTICE: A REPORT ON THE PRO BONO WORK OF AMERICA’S LAWYERS 6 (2018), https://www.americanbar.org/content/dam/aba/administrative/probono_public_service/ls_pb_supporting_justice_iv_final.pdf.

⁹ *Cases Without Counsel* was a first-of-its-kind, multi-state qualitative empirical research study designed to explore experiences, behaviors, perceptions, and feelings from the participants’ perspective and in the participants’ own words. Through one-on-one interviews with self-represented litigants in family court and those in the court who interact with these litigants regularly (like judges, self-help center staff, and court clerks), IAALS systematically explored self-represented litigants’ experience with the legal process. The study built on qualitative empirical research undertaken in Canada by Dr. Julie Macfarlane. Participating jurisdictions included (listed from West to East): Multnomah County, Oregon; Larimer County, Colorado; Davidson County, Tennessee; and Franklin County, Massachusetts. Learn more and download the reports at <https://iaals.du.edu/projects/cases-without-counsel>.

¹⁰ This finding was presented in the recommendations report that supplemented the main research report: *Cases Without Counsel*, Institute for the Advancement of the American Legal System 29 (May 2016).

educational degrees: 1) graduate from an approved paralegal program; 2) graduate with a bachelor's degree from a higher learning institution; or 3) graduate from an ABA-accredited law school. Applicants who fulfill one of the first two educational degrees must also complete 1,500 hours of substantive paralegal experience, 500 of which must be in family law in order to fulfill the family law endorsement. Contrast this with attorneys where family law is not a required course in many law schools, nor is it one of the core tested subjects on the bar exam. Countless attorneys graduate every year and sit for the bar exam armed with only what they learned about family law in the prep course. Many Licensed Paralegals will have a greater understanding of, and experience in, family law over newly licensed attorneys.

We as a profession must move past our sense of superiority over other qualified professionals. We maintain this attitude to the detriment of the public. Instead, we must think about new services and new providers: Access to legal services can no longer be synonymous with access to a lawyer.

Sincerely,

Michael Houlberg
Director of Special Projects
IAALS