

LEGAL DESIGN DERBY 2021

**HOW MIGHT WE  
CARRY FORWARD  
THE LEGAL  
SYSTEM'S  
RESILIENCE  
DURING THE  
COVID-19  
PANDEMIC TO  
MAXIMIZE ACCESS  
TO JUSTICE?**

# BEFORE THE COVID-19 PANDEMIC

In 2020, the **US** was ranked **109th** out of **128 countries**  
**FOR THE ACCESSIBILITY AND AFFORDABILITY OF OUR CIVIL JUSTICE SYSTEM**

[The WJP Rule of Law Index 2020](#)

## 86%

of the civil legal problems reported by  
low-income Americans in [2016–17]  
received inadequate or no legal help.

LEGAL SERVICES CORPORATION, [The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans](#) (June 2017)

PROVIDING EVEN ONE HOUR OF  
ATTORNEY TIME TO EVERY AMERICAN  
HOUSEHOLD, FACING A LEGAL PROBLEM  
WOULD COST ON THE ORDER OF

## \$40 billion.

TOTAL EXPENDITURES ON LEGAL AID,  
COUNTING BOTH PUBLIC AND PRIVATE  
SOURCES, ARE NOW JUST 3.5% OF THAT  
AMOUNT

Gillian Hadfield & Deborah Rhode, [How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering](#)

Among the low-income Americans  
receiving help from LSC-funded legal  
aid organizations, the top three types  
of civil legal problems relate to

- 1** family
- 2** housing
- 3** income maintenance

LEGAL SERVICES CORPORATION, [The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-income Americans](#) (June 2017)

# SINCE THE COVID-19 PANDEMIC

The **pandemic** has affected communities differently  
**BASED ON RACE, CLASS, OCCUPATION, EDUCATION, & GEOGRAPHY.**

[CDC Introduction to Covid-19 Racial and Ethnic Health Disparities](#), 2021

## 6 million

HOUSEHOLDS ARE BEHIND ON RENT.

[AG Letter to Members of the Legal Community](#), August 30, 2021

## > 70%

**of low-income families have at least  
one civil legal issue in a given year**

NC Legal Needs Assessment Executive Summary, 2021

## COST

**IS THE MOST FREQUENT  
BARRIER NAMED BY**

## 91.2%

**OF LOW-INCOME NORTH CAROLINIANS  
SEEKING ACCESS TO LEGAL SERVICES.**

- Marginalized groups are least served by the legal system, and those at the intersection of marginalized classes may suffer the worst.
- Barriers identified included childcare issues, difficulty in taking time off work, transportation limitations especially in rural areas, as well as language and literacy limitations of clients.
- Among low-wealth clients, there is a clear digital divide and lack of regular internet access.

NC Legal Needs Assessment Executive Summary, 2021

"Funneling additional resources into more routine practice areas like **expunctions** and **traffic law** has the potential for tremendous impact on many individuals' ability to be economically self-sufficient."

NC LEGAL NEEDS ASSESSMENT EXECUTIVE SUMMARY, 2021

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## UNDERSTANDING THE PROBLEM

- 2017 Legal Services Corporation Justice Gap Report
- 2020 North Carolina Civil Legal Needs Assessment: The most comprehensive and current legal needs study for NC
- National Center for Access to Justice: State Scores & Rankings
- *In the news*: More people than ever need legal aid services (4/2021)
- US Attorney General Merrick Garland's letter to the legal community (8/2021)

## MORE BACKGROUND

- Deborah L. Rhode & Scott L. Cummings, *Access to Justice: Looking Back, Thinking Ahead*, 30 Geo. J. Legal Ethics 485 (2017)
- *Report on the Future of Legal Services*, American Bar Association (2017)
- Deborah L. Rhode, *Access to Justice: A Roadmap for Reform*, 41 Fordham Urb. L.J. 1227 (2014)
- Alberto Bernabe, *Justice Gap vs. Core Values: The Common Themes in the Innovation Debate*, 41 J. Legal Prof. 1 (2016)
- Gillian K. Hadfield & Deborah L. Rhode, *How to Regulate Legal Services to Promote Access, Innovation, and the Quality of Lawyering*, 67 Hastings L.J. 1191 (2016)
- Andrew M. Perlman, *Towards the Law of Legal Services*, 37 Cardozo L. Rev. 50 (2015)

# EXAMPLES OF LEGAL INNOVATION

## COURTS & JUDICIAL PROGRAMS

### North Carolina:

- Guide-and-file Program for self-represented litigants
- NC Judicial Branch COVID-19 Task Force meeting minutes (with best practices from other states)
- NC Courts Operational Data and Statistics shows year over year changes in cases

### Other States:

- Michigan Trial Courts, *Draft Lessons Learned from the Pandemic*
- Utah court system: summary of recent changes
- State Justice Initiative: Examples from the Court Pandemic Response and Recovery Grant Program
- Court Forms Online MassAccess
- Reopening Texas Courts: Plans and Challenges for Resuming In-Person Court Proceedings from the State Bar of Texas podcast
- Remote Court: Judge Emily Miskel's Insights On COVID-Era Proceedings from the State Bar of Texas podcast

### National:

- Legal Services Corporation Recorded Webinar: Court Innovations During COVID-19
- National Center for State Courts: Pandemic Lessons Learned
- National Center for State Courts: Pandemic Caseloads Dashboard
- The Impacts of the Pandemic on State & Local Courts

# EXAMPLES OF LEGAL INNOVATION

## PRO BONO & LEGAL AID

### North Carolina:

- Legal Aid of North Carolina: Great starting place for identifying services, self-help clinics, and tools that currently exist.
- NC Pro Bono Resource Center: COVID-19 Small Business/Nonprofit Initiative
- NC Pro Bono Resource Center: COVID-19 Frontline Health Planning Project
- North Carolina Faith and Justice Task Force: Interdisciplinary pro bono initiative
- Pisgah Legal Services: Eviction Moratorium Information

### National:

- Legal Services Corporation & COVID-19
- ABA Standing Committee on Legal Aid and Indigent Defense: COVID-19 Resources
- MakeLawBetter Volunteer Database: Database of volunteers from the last year. Check out the bios/expertise of these volunteers to see if they identify any resources or can find additional ideas

## LEGAL TECH

- Legaltech Hub: Database of legal tech tools, searchable by country, language, functional area, etc.
- Meet the 27 startups pioneering the Justice Tech market
- NC Courts will be moving towards Odyssey case management system by Tyler Technologies

# EXAMPLES OF LEGAL INNOVATION

## SANDBOXES & RE-REGULATION

- Law Society of British Columbia, Innovation Sandbox
- Law Society of Ontario, Innovation Sandbox
- Utah Office of Legal Services Innovation
- IAALS Legal Regulation Knowledge Center

### Articles on Re-Regulation

- Hon. Deno G. Himonas & Tyler J. Hubbard, *Democratizing the Rule of Law*, 16 Stan. J. Civ. Rts. & Civ. Liberties 261 (2020)
- Deno Himonas & Scott Bales, *It's Time to Allow New Legal Service Providers*, Bloomberg Law (June 29, 2020)
- Gordon Smith & Kimball Dean Parker, *Redesign the Legal System for More than Just Lawyers*, Bloomberg Law (June, 17 2020)
- Jorge Gabriel Jiménez & Margaret Hagen, *A Regulatory Sandbox for the Industry of Law*, Thomson Reuters (2019)
- The Utah Work Group on Regulatory Reform, *Narrowing the Access-to-Justice Gap by Reimagining Regulation*, (2019)
- Benjamin H. Barton & Deborah L. Rhode, *Access to Justice and Routine Legal Services: New Technologies Meet Bar Regulators*, 70 Hastings L.J. 955 (2019)
- Rebecca L. Sandefur, *Legal Advice from Nonlawyers: Consumer Demand, Provider Quality, and Public Harms*, 16 Stan. J. Civ. Rts. & Civ. Liberties 283 (2020)
- Deborah L. Rhode et. al., *Access to Justice Through Limited Legal Assistance*, 16 Nw. J. Hum Rts. 1 (2018)

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## MORE ON RE-REGULATION

- Renee Newman Knake, *The Legal Monopoly*, 93 Wash. L. Rev. 1293 (2018)
- Caroline Shipman, *Unauthorized Practice of Law Claims Against Legalzoom-Who Do These Lawsuits Protect, and Is the Rule Outdated?*, 32 Geo. J. Legal Ethics 939 (2019)
- Elizabeth Chambliss, *Evidence-Based Lawyer Regulation*, 97 Wash. U.L. Rev. 297 (2019)
- Drew Simshaw, *Ethical Issues in Robo-Lawyering: The Need for Guidance on Developing and Using Artificial Intelligence in the Practice of Law*, 70 Hastings L.J. 173 (2018)
- Deborah L. Rhode & Benjamin H. Barton, *Rethinking Self-Regulation: Antitrust Perspectives on Bar Governance Activity*, 20 Chap. L. Rev. 267 (2017)
- Deborah L. Rhode, *Professional Integrity and Professional Regulation: Nonlawyer Practice and Nonlawyer Investment in Law Firms*, 39 Hastings Int'l & Comp. L. Rev. 111 (2016)
- Milan Markovic, *Juking Access to Justice to Deregulate the Legal Market*, 29 Geo. J. Legal Ethics 63 (2016)