

Legal Services Task Force: Recommendations

Vice Chief Justice Ann A. Scott Timmer,
Chair



What's the problem?

- Access



- Legal fees are out of reach

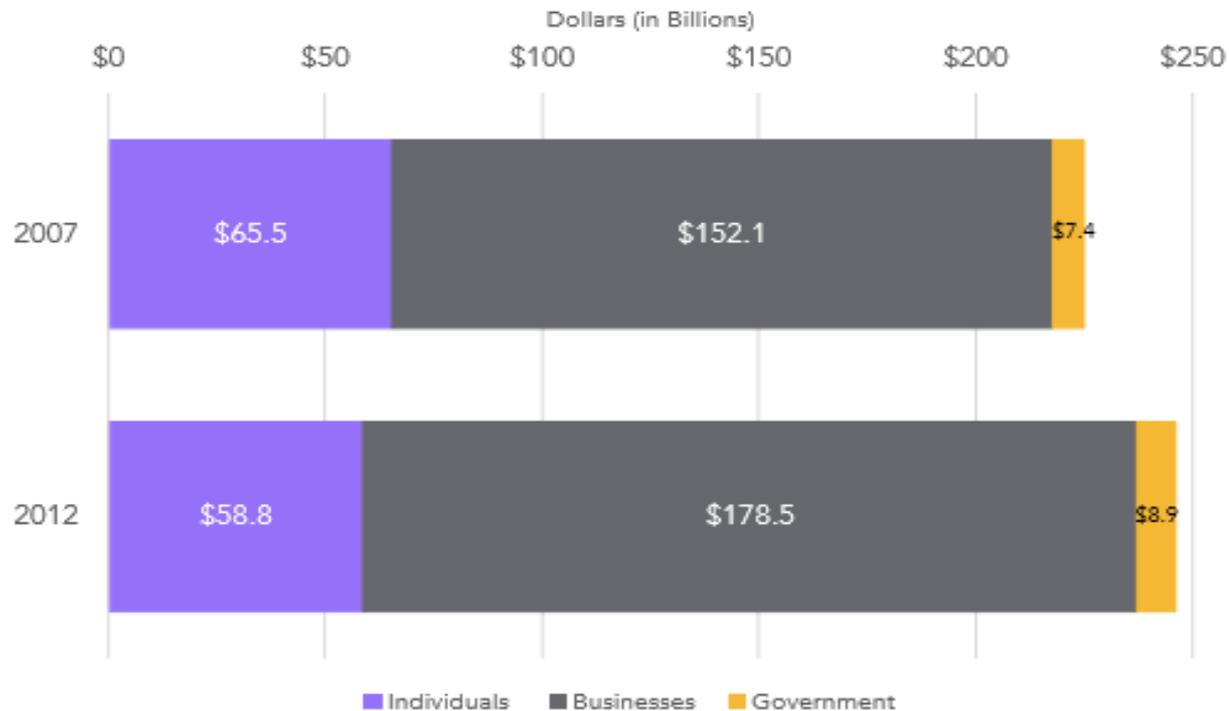


- Access to lawyers is difficult



Lack of access

- Most law firm work goes to businesses, not individuals
 - Decline of the PeopleLaw sector since the 1970s



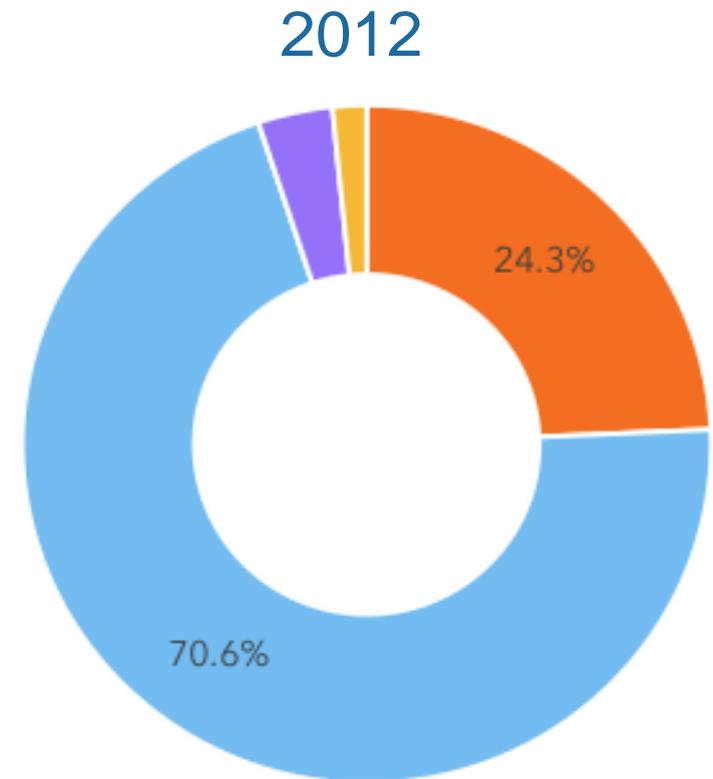
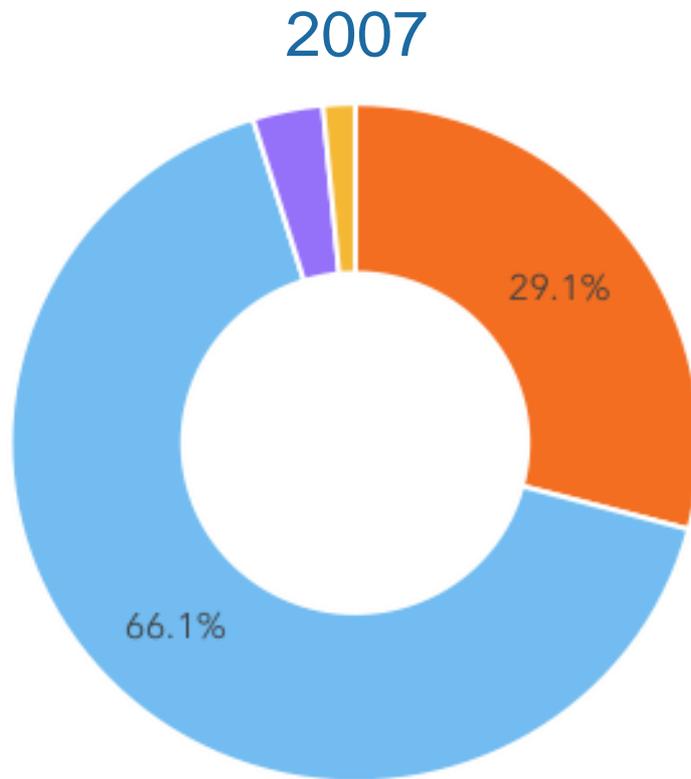
Lack of access

- Attorney-to-individual averages are getting worse
- Access to family law, housing, and consumer law attorneys varies

Year	AZ Lawyers	Arizona Population	Persons per Lawyer
2010	13,384	6,392,017	478
2019	15,081	7,278,717	483

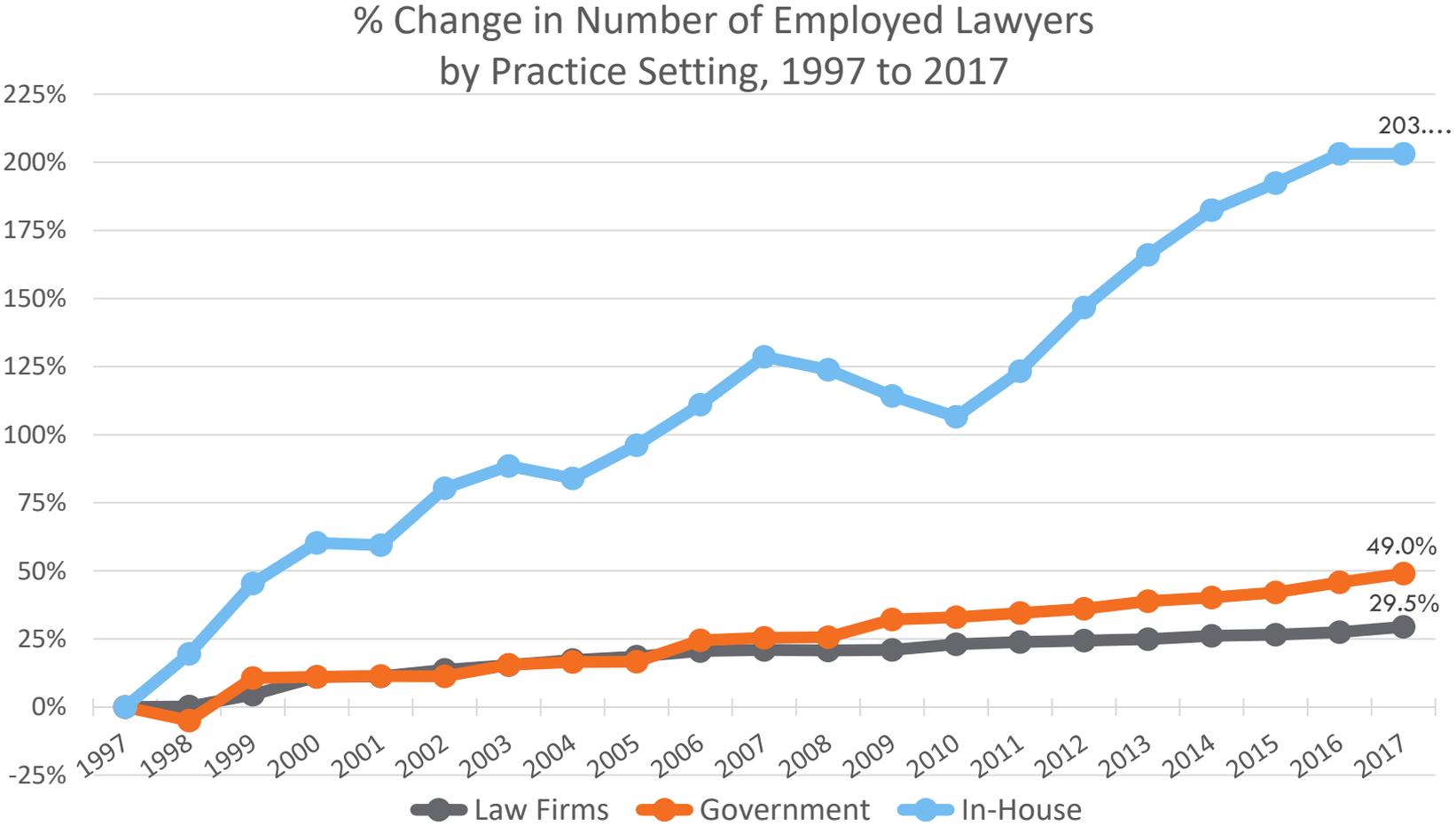
	2019 Arizona Attorneys		
AZ Households	Family Law Attorneys	Housing Law Attorneys	Consumer Law Attorneys
2524300	5610	1545	1195
Households per attorney	450	1634	2112

% of law office revenue by type of client



■ People ■ Businesses ■ Gov't ■ NonProfit

The largest growth for lawyers is as in-house counsel



Sources: Bureau of Labor Statistics. Graph generated by Legal Evolution PBC

Most civil cases involve low-money judgments

- *National data*
- Median judgment: \$2,441
- Average judgment: \$5,424
- 76% of cases involved at least one self-represented party (usually the defendant)
- **It is not practical to hire a lawyer for these types of cases**

The access to justice gap

- The “access-to-justice gap” is the difference between Americans’ legal needs and the resources available to meet those needs
- According to the World Justice Project, the United States is presently tied for 99th out of 126 countries in terms of access to and affordability of civil justice



What's the problem?

- Technology and other innovations for the delivery of legal services are stifled by the current court rules



Fixing the problem

- Delivery of Legal Services Task Force
- Made ten recommendations to improve the delivery of legal services



Task Force on the Delivery of Legal Services

October 4, 2019

Report and Recommendations

Fixing the problem

Recommendation #6

Limited License Legal Practitioners (“LLLPs”)

- Non-attorney limited license to practice
- Limited scope – similar to nurse practitioner model
- Same strict ethical rules/discipline as attorneys
- Required Education, examination, character and fitness, licensing
- Services needs of low and middle-income individuals

LLLPs cont.

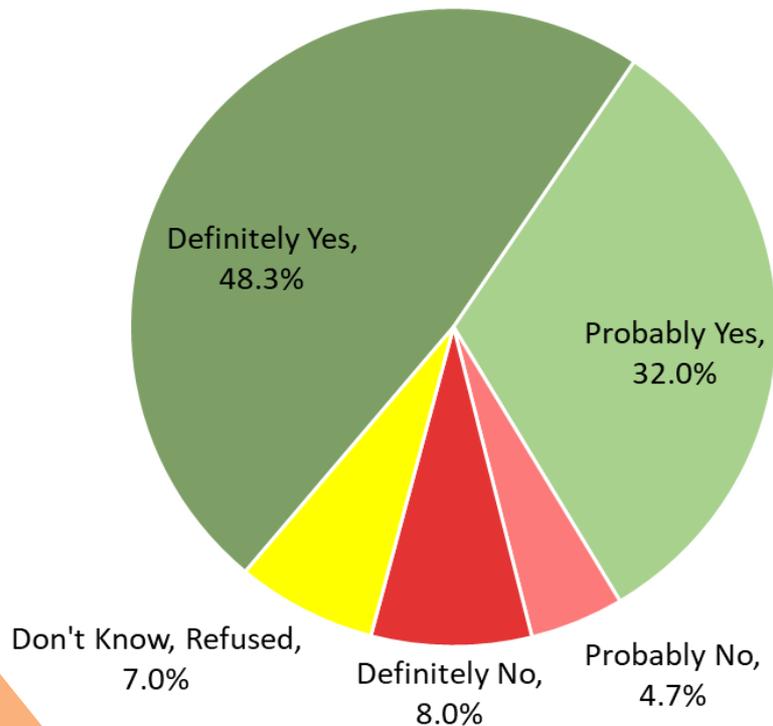
Limited License Legal Practitioners (“LLLPs”)

- Proposed scope
 - Family Court
 - Limited Jurisdiction Courts – civil: evictions, debt collection
 - Limited Jurisdiction Courts – criminal: where liberty is not at stake
 - Administrative hearings



Limited services model

Overwhelming support!



Total: 80.3% Yes
12.7% No

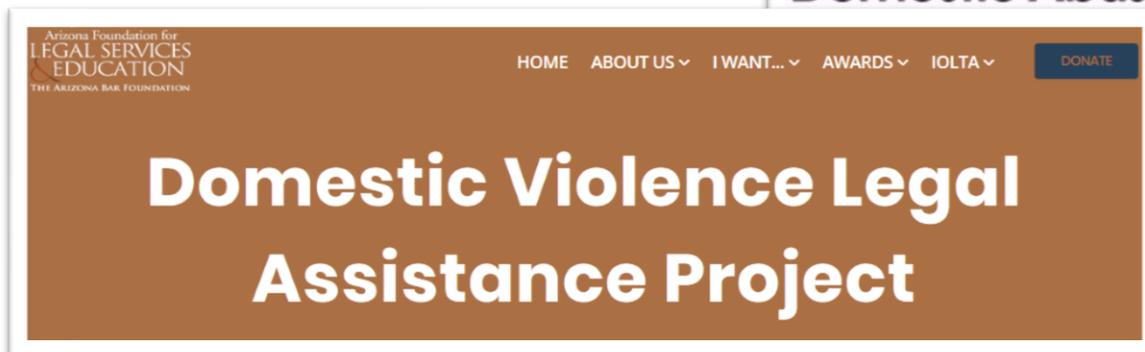
GOP:	77.9% Yes
Dem:	79.0% Yes
IND:	83.3% Yes
None:	81.0% Yes
Maricopa:	80.7% Yes
Pima:	78.3% Yes
Rural:	80.2% Yes
Lawyer:	83.8% Yes
Non:	81.3% Yes

Fixing the problem

- **Recommendation #7 and #8**
- Authorize two pilot programs for domestic violence victims
 - Licensed Lay Legal Advocate Pilot Program **Admin Order in progress**
 - Domestic Violence Legal Document Preparer Program (DVLDP)



**Admin
Order
signed
Jan. 2020**



Court rules limit innovation

Rule 5.4
Limits on
ownership and
co-venturing

Rule 5.5
Who can
practice law
with ambiguity
on definition

Rules 7.2-7.3
Limits on
marketing that
better match
lawyers with
clients

- Rule 5.4 protected lawyers, not the public
- Significantly reduces innovation
- There is a place for legal and other services to be provided as a team

The "DIY" (Do-It-Yourself) legal economy

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Benefits of filing your LLC with us:
We ensure your name is available
A personalized operating agreement
We take care of filing your state docs

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Get answers.
Documents
Attorneys
Support
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Take that step towards your dream business & make it official.
Get Started ▶

For over 10 years we've helped over 1 million businesses get started.
Legal help is here
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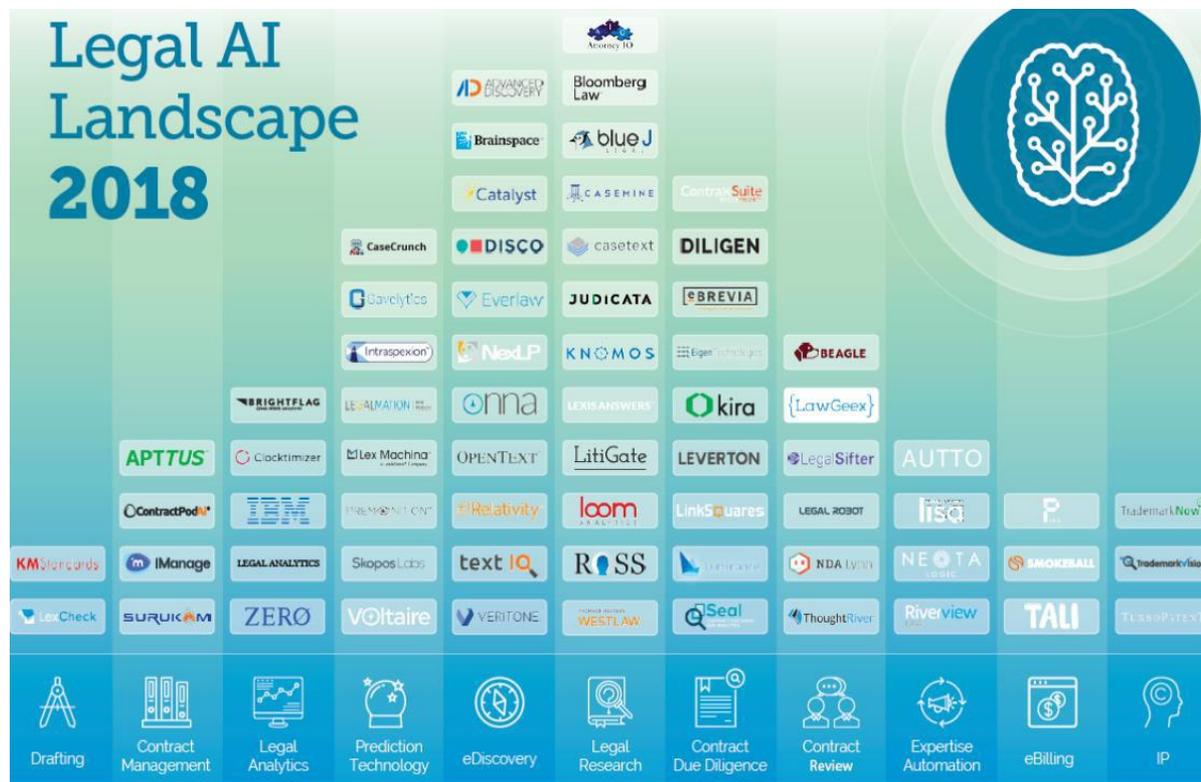
Bankruptcy Evaluation
Avoid Foreclosure
Stop Creditor Harrassment
Reduce or Eliminate your Debt
Get Started Now ▶

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BETTER LEGAL = BETTER LIFE
GET STARTED

legalzoom
Get Your "Patent Pending"
Start protecting your invention even if you're not ready to officially file.
Get Started Now

Technology

- Technology is outpacing courts and legal practice structures
- Legal services are too important not to regulate



Fixing the problem

- **Recommendation #1**
- Eliminate Rules 5.4 and 5.7
- Allow for creation of Alternative Business Structures



- Allows more investment capital
- Allows co-ownership with non-attorneys
- Increases the use of technology to deliver less complicated legal services to the public

Fixing the problem

- Alternative Business Structures (ABS)
- An ABS entity would be regulated in addition to its attorneys
- Entity regulation is already being done in Arizona

Legal Document Preparer Program

Effective July 1, 2003, all individuals and businesses preparing legal documents without the supervision of an attorney in good standing with the State Bar of Arizona, must be certified pursuant to Rule 31, and Arizona Codes of Judicial Administration § 7-208 and § 7-201. Legal Document Preparer Program certifies non-attorney legal document preparers in Arizona who provide document preparation assistance and services to individuals and entities not represented by an attorney. Legal document preparers may provide general legal information but may not give legal advice.

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[LEGAL DOCUMENT PREPARER EXAM
AND CERTIFICATE HOLDER INFORMATION](#)

[LEGAL DOCUMENT PREPARER BOARD INFORMATION
Recruitment Announcement](#)

Fiduciary Licensing Program

The Fiduciary Licensing Program is designed to help ensure Arizona's elderly, mentally incapacitated and other vulnerable citizens have licensed individuals or businesses managing their financial affairs, medical decisions and other vital matters.

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Alternative Business Structures (ABS) cont.

- Suspended or disbarred attorneys could not be members of an ABS
- Complaints against ABS investigated, prosecuted by State Bar same as attorney discipline
- ABS will go through a process similar to attorneys' character and fitness
- ABS is required to have at least one attorney licensed in Arizona to supervise legal services

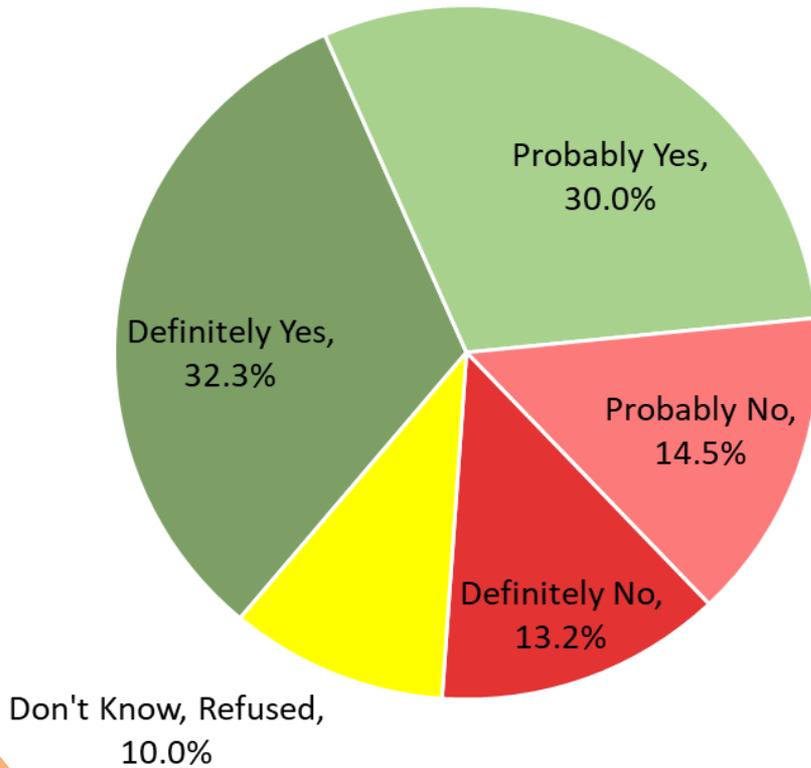
Alternative Business Structures (ABS) cont.

- (1) Decisions of the Committee must take into consideration the following regulatory objectives:
- (A) protecting and promoting the public interest;
- (B) promoting access to legal services
- (C) advancing the administration of justice and the rule of law;
- (D) encouraging an independent, strong, diverse, and effective legal profession; and
- (E) promoting and maintaining adherence to professional principles.

Alternative Business Structures (ABS) cont.

- (2) The Committee shall examine whether an applicant has adequate governance structures and policies in place to ensure:
 - (A) lawyers providing legal services to consumers act with independence consistent with the lawyers' professional responsibilities;
 - (B) the alternative business structure maintains proper standards of work;
 - (C) the lawyer makes decisions in the best interest of clients;
 - (D) confidentiality consistent with Arizona Rule of Supreme Court 42 is maintained; and
 - (E) any other business policies or procedures do not interfere with a lawyers' duties and responsibilities to clients.

Non-lawyer ownership/partnership



Total: 62.3% Yes
27.7% No

GOP:	72.1% Yes
Dem:	62.0% Yes
IND:	55.2% Yes
None:	59.0% Yes
Maricopa:	63.5% Yes
Pima:	65.0% Yes
Rural:	57.3% Yes
Lawyer:	54.1% Yes
Non:	65.8% Yes

Fixing the problem

- **Recommendation #9**
- **Modify Legal Document Preparer Program**
 - Allow LDPs and lawyers to work together
 - Clarify that LDPs may speak in court if directly addressed by judge; does not allow advocacy or representation
 - Permit limited legal research

In progress



Recommendation #9 cont.

- Amend Code or rules re: Unauthorized Practice of Law by persons acting as an LDP without certification
- Allows imposition of civil fines for UPL
- Advanced education opportunities specific to LDPs
- Education for bench, bar, and public about expanded role of LDPs

Petition filed

Fixing the problem

- **Recommendation #4**
- Rule 38(d): Law Graduate Practice, Pre-Admission
- Recent law graduates practice under supervision between graduation and taking/passing the bar exam
- Must take the first bar exam available after graduation
- Certification ends depending on pass/fail and timing of getting sworn-in to practice

Petition filed



Fixing the problem

- **Recommendation #2**
- Modify advertising rules
- Amend ER 7.1 – 7.5
- Adopts ABA 2018 recommendations

Petition filed



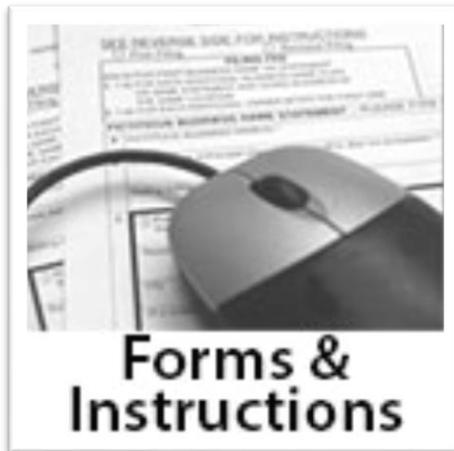
Fixing the problem

Recommendation #3

Coming soon!

Reemphasize use of unbundled services

- ER 1.2



Fixing the problem

- **Recommendation #10**
- Non-attorney assistance in courts
- Direct person-to-person legal information for self represented litigants
 - Court Coordinators
 - Court Navigators

Coming soon!



National and international issue

- Similar task forces underway in California and Illinois
- Utah Supreme Court approved similar task force recommendations
- Western States Conference in May 2020 to discuss
- The United Kingdom implemented similar changes more than a decade ago with positive outcomes



Summary

- LLLPs: Will require training and testing for licensing, accountability for competence after licensing
- Alternative Business Structures: Strict rules and regulations will protect against bad actors and protect the independence of lawyers
- Co-ownership/Partnerships: Promotes technology and innovation by incorporating the skills of non-lawyer experts
- Community need: Lower costs will make legal services available to low and middle-income individuals

Where and how to comment

- Court rule and Judicial Code changes to authorize and regulate these changes
 - Rule petitions filed January 31, 2020
 - Initial comments due March 30, 2020
 - Workgroup response due April 27, 2020
 - Second comments due May 26, 2020
 - Final reply due June 22, 2020

Where and how to comment

Court Rules Forum

<https://www.azcourts.gov/Rules-Forum>



The screenshot displays the Azcourts.gov website interface. At the top, the logo for Azcourts.gov (Arizona Judicial Branch) is visible alongside a search bar and social media icons for Facebook and Twitter. A navigation menu includes links for Home, AZ Courts, AZ Supreme Court, Court Admin/AOC, Self-Service, Licensing & Regulation, and Publications & Reports. Below this is a banner for the Court Rules Forum featuring the Arizona State Seal and a desert landscape. The main content area includes a 'FAQ' link, 'Register' and 'Login' buttons, and a notice about a cross-reference error. A 'News' section mentions a correction to criminal rules access. A 'Welcome!' message explains the forum's purpose and registration requirements. At the bottom, there are filters for 'Unanswered' and 'Active Topics', a 'FORUMS' section, and a 'SUBMIT A NEW RULE CHANGE PETITION' button. The forum entry for 'Submit a New Rule Change Petition' shows 0 topics and 0 replies.

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YOUR HELP NEEDED: If you find a cross-reference that does not match the rule or subsection it refers to or any apparent clerical errors, please let us know by sending a precise description to SACrtDocs@courts.az.gov.

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Where and how to comment

Arizona Code of Judicial Administration Forum

<https://www.azcourts.gov/ACJA-Forum>



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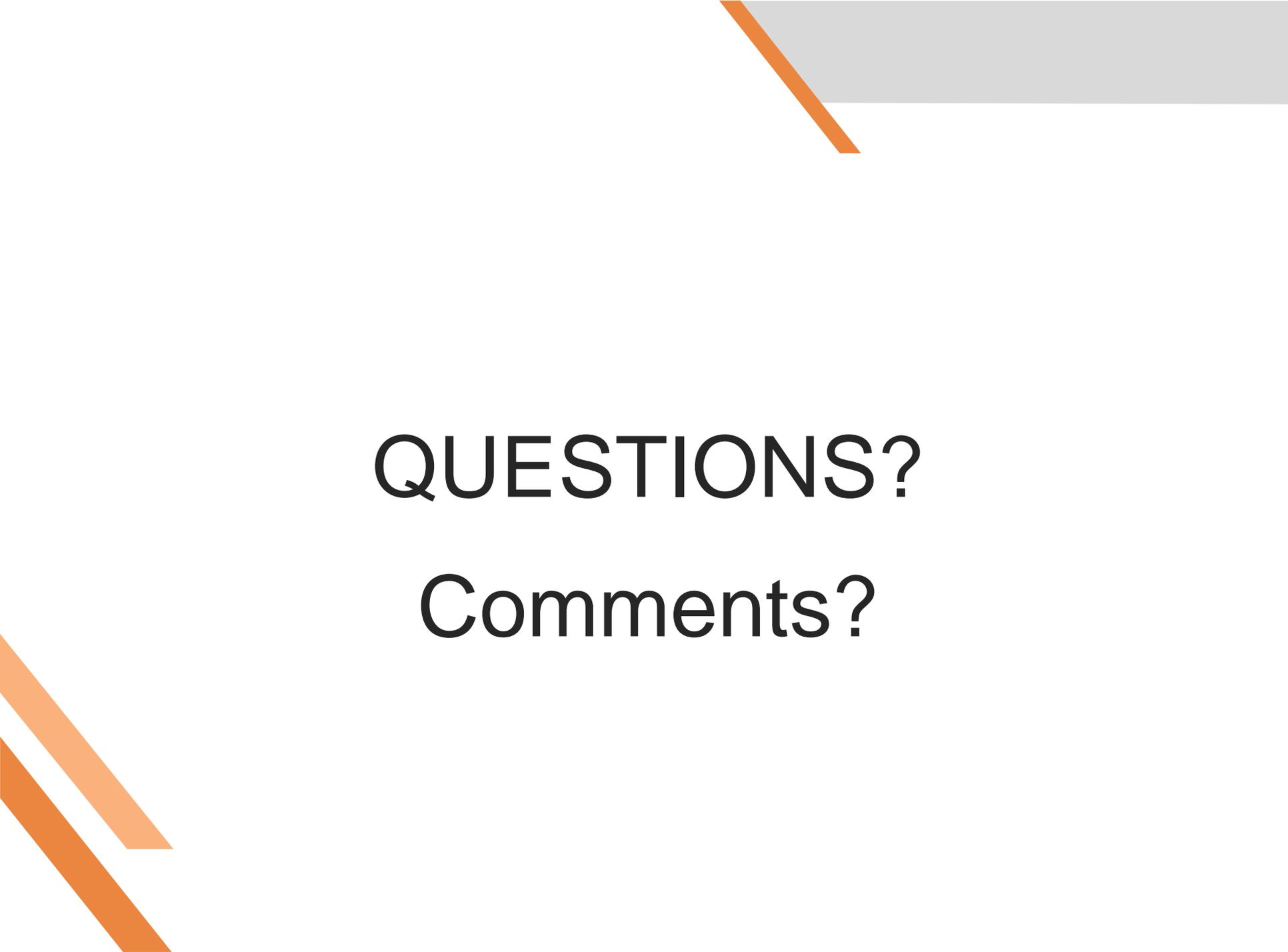
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FORUMS	TOPICS	REPLIES	LAST POST
 All Pending Proposals	26	19	ACJA 5-307: Use of Conduc... by  Jennifer Greene 25 Nov 2019 01:04 PM
 Recently Adopted Amendments  Code sections that have been adopted within the past 12 months.	3	53	RE: ACJA § 7-205(E)(4)(b)... by  A. Tazioli 02 Mar 2018 05:50 PM

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QUESTIONS?

Comments?