

Legal Advocate Preparer

EXPANDING THE ROLE OF LAY LEGAL ADVOCATE

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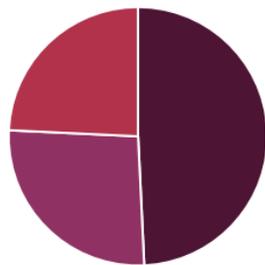
Overview

This proposal is offered by the Arizona Bar Foundation on behalf of the Domestic Violence Legal Assistance Project. The purpose of this proposal design is to increase access to free civil legal assistance for victims of domestic violence throughout Arizona. Using the existing Certified Legal Document Preparer program and the infrastructure of the Arizona Domestic Violence Legal Assistance Project, this proposal creates a path toward a limited legal document preparer and court support certification for lay legal advocates employed by Arizona nonprofit domestic violence service and shelter programs. By relieving demand from legal aid programs for document preparation using Legal Advocate Preparers, this proposal aims to: increase access to legal aid and volunteer lawyers for direct representation; improve court form filing accuracy and self-represented litigant outcomes; and, strengthen court, judicial staff, lawyer, and lay legal advocate partnerships and collaboration throughout Arizona.

Background

The proposal for the development of a domestic violence Legal Advocate Preparer pilot project is rooted in the twenty year collaboration between the Arizona Bar Foundation, domestic violence service programs, volunteer lawyers programs and legal aid organizations in the Arizona Domestic Violence Legal Assistance Project (“Project”). The Project, led by the Arizona Bar Foundation since 1999, has served as a statewide partnership of legal aid lawyers within

DVLAP Services for Clients



- Legal Aid - Representation/Advice
- Lay Legal Advocates
- Volunteer Lawyers + Clinics

three legal aid organizations (21 office locations), lay legal advocates with 13 domestic violence service provider programs (18 locations) and volunteer lawyers working with legal aid programs to increase access to longer-term safety and justice within the civil legal system. Each year, more than 13,200 victims of domestic violence receive free civil legal assistance from partner organizations in the Project. As the administrator of the statewide Project, the Arizona Bar Foundation provides technical assistance to project partners, monitoring and oversight for

Project activities, service and Project evaluation, and hosts advanced training and continuing legal education for Project staff. The Project provides the solid framework and infrastructure necessary to coordinate key elements of the Legal Advocate Preparer pilot project proposal.

Throughout 2014 and 2015, a few Project partners met to discuss ways that lay legal advocates (non-lawyers) could serve in an expanded role that might better assist victims of domestic violence. The group explored and identified common issues statewide: the high volume of

applicants for legal aid meant that most legal aid clients received only brief services and advice, lay legal advocates were frequently asked by victims of domestic violence for help completing court forms – something lay legal advocates are unable to do, and, often as the only person present with victims in the courtroom, lay legal advocates are often called upon to assist the client in requests from the court. This group, along with the Arizona Bar Foundation, Arizona Coalition to End Sexual & Domestic Violence and Judge Peter Cahill, listened to the needs of domestic violence victims and gathered insights from domestic violence service providers, judges, legal aid attorneys, and lay legal advocates to develop the foundation of the proposal outlined below.

Need for Legal Assistance

It is estimated that one in four women and that one in seven men will experience domestic violence in their lifetime¹. This means that more than 800,000 women and more than 450,000 men in Arizona will experience domestic violence in their lifetime. In 2018, more than 80 Arizonans lost their lives due to domestic violence – including six individuals that domestic violence perpetrator Dwight Jones believed to be associated with his divorce and child custody cases.²

Victims of domestic violence often have a variety of civil legal needs ranging from assistance with obtaining or keeping a protective order; preventing an eviction because of the domestic violence; divorce, custody, and/or child support issues, stolen identity and consumer law problems; and employment matters. Domestic violence survivors and sexual assault victims are likely to report more legal needs than the average low-income household (Social & Economic Sciences Research Center, 2014). Multiple studies show how access to legal assistance can both reduce domestic violence and mitigate some of its collateral consequences. Kernic (2015) found that when DV survivors have access to legal representation in child custody cases, they are granted greater protections and visitation decisions when compared to those who are not represented. And, the National Network to End Domestic Violence (2017) found in their survey of 1,762 shelters, that domestic violence survivors without legal representation are more likely to be later victimized than those without access to legal representation. Lastly, Hartley and Renner (2018) found that with legal representation to obtain a protective order or on a family law issue, survivors of domestic violence in Iowa saw increases in monthly income and personal growth and support. (See Appendix A)

¹ <https://www.acesdv.org/wp-content/uploads/2014/06/2016-DV-factsheet-final.pdf>

² <https://www.acesdv.org/wp-content/uploads/2019/04/2018-DV-Related-Death-List-working.pdf>

In 2017, Arizona’s State Agencies Coordination Team convened a series of focus group meetings throughout Arizona’s communities to engage crime victim service providers in discussion about the greatest needs among those they serve. Based on feedback from across Arizona, the greatest unmet needs for victims included: “*Services to meet the needs of victims of crime, particularly those most marginalized, include outreach, **legal assistance, mobile advocacy**, and providing flexibility and convenience in order to access services in a one-stop center*”³.

Current Role of Lay Legal Advocate

Within Arizona’s domestic violence service community, the term “lay legal advocate” is commonly used to refer to a professional who advocates on behalf of a victim of domestic violence within the civil legal system. Other terms, such as “domestic violence victim advocate” or “crime victim advocate” are defined by statute (A.R.S. § 12-2239 and A.R.S. § 13-3620) and generally refer to all types of advocacy but typically advocacy within the criminal justice system. While no official term exists to define a domestic violence “lay legal advocate”, lay legal advocates are guided by the Arizona Service Standards and Guidelines for Domestic Violence Service Providers (see Appendix B, pages 40-42) and are tasked with providing:

- General information about court procedures and logistics;
- Information about court rules, terminology, procedures, and practices;
- Information and referral to clients about the legal services available – legal aid programs, pro bono services, lawyer referral programs, and low cost legal services;
- Assistance with selecting correct forms based on what s/he wants to pursue or request from the court (general forms only, referral to attorney for direction on more complicated matters);
- Assistance with understanding what information or documentation is needed to complete forms; and/or
- Court accompaniment in a supportive role only.

Design of the Legal Advocate Preparer Pilot Project

Using the existing Certified Legal Document Preparer program and the infrastructure of the Arizona Domestic Violence Legal Assistance Project, this proposal creates a path toward specific legal document preparer certification for lay legal advocates employed by Arizona

³ “Community Conversations: Arizona Victim Services Strategic Planning. Convened by the State Agencies Coordinating Team (SACT) FY2017”, page 7, Recommendations.

nonprofit domestic violence service and shelter programs and allows for a greater role for domestic violence legal advocate preparers within the courtroom.

In conversations throughout 2014 and 2015, lay legal advocates and various stakeholders unanimously identified cost and time as the biggest barriers to lay legal advocates using the current process to become certified legal document preparers. Establishing a minimum amount of legal education, a required amount of ongoing advanced legal education – lay legal advocates that pass a court certification exam and are supervised in document preparation work in limited areas for 6 months (lay legal advocates with a college degree) or 1 year (lay legal advocates without a college degree) may prepare documents in the areas specified for victims of domestic violence. Lay legal advocates meeting all supervision and education requirements would pay a reduced fee to be a domestic violence legal advocate preparer with documentation of a current fingerprint clearance card. The exact fee to be established by the Administrative Office of the Courts.

For the purposes of this proposal, establishing a pilot project with the current support available, all pilot project participants must be employed by nonprofit organizations funded by the Arizona Bar Foundation and the Arizona Domestic Violence Legal Assistance Project.

In order to qualify to participate in the DV Legal Advocate Preparer pilot project, lay legal advocates must also meet the following criteria:

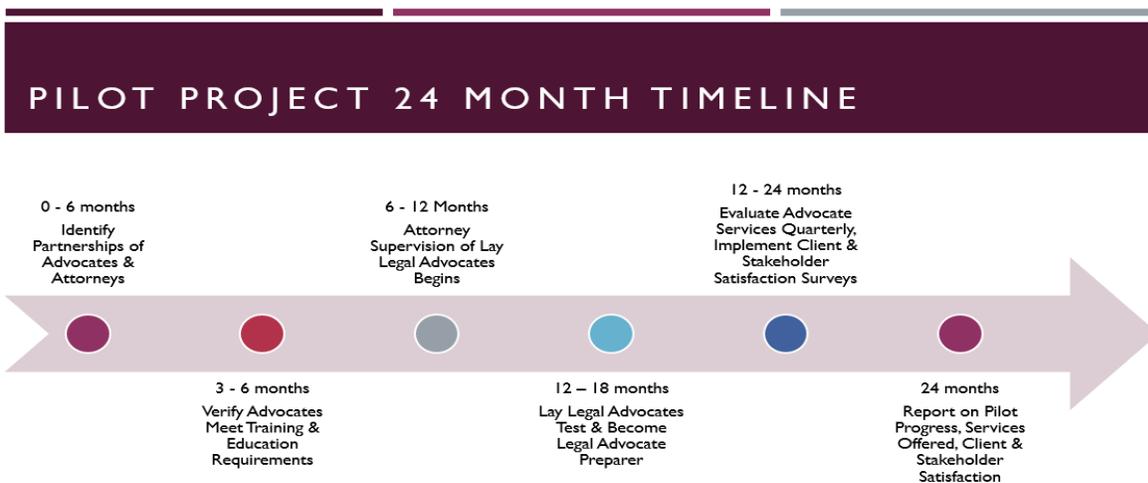
- Must meet the training requirements for domestic violence victim advocates in accordance with A.R.S. § 12-2239 (at least **30 hours training in assisting victims of domestic violence**)
- Must provide legal advocacy preparer services at no cost to domestic violence victims in Arizona,
- Must have received minimum of **20 hours of lay legal advocacy legal education** on applicable areas of law,
- Must have 6 months (those with a college degree) to 1 year supervision (those without a college degree) by a legal aid attorney prior to Court testing,

DVLAP PILOT - SUPERVISION PROCESS



- Must successfully complete Court certification test (established with court personnel),
- Must pay established fee which will be reduced with documentation of a current finger print clearance card. (Exact fee amount will be established with Court Personnel), and
- Must complete **10 hours of advanced continuing education** within first year of supervision and minimum of 10 hour advanced continuing education training each year after.

Upon approval of the pilot project, 6-10 lay legal advocates and 6-10 legal aid attorneys funded by the Domestic Violence Legal Assistance Project would be selected and paired for supervision. In 2015, the original proposal targeted three metropolitan and three rural communities in Arizona and included domestic violence service provider programs in Flagstaff, Kingman, Payson, Phoenix, Tucson, and Yuma. Similarly, the statewide network of the Domestic Violence Legal Assistance Project would allow an urban/rural mix of possible lay legal advocate locations. The Arizona Bar Foundation, as administrators of the pilot project, would verify eligibility for each pilot project participant. All pilot project participants would be orientated to the purpose and goals of the pilot project and addendums to the current Domestic Violence Legal Assistance Project funding agreements would be executed with each party to acknowledge the roles and responsibilities of each participant. Throughout the duration of the pilot project, each participant would be required to report quarterly on all activities related to the preparation of documents, number of domestic violence victims served, and supervision/training processes and participate in the evaluation of the pilot project, including implementation of client and stakeholder satisfaction surveys.



Role of Legal Advocate Preparer

Upon completion of supervision, educational requirements, and certification testing – a Legal Advocate Preparer would be authorized to have a greater role than that of a lay legal advocate.

Expanded Services

Forms

- Upon certification, select and complete limited scope of forms on behalf of domestic violence victim.
- Review completed forms to determine whether forms are complete.
- Review client's documents prior to hearings to determine whether procedural requirements have been met.

Court Accompaniment

- Sit with the client at litigant table, with appropriate identification to judge.
- Provide notes or reminders to litigants only where and when necessary.
- Provide statements of fact to judge or other court personnel – but only if asked direct factual questions by judge/court personnel.
- Take notes during conference or hearing to discuss with client afterwards.
- In supportive role only, accompany client in conference with judge or during hallway negotiations with opposing counsel (lay legal advocate preparers will not provide negotiation or representation on victim's behalf, will not advise victim on what to do).

Prohibited Services

- Select and complete forms not within the scope of allowable forms.
- Provide legal analysis, strategy, or advice.
- Recommend whether a case should or should not be brought to court or order appealed or not appealed.
- Give an opinion about the outcome of the case.
- Represent a client in court.
- Disclose information in violation of a court order, statute, rule, order or case law.
- Tell the client how s/he should word any substantive content in court pleadings.

Limited Scope of Forms for Legal Advocate Preparer

Under this proposal, a Legal Advocate Preparer would be limited in the areas of law where documents may be prepared. This proposal attempts to address the areas of greatest need while reducing the scope of every possible area of law.

Legal Advocate Preparers would be allowed to prepare documents related to a domestic violence victim's family law needs (separation/divorce, legal decision making and/or

parenting time, child support, guardianship, and modifications of post-decree matters), housing (landlord/tenant related to health, safety and eviction matters, foreclosure, and public housing issues), and areas of law related to stability, safety and rights (including obtaining/preserving protective orders, public benefits, victims' rights, and safety planning matters such as securing documents). A full list of allowable forms will be developed and adopted with the Court.

FOCUS OF EXPANDED SCOPE OF ASSISTANCE



Family
Separation/Divorce, Legal Decision Making, Parenting Time, Child Support, Guardianship, Modification



Housing
Landlord/Tenant – Health, Safety, Eviction, Foreclosure, Public Housing



Stability, Safety & Rights
Obtaining/Preserving Protective Orders, Public Benefits, Victims' Rights, Safety Planning (securing documents)

Legal Advocate Preparer Education

Lay legal advocates participating in the pilot project to become Legal Advocate Preparers will undergo self-study with supervision or assistance by legal aid attorney partners. As support is obtained, a web-based study guide will be developed to aid in the study of substantive areas of law. As required for participation in the pilot project, lay legal advocates shall be prepared and educated by:

Current Requirements as listed from the Document Preparer Study Guide:

- I. Legal Terminology (7%) - Understand the meaning and applicability of general legal terms such as terms used in estate planning, probate, domestic relations, bankruptcy, business formation, tax matters, immigration and naturalization, and civil matters, etc.
- II. Client Communication (9%) – Provide general factual information regarding legal rights, procedures or options.
- III. Administrative Responsibilities (7%) – Apply the administrative orders, ACJA § 7-208 and Rules of Court pertaining to professional responsibilities of certificate holders.
- IV. Data Gathering (10%) – Obtain required information necessary and relevant to

prepare legal documents.

- V. Document Preparation (20%) – Complete, file, submit, or record legal documents according to codes, laws, rules, court orders, and policies.
- VI. Ethical Issues (8%) – Resolve ethical dilemmas according to ACJA § 7-208, laws, rules, or court orders.
- VII. Professional Responsibilities (39%) – Comply with ACJA § 7- 208, laws, rules, or court orders to maintain professional conduct and protection of the public.

Legal Content Areas for Legal Advocate Preparer

Provided by the Arizona Coalition to End Sexual & Domestic Violence’s Lay Legal Advocacy Training: “ADVOCATES IN SEXUAL AND DOMESTIC VIOLENCE CASES: A LAY LEGAL ADVOCATES’ GUIDE TO ARIZONA LAW JULY 2014” (Appendix D)

With particular attention to the following sections:

- Section Three: Advocacy, A. What is Advocacy, 4. The Process of Legal or Representative Advocacy D. Unauthorized Practice of the Law (to be updated with Administrative Order).
- Section Four: Legal Processes , B. The Legal System: Civil vs Criminal Law, C. Tax Remedies, D. Torts: An Option for Victims of violence, E. Juvenile Court
- Section Five: Protective Orders
- Section Seven: Family Law System
- Section Eight: Other Legal Issues, C. Creditor/Debtor Issues, D. Healthcare,
- Section Nine: Procedures

Video Content Education for Legal Advocate Preparer

Provided by the Arizona Coalition to End Sexual & Domestic Violence (Many more trainings are available and can be used as supplemental trainings, but the following list will be mandatory for this pilot project):

- Domestic Violence, Criminal Law, and the Court Process
- Sexual Violence Criminal Law and the Court Process
- Advanced Family Law
- Court Etiquette
- Department of Child Safety and Domestic Violence

Additional Legal Content Areas for Legal Advocate Preparer

To be developed with Court personnel as support and resources are obtained.

Evaluation of the Pilot Project

As the proposed administrator of the Legal Advocate Preparer pilot project, the Arizona Bar Foundation will assume responsibility of implementing and maintaining an evaluation of the pilot project. Portions of the evaluation will consist of modification of existing forms and evaluation tools used by the Domestic Violence Legal Assistance Project for measuring impact, tracking services provided and relevant demographics of domestic violence victims served. (Appendix E) Additional evaluation methods will include:

- Pilot project participant (supervisor/supervisee) satisfaction with the process and outcomes;
- Domestic violence victim/client satisfaction with services provided;
- General stakeholder satisfaction with pilot project;
- Court personnel (i.e.: clerk, law library staff, judicial staff) satisfaction with Legal Advocate Preparer work product and expanded role; and,
- Judge/Commissioner/Justice of the Peace opinion/satisfaction with Legal Advocate Preparer work product and expanded courtroom role.

The Arizona Bar Foundation will provide quarterly reports to the Courts on the status of the pilot project and will produce a comprehensive report at the one and two year milestones of the pilot project.

Next Steps to Implement Legal Advocate Preparer Pilot Project

In order to implement the Legal Advocate Preparer Pilot Project, the Pilot Project would need to be approved by administrative order. Upon issuance of an administrative order authorizing the legal advocate preparer program, the Arizona Bar Foundation would begin recruiting participants to serve as supervisors to lay legal advocates and lay legal advocates to be supervised. The pilot project would become active within six months of the administrative order with a timeline of 24 months to completion.

In Conclusion

The Arizona Bar Foundation offers this pilot project proposal as an opportunity to increase access to free legal assistance for one of Arizona's most vulnerable populations. Using existing infrastructure and programming, this proposal expands the capacity of existing service providers

and professionals throughout Arizona to address both rural and metropolitan community needs at little to no cost. Perhaps most importantly, this pilot project and the creation of a Legal Advocate Preparer is replicable throughout Arizona to other vulnerable populations addressing a vast community of need within, for example: food banks or utility assistance programs, veterans assistance programs, disability service providers and programs that serve the elderly.

APPENDIX A

APPENDIX B

APPENDIX C

APPENDIX D