

## Closing the Civil Justice Gap in the South

Lauren Sudeall and Darcy Meals

*Center for Access to Justice, Georgia State University College of Law*

### PROBLEM

Access to justice—defined as the ability to navigate the legal system to resolve one’s problems—is out of reach for many lower and middle-income Americans. **Litigants in the South face even greater challenges in a region that is the country’s poorest and most under-resourced.** The ongoing global pandemic has only exacerbated existing obstacles.

71% of low-income households experience at least [one civil legal problem per year](#), and more than half deal with multiple issues. Those issues concern basic, critical needs, like access to healthcare, housing, public benefits, and safe living conditions. 86% of low-income Americans receive [inadequate or no professional legal help](#) for the civil legal problems they face. In Georgia, in 2016, there were [800,000 self-represented litigants](#) navigating courts alone. That’s due, in part, to the fact that 5 of Georgia’s 159 counties have [no practicing lawyers](#), and another 59 of those counties have 10 lawyers or fewer.

Even when lawyers are present, they are often out of reach. The [Legal Services Corporation](#), which is the country’s largest funder of civil legal aid, provides assistance only to those at or below 125% of the federal poverty level.<sup>1</sup> Even at that low threshold, nearly 1 in 5 Americans—60 million people—have qualifying incomes, which is far more than current resources can support.

**The failure to address these needs disproportionately affects the South and those living in it.** Southern states are among the nation’s poorest, with more than 20% of their population living at or below 125% of the poverty line. People living in poverty are disproportionately likely to have other vulnerabilities or particularized needs, including lower levels of education, senior citizens, people living with disabilities, survivors of domestic violence, and families with children. The South is home to [more than half](#) of the country’s African Americans, meaning that communities of color are disproportionately impacted. And the South is one of the country’s [most rural regions](#), meaning that residents are even [less likely to have access to legal representation](#) or other forms of legal assistance.

### KEY STATISTIC

71% of low-income households experience at least [one civil legal problem per year](#).

## SOLUTIONS

How can we begin to close the civil justice gap? Ideally, legal systems and procedures would be [simplified](#) and designed with the experiences and abilities of ordinary people in mind, taking the [burden off of litigants](#) to navigate a system designed by and for lawyers. Short of systemic overhaul, here are some specific steps that would help to narrow the gap:

- **Create a [right to counsel](#).** In most civil cases, there is no right to a lawyer. Litigants must go it alone and often fare poorly as a result, leading to myriad social, economic and health consequences. Following the lead of cities in other regions, local jurisdictions can create a right to counsel in critical areas, like housing. [Simply having a lawyer increases the odds of being able to stay in one's home](#). When tenants represent themselves, they are evicted in nearly 50% of cases; with a lawyer, they win [90% of the time](#).
- **Follow best practices in court forms and resources for self-represented litigants.** In the US, [46 million adults](#) have low literacy skills. Materials designed to help self-represented litigants need to take this into account. Jurisdictions should adopt universal, [plain language](#) forms and resources for litigants, using [empirically-tested tools](#) to increase [readability](#) and [comprehension](#). The emphasis in legal resources should be on [action items and next steps](#), rather than on superfluous legal information.
- **Meet litigants where they are.** With the world moving to virtual platforms in the face of the COVID-19 pandemic, we again see the need to [expand access to reliable broadband internet](#), in both rural areas and low-income urban centers. Legal resources should also be embedded in the community, in [public libraries](#), places of worship (as [Tennessee](#) and [North Carolina](#) have done), and in [schools](#). Placing legal support in places people already know and frequent facilitates trust in providers and increases the likelihood litigants can and will access such services.
- **Authorize non-lawyers to provide supportive services.** With appropriate training and regulation, certain supportive services could be provided by non-lawyers. Some states have authorized the use of [navigators, licensed paralegal practitioners, or non-lawyer paraprofessionals](#), in an effort to bridge the gap lawyers have yet to fill. [Research](#) shows that assistance from appropriately trained and supervised personnel can be associated with improved outcomes, both in terms of legal decisions and a litigant's experience in the justice system.
- **Enhance – and require – court data collection.** To better understand self-represented litigants' experiences and the effectiveness of different self-help strategies and legal assistance models, we need more, and better, data.<sup>2</sup>

<sup>1</sup> To [qualify for legal aid](#) in 2020, an individual has to make less than \$15,950 per year, and a family of four has to make less than \$32,750.

<sup>2</sup> Deborah L. Rhode, *What We Know and Need to Know about the Delivery of Legal Services by Nonlawyers*, 67 S. C. L. Rev. 429, 440 (2016).