

Senate Bill 843

**An Assessment
&
A Call to Action**

“We can and must do better.”

Oregon Supreme Court Chief Justice Martha Walters

Why Do We Need a Legal Needs Study?



Letter from Chief Justice Martha Walters

Every day in communities around our state, low-income Oregonians seek help from their local legal aid office. These potential clients might include a tenant facing eviction, a single mother needing to file a domestic violence protective order, or a senior citizen who cannot access his food stamps. Legal aid offices take as many cases as they can, but limited resources mean they must turn away most who seek help. This report summarizes the most recent findings about the unmet civil legal needs of low-income people in Oregon.

This is not the first time Oregon has assessed the civil legal needs of its low-income communities. The 2000 Civil Legal Needs Study was the first evaluation of the unmet civil legal needs of low-income people in Oregon since the 1970s. The 2000 study found that there was a high need for civil legal services for people with low and moderate incomes, and that the existing legal services delivery network was not adequately meeting that need. The 2000 study strengthened and spurred ongoing efforts to increase resources to address the critical legal needs of Oregon's most vulnerable citizens.

With the support of the Oregon Department of Justice, the 2018 Civil Legal Needs Study was commissioned by the Oregon Law Foundation, Oregon State Bar, Oregon Judicial Department, Campaign for Equal Justice, Legal Aid Services of Oregon, and the Oregon Law Center to assess the current ability of low-income individuals to access the civil justice system. The researchers endeavored to gather reliable and useful data to help policy makers, legislators, agencies, funders, and legal aid service providers inform their investment and service decisions. This report summarizes and highlights the key findings of the study.

The study findings are stark. Legal problems are widespread, and the impact they have on the lives of low-income individuals can be life altering. People of color, single parents, domestic violence and sexual assault survivors, people with disabilities, those with prior juvenile or criminal records, and youth experience civil legal emergencies at a higher rate than the general public. This report is both an assessment and a call to action. Despite concerted efforts over the past two decades, our state's civil justice system is not meeting the needs of Oregon's poor. When these needs go unmet, the health, safety, and resiliency of individuals, families, and entire communities are impacted.

We can and must do better.

Our justice system must help every Oregonian know what their rights are and understand where to find legal help.

Our justice system must help achieve justice for Oregon's low-income communities by addressing ongoing and large-scale injustices such as racial discrimination and the cumulative effects of poverty over time.

Every Oregonian deserves a justice system that is accessible and accountable. The legitimacy of our democracy depends on the premise that injustices can be addressed fairly within the bounds of the law, no matter who you are or where you live. Let us work together in Oregon, to ensure that justice is a right, not a privilege—for everyone.

A handwritten signature in black ink that reads "Martha Walters".

Chief Justice, Oregon Supreme Court

The Need



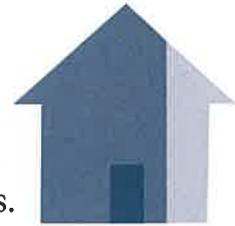
Barriers to Justice

A 2018 STUDY MEASURING THE CIVIL LEGAL NEEDS
OF LOW-INCOME OREGONIANS



Legal Problems are Widespread

75% of survey participants live in a household that experienced a legal problem in the previous 12 months.



Legal Problems Multiply

5.4 legal problems were experienced by the typical low-income household in Oregon in the last 12 months.

Fraud Denial of Benefits Unfair Eviction Restraining Order

The Need for Legal Aid Outpaces Resources

84% of people with a legal problem did not receive legal help of any kind.



Methodology

This report is based on a survey conducted in partnership with the Portland State University (PSU) Survey Research Lab. There were 1,017 survey participants from a statewide, address-based sample of 15,000 residents of high-poverty census blocks distributed according to Oregon's population. Participants were initially contacted by mail and completed the survey by mail, phone, or internet. The paper survey was only available in English. The web and phone surveys were conducted in both English and Spanish. PSU collected surveys during the winter of 2017-2018. To participate in the survey, participants had to have a household income at or below 125% of the federal poverty line. This is the same household income limit used to determine eligibility for legal aid in Oregon. The demographic characteristics of survey participants were analyzed (race, age, gender, etc.). The data collected was sufficient to allow for analysis of civil legal needs specific to individual groups. Additionally, researchers conducted door-to-door, in-person surveying in areas of known farmworker concentration, collecting 111 migrant farmworker responses. These were analyzed separately from the rest of the survey. For more information or to view the full statistical report from PSU go to: olf.osbar.org/LNS

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Civil Legal Aid

What is It?

Civil legal aid in Oregon ensures fairness for all in the justice system, regardless of how much money a person has. Legal aid provides essential services to low-income and vulnerable Oregonians who are faced with legal emergencies.

Civil legal aid connects Oregonians with a range of services—including legal assistance and representation; free legal clinics and pro bono assistance; and access to web-based information and forms—that help guide them through complicated legal proceedings. In doing so, civil legal aid helps Oregonians protect their livelihoods, their health and safety, and their families. Legal aid helps people know and defend their rights.

Civil legal aid helps Oregonians of all backgrounds to effectively navigate the justice system, including those who face the toughest legal challenges: children, veterans, seniors, persons with disabilities, and victims of domestic violence.

Who Does it Help?

Approximately one in five Oregonians (807,000 people) has a household income below 125% of the poverty level. For a family of four, 125% of the 2018 Federal Poverty Level was \$31,375 per year. Low-income households struggle to afford even basic living expenses of food, shelter, and clothing. Poverty is pervasive in both urban and rural communities. People of color, single women with children, persons with disabilities, and those who have not obtained a high school diploma are overrepresented in the poverty population.

General Study Findings

Legal problems are widespread and seriously affect the quality of life for low-income Oregonians. A vast majority of the low-income Oregonians surveyed experienced at least one legal issue in the last year. These legal problems most often relate to basic human needs: escaping abuse, finding adequate housing, maintaining income, living free from discrimination, and accessing healthcare. Even though their legal problems are serious, most people face them alone.

Problems are Widespread

The legal needs survey asked a series of questions in 18 categories intended to reveal the kind of problems people experienced in the previous year. Each question was designed to reveal an experience where it is likely that either legal help could ease a problem or legal advice could clarify rights and obligations. The goal was to determine the issues that low-income Oregonians experienced where civil legal aid could help. In this report, a yes to one of the issue-specific questions represents a civil legal problem.

75% of study participants reported experiencing at least one civil legal problem in the preceding 12 months.

Problems are Related

Low-income Oregonians rarely experience civil legal problems in isolation, with 61% of households experiencing more than one problem in the prior year. Loss of a job can lead to loss of a home, and experiencing a sexual assault or domestic violence can lead to a torrent of civil legal problems. One-quarter of those surveyed experienced eight or more problems in the last year.

The average low-income household experienced **5.4** civil legal problems over the last year.

Civil Legal Help is Needed

84% of people with a civil legal problem did not receive legal help of any kind.

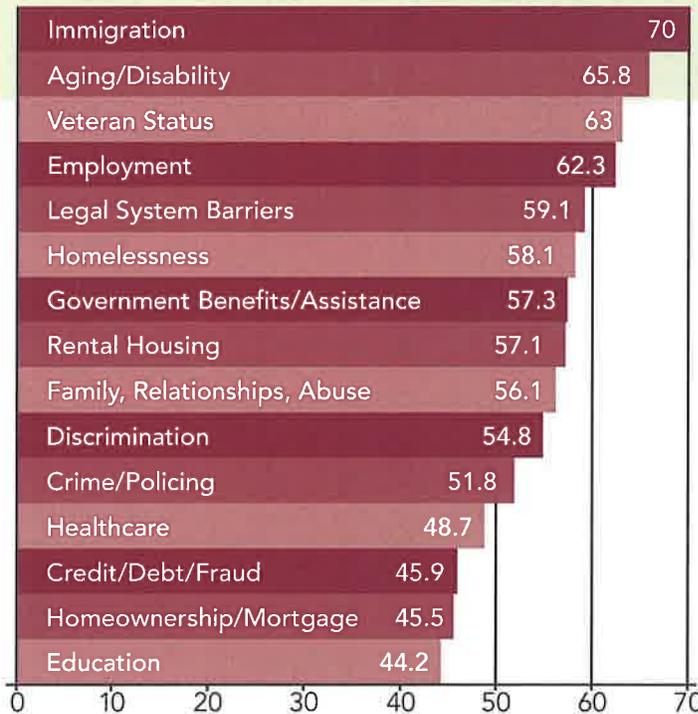
The U.S. Constitution guarantees the right to legal representation in criminal cases. This right does not extend to people with civil legal problems. This leaves the majority of low-income Oregonians to face their legal problems alone, without the help of a lawyer, regardless of how complicated or serious the case is.

The Most Harmful and Most Common Problem Areas

Civil Legal Problems Affect People's Lives

Many of the legal problems that low-income Oregonians face relate to essential life needs: maintaining housing, protecting children, or managing a health issue. For low-income Oregonians, these are not *legal issues*. Rather, they are critical *life issues*. What is certain is that poverty absolutely has an effect on the legal problems people face, as well as how those individuals experience the justice system.

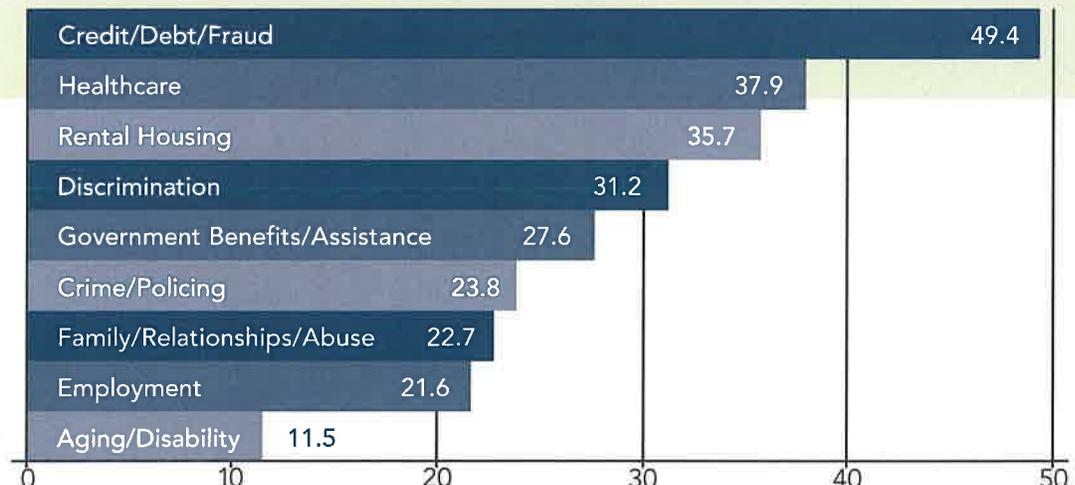
Most Harmful Issues



Percent of participants who experienced a civil legal problem in a given subject area, and who rated the effects of that civil legal problem as either very or extremely negative.

In order to determine which legal problems had the greatest direct impact on people's lives, participants were asked to rate how negatively an issue in a specific legal category affected them or their household. A five-level scale was used: not at all, slightly, moderately, very, or extremely negatively.

Most Common Problems



Percent of households that experienced at least one issue in a problem area in the last year.

**Low Income
Lawyer Affordability**

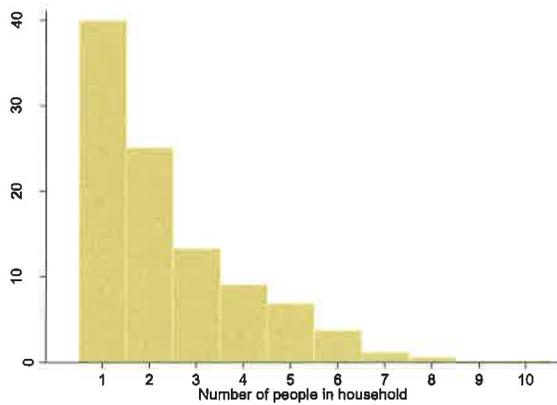


Figure 1. Number of people in household

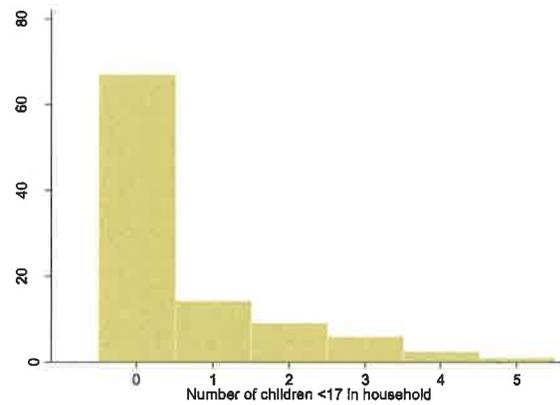


Figure 2. Number of children in household

Web Access

The vast majority of respondents (88.4%) had access to the internet in some fashion. Nearly half had access through a desktop or laptop computer and just over 43% through their phone. In evaluating the relationship between modes of survey administration and ethnoracial category, Latinx respondents took significantly fewer paper, more web, and fewer phone surveys than expected ($X^2(18) = 27.6; p < .01$).

Lawyer Affordability

Not surprisingly, given the purposive sampling of those close to or under the poverty line, nearly half the respondents (47.8%) were unable to contribute anything towards any sort of legal defense, having no extra money. More than 70% could not contribute \$100. Ninety-seven percent could not pay as much as \$1000. Table 6 reports the breakdown.

Table 6. How much could you afford for a lawyer?

	Percent	Cum.	N
Nothing/No excess money	47.8	47.8	459
Less than \$100	23.0	70.8	221
\$100-\$249	15.4	86.2	148
\$250-\$499	6.1	92.3	59
\$500-\$999	4.6	96.9	44
\$1,000-\$1,999	1.7	98.5	16
\$2,000+	1.5	100.0	14
Total	100.0	---	961

FINAL REPORT TO THE OREGON LAW FOUNDATION
ON THE LEGAL NEEDS OF IMPOVERISHED OREGONIANS

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all formerly of the PSU Survey Research Lab; and Grant Farr, PhD

**Small Estate Affidavit
Example**

1 IN THE CIRCUIT COURT OF STATE OF OREGON
2 FOR THE COUNTY OF MARION
3 Probate Department

4 In the Matter of the Small Estate of:) Case No.: _____
5)
6) AFFIDAVIT OF CLAIMING SUCCESSOR
7) (SMALL ESTATE AFFIDAVIT)
8)
9) Deceased.)
10) [Chapter 595, Sections 13 and 22, Oregon
11) Laws 2011; ORS 114.515]

12 STATE OF)
13 OREGON) ss.
14)
15 County of Marion

16 I swear that the following statements are true:

17 1. **The affiant.** My name and address are:

18 _____
19 _____
20 _____

21 I have authority to file this affidavit because: *[check at least one that applies]*

- 22 I am an heir of the decedent, and the decedent left no will.
23 I am a devisee of the decedent under the decedent's will.
24 I am named the personal representative under the decedent's will.
25 I am a creditor and have not been paid the full amount owed to me within 60
26 days of the decedent's death. **Creditors must check the box that applies:**
27 The decedent died intestate and without heirs. I have attached written
28 authorization from the Division of State Lands allowing me to file this small
estate proceeding; or
 Authorization from the Division of State Lands is not required because the
decedent dies testate or left heirs.

29 2. **The decedent.**

30 Name: _____ Age: _____ Soc. Sec. No.: _____

31 Home or mailing address: _____

32 _____ Date of death: _____

33 Place of death: _____

34 **A certified copy of the confidential death record is concurrently filed
35 herewith and is sealed in the court's record.**

1 3. **The decedent's estate.** The following property is in the decedent's estate:

2 Real Property Fair Market Value
3 [attach a legal description] [maximum total value \$200,000]

4 _____
5 _____
6 _____

7 Personal Property Fair Market Value
8 [PERs accounts, bank accounts, jewelry, etc.] [maximum total value \$75,000]

9 _____
10 _____
11 _____

12 ["Fair market value" means the value of the property on the open market (between
13 unrelated parties), not reduced to reflect debts owed against the property. Do not
14 include property that transfers automatically to others following death (such as
15 joint bank accounts).]

16 4. **Affidavit should be filed in Marion County.** This small estate affidavit should
17 be filed in Marion County because [check at least one that applies]:

- 18 The decedent died in Marion County.
19 At death, the decedent lived in or had a home in Marion County.
20 The decedent had property located in Marion County at death or when this
21 affidavit is filed.

22 Thirty or more days have passed since the decedent died.

23 5. **No probate estate exists.** No application or petition for the appointment of a
24 personal representative has been granted in Oregon. [This means that no Oregon
25 court has opened a probate estate for the decedent.]

26 6. **Is there a will?** [Check the one that applies]

- 27 The decedent died testate (**did** leave a will). **The original will (not a copy)**
28 **is attached.**
 The decedent died intestate (did **not** leave a will).

7. **The heirs.** The heirs of the decedent, and their addresses are:

Name of each heir Relationship to decedent Last-known address

1 8. **The devisees.** *[This part only applies if the decedent left a will. If the decedent*
2 *did not leave a will write in "none".]*

3 The devisees named in the decedent's will, and their last-known addresses, are:

4 Name of each devisee

Last-known address

5 _____
6 _____
7 _____
8 9. **Notice to heirs and devisees.** I promise to give to each heir and each devisee, if
9 any, (1) a copy of this affidavit showing the date of filing and (2) a copy of the will, if
10 the decedent died testate. I will do this by delivering or mailing the papers to the
11 heirs and devisees at the last-known addresses. I will do this within 30 days after this
12 affidavit is filed with the court.

13 10. **Who gets what?** The following people are entitled to the following property:

14 Name of heir or devisee

Property to be received

15 _____
16 _____
17 *[If a will exists, the will governs who gets what. If no will exists, the laws of*
18 *intestacy apply (see the instructions). If one person is to receive the entire estate,*
19 *state "entire estate" or "100% of residue" under "Property to be received". If, for*
20 *example, three people share the estate equally, state "one-third of residue" under*
21 *"Property to be received".]*

22 11. **Creditors.** Reasonable efforts have been made to ascertain the creditors of the
23 estate. The following expenses of or claims against the estate remain unpaid
24 (including reimbursement owed to someone who paid claims or expenses):

25 Creditor's name

Last-known address

Type of claim & estimate or amount

26 _____
27 *[If the estate has no creditors, write in "none"]*

28 12. **Disputed Creditors.** I, as affiant, dispute the following claims against the estate:

Creditor's name

Last-known address

Type of claim & estimate or amount

[If the estate has no creditors making claims the affiant disputes, write in "none"]

1 13. **Notice to creditors.** I promise to give each creditor listed in parts 11 and 12 above
2 a copy of this affidavit showing the date of filing. I will do this by delivering or
3 mailing the papers to the creditor at the last-known address. I will do this within 30
4 days after this affidavit is filed with the court.

5 14. **Notice to Estate Administration.** Within 30 days after this affidavit is filed
6 with the court, I promise to mail a copy of the affidavit showing the date of filing to
7 each of the following:

8 Department of Human Services & Oregon Health Authority
9 Estate Administration Unit
10 PO Box 14021
11 Salem, Oregon 97309-5024

12 15. **Claims may be barred.** Some claims against the estate may be barred unless
13 specific things happen.

14 a. Claims against the estate not listed in this affidavit or in amounts larger than
15 those listed in this affidavit may be barred unless:

- 16 1) A claim is presented to the affiant within four months of the filing of the
17 affidavit at the address stated in part 1 of this affidavit; or
18 2) A personal representative of the estate is appointed within the time allowed
19 under ORS 114.555.

20 b. If this affidavit lists one or more claims which the affiant disputes, any such
21 claim may be barred unless:

- 22 1) A petition for summary determination is filed within four months of the
23 filing of this affidavit; or
24 2) A personal representative of the estate is appointed within the time allowed
25 under ORS 114.555.

26 **I have read this affidavit. The statements it contains are true and correct to
27 the best of my knowledge.**

28 _____
Affiant

Telephone Number: (_____) _____

SUBSCRIBED AND SWORN to before me this _____ day of _____, 20____.

NOTARY PUBLIC FOR OREGON
My Commission expires: _____