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**Temple American Inn of Court**

*“You ultimately judge the civility of a society not by how it treats the rich, the powerful, the protected and highly esteemed, but how it treats the poor, the disfavored and the disadvantaged...”*

*Bryan Stevenson*

With over 400,000 people living below the poverty line, over 1,500 families without homes and over 50,000 people currently serving time in prison, Philadelphia is undoubtedly a community of the poor, the disfavored and the disadvantaged. It is a community that cannot rise beyond these plaguing injustices without advocates who are willing to earnestly fight for a future that is brighter than the darkness of its past.

Lawyers, with their skill and training, are among the most equipped in our society to be those advocates. The unfortunate irony is that “lawyers have priced themselves out of the market for people of limited means.”<sup>1</sup> Yet, it is often those with limited means, who are most in need of their legal services. It is estimated that 80 percent of low-income individuals in Philadelphia have unresolved legal matters, a large percentage of which are individuals with a criminal record. A community that has such unwavering barriers to meaningful legal access, is one that directly impedes with “justice for all.” Thus, the enactment of a Limited License Program in Philadelphia could serve as a unique opportunity to reduce the number of obstacles many disadvantaged individuals face to receiving legal assistance.

Limited License Legal Technicians in Washington are able to “consult, and advise, complete and file necessary court documents, help with court scheduling, and support a client in

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<sup>1</sup> Gene Johnson, *The Seattle Times: Washington Experiments with More Affordable Legal Advice*, <https://www.seattletimes.com/seattle-news/washington-experiments-with-more-affordable-legal-advice/>.

navigating the often-confusing maze of the legal system.”<sup>2</sup> However, the program currently limits the scope of available representation to family law and domestic relations concerns. A similar model, with a more expansive approach, put forth by the Philadelphia Bar Association could have an unprecedented impact in the community.

It is no secret that low-income individuals are disproportionately impacted by the consequences of criminal records, and the long-lasting collateral consequences that often result. In Philadelphia, one in five citizens has a criminal record, and 55,000-60,000 people are under some form of supervision.<sup>3</sup> This record then brands individuals with a scarlet letter of inferiority, pushing them into a world of “second class citizenship,” where they face significant barriers to basic social and economic opportunities.<sup>4</sup> These individuals then experience a myriad of legal issues relating to expungement, employment discrimination, access to public and private housing, eviction and foreclosure, family reunification and custody issues, along with many others. A Limited License Legal Technician would have the opportunity to directly impact the lives of thousands of Philadelphians by addressing such legal needs.

For example, “the absence of sufficient free legal help and the inability to pay for private attorneys means that many low-income people unnecessarily carry the burden of an expungeable conviction for years.”<sup>5</sup> Since expungement elevates wages, an ever-widening income gap results from lack of expungement assistance and leaves low-income people who have been convicted

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<sup>2</sup> *Id.*

<sup>3</sup> *Towards Equal Justice For All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Senate Judiciary Committee*, <http://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/ReportoftheCivilLegalJusticeCoalition.pdf>.

<sup>4</sup> Fruqan Mouzon, *Forgive Us Our Trespasses: The Need for Federal Expungement Legislation*, 39 U. Mem. L. Rev. 1, 140–144 (2008).

<sup>5</sup> *Id.*

increasingly further behind.<sup>6</sup> One specific method by which Limited License Legal Technicians could provide support would be determining if individuals were eligible for Accelerated Rehabilitative Disposition and also drafting and filing expungement petitions under the guidelines of 18 Pa.C.S.A. § 9122.<sup>7</sup> In cases involving eviction, Legal Technicians would be able to file any defense a tenant had by way of written answer to the court, as well as consult and advise any individual who was required to appear in landlord-tenant court.

The Limited Licensed Program has already received support from several states across the country, including California, New York and Utah; several of which have started modeling their own Limited License Programs. However, since the program is still in the early stages of development, the likelihood of success and most effective methods are still to be determined. Thus, there are still many questions and potential concerns that could prove to be disadvantageous to the very community the program seeks to serve.

The current qualifications to become a Limited License Legal Technician in Washington include completing 3,000 hours of work as a paralegal, 45 hours of core curriculum through an American Bar Association-approved legal program, and a family-law course offered through the University of Washington Law School. It is likely that any approved model in Pennsylvania would have the same or substantially similar requirements for qualification. These requirements could prove to be so burdensome, that there may not be a sufficient number of eligible Legal Technicians that would be required to make a dent in the growing number of cases needing legal attention. Even if an individual was able to complete the necessary requirements, there is no guarantee that they would actually be able to charge significantly less than a new attorney,

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<sup>6</sup> Vallas, Rebecca, *One Strike and You're Out*, <https://www.pubintl.org/law-center-news/civiljusticecoalition/>

<sup>7</sup> 18 Pa.C.S.A. § 9122.

despite the intent and justification for the program being to improve low- and middle-income litigants' access to justice.”<sup>8</sup> Thus, there is still a case to be made that a litigant “could obtain legal help from a lawyer that would be just as cost-effective as assistance obtained from a Limited Licensed Legal Technician.”<sup>9</sup> Such a scenario would then present a two-fold dilemma. Even at a reduced fee for services, a Legal Technician’s rate would still be much more than many low-income individuals would be able to afford. However, a Limited Licensed Legal Technician, working independently of an organization or law firm could suffer economically without a paying client base.

Further, while Legal Technicians have the ability to provide many services to potential clients, their position is still very narrowly tailored. Limited Legal Licensed Technicians are not authorized to represent a client in court, administrative, or formal dispute resolution proceedings or negotiate the client’s legal rights. Further, there are a wide range of cases that exceed the scope of the Technician’s authority. Thus, there is a concern that a Legal Technician will start a case with a client and then, at some point, realize the case exceeds their ability or license to practice.<sup>10</sup> In such an instance, the client then would be left in limbo while either seeking an attorney or proceeding pro se.<sup>11</sup>

Additionally, it is likely that Limited Licensed Legal Technicians will be required to undertake ongoing legal education, just as lawyers have to obtain a certain number of continuing legal education credits. If the administrative costs for licensure falls on the Legal Technicians, it will create but an additional factor in a paralegal's decision about whether to move forward into a

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<sup>8</sup> Lori W. Nelson, *Lllt-Limited License Legal Technician: What It Is, What It Isn't, and the Grey Area in Between*, 50 Fam. L.Q. 447, 455 (2016).

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

<sup>11</sup> *Id.*

new profession.”<sup>12</sup> Nevertheless, there is still hope that solutions will be drafted to mediate some of these potential concerns that naturally accompany any newly modeled program.

Not only does the addition of a Limited Licensed Program have an effect on the Bar Association, it also creates a new dynamic and culture for its members. The legal profession’s efficiency hinges on the system of rules that govern the practice. Therefore, in developing a new class of paraprofessionals, there is an implication that additional rules and guidelines would need to be established. Thus, a committee would need to draft specific Rules of Professional Responsibility for Limited License Legal Technicians that would then be approved by the Pennsylvania Supreme Court.

The emergence of a Limited License Program would undoubtedly create changes within the traditional bar. In light of this, some attorneys fear that such a model would only serve to create second-class legal advice for low-income individuals. Other lawyers have expressed concern that Legal Technicians may take business away from small firms and solo practitioners. For years, lawyers have held a monopoly over the authority that grants the public access to the legal system. Yet, the public need for affordable legal and law related services has remained unmet.

Thus, it is imperative for young lawyers, especially, to use their energy and zeal to embrace creative ways to bridge the gap between lawyers and Limited License Legal Technicians. This will likely require lawyers to invest time to act as supervisors to the Legal Technicians working alongside them to better represent clients. It may include allowing Legal Technicians to shadow practicing civil attorneys, under an apprenticeship model in order to provide opportunities for growth and new development. Further, it would also put

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<sup>12</sup> *Id.*

entrepreneurial lawyers in a position to hire one or two Limited Licensed Legal Technicians, in which case the Legal Technicians could bring clients that fit within the scope of their position, while also creating an additional client base for the lawyers when cases exceed the scope for the Legal Technicians. Further, it will require lawyers to continue their legal advocacy in “pursuing litigation and legislative strategies that might force a change in prevailing practices” requiring lawyers or Limited Licensed Legal Technicians to be appointed to assist in civil cases of low-income individuals when basic human needs are at stake.<sup>13</sup>

“It is fundamental that justice should be the same, in substance and availability, without regard to economic status.”<sup>14</sup> Thus, the willingness to work cohesively to find creative solutions to the issues of legal access is more than a need, it is a duty. The Philadelphia Bar’s proposal to implement a Limited License Program is a start towards meeting that obligation, but it is only the first step. As a soon to be young minority lawyer in Philadelphia myself, I too, plan to advocate for equal justice. It is my hope that our legal community will continue to do the same.

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<sup>13</sup> *Id.*

<sup>14</sup> *Towards Equal Justice For All: Report of the Civil Legal Justice Coalition to the Pennsylvania State Senate Judiciary Committee*, <http://www.philadelphiabar.org/WebObjects/PBA.woa/Contents/WebServerResources/CMSResources/ReportoftheCivilLegalJusticeCoalition.pdf>