

**ARIZONA SUPREME COURT
CERTIFICATION AND LICENSING DIVISION
WORKING DRAFT AMENDMENT TO ARIZONA CODE OF
JUDICIAL ADMINISTRATION § 7-208(F)(1)(a)**

**IN RE: PROPOSED CHANGES TO)
 SECTION 7-208: LEGAL)
 DOCUMENT PREPARER)**

**Comment Regarding Proposed Changes to Arizona Code
Of Judicial Administration Section 7-208(F)(1)(a)**

The Arizona Association of Independent Paralegals, by and through undersigned counsel hereby respectfully submits its Comment regarding the proposed changes to Section 7-208(F)(1)(a) of the Arizona Code of Judicial Administration (“ACJA”) as set forth in the proposed draft posted on the Arizona Code of Judicial Administration online forum on or about July 7, 2025 and proposed by the Board of Nonlawyer Legal Service Providers (the “Board”, as defined by ACJA § 7-208(A)) as a result of “two workgroups comprised of attorneys and legal paraprofessionals formed in October 2024” tasked with “developing requirements for training and education” for legal paraprofessionals licensed in family law.

Notably, other than the post on the Court's message board requesting public comment, no other public notice was provided in advance to CLDPs of the impending amendment. The only “notice” that Supreme Court Staff points to is the May 19, 2025 meeting agenda for the Board of Nonlawyer Legal Service Providers. In that agenda, under “administrative items”, it states that the board will conduct a “review, discussion, and possible action regarding updates to ACJA §§ 7-208 and 7-210.”

7-A: *Review, discussion, and possible action regarding updates to ACJA §§ 7-208 and 7-210.*

7-B: *Update on Legal Paraprofessional Program.*

7-C: *Division Update*

The suggestion that this provided adequate notice of potential restrictions on CLDP licensees is dubious at best.

Additionally, it is apparent that CLDP licensees were excluded from the process, as the workgroups who submitted the pending amendment were comprised exclusively of attorneys and legal paraprofessionals. As a result, LDPs are just now being made aware of the proposed changes, and many have not or will not be afforded a reasonable opportunity to review and comment.

For the reasons outlined herein, the Arizona Association of Independent Paralegals respectfully requests that the Proposed Amendment to ACJA § 7-208(F)(1)(a) be rejected.

I. THE CURRENT RULE AND PROPOSED AMENDMENTS

This Comment focuses on the proposed amendment to ACJA § 7-208(F)(1)(a) (the “Proposed Amendment”).

A. ACJA § 7-208(F)(1)(a)

The proposed change seeks to add a specific limitation in the scope of services available to the public from Certified Legal Document Preparers (“CLDPs”) by modifying ACJA § 7-208(F)(1)(a) as follows:

1. Authorized Services. A certified legal document preparer is authorized to:
 - a. ~~Prepare~~ prepare or provide legal documents, ~~without the supervision of an attorney,~~ for a person or entity in any legal matter when that person or entity is not represented by an attorney, except that they may not provide services in the preparation of a Qualified Domestic Relations Order (QDRO) or supplemental orders dividing retirement assets;

B. *Note: Prior Proposed Amendments to ACJA § 7-208.*

Notably, the current proposal is not the first time the Board has attempted to amend Section 7-208 to substantially limit a CLDP’s role in the legal system. Previous proposals in September 2017, July 2021, and January 2022 failed to meet constitutional muster, would have resulted in contraction of Arizona citizens’ right to access the judicial system and would harm the public by leaving those who cannot afford an attorney to “go it alone” in most civil cases. Although this proposed amendment is more defined in its scope, like previous proposals, this most recent incarnation of Section 7-208 will not have a positive impact and will harm Arizonans. The Proposed Amendment should be rejected.

II. OBJECTION TO THE PROPOSED AMENDMENT

This Comment makes three primary objections to the Proposed Amendment: 1) the amendment does not promote and in fact restricts access to justice; 2) proponents of the

Proposed Amendment have not shown justification for same; 3) the proposed prohibited conduct is actually contemplated by ACJA § 7-208 and has been practiced by CLDPs for decades without demonstrable harm; and 4) the Board failed to include CLDPs in the process of making the Proposed Amendment. For these reasons, the Proposed Amendment to ACJA § 7-208(F)(1)(a) must be rejected.

A. The Proposed Amendment Does Not Promote Access to Justice.

ACJA § 7-208(C) states, in part, “[the] court recognizes . . . that the need to protect the public from possible harm caused by nonlawyers providing legal services must be balanced against the public’s need for access to legal services.” This summarizes the reason for CLDPs. Specifically, the public (the “Consumer”) needs access to affordable legal services, but also needs protection from the potential harm caused by nonlawyers providing legal services. As such, any amendment to ACJA § 7-208 must first pass the following test: **Does the proposed amendment maintain the balance between the Consumer’s access to affordable legal services and protection of the public?** The Proposed Amendment fails this test.

For the vast majority of Consumers, lawyers are prohibitively expensive, forcing litigants to represent themselves *in propria persona* (“pro per”), i.e., without an attorney. As stated in Arizona’s Task Force on the Delivery of Legal Services Report (2019), “[in] 2017, the Legal Services Corporation released a report, finding that 86% of civil legal matters reported by low-income Americans in the prior year received no or inadequate

legal help.”¹ “And according to a report issued by the National Center for State Courts, 76% of 900,000 civil cases examined from July 1, 2012 through June 30, 2013 involved at least one self-represented party.”² A Florida Association of Legal Document Preparers (“FALDP”) survey of pro per litigants found that eighty percent (80%) of respondents were doing so because they could not afford an attorney.³

In its 2019 Annual Report, Maricopa County acknowledged the issue of accessibility and, in response, adopted access to justice as its #1 Strategic Focus Area, recognizing that it is “vital” to make the public’s interaction with the Justice System “as *accessible* and simple as possible.”⁴ (emphasis added). It follows that Arizona should be seeking to expand access to civil justice. The Proposed Amendment hinders progress made in providing affordable access to our legal system and creates an increased “justice gap.” Prohibiting CLDPs from preparing “a Qualified Domestic Relations Order (QDRO) or supplemental orders dividing retirement assets” makes the legal system less accessible to Consumers without sufficient justification.

B. There is No Justification or Evidence for the Proposed Amendment.

In the second half of ACJA § 7-208(C), the Arizona Supreme Court affirms it has an interest in protecting Consumers from non-lawyers engaging in the practice of law. As

¹ Supreme Court, State of Arizona, *Task Force on the Delivery of Legal Services Report and Recommendations* at 6 (Oct. 4, 2019)

² *Id.* at 7.

³ Pro Se Survey re: Legal Access, The Florida Association of Legal Document Preparers, <<https://www.faldp.org/Pro-Se-Survey.html>>

⁴ See Maricopa County Judiciary. Maricopa County Superior Court Annual Report, 2019. (Strategic Focus Area #1: “Access to Justice & Delivery of Services. The Judicial Branch of Arizona for Maricopa County is the leading edge for residents’ interactions with their Justice System, which means it’s vital to make that interaction as accessible and simple as possible.”).

explained above, this interest is in tension with the overarching policy of providing the Consumer with access to civil justice. However, in the case of the Proposed Amendment, there is no justification, nor evidence that there is harm prevented. In fact, the available evidence shows the contrary.

In 2001, the Arizona State Bar attempted to pass over-broad and sweeping changes to the Arizona Unauthorized Practice of Law Statute in an effort to severely restrict and effectively put CLDPs out of business. In support of their proposed changes, the State Bar alleged that it had received 400 complaints alleging consumer harm via non-lawyers. At the time, the Institute for Justice Arizona Chapter analyzed the State Bar's claims and made incredible findings. Specifically, of the 378 complaints (not 400 as alleged), "only 11 complaints were filed by a consumer against an independent paralegal/document preparer." Less than three percent (3%) of the complaints received by the Bar alleging consumer harm at the hands of non-lawyers were actually against document preparers.

Further, CLDPs are certified to provide services to Consumers pursuant to rules and regulations. An important feature of requiring a license or certification is that these credentials may be revoked if a CLDP causes harm to a Consumer. The Board has failed to show that the risk of harm in preparing these specific documents is widespread among CLDPs (or that it exists at all), and the Board already has a method to sanction individual CLDPs that do cause harm to Consumers.

In this case, the public information supporting the Proposed Amendment states that "the workgroups [of attorneys and legal paraprofessionals] identified that **no permission** to write or develop QDROs existed for Legal Document Preparers. It is their expert

opinion that effectively developing a QDRO requires providing legal advice . . ." This statement is concerning for two reasons. First, ACJA § 7-208 is not designed to create an exclusive or permissive list of all documents CLDPs may prepare on behalf of a Consumer, ACJA § 7-208 creates a regulatory framework that allows CLDPs to create any legal document, so long as it does not violate the limitations set by the code section. It is a feature of ACJA § 7-208, not a bug.

Second, the conclusory statement that a QDRO or related document “requires providing legal advice” is completely unsupported. The reality is that QDROs by their nature are almost exclusively fill-in-the-blank style forms similar to many documents regularly prepared by CLDPs.

If the Supreme Court of Arizona wants to create additional barriers to Consumers’ access to civil justice (which the Proposed Amendment unquestionably does), ACJA § 7-208(C) requires that it only do so to the extent necessary to balance the **harm** inflicted on Consumers. If the harm cannot be demonstrated, the proposed restrictions must fail. Here, no such harm exists.

C. The Proposed Prohibited Conduct is Contemplated by the Rules and has Been Practiced by CLDPs for Decades Without Demonstrable Harm.

Under the current rules, CLDPs are authorized to: “(1) *Prepare or provide legal documents*, without the supervision of an attorney, for an entity or member of the public *in any legal matter* when that entity or person is not represented by an attorney” (emphasis added).⁵ The Proposed Amendment seeks to restrict a CLDPs ability to assist Consumers

⁵ ACJA § 7-208(F)(1)(a)

prepare legal documents in any legal matter by specifically excluding a category of documents that include QDROs and other documents that “divide retirement assets”. As previously explained, there does not appear to be any demonstrable harm that has been caused by CLDPs preparing these documents. The current rule has implicitly been blessed by the Arizona Supreme Court and State Bar of Arizona.

The Arizona Supreme Court recognizes and allows for CLDPs to perform legal services in conformance with the ACJA: “Legal Document Preparers and Legal Paraprofessionals. Certified legal document preparers and legal paraprofessionals may perform services in compliance with the Arizona Code of Judicial Administration...” *Rule 31.3(e)(4)*. The Proposed Amendment seeks to prohibit services performed by CLDPs, despite the Arizona Supreme Court already allowing these services and there being no known harm.

The State Bar of Arizona has weighed in via a series of Advisory Opinions concerning the limits of CLDPs in preparing documents for Consumers. Specifically, UPL ADVISORY OPINION 04-02 found that CLDPs may draft late payment notices, demand letters seeking payment of rent or association fees, and eviction notices relating to property being managed. They may also record liens relating to the property being managed. Similarly, UPL ADVISORY OPINION 04-01 found that CLDPs may prepare, serve, and record mechanic’s lien notices for contractors.

The documents contemplated by UPL 04-01 and 04-02 require, among other things, citation to statutes, and in some instances, case law. Under the Proposed Amendment, CLDP-prepared QDROs and related documents previously sanctioned by the State Bar of

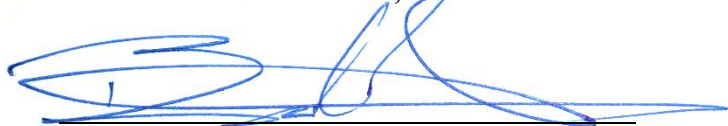
Arizona would suddenly become dangerous territory, causing a chilling effect. This is contrary to prevailing public policy.

The Proposed Amendment also seeks to arbitrarily and without justification limit the types of documents CLDPs can prepare. This would-be change in policy unjustifiably reduces Arizonans access to civil justice. Prohibiting CLDPs from preparing QDROs and related documents creates a dangerous precedent for future amendments that may further restrict CLDPs available services and ultimately redefine the role of CLDPs in Arizona's legal system, despite no apparent harm to Consumers.

III. CONCLUSION

In sum, the Proposed Amendment is concerning for a variety of reasons. Not only is the amendment contrary to the express purpose of ACJA § 7-208, but it sets the stage for future amendments that create a growing list of documents slowly erode the purpose of the CLDP certification in the first place. Unfortunately, the Proposed Amendment illustrates a misunderstanding of a CLDP's role in Arizona's legal system. Should the Proposed Amendment be adopted, the Arizona Association of Independent Paralegals reserves its rights to seek all available remedies to protect the ability of CLDPs to offer their services to the residents of Arizona. For these reasons, we ask that the Proposed Amendment be rejected.

FOWLER ST. CLAIR, PLLC



Brian Locker, Esq.
(480) 788-9911
locker@fowlerstclair.com