

Blueprint for a Legal Regulatory Sandbox in Washington State

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Table of Abbreviations

Abbreviation	Meaning
ATJ	Access to justice
ATJB	Access to Justice Board
POLB	Practice of Law Board
RPC	Rules of Professional Conduct
RCW	Revised Code of Washington
UAPL	Unauthorized practice of law (RPC 5.5(C))
UPL	Unlawful practice of law (RCW 2.48.180)
WSBA	Washington State Bar Association

1.0 Executive Summary

This proposal outlines a blueprint to create a legal regulatory sandbox in Washington State. Such a legal regulatory sandbox may help address the access to justice (ATJ) gap while protecting consumers from harm and helping to determine the appropriate regulation required to authorize non-traditional legal service providers to provide non-traditional legal services in Washington State. It will also allow for the collection of data about a non-traditional legal service so data-driven decisions about regulatory reform can be made. The Washington Supreme Court's Practice of Law Board (POLB) is proposing that Washington Supreme Court's Legal Regulatory Sandbox follow Utah Supreme Court's Legal Regulatory Sandbox model.

Therefore, the legal regulatory sandbox proposed by this blueprint would be created by a Washington Supreme Court order defining the regulation and monitoring of a non-traditional legal service providers in the legal regulatory sandbox for a defined period. As any non-traditional legal service providers will be operating in the legal regulatory sandbox under an explicit Supreme Court order, the non-traditional legal service providers would be authorized, and therefore, not be liable for Unlawful Practice of Law (UPL). Similarly, a legal professional¹ working for the entity providing the non-traditional legal service would also be authorized by the Supreme Court to provide legal advice in the legal regulatory sandbox, and therefore, would not be disciplined for violation of those Rules of Professional Conduct (RPC) authorized for testing in the legal regulatory sandbox by the Supreme Court order. In all other respects, the entity and its employees would still be required to follow all statutes, regulations, and court rules.

A non-traditional legal service provider operating in the legal regulatory sandbox could provide an online legal service (OLS), offer legal services through an alternative business structure (ABS), or both.

An OLS typically offers legal services from the internet. Such services may assist a consumer in filling out forms that the consumer may file with the court or may analyze the consumer's problem (perform the client intake), and then refer the consumer to a legal professional for a referral fee. Most OLS are moving beyond mere scrivener services to using machine learning or artificial intelligence to assist the consumer in making choices that affect the consumer's legal rights or responsibilities.

An ABS typically changes the traditional form of a legal firm. For example, an ABS may allow a virtual law firm where several lawyers, each with their own firm, work collaboratively to provide a range of legal services to consumers. Another ABS might allow equity ownership in a legal firm by a professional not licensed to practice law.

¹ This blueprint uses the term 'legal professional,' rather than lawyer, to acknowledge that Washington Courts already authorize lawyers, limited practice officers (LPOs), and limited legal license technicians (LLLTs) to practice law.

This legal regulatory sandbox blueprint is a work in progress. Just as a blueprint shows a property owner what a building might look like before construction begins, this blueprint attempts to paint a picture of the legal regulatory sandbox for the Supreme Court and other stakeholders.

With a building, an engineer must take the blueprint and determine if the plan is feasible. For example, the engineer will determine if the materials can sustain the loads. Similarly, this blueprint needs additional ‘engineering’ work. A brief list of the next steps is outlined in Section 5.0 of this blueprint but putting the blueprint into final form—building the legal regulatory sandbox—will require input from many parties. And even when built and operational, ongoing maintenance of the legal regulatory sandbox, which may modify its structure, will be required.

Although this blueprint for a legal regulatory sandbox borrows heavily from the work being done in Utah it was drafted with consideration and inputs from other jurisdictions and experts. The POLB wants to acknowledge the contributions of the Access to Justice Board (ATJB) Technology Committee, John Lund and Lucy Ricca from the Utah Office of Legal Innovation, Crispin Passmore, who is active in legal regulatory reform in the UK, and Andrew Perlman, Dean of the Suffolk School of Law.

2.0 Regulatory Sandboxes

Regulatory sandboxes are not new, nor are they unique to legal services.

In software development, a sandbox is “an isolated testing environment that enables users to run programs or execute files without affecting the application, system, or platform on which they run.”² “In financial markets, regulatory authorities have set up several initiatives, including regulatory sandboxes and innovation hubs, to engage and support financial technology (FinTech) startups.”³

Similarly, a legal regulatory sandbox allows for a non-traditional legal service provider to offer a non-traditional legal service while collecting data about the effect of the service on the ATJ gap and evaluate whether there is any potential consumer harm. It is a safe environment to test a new non-traditional legal service.

For example, the Utah Supreme Court has created an Office of Legal Innovation, which is running a legal regulatory sandbox where “any entity that wants to offer non-traditional legal services must seek approval.”⁴

² Linda Rosencrance, “Sandbox (Software Testing and Security), TechTarget.com, available at <https://searchsecurity.techtarget.com/definition/sandbox>.

³ Ahmad Alaassar, Anne-Laure Mention, Tor Helge Aas, “Exploring A New Incubation Model for FinTechs: Regulatory Sandboxes,” Technovation, May 2021, available at <https://www.sciencedirect.com/science/article/pii/S0166497221000183#bib15>.

⁴ Rebecca Love Kourlis and Neil M. Gorsuch, “Legal Advice is Often Unaffordable. Here’s How More People Can Get Help: Kourlis and Gorsuch, USA Today, Sept. 17, 2020, available at <https://www.usatoday.com/story/opinion/2020/09/17/lawyers-expensive-competition-innovation-increase-access-gorsuch-column/5817467002/>.

The regulatory sandbox can also be thought of as a laboratory. Experiments that test a hypothesis for modifying regulations for entities practicing law can be run to see if such proposed changes reduce the ATJ gap, while creating minimal risk to consumers.

3.0 A Legal Regulatory Sandbox for Washington State

A legal regulatory sandbox would allow legal professionals and entrepreneurs to offer a non-traditional legal service to consumers in Washington State. Such a legal regulatory sandbox has both goals and safeguards designed to ensure consumers get competent legal services.

3.1 Goals of the Legal Regulatory Sandbox

The goals of the legal regulatory sandbox are:

3.1.1 Create Regulatory Relationships

Create regulatory relationships between a non-traditional legal service provider and courts and regulatory agencies to provide the appropriate oversight of legal services and ensure the public is not harmed by a non-traditional legal service.

In using the legal regulatory sandbox to think about regulatory reform, some RPCs are not appropriate for experimentation or change. For example, RPC 1.1 Competence, 1.3 Diligence, and 1.4 Communications are so important to the practice of law they are required for both traditional and non-traditional legal services.

Other RPCs may need to be modified to allow for a legal regulatory sandbox. For example, 5.4 Professional Independence may require limited modification to allow legal professionals to work with non-legal professionals in the provision of a non-traditional legal service in the legal regulatory sandbox.

The RPCs most open to testing in the legal regulatory sandbox include, 1.5 Fees, 1.7 Conflicts, 5.4(b) and (d) Professional Independence, and 5.5 Unauthorized Practice of Law.

3.1.2 Encourage Innovation

Encourage legal professionals and entrepreneurs to experiment with innovative business models and non-traditional legal services to reduce the ATJ gap.

3.1.3 Enable In-Depth Data Collection

Enable in-depth data collection about any reduction of the ATJ gap and the benefits and harms to consumers through the provision of a non-traditional legal service, which will allow the Supreme Court to make data-driven decisions about the future of regulating legal services in Washington.

3.1.4 Timely Regulatory Reform

Enable timely regulatory reform. The legal regulatory sandbox may cut down the time to enable regulatory reform by several years. For example, recent changes to advertising RPCs took over 60 months from the start of rewriting to the final approval by the Supreme Court. Testing rule changes in a legal regulatory sandbox might be completed in 24-30 months because regulation testing is focused on specific regulations with supporting data be collected and analyzed for the change.

The possibility exists that some changes may become obvious based on less than 24-months' worth of data, but generally, participants would operate in the legal regulatory sandbox for two years.⁵

3.2 Safeguards of the Legal Regulatory Sandbox

Safeguards of a legal regulatory sandbox are:

3.2.1 No Skirting of Regulations

There is no intent to allow people or entities to operate in an unregulated environment. Rather, the intent is to determine the appropriate regulations to balance reducing the ATJ gap while protecting consumers of legal services from harm. The data collected during operation in the legal regulatory sandbox may generate regulatory changes for both licensed legal professionals and non-traditional legal service providers.

3.2.2 No UPL or Unauthorized Practice of Law

There is no intent to remove the restriction against UPL or unauthorized practice of law (UAPL). The intent provides pathways for legal professionals and entrepreneurs to provide non-traditional legal service under the authorization and active supervision of the Washington Supreme Court or its delegate.

3.3 The Overall Legal Regulatory Sandbox Model

An entity wanting to offer a non-traditional legal service in the Washington State Legal Regulatory Sandbox will apply by detailing:

- The entity's structure and key personnel;
- The services the entity wants to provide in Washington State;
- How the non-traditional legal service reduces the ATJ gap;
- The risk of harm to consumers;

⁵ Utah has already modified its legal regulatory sandbox based on early data. For example, as of the Utah Supreme Court's December 10, 2020, statement on referral fees, the Innovation Office will not consider applications setting forth bare referral fee arrangements between lawyers and nonlawyers. Bare referral fees are compensation paid to nonlawyers for the sole purpose of ensuring the referral of legal work. The Innovation Office will continue to consider applications in which fee sharing is one component in a more comprehensive innovative proposal. See: <https://utahinnovationoffice.org/about/what-we-do/>.

- How such harm will be mitigated;
- How these factors will be measured and reported while operating in the Legal Regulatory Sandbox.

If the application appears to meet the goals of the legal regulatory sandbox, then a Supreme Court order will be prepared to allow the operation of the non-traditional legal service in the legal regulatory sandbox. After approval of the Supreme Court, the entity may provide the defined and approved services and only the defined and approved services under the order.

While operating in the legal regulatory sandbox, the entity will provide quarterly reports measuring performance against goals. Based on these reports, the entity may continue to operate in the legal regulatory sandbox, or it may be necessary to request a modification to the Supreme Court order based on new knowledge gained from operating in the legal regulatory sandbox. Sometimes, it may also be necessary to terminate operation of the non-traditional legal service because the non-traditional legal service does not reduce the ATJ gap or is causing consumer harm.

Consumer harm could include factors such as loss of money, poor or incomplete legal service, untimely legal service, failing to exercise a legal right, or failure to meet a legal obligation.

If at the end of the legal regulatory sandbox term the entity is continuing to operate in compliance with the Supreme Court order and to meet ATJ goals without causing consumer harm, then a final Supreme Court order that defines the non-traditional legal service's ongoing operation in Washington State will be drafted and approved by the Supreme Court. Then the non-traditional legal service providers may continue to operate within the boundaries of that Supreme Court order. Such a Supreme Court order could also include specifics on any disciplinary action that would apply if the service deviates from the order, and any fee or other responsibilities that apply to the non-traditional legal service provider as it continues to operate.

This overall model for a legal regulatory sandbox is shown in Figure 1.

BLUEPRINT FOR A LEGAL REGULATORY SANDBOX IN WASHINGTON STATE

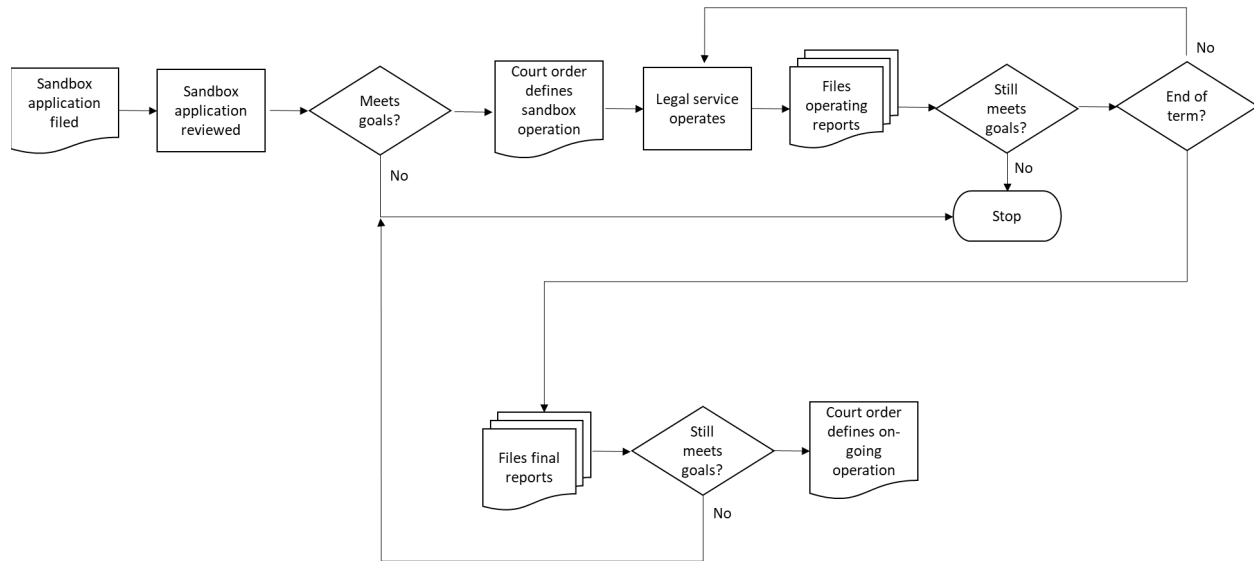


Figure 1. Overall Legal Regulatory Sandbox Model

While operating in the legal regulatory sandbox, entities are still subject to all statutes, regulations, court rules, and court orders. For example, operating in the legal regulatory sandbox does not protect the entity from prosecution for violations of the Consumer Protection Act. A legal professional working for the non-traditional legal service providers is not automatically protected from discipline for violation of an RPC. The only protections or safe harbor provided by the legal regulatory sandbox is for statutes and court rules relating to UPL and to specific RPCs as defined in the Supreme Court order. Similarly, entities approved for operation after successfully completing a term in the legal regulatory sandbox remain subject all other applicable statutes, regulations, and court rules and to the Supreme Court order, including business, licensing, and financial regulations.

To prevent consumer harm, the legal regulatory sandbox model must be transparent. It must be obvious to consumers which non-traditional legal service providers may operate in the legal regulatory sandbox, and which are authorized after operating successfully in the legal regulatory sandbox to continue to operate.

3.4 Management and Operation of a Legal Regulatory Sandbox

An entity—for the purpose of this blueprint, a Legal Regulatory Sandbox Board—will be required to manage and operate a legal regulatory sandbox for the Supreme Court. Several entities could provide such management and operational oversight, including the Washington State Bar Association (WSBA), the POLB, or a new Legal Regulatory Sandbox Board. Membership of such a Legal Regulatory Sandbox Board will need legal, corporate structure and management, and technical expertise.

The responsibilities of the Legal Regulatory Sandbox Board would be to:

- Evaluate and recommend to the Court applicants for participation in the Legal Regulatory Sandbox;

- Monitor performance of the non-traditional legal service providers providing the non-traditional legal service;
- Monitor performance of the non-traditional legal service itself;
- Take corrective action including suspension of operations in the Legal Regulatory Sandbox in cases of consumer harm.

3.4.1 WSBA as the Legal Regulatory Sandbox Managing Entity

The advantage of WSBA operating as the Legal Regulatory Sandbox Board is that such work could be viewed as within the duties already delegated to the bar by the Supreme Court to administer legal professionals admitted to practice law in Washington State. In addition, WSBA has many of the personnel capable of and needed to operate such a Legal Regulatory Sandbox Board.

The disadvantage of WSBA operating the Legal Regulatory Sandbox Board is that WSBA could have an inherent conflict of interest between existing licensed legal professional members and the entities wanting to provide the new non-traditional legal service. Such a conflict could complicate WSBA operations per recent litigation such as *North Carolina State Board of Dental Examiners v. Federal Trade Commission*⁶, and *Janus v. American Federation of State, County, and Municipal Employees*⁷.

Putting WSBA in this role could also have a chilling effect on entities' willingness to apply for the legal regulatory sandbox for similar conflict reasons.

However, even if WSBA does not manage the legal regulatory sandbox or act as the Legal Regulatory Sandbox Board, WSBA could under delegation and supervision by the Supreme Court, ensure compliance of entities that exit the legal regulatory sandbox and receive a court order allowing continued operation, like its role in administering license renewal of legal professionals today.

3.4.2 An Existing Supreme Court Board as the Legal Regulatory Sandbox Managing Entity

The advantage of an existing Washington Supreme Court Board such as the POLB or the Access to Justice Board (ATJB) operating as the Legal Regulatory Sandbox Board is that the Supreme Court would not have to create a new entity.

The disadvantage of an existing Washington Supreme Court Board operating as the Legal Regulatory Sandbox Board are these boards are staffed with volunteers who are well equipped to study problems and advise on solutions, but rarely have time for extensive document review. As volunteers they have typically agreed to a specific meeting cycle.

⁶ State Bd. of Dental Examiners v. FTC, 135 S. Ct. 1101 (2015), available at https://scholar.google.com/scholar_case?case=15100091775350559869.

⁷ Janus v. American Federation of State, 138 S. Ct. 2448 (2018), available at https://scholar.google.com/scholar_case?case=10508098745881210548.

The volume of work associated with the position would be greatly increased by taking on the management of a legal regulatory sandbox.

Further, the same conflicts that exist for WSBA may persist if such boards manage the legal regulatory sandbox, as the boards are administered by WSBA; and there is a strong connection between the boards and WSBA.

Finally, with the POLB there could be a conflict if a non-traditional legal service provider strayed from operation defined in its Supreme Court order and because of not following the order committed UPL, for example, by offering services while in the legal regulatory sandbox not authorized by the Supreme Court order. The POLB plays a role in UPL by referring UPL complaints to the Attorney General's Office or county prosecutors.

3.4.3 Create a New Independent Legal Regulatory Sandbox Board

A newly created and independent Legal Regulatory Sandbox Board may be the best alternative. The Legal Regulatory Sandbox Board would have a small nucleus, perhaps made up of a designee from WSBA, the POLB, and the ATJB. There could also be a significant number of public members with an independent Chair. Affirmative actions will be taken to nominate public members with experience:

- Working in underrepresented communities;
- Providing legal aid and pro bono services;
- Working in the technology community.

This core Legal Regulatory Sandbox Board membership could then pull in expertise as needed based on the applicant and the non-traditional legal service, from a variety of sources, including the Washington Supreme Court, WSBA, the WSBA sections (for specific legal subject matter expertise), the law schools in Washington State, and members of the bar and the tech community.

The advantage of such a Legal Regulatory Sandbox Board is that it can be small, flexible, and responsive, and it would be relatively free from conflict.

The disadvantage of such a Legal Regulatory Sandbox Board is that its functioning would have to be funded by either application fees or grants.

The new Legal Regulatory Sandbox Board would work with WSBA and the other Supreme Court Boards while taking an arm's-length approach from the day-to-day operations or administration of WSBA. For example, when the new Board uses the services from WSBA, then the new Legal Regulatory Sandbox Board would be charged the going rate for such services, to ensure WSBA member's fees are not paying for entities to operate in the Legal Regulatory Sandbox.

3.5 A Model for Assessing Legal Regulatory Sandbox Admission and Participation

A model that attempts to measure the reduction in the ATJ gap while also measuring the risk of consumer harm will help evaluate applicants for participation in the legal regulatory sandbox.

This model sets criteria such as reducing the ATJ gap against the risk of harm to consumers. When such harm might occur, this model will assist the Legal Regulatory Sandbox Board in evaluating admission to, operation in, and graduation from the legal regulatory sandbox (see Figure 2).

Legal Regulatory Sandbox Risk Analysis Model

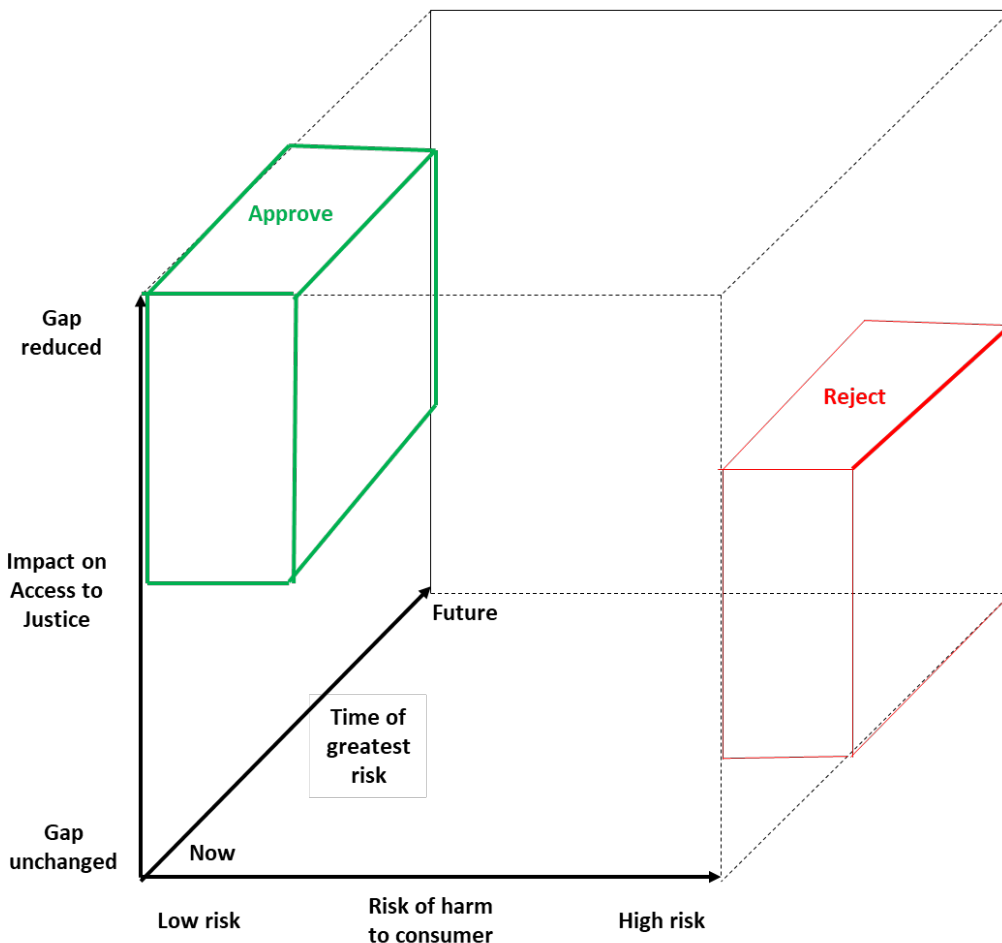


Figure 2. Legal Regulatory Sandbox Risk Analysis Model

3.5.1 Risk of Harm to Consumer

The ‘x,’ or horizontal, axis of this model (labeled ‘Risk of harm to the consumer’) shows that applicants for participation in the legal regulatory sandbox will be evaluated based on the estimated risk of consumer harm created by allowing consumers to use the non-traditional legal service.

3.5.2 Reducing the ATJ Gap

The ‘y,’ or vertical, axis of this model (labeled ‘Impact on ATJ’) shows that applicants for participation in the legal regulatory sandbox will be evaluated based on how much their proposed non-traditional legal service reduces the ATJ gap.

3.5.3 Other Criteria

The 'z,' or diagonal, axis in this model (labeled 'Time of greatest risk') shows that applicants for participation can also be measured against other criteria, for example whether potential harm to consumers is likely to be noticed or occur in the present (now) or the future (later).

However, this z axis is flexible. It could just as well be used to manage other criteria such as effect on equity (changing versus reinforcing the status quo) created by the non-traditional legal service being evaluated.

3.5.4 Model Usage Examples

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service that appears to reduce the ATJ gap, that is determined to have a low risk of harm, and where harm to consumers—if any—occurs in the present would likely be approved. For example, an OLS designed to assist a person get a temporary protection order might fall in the green area and be easily approved for participation in the legal regulatory sandbox.

Applicants proposing to use the legal regulatory sandbox to test a non-traditional legal service with a lesser impact on the ATJ gap and a higher risk of harm (especially where harm might not be recognized immediately) will need deeper consideration and may be denied admission to the legal regulatory sandbox. Such applicants may have to submit additional information and be subject to additional data collection requirements while in the legal regulatory sandbox and potentially after successfully leaving the legal regulatory sandbox. For example, an online trust generation application that reduces the ATJ gap but might not show evidence of harm for a several years might not be appropriate for admission to the legal regulatory sandbox.

Between the green and red box in the model may fall proposed non-traditional legal service which may be granted admission to the legal regulatory sandbox if suitable data can be collected and analyzed to determine reduction of the ATJ gap, the benefit to consumers, and the risk of harm to consumers to determine whether admission to the legal regulatory sandbox is appropriate.

Once in the legal regulatory sandbox, ongoing evaluation and review will determine where within the model a particular applicant's non-traditional legal service lies, whether the benefits outweigh any risk of harm to consumers, and whether continued operation in the legal regulatory sandbox or a form of licensure should be allowed.

3.6 Admission to the Legal Regulatory Sandbox

A proposed flowchart for the admission process to the legal regulatory sandbox is shown in Figure 3.

Admission to the Legal Regulatory Sandbox

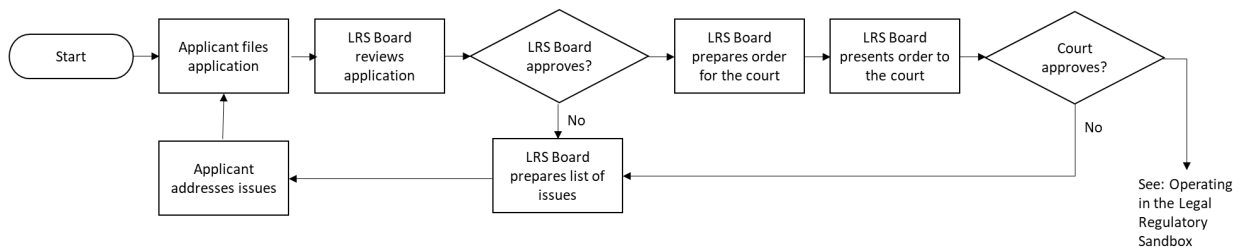


Figure 3. Admission to the Legal Regulatory Sandbox

Admission to the legal regulatory sandbox begins with an applicant applying (see Legal Regulatory Sandbox Application below) with the Legal Regulatory Sandbox Board. (For a sample completed application, see Appendix B.)

The Legal Regulatory Sandbox Board will review the application, using the Legal Regulatory Sandbox Risk Analysis Model and other criteria as warranted.

If the Legal Regulatory Sandbox Board approves the application, it will draft an order for the Supreme Court (see Legal Regulatory Sandbox Approval Order below) that defines the operating rules and operational data to be collected while the applicant is offering non-traditional legal service in the legal regulatory sandbox. (For a sample Supreme Court order, see Appendix C.)

If the Supreme Court approves the order, then the applicant can operate for a maximum of two years in the legal regulatory sandbox and offer the non-traditional legal service in Washington State during the order.

If the Legal Regulatory Sandbox Board has issues with or questions about the application, or the Supreme Court has any concerns about issuing the order, the applicant may address the issues and ask that their application be reviewed again.

3.7 Legal Regulatory Sandbox Application

At a minimum, applicants to the legal regulatory sandbox must provide the following information:

3.7.1 Description of the Proposed Non-traditional Legal Service

A description of the proposed non-traditional legal service, including:

- a) The nature and scope of the non-traditional legal service, including the specific legal issue(s) the non-traditional legal service will address;
- b) The intended market for the non-traditional legal service and whether they are or intend to operate in another jurisdiction’s legal regulatory sandbox;
- c) The entity providing the non-traditional legal service, including state of incorporation, and key management;
- d) When the provision of non-traditional legal service can begin to be offered;
- e) The costs of the non-traditional legal service to consumers.

3.7.2 How the Non-traditional Legal Service Reduces the ATJ Gap

A description of the non-traditional legal service benefits, including:

- a) Which specific consumers the non-traditional legal service targets;
- b) How the non-traditional legal service provides a high-quality legal service;
- c) How the non-traditional legal service is cost-effective;
- d) How the non-traditional legal service is more accessible to consumers than available legal services;
- e) Other aspects of the non-traditional legal service that help close the ATJ gap.

3.7.3 Risk of Harm to Consumers

A description of the risk of harm to consumers that the non-traditional legal service will create, including:

- a) What potential harm could befall a consumer using the non-traditional legal service;
- b) Which consumers are at most risk of harm;
- c) When the risk is likely to occur (present or future);
- d) How any risk of harm can be measured (that is, what data will be collected to show risk and steps to mitigate the risk).

3.7.4 Entity Information

A description of the entity proposing the non-traditional legal service, including:

- a) type of entity;
- b) state of incorporation;
- c) officers;
- d) years of operation;
- e) financial information;
- f) business plan for the non-traditional legal service;
- g) number of legal professionals (if any) involved in the creation and management of the non-traditional legal service (and any disciplinary actions against such legal professionals).

3.7.5 Other Material Information

Any other information that will help the Legal Regulatory Sandbox Board and the Supreme Court evaluate admission to the legal regulatory sandbox, such as a description of RPCs or Court Rules which may need to be modified in the legal regulatory sandbox.

3.8 Legal Regulatory Sandbox Approval Order

When the Legal Regulatory Sandbox Board approves an applicant for operation in the legal regulatory sandbox, the Legal Regulatory Sandbox Board will draft an order for the Supreme Court outlining the non-traditional legal service providers duration and the oversight of the Supreme Court via the Legal Regulatory Sandbox Board while the non-traditional legal service is in the legal regulatory sandbox. Elements of the order include:

3.8.1 Approved Non-traditional Legal Service

A description of the non-traditional legal service, including any legal transactions that the non-traditional legal service can perform.

3.8.2 Unapproved Legal Services

A description of the specific legal work that the non-traditional legal service cannot perform.

3.8.3 Appropriate Regulation

A description of regulations, including any RPCs that will apply to the provision of the non-traditional legal service, and any new or proposed modified RPCs which might be needed.

3.8.4 Data Reporting

A description of the data to be reported to the Legal Regulatory Sandbox Board on a quarterly basis, and mandatory data to be provided at the end of the legal regulatory sandbox duration. The data collected will be analyzed to show whether the ATJ gap was reduced, and whether the entity managed risked to consumers.

Required data will differ by the services being provided, but may include:

- a) Number of consumers served since last report;
- b) Number of completed transactions or services;
- c) Number of incomplete transactions or services (and explanation);
- d) Average cost per transaction or service;
- e) Elapsed time to provide each transaction or service;
- f) Number and type of complaint;
- g) Number of complaints resolved and manner of resolution;
- h) Time to resolve each complaint;
- i) Other data based on the transaction or service.

3.8.5 Mitigation Plan

A description of the mitigation plan if harm to consumers occurs.

3.8.6 Legal Regulatory Sandbox Duration

The duration of time the applicant may operate in the legal regulatory sandbox (typically two years for all applicants).

3.9 Operating in the Legal Regulatory Sandbox

A proposed flowchart for operating in the legal regulatory sandbox is shown in Figure 4.

Operating in the Regulatory Sandbox

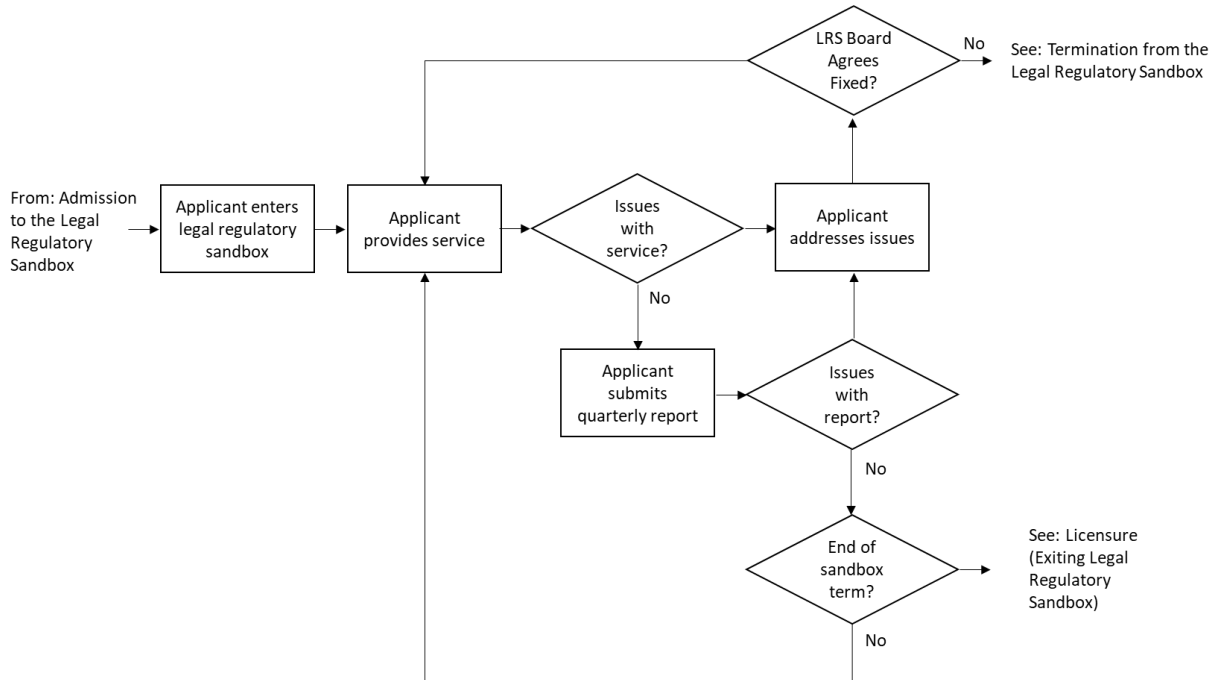


Figure 4. Operating in the Legal Regulatory Sandbox

Operation in the legal regulatory sandbox begins with the applicant getting an order from the Supreme Court defining operation of the non-traditional legal service in the legal regulatory sandbox.

If there are issues reported with the non-traditional legal service, the applicant must address such issues to the satisfaction of the Legal Regulatory Sandbox Board to continue operating in the legal regulatory sandbox.

Even if there are no issues reported with the non-traditional legal service, the applicant must submit quarterly reports to the Legal Regulatory Sandbox Board (see Data Reporting above). If there are issues with the report, the applicant must address the issues to the Legal Regulatory Sandbox Board’s satisfaction to continue to provide the legal service.

However, if the applicant does not address the issues and continues to operate, then the protection of the legal regulatory sandbox ends (see Termination from the Legal Regulatory Sandbox, below).

If the applicant operates in the legal regulatory sandbox and continues without issue to the end of the term, then the applicant leaves the legal regulatory sandbox (see Licensure, below).

Operations in the legal regulatory sandbox continue in this manner until the end of the time in the legal regulatory sandbox as defined in the Supreme Court order. If the Supreme Court does not authorize continued operation of the non-traditional legal service after the end of the time in the legal regulatory sandbox, an orderly shutdown will be needed to ensure no consumers are harmed by withdrawal of the non-traditional legal service.

3.10 Termination from the Legal Regulatory Sandbox

A proposed flowchart for termination from the legal regulatory sandbox for cause is shown in Figure 5.

Exiting Legal Regulatory Sandbox (Termination for Cause)

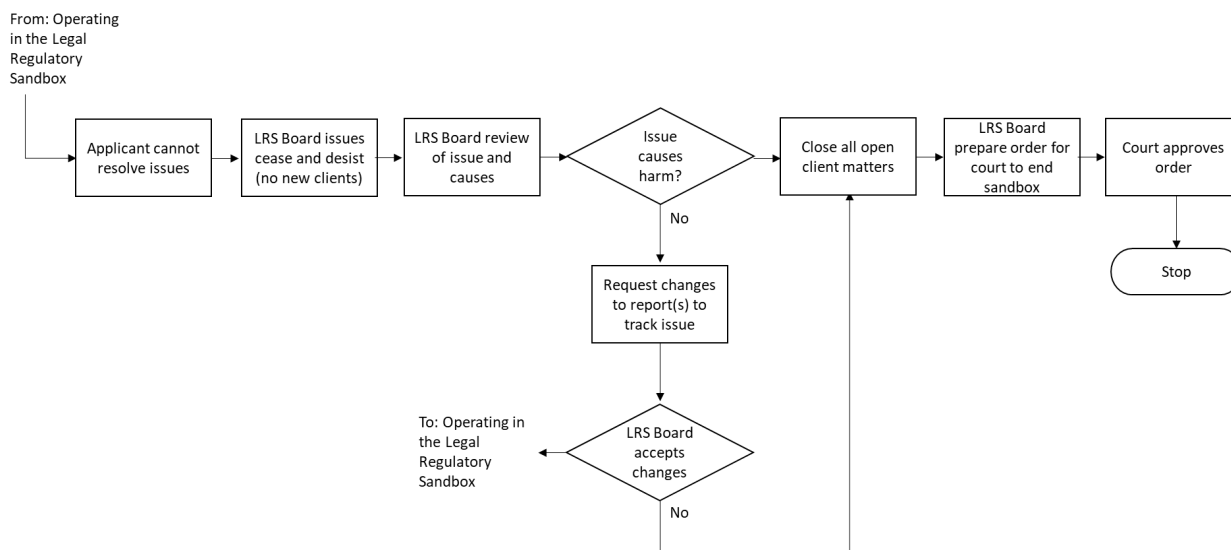


Figure 5. Exiting the Legal Regulatory Sandbox (Termination for Cause)

If an applicant’s operation in the legal regulatory sandbox creates issues, such as consumer harm, then the Legal Regulatory Sandbox Board will inform the applicant to discontinue taking on new clients and conclude existing transactions while the Legal Regulatory Sandbox Board reviews the issues and causes.

If the Legal Regulatory Sandbox Board determines the issue is harming consumers, then the applicant will close all pending matters promptly and place the applicant under the review of the Legal Regulatory Sandbox Board. The Legal Regulatory Sandbox Board will review the reported data, and data about the incidents of harm, and may have a hearing with the applicant to review the situation. If the Legal Regulatory Sandbox Board determines the legal service is causing harm, then Legal Regulatory Sandbox Board will prepare a court order to terminate the applicant’s authorization to operation in the legal regulatory sandbox.

It will be necessary to decide how to handle non-traditional legal service which do not affect the ATJ gap, and do not harm consumers. The Supreme Court may not want to authorize such services—mere lack of harm may not justify allowing continued operation.

If the issue is not harming consumers, then the Legal Regulatory Sandbox Board will work with the applicant to continue to monitor the issue (which may require additional reporting), and the applicant may resume operation in the legal regulatory sandbox.

If after receiving an order from the Supreme Court withdrawing authorization to provide the non-traditional legal service, and the applicant ignores such an order and continues offering such services in the Washington State legal market, then the applicant would be subject to action under the Consumer Protection Act and UPL statutes, and any other laws that apply.

3.11 Licensure (Exiting the Legal Regulatory Sandbox)

A proposed flowchart for successfully exiting from the legal regulatory sandbox is shown in Figure 6.

Licensure (Exiting Legal Regulatory Sandbox)

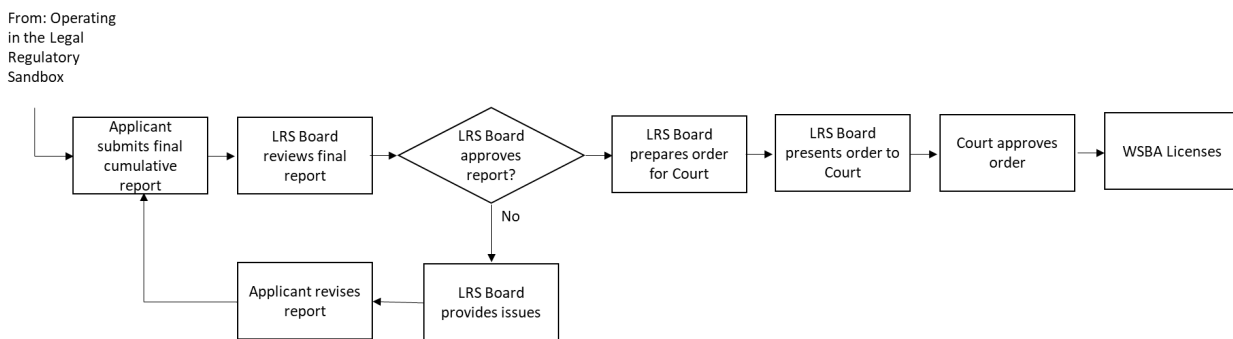


Figure 6. Licensure (Exiting Legal Regulatory Sandbox)

If an applicant completes the duration of the time in the legal regulatory sandbox, and there are no outstanding issues after review of the final report by the Legal Regulatory Sandbox Board, then the Legal Regulatory Sandbox Board will prepare an order for the Supreme Court.

The Supreme Court will have the discretion to approve or not approve the order, particularly if the Supreme Court feels the data does not support the conclusion the non-traditional legal service should be allowed to continue to operate. If the Supreme Court approves the order, then the applicant may provide the non-traditional legal service within the structure defined by that Supreme Court order. The Supreme Court can determine whether the non-traditional legal service addresses ATJ to such a positive degree, that it will allow other non-traditional legal service providers to follow the same order (without going through the legal regulatory sandbox).

This is essentially licensure, and the definition of what this entails, including reporting to the WSBA as an authorized legal service provider, and the licensure fees remains to be determined.

3.12 Duration of the Legal Regulatory Sandbox

There are two ways the legal regulatory sandbox duration could be measured. It could exist for a defined period, such as two years. (Utah started with a two-year fixed term which was recently expanded to seven years.)

Or the legal regulatory sandbox could have a rolling duration. For example, each applicant would be initially authorized by the Supreme Court order to operate in the legal regulatory sandbox under the order for two years. This means that the total duration of the legal regulatory sandbox would be for two years from the date that the last applicant enters the legal regulatory sandbox.

This blueprint proposes the second duration model. This is necessary to ensure that each applicant operates for the same duration and helps to ensure that data for each applicant is collected for a consistent period so analysis of the data will be more accurate. This rolling duration is shown in Figure 7.

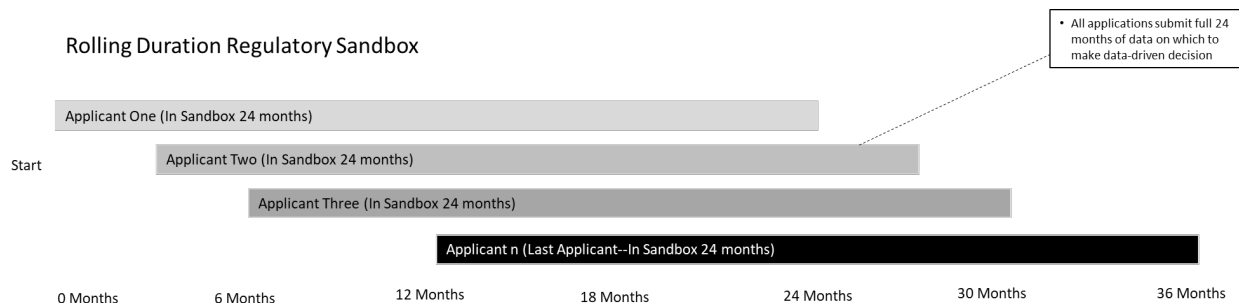


Figure 7. Rolling Duration Legal Regulatory Sandbox

3.13 Funding the Legal Regulatory Sandbox

3.13.1 Estimated Operating Budget per Legal Regulatory Sandbox Applicant

It is estimated that reviewing each application to participate in the legal regulatory sandbox will require approximately four person hours (two legal professional hours at \$200/hour, and two administrative hours at \$100/hour) for a total cost of \$600.00.

Reviewing a report (each quarter) will take the one hour of legal professional time, and one hour of administrative time for \$300.00.

Preparing a final report and court order would take two person hours (one professional, one admin) for a cost of \$300.00.

Therefore, the cost of completing a two-year term per application in the legal regulatory sandbox would be:

Application fee	\$600.00
Quarterly report reviews	\$2,100.00
Final report review	\$300.00
	\$3,000.00

Each non-traditional legal service would require its own application. An entity providing two non-traditional legal service would complete two applications.

Circumstances could change these fees. For example, whether the applicant is a non-profit, a startup, or an existing for-profit entity might affect which fees would be charged. For example, non-profits and qualified legal services providers would not be charged; instead, each for-profit applicant might pay a non-profit support fee to underwrite the costs of non-profits operating in the legal regulatory sandbox.

Utah does not appear to charge fees, relying instead on grants. Utah considers the collection of data as the cost of being in the legal regulatory sandbox. This blueprint assumes that grants would be sought to cover some operation costs, and some costs would be borne by applicants.

3.13.2 Source of Funding

Ideally, the legal regulatory sandbox could initially be bootstrapped to run from the fees collected to operate in the legal regulatory sandbox. Later, ongoing funding could be supplied from licensing fees for those applicants granted a license to operate in the Washington State legal services market, and from grants from organizations that fund legal service alternatives.

4.0 Next Steps

This is a blueprint for the legal regulatory sandbox. The next steps include:

- a) Incorporating feedback from the Court and other parties
- b) Formalizing the Legal Regulatory Sandbox Board and appointing members
- c) Fund-raising (grants)
- d) Determining the RPCs and other regulations that can be tested within the legal regulatory sandbox and which cannot be tested within the legal regulatory sandbox
- e) Formalizing application processes
- f) Formalizing the court orders (templates)
- g) Creating a reporting database schema and database for collecting legal regulatory sandbox data (and standardizing with other states)
- h) Finding two test organizations to run through the process to determine what changes are needed to improve the legal regulatory sandbox and expand capacity.

5.0 Appendix A: Problem Statement

5.1.1 The Practice of Law in Washington State

Under Washington State statutes and court rules, only an authorized and licensed lawyer, a person supervised by an authorized and licensed lawyer, a Limited License Legal Technician (LLLT), or a Limited Practice Officer (LPO) can lawfully provide legal services to the public.

5.1.2 The ATJ Gap in Washington State

The Civil Legal Needs study update stated: “more than three-quarters of all low-income households in Washington State experience at least one civil (not criminal) legal problem each year. In the aggregate, low-income people experience more than one million important civil legal problems annually.”⁸

Additionally, “low-income people face more than 85 percent of their legal problems without help from an attorney. Attorney assistance is most successfully secured in family-related matters, but even here only 30 percent of legal problems reported are addressed with the assistance of an attorney. Removing family-related problems, low-income people receive help from an attorney with respect to less than 10 percent of all civil legal problems.”⁹

An update to the study in 2015 found that due to a variety of economic and social factors, “the average number of civil legal problems per low-income household having nearly tripled since 2003.”¹⁰

The Civil Legal Needs Update challenged the courts and the officers of the courts including judges, lawyers, LLLTs, and LPOs to ensure that low-income people in Washington State understand their legal rights and know where to look for legal help when they need it; to squarely address not only problems presented, but the systems that result in disparate experiences depending on one’s race, ethnicity, victim status or other identifying characteristics; and to know the costs and consequences of administering a system of justice that denies large segments of the population the ability to assert and effectively defend core legal rights.

It is clear “for decades, the United States has sought to bridge this ATJ gap through incremental improvement, such as volunteerism (i.e., pro bono work)

⁸ Washington State Supreme Court, Task Force on Civil Equal Justice Funding, The Washington State Civil Legal Needs Study, September 2003, available at <https://www.courts.wa.gov/newsinfo/content/taskforce/civillegalneeds.pdf>.

⁹ Id.

¹⁰ Washington State Supreme Court, Civil Legal Needs Study Update Committee, 2015 Washington State Civil Legal Needs Study Update, Oct. 2015, available at https://ocla.wa.gov/wp-content/uploads/2015/10/CivilLegalNeedsStudy_October2015_V21_Final10_14_15.pdf.

and legal aid.”¹¹ However, “closing this ATJ gap requires both incremental improvement and breakthrough change.”¹²

5.1.3 Online Legal Services

A variety of entities are offering online legal services. Many of these entities are helping people with their civil legal problems. Under the statute and rules, these entities may be unlawfully practicing law.

One such entity, Legal Zoom, assists people by providing form-based legal services, and they may refer a person to an authorized legal practitioner (lawyer, LLLT, or LPO). Today, LegalZoom operates in Washington State under an Assurance of Discontinuance between LegalZoom and the Washington State Attorney General’s Office.¹³ This agreement essentially requires LegalZoom to follow guidelines outlined in the agreement, such as not “Comparing, directly or by implication, the costs of Respondent’s self-help products, i.e., legal forms as contemplated in GR24(b)(8), and clerical services with those provided by an attorney, without, in close proximity to each such comparison, clearly and conspicuously disclosing to Washington consumers that Respondent is not a law firm and is not a substitute for an attorney or law firm.”¹⁴

Although it is not clear whether LegalZoom was the first entity to offer online legal services to people in Washington, many others have followed and online legal services are available covering a wide variety of legal services including family law, immigration, arbitration assistance, traffic infractions, and other civil legal matters. Some of these entities are Washington based (that is, registered with the Washington Secretary of State) and others are foreign entities.

At its annual meeting with the Supreme Court on Feb. 4, 2021, the POLB identified there were over 50 OLS providers providing legal services in Washington State. Approximately 20 of these providers, such as WestLaw and CLIO, primarily provide services to legal professionals. Over 14 legal service providers, such as Avvo and LegalZoom, provide services to both legal professionals and the public, including referring people to a legal professional (generally a lawyer). Finally, over 17 legal service providers, such as FairShake and Hello Divorce, target their services to the public.

¹¹ Robert W. Gordon, *Lawyers, the Legal Profession & Access to Justice in the United States, A Brief History*, DAEDALUS, Winter 2019, at 177, 178.

¹² Georgetown Law Ctr. On Ethics & the Legal Profession, *2020 Report on the State of the Legal Market*, 2-3 (2020)

¹³ *In Re the Matter of LegalZoom.com, Inc. a Delaware Corporation*, Sept. 15, 2010 available at https://agportal-s3bucket.s3.amazonaws.com/uploadedfiles/Home/News/Press_Releases/2010/LegalZoomAOD.pdf.

¹⁴ *Id.* at 2.1(a).

These OLS providers offer legal services across a wide spectrum of legal matters, including family law, contract disputes, traffic infractions, and immigration. Several service models are in use, including referrals to legal professionals and do-it-yourself services. They are getting positive reviews from both the public and the press and are raising significant venture capital, which means they will continue to offer more services.

To be clear, these services may not be targeting people in Washington specifically; because they are internet services, they are there if people in Washington try to use them.

The advantage of such online legal services is they are addressing the ATJ gap in Washington. People using such services are likely doing better with their legal matter than simply being a pro-se litigant. They provide timely and often simplified advice. Typically, they are also less expensive than traditional legal services.

The disadvantage of such online legal services is they are not regulated in a similar manner as traditional legal services and may not be following Washington statutes and court rules. They may not be offering accurate and complete advice. Consumer harm may be going unreported.

5.1.4 UPL Complaints and Online Legal Services

As of April 2021, the POLB has had two UPL complaints brought to its attention. Neither were referred to the Attorney General's Office or a county prosecutor for action because there was no evidence of harm to the consumer in either case. However, this does not mean that the entities were not practicing law.

5.1.1 Addressing ATJ and Online Legal Services

Several jurisdictions in the US and Canada are addressing the ATJ gap by examining the role that online legal services could play. Several alternatives be considered from doing nothing to using a regulatory sandbox to take a risk-based and data-driven approach to regulatory reform, particularly regarding regulating online legal services and ABS.

The danger of doing nothing is that the online legal services are not going away. Again, this is evidenced by the investment of venture capital into the companies offering such services. And there is the danger such services will become accepted by the public and spontaneous deregulation will occur. Some would argue this is already taking place. An example of spontaneous deregulation can be found in what happened to municipalities when ride-share and home-share services entered cities without regard to cab and zoning ordinances.

As various businesses try to create new service delivery models aimed at filling the urgent need for legal advice, they find their ideas and initiatives stifled by certain existing regulatory rules. Many smaller legal service startups can't secure funding because there are questions as to whether their businesses may operate; meanwhile, regulators hesitate to amend the existing rules, citing potential harm to the public because of these new business models and service providers. New business models, innovative partnerships, and creative approaches to new licenses are all shut down by the lack of flexibility under the current rules.

With so many people unable to access meaningful legal assistance, the time has come for us to consider opening the pool of legal service providers and eliminating the limitation that only attorneys and LLLTs may own law firms. Without data, we cannot do so responsibly. There is a simple way to solve both problems: a regulatory sandbox.

6.0 Appendix B: Mockup Washington Legal Regulatory Sandbox Application

This is a sample of how an applicant might supply information to the Legal Regulatory Sandbox Board for consideration to test a non-traditional legal service in the legal regulatory sandbox. The company is fictitious, but much of the data is accurate and might reflect information for an online software based legal service.

6.1 General Legal Regulatory Sandbox Information for Applicants

6.1.1 Purpose of the Legal Regulatory Sandbox

The legal regulatory sandbox tests and evaluates innovative models for providing non-traditional legal service that reduce the ATJ gap, while minimizing the risk of harm to the public. Such innovative services may not be capable of being offered under the Rules of Professional Conduct (RPC) or would be considered the Unlawful Practice of Law under the Revised Code of Washington (RCW) 2.48.180.

6.1.2 Authority for the Legal Regulatory Sandbox

The Washington State Legal Regulatory Sandbox is authorized by Washington Supreme Court order (number), dated (date).

6.1.3 Disbarred or Suspended Legal Professionals

No legal professional disbarred or suspended by any bar or licensing authority can participate in any entity offering non-traditional legal service in the legal regulatory sandbox.

6.1.4 No Temporary Admission to Practice in Washington

The legal regulatory sandbox is not a means by which out-of-state lawyers can practice law in Washington State, without otherwise complying with the WSBA regulations as delegated by the Washington Supreme Court to the WSBA.

6.1.5 No Impact on Washington State or Federal Laws or Regulations

The legal regulatory sandbox does not and cannot impact requirements imposed by other applicable Washington or Federal Laws, the laws or requirements imposed by other jurisdictions, or the requirements imposed by other regulatory agencies. Authorization to provide non-traditional legal service within the legal regulatory sandbox does not release or indemnify any entity or individual from conforming to all other applicable laws, regulations, and court rules.

6.1.6 Legal Professionals Still Bound by RPCs

Except as temporarily modified by the Supreme Court order allowing the entity to provide non-traditional legal service within the legal regulatory sandbox, legal professionals working with entities in the legal regulatory sandbox shall maintain their duties under the RPCs.

6.1.7 Applications and Reports are Public Information

Applications for admission to the legal regulatory sandbox, and reports of operations in the legal regulatory sandbox are public documents to ensure the transparency of the legal regulatory sandbox.

Entities whose non-traditional legal service involve trade secrets as defined by RCW 19.108.010(4) may request such trade secrets be handled by the Legal Regulatory Sandbox Board under RCW 19.108.050.

6.1.8 Penalties for False or Misleading Application Information

Making false or materially misleading statements in this application is the basis for loss of authorization to participate in the Legal Regulatory Sandbox, and other criminal and civil sanctions may apply.

6.1.9 Changing Information

If information supplied as part of this application changes, the entity shall ensure the information is updated promptly.

6.2 Description of the Proposed Non-traditional Legal Service

6.2.1 Legal Service Model

- Legal professionals employed or managed by non-legal professionals
- Less than 50% non-legal professional entity ownership
- Over 51% non-legal professional entity ownership
- Legal professional sharing fees with non-legal professional
- Non-legal professional service provider with legal professional involvement
- Non-legal professional service provider without legal professional involvement
- Software or internet service provider with legal professional involvement
- Software or internet service provider without legal professional involvement**
- Other: _____

6.2.2 Primary Legal Service Category of Legal Service

Select One

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning

- Family law
- Financial issues
- Healthcare
- Housing (Rental)**
- Housing (Mortgage)
- Housing (Manufactured Home)
- Immigration
- Military
- Native American and Tribal Law
- Public benefits
- Real estate
- Traffic

6.2.3 Secondary Legal Service Category of Legal Service

Select all that apply

- Accident/Injury
- Adult care
- Business
- Civil misdemeanor
- Criminal Expungement
- Discrimination
- Domestic Violence
- Education
- Employment
- End-of-life Planning
- Family law
- Financial issues
- Healthcare
- Housing (Rental)
- Housing (Mortgage)
- Housing (Manufactured Home)**
- Immigration
- Military
- Native American and Tribal Law
- Public benefits
- Real estate
- Traffic

6.2.4 Nature and Scope of the Non-traditional Legal Service

“Safe Rental Spaces Washington” (SRSWA) is an OLS designed to assist tenants with a smartphone, secure their rights against a landlord renting an unsafe (uninhabitable) premise.

SRSWA helps a tenant secure their rights under the Washington Residential Landlord Tenant Act (RLTA), including the Revised Code of Washington (RCW) 59.18.070(1), 59.18.070(2), 59.18.070(3), 59.18.080, 59.18.090, and common law cases *Apostle v. City of Seattle* (70 Wash. 2d 59), *Javins v. First National Realty Corporation* (428 F.2d 1071), *Foisy v. Wyman* (83 Wash. 2d 27), and *Landis & Landis Const. LLC v. Nation* (286 P. 3d 979).

To use the application, the tenant downloads the SRSWA application from the Apple or Android store to their smartphone. The application is a free download. The tenant enters information about their landlord, property, who notices about the tenancy are to be sent to per the lease, and the issue making their rental unit unsafe (uninhabitable).

Machine learning based artificial intelligence determines whether the issue is an imminent health hazard, such as no heat in the winter or extreme rodent infestation, a minor problem, such as a refrigerator or stove not working, or some other matter making their residence unsafe.

Based on the specific uninhabitable condition, the SRSWA application will generate and send a notice requiring that the landlord commence repairs in the statutorily defined period. Such notice will be sent so it proves service, such as certified mail.

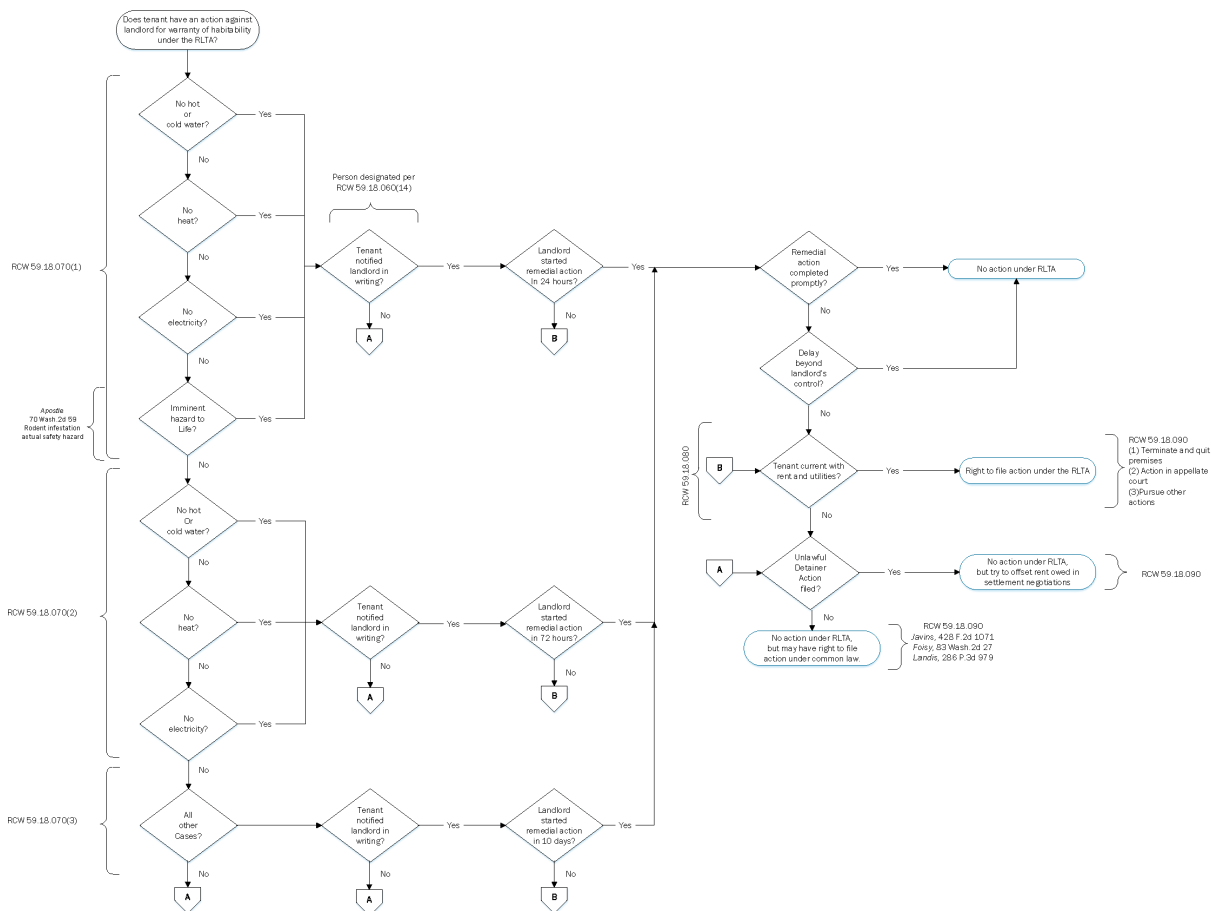
If the landlord does not commence remedial action in the statutorily defined period, and the delay is the landlord’s fault (landlord could rectify issue if they chose to but have not yet acted), then the SRSWA application will guide the tenant through exercising their statutory rights including terminating the lease and quitting the premises, suing the landlord for damages in small-claims court, or effecting repairs and charging the landlord for the cost of repairs and damages.

If available, the lease can be scanned, including documents on the status of the mechanical systems in the rental unit, and the mold, smoke detector, and tenant’s obligations under the lease will be scanned and machine learning analyze the data to modify the algorithm.

Application is doing more than merely functioning as a scrivener to fill-in forms but is deciding about the tenant’s legal rights such as determining which part of the statute applies in each scenario, delivering notices in manner which assures proof of service, and commencing a legal action including potential starting a civil case in small claims or other court.

In complex cases, the SRSWA application will assist the client in finding lawyers willing to sue the landlord.

BLUEPRINT FOR A LEGAL REGULATORY SANDBOX IN WASHINGTON STATE



6.2.5 The Intended Market for the Non-traditional Legal Service

The population of Washington State in July 2019 was 7,614,893.¹⁵ The Census Bureau estimated there were 3,195,004 housing units. A housing unit is a house, an apartment, a group of rooms, or a single room. 63% of the housing units are owner occupied, so 37% are rented. With about 2.55 people per housing unit, the calculated number of people renting would be $(3,195,004 * 0.37) * 2.55$ or 3,014,486.27.

The number of households in Seattle are 323,446.¹⁶ Using the same estimates as for the state, the number of rental households would be $(323,446 * 0.37)$ or 119,675 units. Looking at City of Seattle Code complaints for 2019¹⁷, the number of complaints about power, heat, plumbing, mold, and bugs was about 25% of the total code complaints. This means that approximately $(119,675 * 0.25)$ or 29,918 rental units in Seattle had a potential safety or habitability issue.

¹⁵ <https://www.census.gov/quickfacts/WA>.

¹⁶ <http://www.seattle.gov/opcd/population-and-demographics/about-seattle>

¹⁷ <https://data.seattle.gov/Community/Code-Complaints-and-Violations-Map/rsmq-5vwm>

Using this number statewide, $(3,195,004 * 0.25)$ or 798,751 rental units per year in Washington had a habitability issue.

The SRSWA application is not designed for any other jurisdiction at this time, as each state has different landlord-tenant law statutes.

6.2.6 When the Provision of Non-traditional Legal Service can Begin

The SRSWA application is in beta testing and will be ready for initial distribution to consumers in January 2022.

6.3 How the Non-traditional Legal Service Reduces the ATJ Gap

6.3.1 Which Specific Consumers the Non-traditional Legal Service Targets

The SRSWA application targets tenants in Washington State.

6.3.2 How the Non-traditional Legal Service Provides High-quality

The SRSWA algorithms, machine learning training, and test data has been reviewed by lawyers who advise tenants in the RLTA for a variety of agencies, including the King County Bar Association Housing Justice Project, and the Tenants Union. It follows the statutory definition of what constitutes or makes a rental unit uninhabitable, and the rights of tenants and the obligations of landlords. A professor at Seattle University who teaches a Landlord-Tenant class has also reviewed the application's logic and algorithms and helped to create test data.

Anonymized data about each transaction, and the status of the transaction over time, and source documents are used with machine learning to better train the algorithm and ensure it is working correctly and protecting tenant's rights.

Consumers can report a problem through the application, and a chat interface assists them with most issues. Consumers with complex problems outside the scope of the application will be referred to an attorney who provides legal services to tenants.

6.3.3 How the Non-traditional Legal Service is Cost-effective

The SRSWA application is free to download. Tenants will be charged only all costs associated with their transaction, such as the costs of sending certified mail or other notices.

Washington Tenant Software makes money by selling information about bad rental units, and bad landlords (those continually failing to repair rental units) to companies such as Zillow and Apartments.com who value such data. No tenant data is sold or traded to pay for SRSWA costs.

6.3.4 How the Non-traditional Legal Service is Consumer Accessible

Although a tenant/consumer might figure out how to correctly follow an uninhabitable issue through the legal process correctly, few seem able to do more than report to a county or city code enforcement office which might take timely action.

Most consumers make incorrect assumptions such as they can withhold or stop paying rent, leading to potential eviction (unlawful detainer) actions.

According to the US Census, Washingtonians have a high percentage of computers in their homes (greater than 90%), and most have access to high-speed internet, making the application highly available.

Few attorneys will take on uninhabitability matters for tenants, as few tenants can afford to pay hundreds of dollars per hour for such legal service.

Therefore, the SRSWA application should enable more tenants to exercise their legal rights under the RLTA.

6.3.5 Other Aspects of the Non-traditional Legal Service that Close the ATJ

Gap.

Many tenants live with the problem, and incur additional costs because of damage to their health, loss of wages, or harm from attempting repairs on their own.

The lower the income, the less likely the person can make repairs. Many fear retaliation including eviction or non-renewal of the lease. Others worry about being labeled a problem tenant, making it hard to rent another unit.

Few attorneys practice the tenant side of landlord-tenant law.

6.4 Risk of Harm to Consumers

6.4.1 What Potential Harm Could Befall a Consumer

Consumers may be harmed if they overstate the nature of the problem, fail to take subsequent steps in the process promptly, or stop using the application once they initiate a complaint to the landlord.

To mitigate the harm, the SRSWA application will email the consumer with the status of their matter on an ongoing basis, and clearly detailing the next steps and deadlines.

It may not scale across WA because of each court having different court rules (for example, not all Washington county courts support e-filing). However, it may be possible to modify the application to accommodate different statutes, but that is not part of the current plans.

6.4.2 Which Consumers are at Most Risk of Harm

The SRSWA application will be initially released in English and Spanish. Although every attempt has been made to use non-legal language and terms, uninhabitability and unlawful detainer matters can include complex scenarios and fact patterns, therefore, those with low reading skills or literacy may make mistakes using the application.

Those consumers in poorer communities, where affordable housing is at a premium, are at risk of retaliation from the landlord, but such risk may be less than if the tenant tried to act on their own (without assistance of the application or a legal professional).

6.4.3 When the Risk is Likely to Occur (Present or Future)

The greatest risk of consumer harm occurs when the consumer initially uses the application and lessens over time (uninhabitable issues have a relatively short timeline).

6.4.4 How Any Risk of Harm can be Measured

The application collects anonymized data about usage, including started transactions, unfinished or abandoned transactions, and failed transactions.

Consumers can report and track issues with the application through a portal and an issue id for tracking will be assigned to any complaint entered through the application.

Consumer satisfaction will be measured after each transaction.

6.5 Entity Information

6.5.1 Type of Entity

Washington Tenant Software is a Washington State LLC. The LLC is the developer or the SRSWA application.

6.5.2 Officers

John and Jane Doe are the members of Washington Tenant Software LLC. John Doe is the member manager.

6.5.3 Years of Operation

Washington Tenant Software was incorporated in 2019.

6.5.4 Financial Information

Washington Tenant Software has raised \$2 million dollars from Angel Investors and is not expected to seek any additional funding until it is in the market. SRSWA is the entity's first application.

6.5.5 Business Plan for the Non-traditional Legal Service

As noted above in 6.5.4, WTS has raised capital to fund the initial release of the application. As noted in 6.3.3 Washington Tenant Software makes money selling information about landlords and rental units, not client or tenant data.

6.6 Other Material Information

SRSWA intends to compensate lawyers advising about the RLTA with monetary payments for work performed and does not intend on having any legal professionals on staff or as members of the corporation.

SRSWA is a software development firm and is not a law firm.

7.0 Appendix C: Mockup of Supreme Court Order Sandbox Participation

THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE)	
APPLICATION OF WASHINGTON TENANT)	
SOFTWARE – SAFE SPACES WASHINGTON)	ORDER
PARTICIPATION IN THE WASHINGTON)	No 00000-A-000
COURTS LEGAL REGULATORY SANDOX)	

WHEREAS, the Washington State Supreme Court has determined to implement a strategic initiative to evaluate and assess efficacy of non-traditional legal services to provide legal services that lessen the ATJ gap in Washington state while minimizing risk of consumer harm, and to evaluate the correct level of regulation for such non-traditional legal services;

NOW, THEREFORE, IT IS HEREBY ORDERED:

Washington Tenant Software, a Washington State entity, may offer legal services from its Safe Rental Spaces Washington application in Washington State as an entity providing software or internet services provider without legal professional involvement.

Washington Tenant Software shall only offer legal services in Washington State in the Housing—Rental legal services area.

Washington Tenant Software may refer clients with a complex habitability issue, which the Safe Rental Spaces Software cannot process, to a licensed and authorized legal professional in Washington, and to charge a referral fee to such legal professionals.

Washington Tenant Software shall conform to the HIGH risk reporting requirements imposed by the Washington Courts Legal Regulatory Sandbox Board.

Washington Tenant Software shall prominently display disclosure to consumers using the Safe Rental Spaces Washington application it is operating in the Washington Courts Legal Regulatory Sandbox, that it is a non-legal professional ownership company and is not a law firm, and how consumers can report a problem with the application or service.

If Washington Tenant Software desires to change these requirements, it must submit any such change to the Washington Courts Legal Regulatory Sandbox for assessment and a modification to this order.

This authority is granted for 24 months from the date the non-traditional legal service is provided to consumers in Washington State, as reported to the Washington Courts Legal Regulatory Sandbox Board.

This authority and any such extension or permanent authorization is subject to Washington Tenant Software's compliance with the conditions and regulations set forth by the Washington Courts Legal Regulatory Sandbox Board, the Washington Courts Legal Regulatory Sandbox Board's recommendation to the Supreme Court, and verification by the Washington Courts Legal Regulatory Board's verification that Washington Tenant Software has a record of compliance with all requirements, statutes, regulations, and court rules and the non-traditional legal services are not harming consumers.

DATED at Olympia, Washington this <day> day of <month>, <year>.