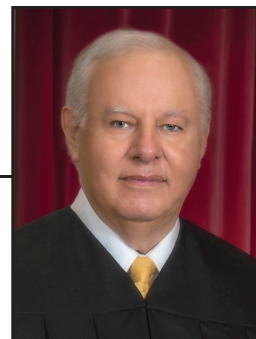


## FROM THE CHIEF

William R. Wooton

Chief Justice  
The West Virginia Supreme Court



# COMMISSION ON THE FUTURE OF THE PRACTICE OF LAW IN WEST VIRGINIA

Dr. Martin Luther King Jr. famously said, “Injustice anywhere is a threat to justice everywhere.” One type of injustice results from the existence of legal deserts, which are defined by the American Bar Association as counties with fewer than one lawyer per 1,000 people. According to 2024 data provided by the West Virginia State Bar and the United States Census Bureau, in West Virginia 28<sup>1</sup> of our State’s 55 counties qualify as legal deserts. West Virginia is not alone in this regard: this is a nationwide problem, with a significant body of research and data addressing the problem and positing solutions.<sup>2</sup> To facilitate this venture, the Supreme Court of Appeals of West Virginia has created a Commission on the Future of the Practice of Law in West Virginia under the leadership of the Supreme Court’s Administrative Director Keith Hoover. The Commission’s

mission is to examine both the root causes of legal deserts in our State and the consequences of leaving the problem unaddressed, and to suggest possible ways in which we may attract attorneys and provide services in the affected areas.

The causes for legal deserts can and do vary. To understand these causes is the first step in developing solutions for the problem. In West Virginia there is an apparent link to population decline. According to the United States Census, West Virginia has seen a 1.3% decline in population between April 1, 2020, and July 1, 2024, and nearly a 5% population decline during the past 10 years. Further complicating the problem, data provided by the State Bar shows that the State has seen an approximate 10% decline in the number of active, in-state lawyers during the past 10 years. Thus, one clear cause for legal deserts is lawyer

availability, which creates major docket barriers in West Virginia. Routine hearings often get pushed back for weeks in order to coordinate the schedules of attorneys, who are frequently appearing before multiple judges in multiple circuits during the course of a week. Another factor worthy of examination is West Virginia geography; the simple fact is that in many counties both distance to a courthouse and a lack of existing and well-maintained infrastructure to get there impose challenges in accessing the courthouse or a lawyer’s office. The challenges include not only the time it takes to travel from one’s home to the courthouse or lawyer’s office, but also expenses incurred as a result of travel. The lack of public transportation (or other alternative types of travel such as Uber or locally owned taxis) compounds this issue. Legal deserts are also linked to poverty and household

income, as well as gaps in internet and broadband service. Finally, a significant reason lawyers are often unwilling to practice in legal deserts is that they need to make a living and are often saddled with student debt. In this regard, law school (or any professional school) is expensive, and

“firms based in urban areas or regions with a high cost of living charge higher fees by necessity and, consequently, generate more revenue compared to those in rural areas.” This disparity not only affects the financial viability of rural practices but also influences lawyers’ decisions to work in these regions, as lower fees and limited paying-client bases can lead to unsustainable business models. This is especially true as “the rural lawyer population is aging, and young lawyers plagued with student loan debt are flocking to higher-paying positions offered in cities.”<sup>4</sup>

The Commission will explore the causes of legal deserts, including those previously mentioned. Undeniably, some of the causes for legal deserts in West Virginia can be addressed more easily than others. However, the consequences of not addressing this State’s legal deserts are severe. As one author wrote, “the legal desert affects low-income rural residents, with three-fourths experiencing at least one civil legal problem a year. When it comes to legal problems, especially in the category of civil issues, economic disparities are pressing, but rural justice gaps have also increased public health concerns.”<sup>5</sup> According to a 2020 article in the *American Journal of Public Health*, “the most common type of legal issue low-income rural residents report is access to health care.”<sup>6</sup> The types of issues involving access to health care include disputes regarding care, coverage and payment.<sup>7</sup> Legal deserts, that is, the lack of legal professionals, make it more difficult for residents in those counties to

access legal assistance for routine matters such as estate planning, family law, housing, income maintenance and traffic violations. There is also evidence that legal deserts create systemic challenges that include: (1) delayed or non-existent justice that “prolongs the resolution of legal issues, leaving individuals in a state of uncertainty and distress[,] . . . [and] delayed justice can lead to the escalation of problems, causing further harm or injustice to those involved[;]”<sup>8</sup> (2) erosion of public trust in the legal system due to citizens feeling marginalized due to a belief that their legal issues are unimportant;<sup>9</sup> and (3) obstruction of “community advancement by depriving residents of essential legal services crucial for addressing local issues.”<sup>10</sup> Finally, the lack of attorneys in our legal deserts impacts our State courts’ ability to handle cases involving court-appointed lawyers as expeditiously as the courts desire and the parties involved are entitled, including not only abuse and neglect cases, but criminal cases as well.<sup>11</sup>

Other states have utilized a variety of possible solutions in attempting to address legal deserts, and the Commission will explore whether those solutions, or others including but not limited to those discussed below, may be effective in West Virginia if implemented here. A successful resolution necessarily involves recruitment and retention of lawyers who are willing to practice regularly and represent residents in the counties identified as legal deserts. One way to implement this solution is to explore the possibility of offering financial incentives to those pursuing careers as lawyers, such as offering scholarships and student loan forgiveness programs tied to the recipient’s agreement to practice law for a set period upon graduation in a county identified as a legal desert. Where incentives have been utilized, experience has shown that when a lawyer invests in the practice of law in a county, he or she will embrace and may well remain in the community. Consideration should also be given

to offering access to low-interest or no-interest capital for startup costs to further assist those who participate in this type of program, and to offering incentives such as those offered by Ascend West Virginia<sup>12</sup> to out-of-state law school graduates who relocate to rural areas of West Virginia. The overarching issue with any such program is finding a funding source, whether it be governmental entities, foundations, contributions from businesses or organizations, private donations or some combination.

Educational initiatives should also be considered as a possible solution for both law students and lawyers. Law students can be encouraged to provide services to individuals in legal deserts through educational opportunities, such as participating in externships in these areas. An example of what could be offered through such a program is found in North Carolina, where the North Carolina Interest on Lawyers' Trust Accounts provides up to \$50,000 per year to each accredited North Carolina law school to support students through public interest grants that

allow students to be compensated even if the organization that they work for cannot pay summer legal interns. Qualifying public interest placements include nonprofit organizations that provide free civil legal services to low-income individuals, public defender and district attorney offices, and courts across the state where the students are working under the supervision of judges. To qualify, the summer internship must be focused on service residents of counties designated as a legal desert.<sup>13</sup>

In Nebraska, the University of Nebraska created the Children's Justice Attorney Education Fellowship Program in 2021 to address problems with recruitment and retention of lawyers to serve juvenile court cases in rural communities. This was an extensive eight-month program which provided "education in federal and state child welfare laws[.]"<sup>14</sup> It was reported that as a result of the program lawyers had received training in 58% of Nebraska counties, most of which had 50 or fewer attorneys, and that the participants in the program expressed increased "interest, motivation, and capacity to work in juvenile courts."<sup>15</sup> Perhaps similar educational programs offered to lawyers in West Virginia, focused on the practice of law in our rural counties and the specific legal challenges that these residents face, would spark interest in practicing in counties that are currently legal deserts.

Other potential solutions worthy of consideration include relaxing or waiving the bar admission requirements for out-of-state lawyers seeking to come to West Virginia to practice in counties that are legal deserts. In this regard, in 1989 Rule 9 of the West Virginia Rules for Admission to the Practice of Law was enacted, affording limited permission for attorneys from other states to practice law here for the purposes of offering legal representation to indigent individuals while providing those attorneys with an alternate method for obtaining licensure in this State for a fixed period.<sup>16</sup> At the 2024 NCBE Annual Bar Admissions Conference, West Virginia Bar Admissions Administrator Ashton Bias Harrell discussed the impact of Rule 9 as a favorable means to attract and retain lawyers in rural areas to address this State's legal deserts: "This rule not only aids in recruiting attorneys and enhancing access to justice; it also offers an opportunity for attorneys to use their expertise in our state."<sup>17</sup> As of May of last year, there were over 20 attorneys admitted under Rule 9.<sup>18</sup>

Finally, technological solutions to alleviate the problem of legal deserts should be explored, although it must be noted at the outset that any technology solutions necessarily involve addressing the internet and broadband gaps in the State — issues for other branches of government. Examples of how technology could be used to provide legal assistance to the counties are numerous. The State of Nevada's Supreme Court's Administrative Office of the Courts, in collaboration with the Legal Aid Center of Southern Nevada, developed a RAG self-help chatbot "which empowers individuals who might otherwise be left without adequate legal resources, streamlining access to information for self-represented litigants in a user-friendly, tech-savvy way."<sup>19</sup> The RAG chatbot launched in June 2024 through September 2024 and reportedly had 2,800 active users who engaged in the technology in more than 4,000 sessions.<sup>20</sup> It was accessed from desktops, mobile devices and tablets.<sup>21</sup> Another technology example is found in North Carolina where a mobile phone application called Courtroom5 was developed.<sup>22</sup> As explained,

Courtroom5 . . . help[s] educate pro se litigants by providing guidance throughout their court case, litigation training, and workshops on managing a court case." For fifteen dollars per month, users will be able to, "gain the court's respect and fairness," "dodge the pitfalls of hidden rules," and "avoid settling for an unfair amount."<sup>23</sup>

Finally, in West Virginia, technology measures have already been put into place which will aid in bridging the gap in legal services. In 2024 the Supreme Court began providing online electronic access to magistrate court records through WVPASS, and as of March 10, 2025, this system was expanded to include both civil and criminal circuit court records going back to 1999. The public, litigants and the media can now also access circuit court records statewide at no cost to the user for searches and only a small transaction fee for downloading documents. Anyone can now perform a search through the West Virginia Judiciary website by clicking on the “Court Record Searches” icon at the bottom of the webpage without having to physically go to the county courthouse. Also, statewide e-filing now exists in circuit court and family court. And the Court is in the process of selecting a vendor to develop a unified case management and e-filing system for magistrate courts, family courts and circuit courts. These projects are only a start, but they will make it easier than having to physically go to the courthouse to file documents or access records, which is part of the overarching legal desert problem.

In summary, the Commission on the Future of the Practice of Law in West Virginia has an important mission. The Commission will more fully examine the causes of legal deserts in West Virginia, and — more importantly — it will explore possible solutions for providing legal representation in areas where the unmet need is significant. This is a lofty mission, but the impact of addressing this problem — and providing potential solutions — will ultimately impact the quality of life for many West Virginians. As Dr. King recognized, “The arc of the moral universe is long, but it bends toward justice.” Hopefully this Commission will have a positive influence on that arc. **WVL**

## Endnotes

1. The following West Virginia counties qualify as legal deserts with less than one attorney per 1,000 residents: Barbour, Braxton, Calhoun, Clay, Doddridge, Fayette, Grant, Hampshire, Lincoln, Logan, Mason, McDowell, Mineral, Monroe, Morgan, Nicholas, Pleasants, Pocahontas, Preston, Roane, Ritchie, Taylor, Tyler, Wayne, Webster, Wetzel, Wirt and Wyoming.
2. Legal Servs. Corp., *The Justice Gap: Measuring the Unmet Civil Legal Needs of Low-Income Americans* (2017), <https://www.lsc.gov/sites/default/files/images/TheJusticeGap-FullReport.pdf>; Lisa R. Pruitt, Amanda L. Kool, Lauren Sudeall, Michele Statz, Danielle M. Conway and Hannah Haksgaard, *Legal Deserts: A Multi-State Perspective on Rural Access to Justice*, 13 Harv. L. & Pol’y Rev. 15 (2018).
3. The decline in the number of active, practicing lawyers is a national problem.
4. Lauren Appleby, Note & Comment, *Breaking Barriers: Exploring*

*Accessibility to Legal Advice and Its Implications for Justice*, 15 Wake Forest J.L. & Pol’y 65, 69 (2024) (footnotes omitted).

5. Whitney Heuermann, Comment, *Deserts Still Need Water: Using ADR Processes to Support Rural Residents and Counter the Challenges Stemming from the Shortage of Lawyers in the “Great American Legal Desert,”* 24 Pepp. Disp. Resol. L. J. 431, 433 (2024) (footnote omitted).
  6. Michele Statz & Paula Termuhlen, *Rural Legal Deserts Are a Critical Health Determinant*, 110 Am J. Pub. Health 1519, 1519 (2020).
  7. See Heuermann, *supra* note 5, at 447.
  8. See Appleby, *supra* note 4, at 70-71.
  9. *Id.* at 71.
  10. *Id.* at 72.
  11. The lack of attorneys to handle court-appointed cases is not only caused by legal deserts but also by low compensation rates and difficulty of the work.
  12. Ascend West Virginia pays participants \$12,000 to move to our State, and also provides a free outdoor recreation package and coworking space after the participants have moved here. The money is paid to participants in equal monthly installments; however, there is an option to accelerate the installments into a lump sum payment if a participant decides to purchase a home during the program. The program is currently offered to full-time remote workers or to individuals who own their own businesses outside of West Virginia that can be managed remotely. See Ascend West Virginia, <https://ascendwv.com> (last visited June 13, 2025).
  13. *Providing an Oasis in Legal Deserts*, Carolina Law Magazine (Sept. 2024), <https://magazine.law.unc.edu/september-2024/>.
  14. Michelle Paxton, *Preventing Legal Deserts in Our Rural Communities* (Nov. 14, 2023), <https://www.americanbar.org/groups/litigation/resources/newsletters/childrens-rights/fall2023-preventing-legal-deserts-in-our-rural-communities/>.
  15. *Id.*
  16. Rule 9 (a) provides, in relevant part, for attorneys who are enrolled in a criminal law or poverty law and litigation graduate program in an approved law school or who, after graduation from an approved law school, [are] employed by or associated with an organized legal services or public defender program providing legal assistance to indigents and who [are] . . . member[s] of a court of last resort of another state . . . to practice before the courts of this State in all causes in which he or she is associated with an organized legal services or public defender program sponsored, approved or recognized by the Board of Law Examiners.
- However, Rule 9(b) indicates that the limited permission is terminated whenever the attorney ceases to be enrolled in or associated with such program. . . . Such permission to practice shall remain in the discretion of the Board but in no event shall such permission to practice under this rule remain in effect longer than sixty (60) months for any individual permitted to practice under this rule.
17. Ashton Bias Harrell, *An Old Rule’s Modern Impact: How Rule 9 Helps Expand Access to Justice in West Virginia and Provide an Alternative Pathway to Licensure*, The Bar Examiner, <https://thebarexaminer.ncbex.org/article/fall-2024/addressing-the-access-to-justice-gap/#:~:text=According%20to%20statistics%20from%20the,as%20defined%20by%20the%20ABA> (2024).
  18. See *id.*
  19. Katherine Stocks, Esq., *Legal Deserts: Expanding Access Through Technology*, 33-JAN Nev. Law. 12 (Jan. 2025).
  20. *Id.*
  21. *Id.*
  22. See Appleby, *supra* note 4, at 80.
  23. *Id.* at 80 (footnotes omitted).