



Civil Rights at Risk:

Nebraska's Rural Attorney Shortage

by Laurie Heer Dale and Shannon Seim, Volunteer Lawyers Project



Eleven of Nebraska's 93 counties have no attorneys, and 19 additional counties have three or fewer attorneys.¹ There are more than 5,600 attorneys in Nebraska.² Almost half of them practice in Omaha.³ An additional twenty-two percent practice in Lincoln.⁴ That means there is one attorney for every 221 residents in Omaha and Lincoln, compared with one for every 702 residents in Nebraska's 91 remaining counties. This has significant civil rights implications.

Individuals living in rural areas are more likely to be unrepresented against federal, state, and local government entities.⁵ When counties lack attorneys, legal representation costs more. Attorneys in the area are in high demand, and travel is more extensive.⁶ In some counties, rural residents may travel 100 or more miles to find an attorney to take care of routine matters, such as child custody, estate planning, and taxes. For people of limited means, a long drive is a logistical hardship. In counties with attorney shortages, the justice gap is wider; there are fewer volunteer attorneys to fill it. More people need pro bono or reduced fee legal services, but fewer attorneys are available.

Education Rights Counsel (ERC), a statewide legal non-profit dedicated to representing families in education matters, sees civil rights issues arise due to the attorney shortage in rural Nebraska firsthand. ERC Managing Attorney, Elizabeth Eynon-Kokrda, reported, "In Nebraska's more rural areas, there is a greater lack of resources across the board. Families lack access to local advocates and don't have the funds to hire counsel." Eynon-Kokrda shared that advocating for a free and appropriate public education is particularly critical in rural schools. Eynon-Kokrda advised that, in part due to lack of resources, ERC has seen children with disabilities unable to access school for months. In addition, even very young children have been referred to law enforcement or inappropriately restrained or secluded while parents go without counsel. Eynon-Kokrda indicated that lack of available counsel means families are "attempting to access the system pro se, while school districts and the state have access to experienced counsel." This results in a process where families, according to Eynon-Kokrda "may ill-advisedly waive rights or go through hearing processes with no support. In the end, they may go without services that are guaranteed or they may be removed from a school setting despite a lack of evidence that legal

requirements have been met." She noted that, in addition, outside of Lancaster, Douglas and Sarpy counties, Nebraska juvenile offenders have no right to counsel.

"Expecting children and families to wander through the nuanced legal system on their own, whether that be exercising their right to due process when their child has been denied services or figuring out a judicial procedure, can result in lifelong negative consequences," said Eynon-Kokrda.

Tim Brouillette, who practices in and around North Platte and formerly served as the County Attorney for McPherson County (a county that has no resident attorneys⁷), shared related concerns not only about juveniles but all Nebraskans living in counties with attorney shortages. "If somebody local gets charged with a crime simple as a minor in possession or maybe a minor theft or trespassing, they don't want the county to have to pay for indigent defense, so a lot of times they'll plea. And in some cases... they may get jail time where they otherwise wouldn't."⁸

The NSBA and Nebraska law schools understand the urgency of attracting more attorneys to practice in rural Nebraska. Since 2013, the NSBA's Rural Practice Initiative has worked to place law students in rural clerkships and postgraduate positions through a twice-yearly interview program held in different locations across Greater Nebraska. In 2016, Richard Moberly, Dean of the University of Nebraska College of Law, and Lyle Koenig, the Chair of the NSBA's Rural Practice Initiative, worked tirelessly to create the Rural Legal Opportunities Program. This program works to recruit high school students from rural communities to become attorneys and return to rural Nebraska. The NSBA, Creighton University, and the University of Nebraska have also advocated for state student loan repayment aid programs for rural practitioners.

In addition to these initiatives, two new Nebraska programs are seeking to remedy the rural justice gap for low income Nebraskans: The Volunteer Lawyers Project's Essential Volunteers Offering Legal Services to Victims Ensuring Safety (EVOLVES) program and Legal Aid of Nebraska's Pro Bono Innovation Fund.

EVOLVES helps rural attorneys reach their pro bono goals through reduced fee case placement. Since the program began



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in the summer of 2019, 46 attorneys, predominantly from rural areas, have volunteered to represent victims of crime in civil suits related to the crime. Cases have included but are not limited to family law matters for victims of domestic violence, custody cases for human trafficking survivors, and attorneys helping individuals recover from identity theft. This program provides financial support for attorneys to engage in pro bono matters to serve their rural communities.

Legal Aid of Nebraska is working to narrow the rural justice gap through the Pro Bono Connection Project—an effort to expand pro bono legal services in Nebraska through the development of legal clinics in three rural areas of the state. The project team at Legal Aid of Nebraska has been collecting data on Nebraska’s rural counties to determine where the need is greatest for low-income legal services and understand the legal issues within those communities. To address the shortage of attorneys in those areas, the project will implement the use of virtual technology, such as video-conferencing, to connect rural Nebraskans with pro bono attorneys in urban areas such as Omaha and Lincoln.

The Pro Bono Connection Project is using an approach called “asset mapping,” utilized by Colorado Legal Services, to determine where clinics will be implemented. Asset mapping is the process of identifying community resources that currently exist to support a clinic, through meeting with local stakehold-

ers and visiting locations for clinic sites to gain a comprehensive understanding of the community’s assets and legal needs.

Once clinics are developed and implemented within three rural areas, the Pro Bono Connection Project will evaluate the success of each clinic with the goal of creating a process that can be replicated both within the state and as a model for other states to employ.

While current efforts are promising, more innovative programming is still needed. Kala Mueller, who is originally from Wynot, Nebraska and serving as the Director of Public Interest Programs at the University of Nebraska College of Law, said that some states have turned to legal incubators as part of the solution. “I knew that [legal incubators] existed to help provide new lawyers with the skills and support they need to be successful in solo or small practice. What I didn’t realize is that the other major goal of these types of programs is to expand access to legal services for those with low or moderate income, and in some circumstances, those living in underserved, rural communities.” For those unfamiliar with the concept, Mueller explained that incubators provide new law graduates with subsidized or free office space, amenities like printing services, training, and mentorship. In exchange, these new lawyers are required to provide pro bono or “low bono” legal services during the one to two years they are involved in the program. Although many of the early incubators were started by law



EVOLVES

Essential Volunteers Offering Legal Services for Victims,
Ensuring Safety
VLP Reduced Fee Program for Rural Victims of Crime

Program Description: VLP matches eligible victims of crime in rural Nebraska who need legal assistance with private attorneys who provide legal services on a reduced fee basis.

Case priorities:

- Divorce
- Paternity, Custody & Child Support
- Modification of Orders
- Protective Orders
- Bankruptcy/Debt
- Name Change
- Immigration

Benefits:

- Compensation of \$60.00 per hour
- Malpractice insurance coverage
- Recognition in NSBA media
- Free legal research through UNL Pro Bono Research Fellows Program

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schools as a benefit for their graduates, the concept quickly gained steam. According to the ABA, there are now over 60 existing or planned incubators operated by law schools, bar associations, private firms, legal services providers, and other nonprofit organizations across 33 states.

Mueller added, “I know there are students who would be interested in establishing their own practice in Greater Nebraska, but the thought of hanging out your shingle as an inexperienced attorney can feel overwhelming. Other states are using incubators to support new graduates and deliver much-needed legal services to rural communities.” Montana’s Rural Incubator Project for Lawyers is one example. The Rural Practice Incubator Project at UA Little Rock’s Bowen School of Law—an 18-month program designed to support alumni in launching viable solo or small practices in rural, underserved communities in Arkansas—is another.

For now, the Nebraska College of Law is doing what it can to support rural attorneys providing pro bono services through its newly established Pro Bono Research Fellows Program. Launched in the summer of 2019, the program matches interested law students with pro bono attorneys to assist with research projects that range from small assignments taking only a few hours to larger projects that may last an entire semester. Mueller, who oversees the program, noted that to date, Nebraska Law students have assisted attorneys handling pro bono matters in Syracuse, Bridgeport, Scottsbluff, and Holdrege, Nebraska, as well as Pine Ridge, South Dakota.

The rural attorney shortage throughout Nebraska is a complex problem. It weakens our state and especially poses a threat to rural Nebraskan’s civil rights. In front of the Nebraska Legislature’s Appropriations Committee, Tana Fye testified on a bill to support rural attorneys on February 5, 2020. Fye, an attorney and firm owner out of Holdrege, spoke about many attorneys in rural Nebraska who would like to retire but cannot because their communities need them. Current efforts to attract more new attorneys to rural areas, support rural practitioners, and utilize technology to allow urban Nebraska practitioners to serve rural areas are helping, but there is still more work that needs to be done.

Endnotes

- 1 The Neb. State Bar Ass’n, *Attorneys Per County*, (Feb. 2, 2020, 9:36 AM) https://cdn.ymaws.com/www.nebar.com/resource/resmgr/rural_practice_initiative/attorneyspercounty_2020.pdf.
- 2 *Id.*
- 3 *Id.*
- 4 *Id.*
- 5 Grant Gerlock, *Lawyer Shortage In Some Rural Areas Reaches Epic Proportions*, Morning Edition (Dec. 26, 2016, 5:00 AM), <https://www.npr.org/2016/12/26/506971630/nebraska-and-other-states-combat-rural-lawyer-shortage>.
- 6 *Id.*
- 7 *Id.*
- 8 *Id.*

Pro Bono Current Events

Lancaster County Self Help Center Reopening Volunteers Needed!

The Lancaster County Self Help Center reopened on February 20, 2020 on the third floor of the Lancaster County Courthouse! The center will be open from 11:30 to 1:30 on Thursdays. This is a great pro bono opportunity for attorneys (and law students) from all practice areas and all experience levels to help self-represented persons understand the court system and process, provide basic information on uncontested divorce, housing and consumer matters, small claims, name change, enforcement of orders, and protective orders; distribute available self-represented litigant forms, provide information about legal aid services, lawyer referral services, and handbooks and brochures on legal topics. Training and mentoring available. Law students will be paired with a licensed lawyer. For more information, please contact Shannon Seim at sseim@nevlp.org.

Fathers For A Lifetime Clinic

Eric Hagen, a second-year law student at Creighton University School of Law, coordinated a legal clinic for Fathers For A Lifetime. Fathers For A Lifetime operates out of Omaha’s Charles Drew Health Center. As part of their programming, men who would like to improve their parenting skills can take a voluntary twelve-week class. Men who attended the class regularly were invited to the free legal clinic where eight Creighton law students assisted with various legal matters concerning fatherhood under the supervision of Katelyn Cherney, Attorney and Director of Creighton University School of Law Pro Bono Program, Legal Aid Attorney, Muirne Heaney, VLP attorneys Laurie Heer Dale and John Rogers, and volunteer attorneys: Karine Sokpoh, Peng Li, and Kendal Krajicek.

Eleven men attended the clinic, and more than thirty persons were directly impacted by the pro bono services received. All attendees reported the advice they received was incredibly helpful, and Fathers For A Lifetime will continue hosting this free legal clinic in the future. For more information or to volunteer, please contact Laurie Heer Dale at lheerdale@nevlp.org.

#ThankfulThursdays

An important part of the Volunteer Lawyers Project’s mission is recognizing and rewarding individuals who give back to their communities through pro bono work. While volunteers are motivated by the work and not the praise, we want to celebrate you! If you are doing pro bono work, or know an attorney who is going above and beyond to use their legal skills to give back to low income individuals, please let the VLP team know by emailing nevlp@nevlp.org.



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Pro Bono Partners

Volunteers make access to justice a reality for those of limited means. VLP extends its gratitude to the following pro bono partners who provided pro bono services in 2020.

Nebraska Free Legal Answers

Kristen M. Blankley, *Lincoln*
Carla J. DeVelder, *Omaha*
Quinn R. Eaton, *Omaha*
John T. Haarala, *Omaha*
Alex M. Lierz, *Lincoln*
Amy A. Miller, *Lincoln*
Rachael A. Smith, *Omaha*
Ryan P. Sullivan, *Lincoln*
Christina L. Usher, *Lincoln*
Matthew J. Wurstner, *Omaha*

Lawyers in the City

(Fathers for a Lifetime, Omaha, January 2020)

Marian G. Heaney
Kendall K. Krajcick
Peng Li
Karine E. Sokpoh
Sarah K. Dage, *Student*
Eric M. Hagen, *Student*
Daniel L. Heaps, *Student*
Nathaniel T. Heimes, *Student*
Charles I. Kim, *Student*
Jessica J. Patach, *Student*
Regina A. Smith, *Student*
Avram Tynes, *Student*

No Fee Pro Bono Cases

Cathleen H. Allen
Alissa M. Baier
Gregory J. Beal
James C. Bocott
Benjamin D. Borgmann
D.C. "Woody" H. Bradford
Robert M. Brenner
Aaron B. Bruns
Lucrece H. Bundy
Tom O. Campbell
Matt M. Catlett
Dave V. Chipman
Katelyn Cherney
Leslie A. Christensen
Joshua L. Christolear
Dennis W. Collins

Brian W. Copley
Jeff T. Courtney
Wesley S. Dodge
Jason S. Doele
Michael R. Dunn
Audrey M. Elliott
Stefanie S. Flodman
Rhonda R. Flower
Stephanie N. Flynn
Julie Fowler
Dustin A. Garrison
William D. Gilner
Nicholas R. Glasz
Lucinda C. Glen
Stacie A. Goding
Vanessa J. Gorden
Nicholas E. Halbur
Michael J. Haller Jr.
Jonathan M. Hendricks
Jamie C. Hermanson
Emilee Higgins
Pamela L. Hopkins
James H. Hoppe
Alexandra J. Hubbard
Kimberly A. Hughes
Kathleen J. Hutchinson
Joshua Johnson
Michael D. Jones
Dean J. Jungers
Colin M. Kastrick
Jennifer D. Kearney
John A. Kinney
Melanie A. Kirk
Dayna L. Langdon
Peng Li
William E. Madelung
Mark R. McKeone
Daniel D. McMahan
Liam K. Meehan
Jamie Mues Jankovitz
Kimberly D. Olivera
Rodney J. Palmer
Jeffrey T. Palzer
Jeffery T. Peetz
Michael J. Plambeck
Richard B. Register

Sean P. Rensch
John D. Rouse
Katie Samples Dean
John L. Selzer
Thomas J. Shomaker
Rodney W. Smith
Meagan K. Spomer
Mitchell C. Stehlik
Darrell K. Stock
Steffi A. Swanson
Hang H. Tat
Jason R. Thomas
Ben W. Thompson
Sovida I. Tran
Kathryn I. Vampola
Joan W. Watke
Nicholas E. Wurth

Reduced Fee Pro Bono Cases

Roxanne M. Alhejaj
Avis R. Andrews
Kelsey E. Arends
Lucinda K. Bauer
Audrey A. Bellew
Mary C. Byrd
Hunter A. Campbell
Krista M. Carlson
Aisha Carr
Katherine R. Chadek
James W. Crampton
Katie Samples Dean
William J. Erickson
Kyle J. Flentje
Leta F. Fornoff
Leah J. Gleason
Angela H. Heimes
Patrick M. Heng
Jamie C. Hermanson
Margaret R. Jackson
Mark F. Jacobs
Joy M. Kathurima
Jeanelle S. Kleveland
Alex M. Lierz
Samantha F. Miller
Jason R. Mitchell

Brad J. Montag
John V. Morgan
James A. Owen
Kay S. Prather
Gregory A. Rosen
Audrey A. Rowley
Katherine E. Sharp
Ryan M. Swaroff
Lyle E. Wheeler Jr.
Brandi J. Yosten

Self-Help Centers

Buffalo

Melodie T. Bellamy, *Coordinator*
Brandon J. Dugan
Luke E. Zinnell

Douglas

John T. Rogers, *Coordinator*
James F. Busse
Joseph S. Dreesen
Karisa D. Johnson
Stephen J. Lefler
Ceci N. Menjivar
Michael P. Moran
Kathryn D. Putnam
Alan C. Schroeder
Judith A. Schweikart
Amy L. Van Horne

Hall

James H. Truell, *Coordinator*
Grady C. Erickson
Jonathan M. Hendricks
John B. McDermott
John D. Sabott
Keith Smith

Madison

Ryan J. Stover, *Coordinator*
Jack W. LaFleur

Scotts Bluff

Stacy C. Bach, *Coordinator*