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No Lawyer for Miles, So One Rural State Offers Pay

By **ETHAN BRONNER**



Matthew Staver for The New York Times

South Dakota's chief justice, David E. Gilbertson, with a sign he had made. He foresees a "grim future" with scarce legal services.

MARTIN, S.D. — Rural Americans are increasingly without lawyers even as law school graduates are increasingly without jobs. Just 2 percent of small law practices are in rural areas, where nearly a fifth of the country lives, recent data show.

Here in Bennett County, which is situated between Indian reservations on the Nebraska border, Fredric Cozad is retiring after 64 years of property litigation, school board disputes, tax cases and homicides with no one to take his place. When he hung out his shingle he was one of half a dozen lawyers here. Now there is not a working attorney for 120 miles.

"A hospital will not last long with no doctors, and a courthouse and judicial system with no lawyers faces the same grim future," South Dakota's chief justice, David E. Gilbertson, said. "We face the very real possibility of whole sections of this state being without access to legal services."

In South Dakota, 65 percent of the lawyers live in four urban areas. In Georgia, 70 percent are in the Atlanta area. In Arizona, 94 percent are in the two largest counties, and in Texas, 83

percent are around Houston, Dallas, Austin and San Antonio. Last summer, the American Bar Association called on federal, state and local governments to stem the decline of lawyers in rural areas.

Last month, South Dakota became the first state to heed the call. It [passed a law](#) that offers lawyers an annual subsidy to live and work in rural areas, like the national one that doctors, nurses and dentists have had for decades.

Such moves follow a growing call for legal education to [model itself on medical training](#) to increase practical skills and employability. They also come amid [intense debate](#) on the future of the legal profession, and concerns about a possible glut of lawyers. In the past two years, only about 55 percent of law school graduates, many with large student loans to repay, have found full-time jobs as lawyers.

“In some areas we probably do have an oversupply of lawyers, but in others we have a chronic undersupply, and that problem is getting worse,” said David B. Wilkins, who directs a program on the legal profession at Harvard Law School. “In the 1970s, lawyers spent about half their time serving individuals and half on corporations. By the 1990s, it was two-thirds for corporations. So there has been a skewing toward urban business practice and neglect of many other legal needs.”

Data from LexisNexis showed that in 2012, firms with fewer than 50 lawyers were heavily concentrated in urban and suburban areas, with only 2 percent in rural regions.

In June at the annual Jackrabbit Bar Conference, for which delegates from South Dakota and similar states like Nevada, Montana and Wyoming will gather near Mount Rushmore, the new South Dakota law is expected to be high on the agenda.

The South Dakota model has also drawn interest in Iowa, where the 33 counties with the smallest populations, among 99 over all, contain fewer than 4 percent of the state’s lawyers.

“I sent it to our legislators,” Philip L. Garland, chairman of the state bar association’s rural practice committee and a lawyer in Garner, Iowa, said of the South Dakota law. Thirty years ago, he said, there were a dozen lawyers in his area. Now there are seven, none of them young.

Last year, the Iowa State Bar Association began encouraging law students to spend summers in rural areas in the hope they might put down roots. In Nebraska, the bar association organized rural bus tours for law students for the first time this year.

Here in South Dakota, Mr. Cozad, who is 86 and came as a boy with his homesteader parents from Iowa, said he had never imagined that younger lawyers would not follow him. Sitting in his modest paneled office, the shelves groaning under aging legal volumes, he said: “The needs of the people are still there. There is plenty of work and opportunity.”

That was evident on the day court was in weekly session in this town of 1,100. The lunch place at the Martin Livestock Auction, where 1,000 head of cattle had been sold the previous day, included a table of lawyers, the ones in suits, ties and no hats. All had driven more than two hours from Rapid City and Pierre, paid by Bennett County, which also pays to transport prisoners 100 miles away because it has no functioning jail.

“Between sending out prisoners to Winner and bringing in lawyers and judges, we are breaking the county budget,” said Rolf Kraft, chairman of the County Board of Commissioners.

The new law to lure lawyers passed partly because it requires the rural counties and the bar association to contribute to the subsidy before the state pays. Mr. Kraft said the law seemed good, but he worried about finding the money for his county’s share and rental properties for young lawyers.

Mayor Gayle Kocer said that landowners in Martin — 42 miles from the site of the Wounded Knee massacre and home to wild turkeys and antelopes, winter wheat and millet — required lawyers for deeds, wills, sales and disputes.

“We need lawyers,” she said. “Our state attorney drives down from Rapid City. It’s crazy. We haven’t had a full-time city attorney in years. For any legal issue, we have to look out of town.”

Carla Sue Denis, a drug-rehabilitation counselor in town — addiction is a raging problem — said people seeking a divorce and other legal matters sometimes consulted her since she knew how to do research on the Internet and download forms.

Thomas C. Barnett Jr., executive director of the [State Bar of South Dakota](#), said lawyers serve their towns not only through their professional work but also on school and community boards. He said that in contrast to an earlier era, law graduates seemed increasingly drawn to urban life for the better shopping and dining as well as job opportunities for their spouses. In addition, he said, young graduates need mentors.

But Mr. Barnett, like Chief Justice Gilbertson, said the possibilities for satisfying and highly varied legal work were especially great in rural areas. And the plan is to set up new rural lawyers with mentors and help spouses find work.

The new law, which will go into effect in June, requires a five-year commitment from the applicant and sets up a pilot program of up to 16 participants. They will receive an annual subsidy of \$12,000, 90 percent of the cost of a year at the University of South Dakota Law School.

This compares with a 40-year-old federal medical program, the [National Health Service Corps](#), which offers up to \$60,000 in tax-free loan repayment for two years of service in underserved areas and up to \$140,000 for five years of service. The program consists of nearly 10,000 medical, dental and mental health professionals serving 10.4 million people, almost half in rural communities.

A spokesman for the federal program said research had shown that residents who train in rural settings are two to three times more likely than urban graduates to practice in rural areas.

“The health care model is unbelievably subsidized, and while I favor finding some version of it for legal needs, it is never going to be ratcheted up to that level,” Professor Wilkins of Harvard said. “We should think more about public-private partnerships and loosening up some of the restrictions on law practice without junking them all. What we need now is experimentation, like what is happening in South Dakota.”

This article has been revised to reflect the following correction:

Correction: April 9, 2013

An earlier version of this article incorrectly attributed a statement in the final paragraph to Philip L. Garland, chairman of the state bar association’s rural practice committee and a lawyer in Garner, Iowa. It was Professor David B. Wilkins, who directs a program on the legal profession at Harvard Law School, who made the statement.