

PROVIDING ACCESS TO JUSTICE: RULE 6.1 PRO BONO
THE “WHY?” AND THE “HOW?” FOR THE ORGANIZED BAR

WITH LIBERTY AND JUSTICE FOR...





TEST YOUR KNOWLEDGE!

Use smartphone camera to scan QR code.

- **DO NOT USE A QR Reader App**



1. Click the “PollEv” link on the scan to open the link to the application.
2. Enter your name or a nickname – Click Continue
3. When a vote is made live, it will appear on your screen, and you will be able to respond.
4. “Response Recorded” will appear under the action item when your vote has been cast.
5. Results will appear in real time on your screen and on the presenter’s screen.

THE PROMISE VS. THE REALITY

- The *2022 Justice Gap Report* of the federal Legal Services Corporation found that **92 percent** of the civil legal problems reported by low-income Americans received inadequate or no legal help.
- Similar Virginia studies in 1991 and 2007 found that **80 percent** of the legal problems of low-income Virginians received no help from an attorney.

RATES OF REPRESENTATION & OUTCOMES

The equal justice ideal cannot be realized without access to legal services - to lawyers, in particular.

- Most Virginia civil cases include at least one unrepresented party.
 - Both parties represented in only 1% of GDC cases, 6% of J&DR cases, 38% of Circuit Court cases
- There is an association between poverty and lack of representation.
- **Litigants represented by counsel are in general twice as likely to receive a positive outcome as those who are unrepresented.**

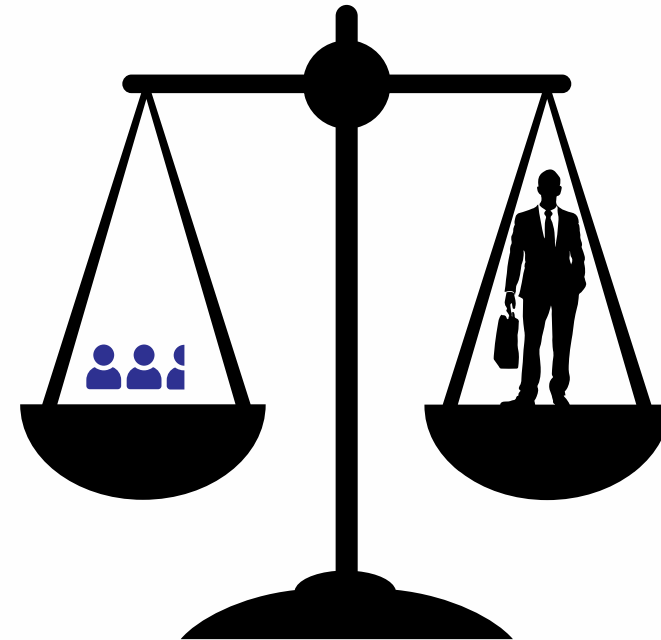
VIRGINIA POPULATION & ACCESS TO LAWYERS

POVERTY POPULATION PER LEGAL AID LAWYER



There is one legal aid attorney for every **3,073** Virginians below the poverty line.

GENERAL POPULATION PER ACTIVE LAWYER

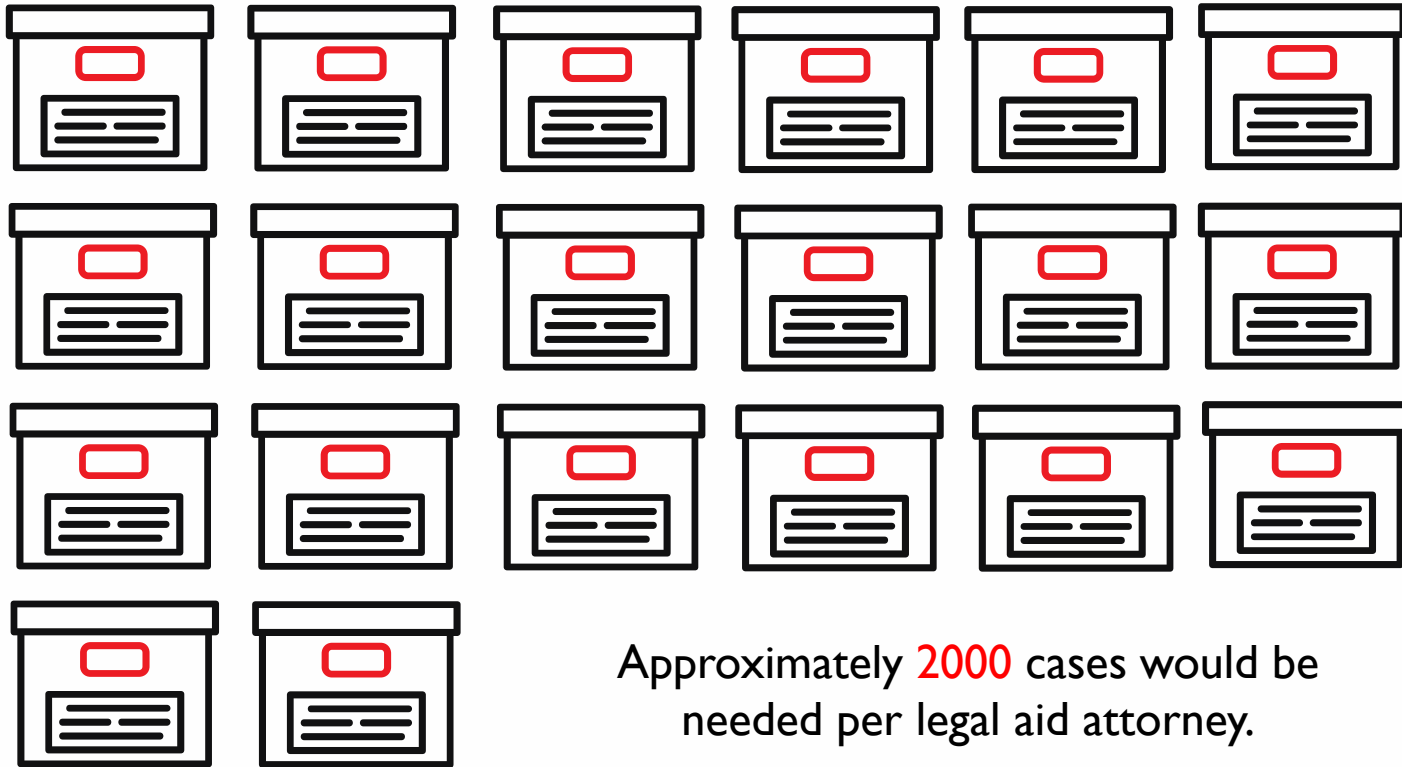


There is one active Virginia attorney for every **240** Virginians of any income.

 = 100 people

ANNUAL CASE DEMAND PER LEGAL AID ATTORNEY

AVERAGE CASELOAD NEEDED TO BEGIN MEETING DEMAND




CURRENT AVERAGE CASELOAD



Approximately 100 cases are currently being worked on per legal aid attorney.

100 cases annually is currently straining the 280 legal aid attorneys in Virginia!

 = 100 cases

PRO BONO IN RESPONSE TO OUR CIVIL JUSTICE CRISIS

If “Justice for All” is going to be more than an empty phrase at the end of the Pledge of Allegiance, Virginia needs the sustained engagement of every attorney in *pro bono* assistance.

Legal Aid




Private Bar

THE BAR'S MISSION

- 1) to protect the public;
- 2) regulate the legal profession of Virginia;
- 3) **advance access to legal services**; and
- 4) assist in improving the legal profession and the judicial system.

Virginia Rules of Professional Conduct Preamble

A lawyer should be mindful of the deficiencies in the administration of justice and of the fact that the poor, and sometimes persons who are not poor, cannot afford adequate legal assistance, and should therefore devote professional time and civic influence in their behalf. A lawyer should aid the legal profession in pursuing these objectives and should help the bar regulate itself in the public interest. . .



**THE
JUSTICE
GAP &
RULE 6.1**

Rule 6.1 of the Virginia Rules of Professional Conduct establishes goals for pro bono service with equal justice ideals in mind and with the hope of increasing access to legal services for those unable to afford an attorney.

2%

A lawyer should render at **least two percent per year** of the lawyer's professional time to pro bono public legal services.



Pro bono publico services include poverty law, civil rights law, public interest law, and volunteer activities designed to increase the availability of pro bono legal services.



A law firm or other group of lawyers may satisfy their responsibility collectively under this Rule.



Direct financial support of is an alternative method for fulfilling a lawyer's responsibility under this Rule.

RULE 6.1

CATEGORIES OF PRO BONO SERVICE

Direct Pro Bono Legal Services

- Poverty Law
- Civil Rights Law*
- Public Interest Law*

**no requirement that the client is unable to afford an attorney*

Other Volunteer Services to increase pro bono

CATEGORIES OF PRO BONO SERVICE

Direct Pro Bono Legal Services

- The free or nominal fee nature of the work must be established in advance for the work to qualify as pro bono (unpaid fees don't count)
- Inexperience does not preclude service – Rule 1.1
– lawyers can gain competency through training, prep, and research.



**POVERTY
LAW**

Providing low bono or pro bono legal assistance to someone who lacks the financial resources to hire a lawyer.

(Comment 2)

- Lack of ability to pay is key
- Fulfills the equal justice promise for economically disadvantaged
- Structured programs provide benefits, but ad hoc service does count.



**OTHER
VOLUNTEER
ACTIVITIES**

Engaging in volunteer activities designed to increase the availability of pro bono

(Comment 5)

- Does not require provision of legal services
- Training and mentoring pro bono lawyers
- Recruiting pro bono lawyers
- Drafting materials that pro bono attorneys will use
- Performing intake or screening services for legal aid or other legal services programs that serve clients consistent with Rule 6.1 (a) priorities.
- Serving on boards, committees or bodies that increase access to pro bono services on the state or local level (e.g. your firm's pro bono/public service committee)

RULE 6.1 IS NOT MANDATORY BUT...

COMMENT[1] **Every** lawyer, regardless of professional prominence or professional work load, has a **personal responsibility** to provide legal services to those unable to pay, and a **personal involvement in the problems of the disadvantaged can be one of the most rewarding experiences in the life of a lawyer.**

WHY DO IT IF IT'S NOT MANDATORY?

Bench and bar leaders care about pro bono.

Get experience, including time in court.

Pro Bono work can be great PR for firms and corp. clients are looking at it.

Flex legal research and lawyering skills muscles. Learn a new area of the law.

Reinvigorate your passion for the law.

The VOLUNTARY Pro Bono Reporting Rule

The addition of **Paragraph 22** of Part Six, Section IV, of the Rules of the Supreme Court adds a new **voluntary pro bono reporting** rule to **complement Rule 6.1** aspirational pro bono service goals.

**PRO BONO
NUMBERS IN
VIRGINIA**

355,199.7 hours of pro bono service

More than \$1.7M in financial contributions

12% reported hours greater than zero.

Those who reported service time contributed an average of 63.5 hours.

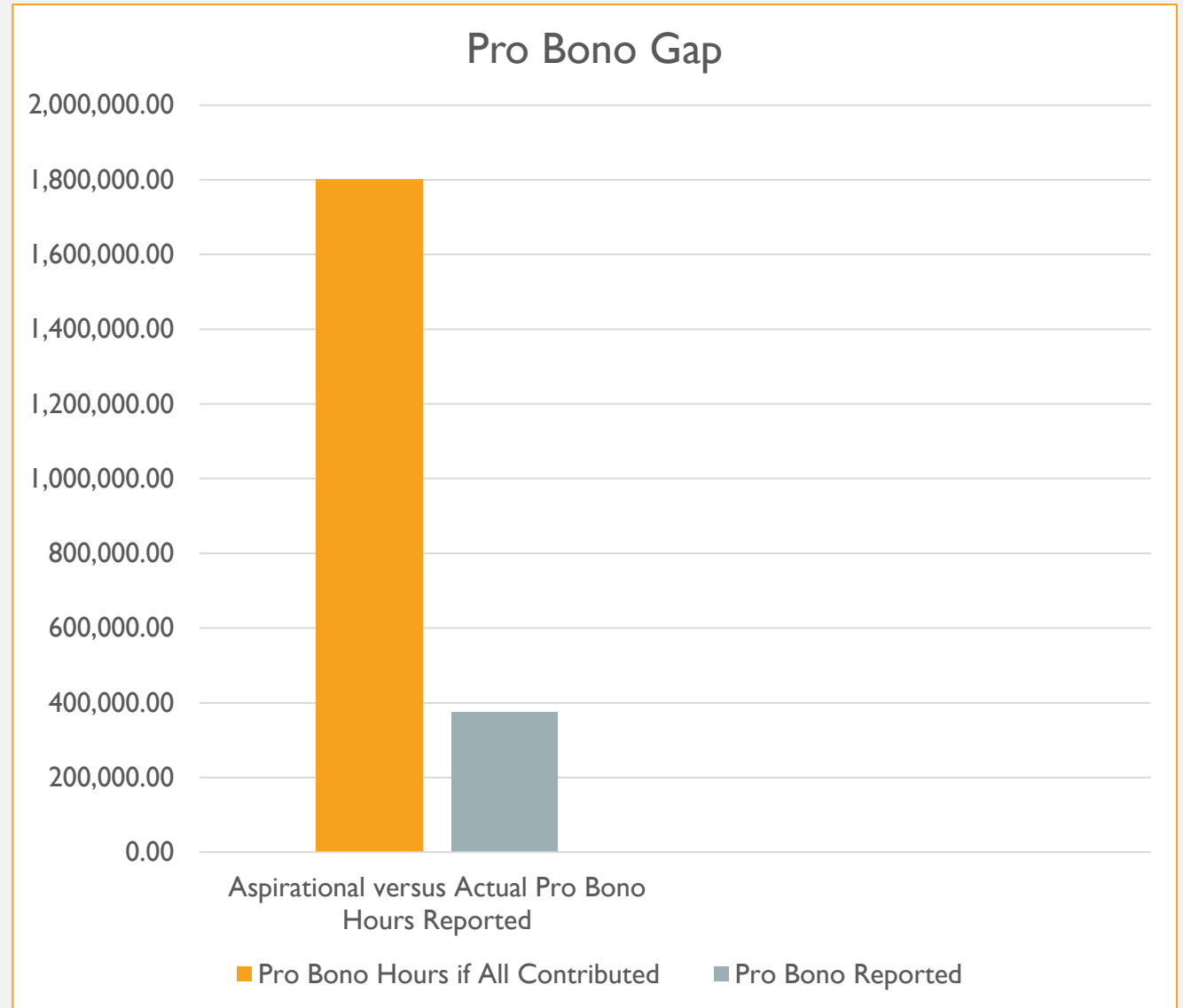
**2023 LEWIS F. POWELL PRO BONO
AWARD WINNER**

CHARLIE PHILLIPS



THE PRO BONO GAP

- If we had 100% participation with this aspirational goal, we would be providing more than 1.8 million hours of pro bono.



RULE 6.1 ASPIRATIONS WHY ARE WE FALLING SHORT?

- Time constraints
- Commitment to family obligations
- Lack of skills or practice experience in the practice area needed
- Competing billable hour expectations and other firm policies
- The cost and financial burden on their practice
- The lack of administrative support
- The lack of malpractice insurance
- Fear of getting in over one's head – too much work for too long

**PRO BONO IS
EASIER THAN
EVER WITH...**



Virginia
Free Legal
Answers



AMERICAN **BAR** ASSOCIATION

Free Legal Answers

**WHAT IS
VIRGINIA FREE
LEGAL
ANSWERS?**

Online pro bono Q&A portal

Anonymous, flexible, customizable, and limited in scope

ABA initiative - interactive website to provide online pro bono assistance to low-income citizens (poverty law category of Rule 6.1).

45 states have signed up for the project to date with more in the process.

Virginia site launched August 22, 2016, and has served more than 10,000 qualified individuals.

THE Q&A PROCESS

Eligible client user (next slide) posts a request for legal advice.

Licensed VA lawyer reviews questions and selects those they want to answer.

If an attorney responds to a question, the client user receives an email but must log in to view the written response.

The attorney and client engage in a dialogue.

The attorney closes the dialogue after answering the question.

CLIENT ELIGIBILITY AND REGISTRATION

Rule 6.1 “Poverty Law” – serving “people who do not have the financial resources to compensate a lawyer.” Comment [2]

250% of the federal poverty guidelines or less; no more than \$10K liquid assets

Prospective client user logs in and answers registration questions to qualify

Users are limited to three questions per year

Civil legal issues only – no criminal or traffic matters

If ineligible, referred to other resources

ELIGIBLE QUESTION CATEGORIES

Benefits

Civil/Constitutional Rights

Debts & Purchases

Emancipation and Delinquency

Expungement

Family/Divorce/Custody

Health Care (Medicaid/Medicare/ACA)

Housing or Property Owned

Immigration

Natural Disaster

Personal Injury

School Discipline

Special Education

Wills/Inheritance

Work/Employment

Worker's Comp

Other **Civil** Legal Issues

REMOVING PRO BONO BARRIERS

Time constraints?

- *Manage your time as you prefer; it's as easy as answering an email.*
- *Do it anytime, from anywhere with an internet connection.*
- *Average question takes 20 minutes or less to answer.*

Lack of skills or practice experience in poverty law?

- *You pick the questions you feel comfortable answering or have time to research.*
- *Training resources available through the state administrator.*
- *Remember, Rule 1.1 – inexperience does not preclude service!*

REMOVING PRO BONO BARRIERS

Competing billable hour expectations and policies?

- *Sign on when your workload is more manageable.*
- *You can ignore the queue entirely during busy times in your practice.*

Cost and financial burden a concern?

- *Provided to the VSB for free! Dues don't pay for the service. Users don't pay a fee.*
- *Limited-scope engagement means no expenses that would be associated with trying a case (experts, court reporters, travel, printing, etc.)*

REMOVING PRO BONO BARRIERS

Lack of administrative support?

- *Administered by the ABA and supported by VSB director of Access to Legal Services.*

No malpractice insurance?

- *Volunteer attorneys answering questions on the website are covered under ABA/NLADA malpractice policy.*

VIRGINIA FREE LEGAL ANSWERS – CLIENT FEEDBACK

“I really appreciate your help. I told my partner about your help. In tears she is saying that you are an angel.... I appreciate your help so much. My entire family is in great debt to you.”

“You have been a blessing in disguise for my family and I appreciate you so very much ... Thank you so very much. Thank you.”

“Thanks so much for your help. It is good to know that you have an option to get legal advice when you have no idea where to start.”

“Thank you so much, may God bless you.”

“Thank you! That was great information!”

VIRGINIA FREE LEGAL ANSWERS – ATTORNEY FEEDBACK

“It’s great if you have the interest and bandwidth to take a court case on a pro bono basis...not all of us want to or can. Free Legal Answers reminds us that there is another invaluable way to contribute our skills and time. By volunteering to field posted questions, you’re helping clients move forward with their lives, for which they are invariably thankful, as evidenced by the appreciation and feedback you’ll receive in many replies.”

ATTORNEY
“LOG MY
HOURS”

You can log your hours
within the system

The system keeps a tally
of hours by year

Hours are searchable

HOST A VIRGINIA FREE LEGAL ANSWERS CLINIC!



CLE and website tour



Interactive legal clinic





**OTHER
PRO BONO
GATEWAYS**

- **Legal aid programs** have clinics, hotlines, and limited-scope opportunities in addition to full representation.
- Some bars and **independent** nonprofits operate their own **pro bono programs**:
 - Greater Richmond Bar Foundation,
 - CancerLINC
 - Good Samaritan Advocates,
 - Community Tax Law Project
 - Fairfax Pro Bono Law Center
- **Justiceserver.org**, provides case opportunities across the state.

WHAT CAN BAR LEADERS DO TO SUPPORT PRO BONO

- Develop pro bono goals
- Start a pro bono committee
- Provide an annual pro bono CLE or training event
- Host a clinic in partnership with VSB or local legal aid
- Adopt a pro bono signature project
- Celebrate pro bono accomplishments big and small
- Lead by example