Women have been graduating law school at roughly equal numbers to men for the last 30 years. That’s decades of women, from the 1980s on, in the legal workforce and taking cases. In theory, those early graduates should be well represented in the upper echelons of the legal profession by now.

In practice, the clients and firms that hire attorneys have been slower to mirror that parity. And women are leaving the law at higher rates than men.

The American Bar Association announced in November that it would study the issue of the gender gap and female attrition in the legal profession via an initiative, “Achieving Long-term Careers for Women in Law.” Understanding why women leave the profession or don’t attain top legal positions will lead the ABA to recommendations about how employers can help close the gender gap. Many Virginia lawyers welcomed the news, especially in light of a cultural moment that has many companies and employers examining the behavior of powerful men in their industries.

“The biggest focus has been on women in the private law firm practice and what’s going on there,” says Nancy F. Reynolds, a lawyer with LeClairRyan in Roanoke and a
board member of Virginia Women’s Attorney Association (VWAA). “That’s where the highest level of attrition is seen, and for me, it’s always a question of why.”

A 2017 survey by the National Association of Women Lawyers suggests that, although women are 45 percent of law firm associates, they comprise only 19 percent of equity partners in private law firms — a number that’s barely increased in the past 10 years. In the corporate world, too, men greatly outnumber women as chief legal officers.

“Women are dropping out once they’ve arrived at a level where they should be starting to take off in their practices,” Reynolds says.

The four women interviewed by Virginia Lawyer acknowledge that the commonwealth has come a long way in the last 50 or 60 years. Patricia E. Roberts, the vice dean and clinical professor of law at William & Mary Law School, says she experienced minimal marginalization in the practice — male attorneys referring to her as a ‘young lady’ or other paternalistic gestures. But she always felt treated with respect and didn’t struggle to reach her goals.

“The women I have worked with who came before me, the people who serve as my mentors,” she says, though, “they had a very tough fight, whether they were in the academy or in practice.”

Roberts, who also used to be a managing partner of a firm in Newport News with her husband, confirms the rise in female law students at her school: their first-year class is 56 percent female.

The Billable Hour

Part of the gender gap, she says, might be attributed to the fact that law schools are producing more JDs every year than there are jobs for lawyers in the marketplace, so graduates already have to be more creative in their approach to a career.

Are women more actively embracing this creativity in their careers?

“It usually comes down to families, flexibility, and schedule,” says Anne Lahren, an attorney in Virginia Beach. “A lot of firms are very traditional, stick to rigid office hours and are not willing to deviate from the long-standing practice of the 1,800–2,000 billable hours.”

The demands of an 8 a.m. to 8 p.m. job can be brutal, she says, and you lose a lot of talent. Lahren, a 2006 law school graduate, says she sees women leave the profession entirely or change practice areas in a way that accommodates flexibility but takes them out of the climb to the top. That leads to a stagnant percentage number of women partaking in the lucrative compensation structure of large firms.

“Law firms have the competing interest of work-life balance and the billable hours,” says Jessica N. Childress, a lawyer practicing in Virginia, Maryland, and DC. “When you have these high billable hour requirements, it’s hard to provide policies that allow people to work from home when you need to really see them.”

Requiring lawyers to bill a certain number of hours per year, Nancy Reynolds says, sets up unhealthy competitions within the firm. Attorneys are fighting with each other over control of clients, protecting access to clients.

That sometimes-toxic work culture, and the demanding, stressful nature of the job, often doesn’t favor women. Reynolds says she’s experienced and seen bias at previous employers, where attorneys kept women from clients, from being first chair in a trial, and even from signing documents.

“I’ve had attorneys say, ‘oh you can’t argue in court because the client doesn’t want you up there arguing in court,’” Reynolds says. “So you sit next to the counsel table and when the judge asks them questions, the attorney turns around and asks you what the answer is.”

... law schools are producing more JDs every year than there are jobs for lawyers in the marketplace ...

Certain practice areas of the law tend to be more male- or female-dominated.

“One issue is firms say, ‘oh we have a woman attorney, let’s make her do family practice,’” says Lahren. “And some of those practice areas tend not to be as lucrative as others.”
Reynolds says, anecdotally, that she sees a lot of retiring attorneys’ book of business predominantly absorbed by white men. She wonders if the prospect of a female colleague’s maternity leave affects the inheritance of clients from retirees. Taking time off to care for children interferes with becoming full equity partners.

“I think what’s incumbent upon us is that we need to encourage them to go into whatever sort of employment they’re seeking — and not preclude themselves from even trying it, when no one knows what the future holds.”

“To whom is the child rearing responsibility typically placed? Society says women,” she says. “It doesn’t have to be that way. But it is often that way.”

Roberts, who graduated from law school in 1992, thinks that’s not the whole story, as even those women who have not had children, or arranged their schedules to work long hours, aren’t necessarily being invited to the ranks of equity partner.

“I think what’s happening is there’s so much ground to be made up because of the many years that this was a male dominated profession,” she says. “We’re still seeing the effects of that.”

Choosing a Path
Roberts cites the building of networks and books of business — a roster of clientele — as a barrier for some women, especially in litigation.

“Litigation is known to be more aggressive, and it may be something where not everyone gets the same charge out of that level of demanding and intense advocacy, or the combative approach necessary when you’re litigating cases,” she says. “This is a huge generalization, but that may be something that does not attract women, that kind of career choice of engaging in the adversarial system.”

Building clients and networks often requires time out of the office, evenings and weekends. “It just may be that that’s something that is less interesting or enticing to women, which then also would lead to them not having as huge a clientele as male peers,” Roberts says. But she cautions against simplistic generalizations.

Childress, who graduated law school in 2010, didn’t leave Big Law for want of opportunity. She worked at the Department of Justice and in the northern Virginia office of a large, global firm, but left in 2016 to pursue a unique path.

Childress formed a children’s content company, based on a children’s book she wrote aimed at exposing young girls of color to the law. (The heroine, an 11-year-old named Juris Prudence, fights for children’s rights.) But she still wanted to practice law, and, to be part of a firm that allowed her the flexibility to do both, she started her own.

“So my path was a little bit convoluted,” she says. “I’m really entrepreneurial and being an equity partner — it just wasn’t the career path I wanted.”

Childress points out that not everyone defines success as an equity partnership at a law firm, and some leave that path willingly and eagerly, with other pursuits in mind.

“Some people they get off earlier, they go on a different path and they don’t want to climb all the way to the top, if you think of the top as the Holy Grail.”

But Childress says seeing women leaders in the firms where she clerked at and was an associate was valuable. “When you see women in high roles at companies, you’re like, ‘oh I can see myself there, too,’” she says.

Some women interviewed noted that Virginia has historically been slower to evolve when it comes to women in leadership roles. The commonwealth has yet to elect a female governor, lieutenant governor or US senator, and the Supreme Court of Virginia has had only three women since its first in 1989.

“When you look at the more conservative areas like Virginia, and certain areas in Virginia are very conservative, you will see more [issues of equity and attrition] in my area in Roanoke or deep southwest than you would see in the Washington, DC, metropolitan area,” Reynolds says.

The Best and Brightest
Many of the women interviewed note that some of the same cultural problems that
are bad for women are bad for clients, too. Competition for billable hours doesn’t translate into good client services, Reynolds says. And clients are pushing back on all male firms, says Lahren.

“Before maybe clients only wanted to deal with male attorneys,” she says. “Now they’re dictating that they want diversity in their attorneys.” Losing female attorneys can impact a firm’s bottom line.

“What law firm wouldn’t want to say, we hire the best and the brightest and let me show you,” Reynolds says.

And some judges won’t look favorably at an all-male legal team. “You can see that in a lot of literature that’s coming out; many judges are asking, why aren’t we seeing women in these roles,” says Reynolds.

And, of course, a good work-life balance benefits men, too. “Dads are competing for equal time with kids, if there’s a split,” says Lahren, also a member of VWAA. “We try to take a gender-neutral approach in some of our advocacy.”

Roberts says law schools today are doing a better job of guiding women toward the same sorts of opportunities as men.

“I think what’s incumbent upon us is that we need to encourage them to go into whatever sort of employment they’re seeking — and not preclude themselves from even trying it, when no one knows what the future holds,” she says. “You don’t know if you’re definitely going to start a family, or what resources you’ll have available when you do, or even when that will happen for you.

“So rather than preclude entering the field in certain positions altogether, we should encourage them to consider how creatively they could balance the two, and consider that one never knows what’s going to happen.”

Lahren hopes firms will embrace technological advancements that lend themselves to flexibility — like video-conferencing and networks that allow employees to work from home. Her CEO, for example, has incentives to retain talent, like accommodations for children and flexible schedules.

Lahren also says women shouldn’t shy away from asking for these things — talking to employers, presenting alternatives to current schedules, and making a case for more flexibility. “Treat it like a presentation to a client,” she says. “Put it in numbers, research, have a plan — not just ‘I can’t work under this current schedule, it needs to change,’” she says. And outside organizations, like the VWAA, which spearheads networking and mentoring groups across the commonwealth, can help, she adds.

**Chipping Away**

Reynolds notes a difference between external mentoring and in-firm sponsorship, and she hopes firms will see the latter as their responsibility.

“Sponsorship is where you have people who are getting your face out there,” she says. “Getting you in networks and getting you known so you can develop the book of business that allows you to them move up in the private law firm practice into the equity partner role.”

It’s incumbent on law firms to change the narrative and the culture, Childress says. Flexible maternity (and paternity) leave, subsidized childcare, PTO policies for caregivers who might not be parents, programs that groom young women, she lists for example.

“Having sponsors and mentors who are teaching them, what is an equity partner,” Childress says. “So when they are ready to ascend to those spaces, after they become mid-level associates, they should really be thinking about, ‘ok this is what I need to do to set myself up to become this, if that’s what I want.’”

Every firm is trying, Childress says. Work-life balance is something that all attorneys struggle with — even those in solo practice. But firms need to promote and accept the good policies they might already have on paper. “Every firm really has to do a true assessment of their culture to determine, even though we have these policies, do we actually institute these policies in practice?” Childress says. “If we have, you know, a policy that offers telework, do we look down on people who telework, even though we allow it?

“We really have to talk the talk and walk the walk.”