

HOUSE BILL ANALYSIS

HB 2276

Title: An act relating to civil legal services.

Brief Description: Promoting civil legal services for indigent persons.

Sponsors: Representatives Lisk, Huff and Sheahan.

HOUSE COMMITTEE ON LAW & JUSTICE

Staff: Trudes Hutcheson (786-7384).

Background: In Washington, various legal service organizations provide civil representation to indigent residents. These organizations receive funding from different sources, including the federal Legal Services Corporation (LSC), state appropriations, the state supreme court, and private contributions.

State Law:

Money received by the state treasurer from fees, fines, forfeitures, penalties, reimbursements, or assessments by district courts, municipal courts, and superior courts is deposited in the Public Safety and Education Account (PSEA). The Legislature appropriates PSEA funds to promote various programs, including the civil representation of indigent persons.

Washington's statute requires that any money appropriated from the PSEA for civil representation of indigent persons shall be used solely for the purpose of contracting with qualified legal aid programs for representation in matters of: (a) domestic relations and family law; (b) public assistance, health care, and entitlement programs; (c) public housing and utilities; and (d) unemployment compensation. Funds distributed to qualified legal aid programs may not be used for lobbying or in class action suits. A qualified legal aid program— means a not-for-profit corporation, operating exclusively in Washington, which has received funding for civil legal services to indigents under federal law.

Federal Law:

Congress established the LSC, which makes grants to and contracts with individuals, organizations, and state and local governments to provide legal assistance to indigent persons. Federal law places various restrictions on how the recipients of LSC funds may use the money. Some of those restrictions include the prohibition of a recipient

to: (a) engage in grassroots lobbying; (b) participate in any public demonstration, picketing, boycott, or strike; (c) initiate the formation of any association, federation, labor union, coalition, network, alliance, or any similar entity; (d) provide representation to ineligible aliens; offer unsolicited in-person advice; and (e) initiate litigation, or challenge or participate in efforts to reform a federal or state welfare system (except that a recipient may represent a plaintiff seeking specific relief from a welfare agency). The federal law also requires recipients to identify each plaintiff it represents to prospective defendants in pre-litigation settlement negotiations, unless a court has entered an order protecting the plaintiff from such pre-complaint disclosure.

Washington's statute provides that the funds distributed to legal aid programs in Washington are subject to all limitations imposed on the use of funds under the federal law as currently in effect or hereafter amended.–

Recently, the federal law was amended to provide that many of the federal restrictions apply not only to federal funds, but also to any other funds the recipient receives.

Washington's Legal Services Organizations:

Before January 1996, the Spokane Legal Services Center, Puget Sound Legal Assistance Foundation, and Evergreen Legal Services received some federal funding. Thereafter, the three organizations were merged to form Columbia Legal Services (CLS). CLS does not receive federal funding.

Summary of Bill: The Legislature intends to promote civil legal services to indigent persons, subject to available funds, while ensuring accountability.

The definition of a qualified legal aid program– is amended to mean a nonprofit corporation operating exclusively in Washington that has received funding for civil legal representation of indigent persons from the PSEA before July 1, 1997.

The categories of eligible cases are changed. Express authorization to represent people in entitlement– cases and unemployment compensation cases is removed. However, money appropriated from the Legislature may be used for representation in Social Security cases. The reference to the restrictions in federal law is deleted, and the following restrictions are specifically added to the existing prohibition against lobbying and class action suits:

- grassroots lobbying;
- litigation, lobbying, or representation in rule making regarding federal, state, or local welfare reform efforts, except where the relief sought does not involve an effort to amend or challenge statutes or rules in effect;

- participating in or identifying the program with prohibited political activities (including advertising or contributing or soliciting financial support for or against any candidate, political group, or ballot measure, and voter registration or transportation activities);
- representation in fee-generating cases unless the case has been rejected by the local lawyer referral service or two private attorneys;
- organizing any association or federation;
- representation of undocumented aliens;
- picketing, demonstrations, strikes, or boycotts;
- providing in-person unsolicited advice; and
- conduct training programs that advocate particular public policies, encourage or facilitate political activities, labor or anti-labor activities, and other various activities.

The program is required to identify the plaintiffs prior to filing a complaint or entering pre-complaint negotiations. Upon a written request from a defendant, the program must provide a statement of facts on which the complaint is based signed by the plaintiffs. The statement must be kept in the program's file and made available to any entity auditing the program. Disclosure of a potential plaintiff's name is not required where the potential plaintiff can show disclosure would cause probable, serious harm to the potential plaintiff, and an injunction is obtained.

The restrictions and requirements apply to all money appropriated by the Legislature from the PSEA and from other state funds or accounts. The restrictions do not apply to money received from other sources.

The Department of Community, Trade, and Economic Development (CTED) must establish a distribution formula based on the distribution of indigent people by county. The CTED may establish client contributions, including copayment and sliding fee scale requirements. Expenditure of state funds must be audited annually by an independent outside auditor, and may be audited by the state auditor. The CTED must recover or withhold amounts that have been improperly used. The CTED is authorized to adopt rules.

A bipartisan, bicameral legislative oversight committee is established, which must meet at least four times during each fiscal year and accept public testimony in at least two meetings.

Fiscal Note: Not requested.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Office of Program Research