
SENATE BILL 6348

State of Washington

59th Legislature

2006 Regular Session

By Senators Kline, Keiser, Thibaudeau, Regala, Rockefeller, Kohl-Welles, Rasmussen, McAuliffe and Fairley

Read first time 01/11/2006. Referred to Committee on Judiciary.

1 AN ACT Relating to availability of legal aid to victims of domestic
2 violence and human trafficking; and amending RCW 2.53.030.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 **Sec. 1.** RCW 2.53.030 and 2005 c 105 s 3 are each amended to read
5 as follows:

6 (1)(a) The legislature recognizes the ethical obligation of
7 attorneys to represent clients without interference by third parties in
8 the discharge of professional obligations to clients. However, to
9 ensure the most beneficial use of state resources, the legislature
10 finds that it is within the authority of the legislature to specify the
11 categories of legal cases in which qualified legal aid programs may
12 provide civil representation with state moneys. Accordingly, moneys
13 appropriated for civil legal representation shall not be used for legal
14 representation that is either outside the scope of this section or
15 prohibited by this section.

16 (b) Nothing in this section is intended to limit the authority of
17 existing entities, including but not limited to the Washington state
18 bar association, the public disclosure commission, the state auditor,

1 and the federal legal services corporation to resolve issues within
2 their respective jurisdictions.

3 (2) Any money appropriated by the legislature for civil
4 representation of indigent persons shall be administered by the office
5 of civil legal aid established under RCW 2.53.020, and shall be used
6 solely for the purpose of contracting with qualified legal aid programs
7 for legal representation of indigent persons in matters relating to:
8 (a) Domestic relations and family law matters, (b) public assistance
9 and health care, (c) housing and utilities, (d) social security, (e)
10 mortgage foreclosures, (f) home protection bankruptcies, (g) consumer
11 fraud and unfair sales practices, (h) rights of residents of long-term
12 care facilities, (i) wills, estates, and living wills, (j) elder abuse,
13 and (k) guardianship.

14 (3) For purposes of this section, a "qualified legal aid program"
15 means a not-for-profit corporation incorporated and operating
16 exclusively in Washington which has received basic field funding for
17 the provision of civil legal aid to indigents from the federal legal
18 services corporation or that has received funding for civil legal aid
19 for indigents under this section before July 1, 1997.

20 (4) When entering into a contract with a qualified legal aid
21 provider under this section, the office of civil legal aid shall
22 require the provider to provide legal aid in a manner that maximizes
23 geographic access throughout the state.

24 (5) Funds distributed to qualified legal aid programs under this
25 section may not be used directly or indirectly for:

26 (a) Lobbying.

27 (i) For purposes of this section, "lobbying" means any personal
28 service, advertisement, telegram, telephone communication, letter,
29 printed or written matter, or other device directly or indirectly
30 intended to influence any member of congress or any other federal,
31 state, or local nonjudicial official, whether elected or appointed:

32 (A) In connection with any act, bill, resolution, or similar
33 legislation by the congress of the United States or by any state or
34 local legislative body, or any administrative rule, rule-making
35 activity, standard, rate, or other enactment by any federal, state, or
36 local administrative agency;

37 (B) In connection with any referendum, initiative, constitutional

1 amendment, or any similar procedure of the congress, any state
2 legislature, any local council, or any similar governing body acting in
3 a legislative capacity; or

4 (C) In connection with inclusion of any provision in a legislative
5 measure appropriating funds to, or defining or limiting the functions
6 or authority of, the recipient of funds under this section.

7 (ii) "Lobbying" does not include the response of an employee of a
8 legal aid program to a written request from a governmental agency, an
9 elected or appointed official, or committee on a specific matter. This
10 exception does not authorize communication with anyone other than the
11 requesting party, or agent or employee of such agency, official, or
12 committee.

13 (b) Grass roots lobbying. For purposes of this section, "grass
14 roots lobbying" means preparation, production, or dissemination of
15 information the purpose of which is to encourage the public at large,
16 or any definable segment thereof, to contact legislators or their staff
17 in support of or in opposition to pending or proposed legislation; or
18 contribute to or participate in a demonstration, march, rally, lobbying
19 campaign, or letter writing or telephone campaign for the purpose of
20 influencing the course of pending or proposed legislation.

21 (c) Class action lawsuits.

22 (d) Participating in or identifying the program with prohibited
23 political activities. For purposes of this section, "prohibited
24 political activities" means (i) any activity directed toward the
25 success or failure of a political party, a candidate for partisan or
26 nonpartisan office, a partisan political group, or a ballot measure;
27 (ii) advertising or contributing or soliciting financial support for or
28 against any candidate, political group, or ballot measure; or (iii)
29 voter registration or transportation activities.

30 (e) Representation in fee-generating cases. For purposes of this
31 section, "fee-generating" means a case that might reasonably be
32 expected to result in a fee for legal aid if undertaken by a private
33 attorney. The charging of a fee pursuant to subsection (6) of this
34 section does not establish the fee-generating nature of a case.

35 A fee-generating case may be accepted when: (i) The case has been
36 rejected by the local lawyer referral services or by two private
37 attorneys; (ii) neither the referral service nor two private attorneys
38 will consider the case without payment of a consultation fee; (iii)

1 after consultation with the appropriate representatives of the private
2 bar, the program has determined that the type of case is one that
3 private attorneys do not ordinarily accept, or do not accept without
4 prepayment of a fee; or (iv) the director of the program or the
5 director's designee has determined that referral of the case to the
6 private bar is not possible because documented attempts to refer
7 similar cases in the past have been futile, or because emergency
8 circumstances compel immediate action before referral can be made, but
9 the client is advised that, if appropriate and consistent with
10 professional responsibility, referral will be attempted at a later
11 time.

12 (f) Organizing any association, union, or federation, or
13 representing a labor union. However, nothing in this subsection (5)(f)
14 prohibits the provision of legal aid to clients as otherwise permitted
15 by this section.

16 (g) Representation of undocumented aliens, except for those people
17 who are victims of sexual assault, domestic violence, or human
18 trafficking.

19 (h) Picketing, demonstrations, strikes, or boycotts.

20 (i) Engaging in inappropriate solicitation. For purposes of this
21 section, "inappropriate solicitation" means promoting the assertion of
22 specific legal claims among persons who know of their rights to make a
23 claim and who decline to do so. Nothing in this subsection precludes
24 a legal aid program or its employees from providing information
25 regarding legal rights and responsibilities or providing information
26 regarding the program's services and intake procedures through
27 community legal education activities, responding to an individual's
28 specific question about whether the individual should consult with an
29 attorney or take legal action, or responding to an individual's
30 specific request for information about the individual's legal rights or
31 request for assistance in connection with a specific legal problem.

32 (j) Conducting training programs that: (i) Advocate particular
33 public policies; (ii) encourage or facilitate political activities,
34 labor or antilabor activities, boycotts, picketing, strikes, or
35 demonstrations; or (iii) attempt to influence legislation or rule
36 making. Nothing in this subsection (5)(j) precludes representation of
37 clients as otherwise permitted by this section.

1 (6) The office of civil legal aid may establish requirements for
2 client participation in the provision of civil legal aid under this
3 section, including but not limited to copayments and sliding fee
4 scales.

5 (7)(a) Contracts entered into by the office of civil legal aid with
6 qualified legal aid programs under this section must specify that the
7 program's expenditures of moneys distributed under this section:

8 (i) Must be audited annually by an independent outside auditor.
9 These audit results must be provided to the office of civil legal aid;
10 and

11 (ii) Are subject to audit by the state auditor.

12 (b)(i) Any entity auditing a legal aid program under this section
13 shall have access to all records of the legal aid program to the full
14 extent necessary to determine compliance with this section, with the
15 exception of confidential information protected by the United States
16 Constitution, the state Constitution, the attorney-client privilege,
17 and applicable rules of attorney conduct.

18 (ii) The legal aid program shall have a system allowing for
19 production of case-specific information, including client eligibility
20 and case type, to demonstrate compliance with this section, with the
21 exception of confidential information protected by the United States
22 Constitution, the state Constitution, the attorney-client privilege,
23 and applicable rules of attorney conduct. Such information shall be
24 available to any entity that audits the program.

25 (8) The office of civil legal aid must recover or withhold amounts
26 determined by an audit to have been used in violation of this section.

27 (9) The office of civil legal aid may adopt rules to implement this
28 section.

--- END ---