
Judiciary Committee

HB 2308

Title: An act relating to civil legal aid.

Brief Description: Concerning civil legal aid.

Sponsors: Representatives Jinkins, Graves, Stokesbary, Kilduff, Valdez, Ortiz-Self, Santos, Goodman, Fey, Bergquist, Sawyer, Tharinger, Pellicciotti, Dolan, Haler, Frame, Stanford, Macri, Kloba, Ryu, Appleton, Doglio, Young and Stonier; by request of Office of Civil Legal Aid.

<p style="text-align: center;">Brief Summary of Bill</p> <ul style="list-style-type: none">• Amends provisions governing the Office of Civil Legal Aid, including provisions relating to the types of matters for which state moneys may and may not be used.
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Hearing Date: 1/11/18

Staff: Cece Clynch (786-7195).

Background:

Office of Civil Legal Aid.

The Office of Civil Legal Aid (OCLA) is an independent agency of the judicial branch. The Supreme Court appoints the director from a list of three names provided by the Access To Justice Board (ATJB). The director serves at the pleasure of the Supreme Court and is tasked with the following:

- contracting with legal aid providers to provide authorized civil legal aid services (the OCLA is prohibited from providing direct representation of clients);
- monitoring and overseeing the use of state funding to ensure compliance;
- reporting to the Civil Legal Aid Oversight Committee (Committee) and the ATJB on the use of state funds;
- reporting on the status of access to the civil justice system for low-income persons eligible for state-funded legal aid; and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

- submitting a biennial budget request.

Moneys appropriated by the Legislature for civil representation are administered by the OCLA, and are to be used solely for the purpose of contracting with qualified legal aid programs for legal representation of indigent person in matters relating to:

- domestic relations and family law matters;
- public assistance and health care;
- housing and utilities;
- social security;
- mortgage foreclosures;
- home protection bankruptcies;
- consumer fraud and unfair sales practices;
- rights of residents of long-term care facilities;
- wills, estates, and living wills;
- elder abuse; and
- guardianship.

Moneys distributed to qualified legal aid programs by OCLA may *not* be used directly or indirectly for:

- lobbying or grass roots lobbying;
- class action lawsuits;
- participating in, or identifying the program with, prohibited political activities, such as any activity directed toward the success or failure of a political party or a candidate or a ballot measure or voter registration or transportation activities;
- representation in fee-generating cases (with some exceptions, including situations when referral to the private bar has been or is likely to be futile);
- organizing any association, union, or federation, or representing a labor union, however, nothing prohibits the provision of legal aid to clients as otherwise permitted;
- representation of undocumented aliens;
- picketing, demonstrations, strikes, or boycotts;
- engaging in inappropriate solicitation; or
- conducting training programs that advocate particular public policies, encouraging or facilitating political activities, labor or antilabor activities, boycotts, picketing, strikes, or demonstrations or attempting to influence legislation or rulemaking, however, nothing precludes representation of clients as otherwise permitted.

Moneys appropriated for civil legal representation may not be used for legal representation that is either expressly prohibited or beyond the scope of what is permitted.

Civil Legal Aid Oversight Committee.

The 11-member Committee consists of:

- three members appointed by the Supreme Court from a list of names submitted by the ATJB (a 10-member board created by the Supreme Court in 1994 and tasked with establishing, coordinating, and overseeing a statewide, integrated, nonduplicative, civil legal services delivery system);
- two members appointed by the Board for Judicial Administration;
- two senators, one from each caucus, appointed by the President of the Senate;
- two representatives, one from each caucus, appointed by the Speaker of the House;

- one member appointed by the Washington State Bar Association; and
- one member appointed by the Governor.

Members serve a three-year term, subject to a renewal of one additional three-year term. At the time of appointment, a member may not be employed by a state-funded legal aid provider. Members serve without compensation, except for travel reimbursement and other expenses.

The Committee must oversee the activities of the OCLA and review the director's performance. The Committee may make recommendations to the Supreme Court, the ATJB, and the Legislature regarding the provision of state-funded civil legal aid.

Summary of Bill:

Office of Civil Legal Aid.

In addition to other duties, the Office of Civil Legal Aid (OCLA) director is required to periodically assess the most prevalent civil legal problems experienced by low-income people in the state and the capacity of the state-funded legal aid system to meet these legal needs. The director continues to have responsibility for submitting budget requests but the verbiage is amended.

Legislative findings are added or amended, as follows:

- the prevalence of civil legal problems experienced by low-income people in the state exceeds the capacity of the state-funded legal aid system to address; and
- to ensure the most beneficial use of state resources, it is appropriate to authorize legal assistance with respect to civil legal problems that directly affect important rights and basic needs of individual low-income residents and their families and to define certain limits on the use of state moneys appropriated for civil legal aid (replacing a statement that it is within the authority of the Legislature to specify categories of cases in which qualified legal aid programs may provide representation with state moneys).

The list of matters for which state moneys may be used is amended. Reference to "public assistance" is changed to "governmental assistance and services," and the reference to "social security" is stricken. "Consumer fraud and unfair sales practices" and "home protection bankruptcies" are replaced with "consumer, financial services, credit, and bankruptcy." Additionally, state moneys may be used in matters relating to: employment; disability rights; education including special education; professional license adjudications; and discrimination prohibited by local, state, or federal law.

With respect to one of the prohibitions on the use of state moneys, the term "undocumented aliens" is replaced with "individuals who are in the United States without legal authority." It is further provided that this prohibition does not prohibit the use of funding to provide legal assistance to persons who have been battered or subjected to extreme cruelty, or who are victims of sexual assault or trafficking in the United States, or who were beneficiaries of the federal executive Deferred Action for Childhood Arrivals program, or beneficiaries of a federal executive program that had protected them from removal.

Rather than directing the OCLA to enter into contracts with counties to disburse state funds for attorneys appointed to handle dependency and termination matters, and allowing the OCLA to

require a county to use attorneys contracted with the OCLA, the OCLA is directed to enter into contracts with attorneys and agencies for the provision of such services. When entering into a contract with a qualified legal aid provider, the OCLA shall require that the provider meets generally accepted standards for the delivery of effective and economical civil legal assistance.

Civil Legal Aid Oversight Committee.

In addition to making recommendations about the provision of state-funded civil legal aid, the Civil Legal Aid Oversight Committee may make recommendations regarding other matters affecting the activities or operations of the OCLA.

Appropriation: None.

Fiscal Note: Available.

Effective Date: The bill takes effect 90 days after adjournment of the session in which the bill is passed.