SENATE BILL REPORT
SHB 2308

As Reported by Senate Committee On:
Law & Justice, February 15, 2018

Title: An act relating to civil legal aid.

Brief Description: Concerning civil legal aid.

Sponsors: House Committee on Judiciary (originally sponsored by 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).

Brief History: Passed House: 2/12/18, 86-12.
  Committee Activity: Law & Justice: 2/15/18 [DP].

Brief Summary of Bill

- Requires The Office of Civil Legal Aid (OCLA) to periodically assess the most prevalent civil legal problems experienced by low-income people in the state.

- Updates authorized areas of legal representation for civil legal aid funding to be consistent with the greatest areas of need identified by the civil legal needs study.

SENATE COMMITTEE ON LAW & JUSTICE

Majority Report: Do pass.
   Signed by Senators Pedersen, Chair; Dhingra, Vice Chair; Padden, Ranking Member; Angel, Assistant Ranking Member; Darneille, Frockt and Wilson.

Staff: Shani Bauer (786-7468)

Background: The Legislature established OCLA in 2005 as an independent agency in the judicial branch. OCLA is responsible for the administration and oversight of state funds that are appropriated by the Legislature to provide civil legal aid services. OCLA does not provide legal aid services directly. Rather, OCLA contracts with attorneys to provide civil legal aid services to eligible low-income clients throughout the state. The Northwest Justice

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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.

Project is the primary statewide provider of civil legal aid services. OCLA is responsible for reporting to the legal aid oversight committee on the use of state funds for legal aid.

State law designates authorized areas of legal representation that may be provided with state civil legal aid funding including: domestic relations, public assistance, health care, housing and utilities, mortgage foreclosures, home protection bankruptcies, consumer fraud and unfair sales practices, rights of residents of long term care facilities, wills and estates, elder abuse, and guardianship. A special committee of the Washington Supreme Court commissioned a civil legal needs study through Washington State University in 2015. This study revealed that the current statute does not authorize state civil legal aid funds to be used for many of the most prevalent legal needs of low income individuals in the state. Further, the study showed that the average number of legal problems per household has increased from 3.3 in 2003 to 9.3 in 2015.

State law also outlines activities for which legal aid funds may not be used, such as: lobbying, class action lawsuits, representation of labor unions, and representation of undocumented aliens. Undocumented alien is not defined in state statute. The common definition of an undocumented alien is a foreign-born person who does not have a legal right to be or remain in the United States.

The Violence Against Women Act (VAWA), originally passed by Congress in 1994, provides special protection for non-citizen spouses and children who have suffered battery or extreme cruelty at the hands of a U.S. citizen or lawful permanent resident (LPR). A person who can prove that the abuse occurred may file a petition for immigration status under VAWA. The Battered Immigrant Women Protection Act of 2000 (VAWA 2000) also created new forms of immigration relief for immigrant victims of sexual assault or trafficking.

DACA was a federal immigration policy that allowed some individuals who entered the country as minors, and had either entered or remained in the country illegally, to receive a renewable two-year period of deferred action from deportation and to be eligible for a work permit. As of 2017, approximately 800,000 individuals were enrolled in the program created by DACA. The policy was established by the Obama administration in June 2012 and rescinded by the Trump administration in September 2017. Implementation of the repeal was suspended for six months. On March 5, 2018, immigrants enrolled in DACA will become eligible for deportation.

Summary of Bill: In addition to reporting on the use of state funds for legal aid, OCLA must periodically assess the most prevalent civil legal problems experienced by low-income people in Washington State and the capacity of the state-funded legal aid system to meet the legal needs arising from such problems.

Authorized areas of legal representation that may be provided with state legal aid funding are updated as follows:
- public assistance is changed to governmental assistance and services;
- Social Security is eliminated;
- home protection bankruptcies is changed to consumer, financial services, credit, and bankruptcy; and
- consumer fraud and unfair sales practices is eliminated.

The following areas of legal representation are added:
- employment;
- disability rights;
- education, including special education;
- administrative agency decisions; and
- discrimination prohibited by local, state, or federal law.

When entering into a contract with a qualified legal aid provider, OCLA shall require the provider to provide legal aid in a manner that meets generally accepted standards for the delivery of civil legal aid.

Funds distributed to qualified legal aid programs may not be used to represent individuals who are in the United States without legal authority.

Appropriation: None.

Fiscal Note: Available.

Creates Committee/Commission/Task Force that includes Legislative members: No.

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

Staff Summary of Public Testimony: No public hearing was held.

Persons Testifying: N/A.

Persons Signed In To Testify But Not Testifying: N/A.