
SUBSTITUTE HOUSE BILL 2276

State of Washington

55th Legislature

1997 Regular Session

By House Committee on Law & Justice (originally sponsored by Representatives Lisk, Huff and Sheahan)

Read first time 04/03/97.

1 AN ACT Relating to civil legal services; amending RCW 43.08.260;
2 adding a new section to chapter 43.08 RCW; and creating a new section.

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

4 NEW SECTION. **Sec. 1.** It is the intent of the legislature to
5 promote the provision of civil legal services to indigent persons,
6 subject to available funds. To the extent that funds are appropriated
7 for civil legal services for the indigent, the legislature intends that
8 civil legal services be offered within an oversight framework that
9 ensures accountability.

10 **Sec. 2.** RCW 43.08.260 and 1995 c 399 s 62 are each amended to read
11 as follows:

12 (1)(a) The legislature recognizes the ethical obligation of
13 attorneys to represent clients without interference by third parties in
14 the discharge of professional obligations to clients. However, to
15 ensure the most beneficial use of state resources, the legislature
16 finds that it is within the authority of the legislature to specify the
17 categories of legal cases in which qualified legal aid programs may
18 provide civil representation with state moneys. Accordingly, moneys

1 appropriated for civil legal representation pursuant to this section
2 shall not be used for legal representation that is either outside the
3 scope of this section or prohibited by this section.

4 (b) Nothing in this section is intended to limit the authority of
5 existing entities, including but not limited to the Washington state
6 bar association, the public disclosure commission, the state auditor,
7 and the federal legal services corporation to resolve issues within
8 their respective jurisdictions.

9 (2) Any money appropriated by the legislature from the public
10 safety and education account pursuant to RCW 43.08.250 or from any
11 other state fund or account for civil representation of indigent
12 persons shall be used solely for the purpose of contracting with
13 qualified legal aid programs for legal representation of indigent
14 persons in matters relating to: (a) Domestic relations and family law
15 matters, (b) public assistance((7)) and health care, ((and entitlement
16 programs7)) (c) public housing and utilities, ((and)) (d)
17 ((unemployment—compensation)) social security, (e) mortgage
18 foreclosures, (f) home protection bankruptcies, (g) consumer fraud and
19 unfair sales practices, (h) rights of residents of long-term care
20 facilities, (i) wills, estates, and living wills, (j) elder abuse, and
21 (k) guardianship.

22 (3) For purposes of this section, a "qualified legal aid program"
23 means a not-for-profit corporation incorporated and operating
24 exclusively in Washington which has received basic field funding for
25 the provision of civil legal services to indigents ((under Public Law
26 101-515)) from the federal legal services corporation or that has
27 received funding for civil legal services for indigents under this
28 section before July 1, 1997.

29 ~~((2) Funds distributed to qualified legal aid programs under this~~
30 ~~section shall be distributed on a basis proportionate to the number of~~
31 ~~individuals with incomes below the official federal poverty income~~
32 ~~guidelines who reside within the counties in the geographic service~~
33 ~~areas of such programs. The department of community, trade, and~~
34 ~~economic development shall use the same formula for determining this~~
35 ~~distribution as is used by the legal services corporation in allocating~~
36 ~~funds for basic field services in the state of Washington.~~

37 ~~(3)(a))~~ (4) The department of community, trade, and economic
38 development shall establish a distribution formula based on the
39 distribution by county of individuals with incomes below the official

1 federal poverty level guidelines. When entering into a contract with
2 a qualified legal services provider under this section, the department
3 shall require the provider to provide legal services in a manner that
4 maximizes geographic access in accordance with the formula established
5 in this subsection (4).

6 (5) Funds distributed to qualified legal aid programs under this
7 section may not be used directly or indirectly for ~~((lobbying or in~~
8 ~~class action suits. Further, these funds are subject to all~~
9 ~~limitations and conditions imposed on use of funds made available to~~
10 ~~legal aid programs under the legal services corporation act of 1974~~
11 ~~(P.L. 93-355; P.L. 95-222) as currently in effect or hereafter~~
12 ~~amended.)):~~

13 ~~((b)(i))~~ (a) Lobbying. (i) For purposes of this section,
14 "lobbying" means any personal service, advertisement, telegram,
15 telephone communication, letter, printed or written matter, or other
16 device directly or indirectly intended to influence any member of
17 congress or any other federal, state, or local nonjudicial official,
18 whether elected or appointed:

19 (A) In connection with any act, bill, resolution, or similar
20 legislation by the congress of the United States or by any state or
21 local legislative body, or any administrative rule, rule-making
22 activity, standard, rate, or other enactment by any federal, state, or
23 local administrative agency;

24 (B) In connection with any referendum, initiative, constitutional
25 amendment, or any similar procedure of the congress, any state
26 legislature, any local council, or any similar governing body acting in
27 a legislative capacity; or

28 (C) In connection with inclusion of any provision in a legislative
29 measure appropriating funds to, or defining or limiting the functions
30 or authority of, the recipient of funds ~~((pursuant to chapter 54, Laws~~
31 ~~of 1992))~~ under this section.

32 (ii) "Lobbying" does not include the response of an employee of a
33 legal aid program to a written request from a governmental agency, an
34 elected or appointed official, or committee on a specific matter. This
35 exception does not authorize communication with anyone other than the
36 requesting party, or agent or employee of such agency, official, or
37 committee.

38 (b) Grass roots lobbying. For purposes of this section, "grass
39 roots lobbying" means preparation, production, or dissemination of

1 information the purpose of which is to encourage the public at large,
2 or any definable segment thereof, to contact legislators or their staff
3 in support of or in opposition to pending or proposed legislation; or
4 contribute to or participate in a demonstration, march, rally, lobbying
5 campaign, or letter writing or telephone campaign for the purpose of
6 influencing the course of pending or proposed legislation.

7 (c) Class action lawsuits.

8 (d) Participating in or identifying the program with prohibited
9 political activities. For purposes of this section, "prohibited
10 political activities" means (i) any activity directed toward the
11 success or failure of a political party, a candidate for partisan or
12 nonpartisan office, a partisan political group, or a ballot measure;
13 (ii) advertising or contributing or soliciting financial support for or
14 against any candidate, political group, or ballot measure; or (iii)
15 voter registration or transportation activities.

16 (e) Representation in fee-generating cases, except as permitted by
17 subsection (6) of this section. For purposes of this section, "fee-
18 generating" means a case that might reasonably be expected to result
19 in a fee for legal services if undertaken by a private attorney.
20 However, a fee-generating case may be accepted when the case has been
21 rejected by the local lawyer referral service or two private attorneys.

22 (f) Organizing any association, union, or federation, or
23 representing a labor union. However, nothing in this subsection (5)(f)
24 prohibits the provision of legal services to clients as otherwise
25 permitted by this section.

26 (g) Representation of undocumented aliens.

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

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

1 (j) Conducting training programs that (i) advocate particular
2 public policies; (ii) encourage or facilitate political activities,
3 labor or antilabor activities, boycotts, picketing, strikes, or
4 demonstrations; or (iii) attempt to influence legislation or rule
5 making. Nothing in this subsection (5)(j) precludes representation of
6 clients as otherwise permitted by this section.

7 (6) The department may establish requirements for client
8 participation in the provision of civil legal services under this
9 section, including but not limited to copayments and sliding fee
10 scales.

11 (7)(a) Contracts entered into by the department with qualified
12 legal services programs under this section must specify that the
13 program's expenditures of moneys distributed under this section:

14 (i) Must be audited annually by an independent outside auditor.
15 These audit results must be provided to the department; and

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

17 (b)(i) Any entity auditing a legal services program under this
18 section shall have access to all records of the legal services program
19 to the full extent necessary to determine compliance with this section,
20 with the exception of confidential information protected by the United
21 States Constitution, the state Constitution, the attorney-client
22 privilege, and applicable rules of attorney conduct.

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

30 (8) The department must recover or withhold amounts determined by
31 an audit to have been used in violation of this section.

32 (9) The department may adopt rules to implement this section.

33 NEW SECTION. Sec. 3. A new section is added to chapter 43.08 RCW
34 to read as follows:

35 The joint legislative civil legal services oversight committee is
36 established.

37 (1) The committee's members are one member from each of the
38 minority and majority caucuses of the house of representatives, who are

1 appointed by the speaker of the house of representatives, and one
2 member from each of the minority and majority caucuses of the senate,
3 who are appointed by the president of the senate.

4 (2)(a) The committee shall oversee the provision of civil legal
5 services funded through RCW 43.08.260 and shall act as a forum for
6 discussion of issues related to state-funded civil legal services.

7 (b) By December 1, 1997, and by December 1st of each year
8 thereafter, the committee must report to the appropriate standing
9 policy and fiscal committees of the legislature on the provision of
10 legal services under RCW 43.08.260.

11 (3) The committee chairman is selected by the members and shall
12 serve a one-year term. The chairman position rotates between the house
13 and senate members and the political parties.

14 (4) The committee shall meet at least four times during each fiscal
15 year. The committee shall accept public testimony at a minimum of two
16 of these meetings.

--- END ---