

HOUSE BILL REPORT

HB 1072

As Passed House:

February 12, 2021

Title: An act relating to removing only one of the restrictions on the use of civil legal aid funds.

Brief Description: Removing only one of the restrictions on the use of civil legal aid funds.

Sponsors: Representatives Lekanoff, Valdez, Wylie, Simmons, Kloba, Gregerson, Santos, Macri and Pollet.

Brief History:

Committee Activity:

Civil Rights & Judiciary: 1/12/21, 1/15/21 [DP];

Appropriations: 1/26/21, 1/28/21 [DP].

Floor Activity:

Passed House: 2/12/21, 56-40.

Brief Summary of Bill

- Removes the prohibition on the use of civil legal aid funds to represent individuals who are in the United States without legal authority.

HOUSE COMMITTEE ON CIVIL RIGHTS & JUDICIARY

Majority Report: Do pass. Signed by 11 members: Representatives Hansen, Chair; Simmons, Vice Chair; Davis, Entenman, Goodman, Kirby, Orwall, Peterson, Thai, Valdez and Walen.

Minority Report: Do not pass. Signed by 6 members: Representatives Walsh, Ranking Minority Member; Gilday, Assistant Ranking Minority Member; Graham, Assistant Ranking Minority Member; Abbarno, Klippert and Ybarra.

Staff: Yelena Baker (786-7301).

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

HOUSE COMMITTEE ON APPROPRIATIONS

Majority Report: Do pass. Signed by 19 members: Representatives Ormsby, Chair; Bergquist, Vice Chair; Gregerson, Vice Chair; Macri, Vice Chair; Chopp, Cody, Dolan, Fitzgibbon, Frame, Hansen, Johnson, J., Lekanoff, Pollet, Ryu, Senn, Springer, Stonier, Sullivan and Tharinger.

Minority Report: Do not pass. Signed by 12 members: Representatives Stokesbary, Ranking Minority Member; Chambers, Assistant Ranking Minority Member; MacEwen, Assistant Ranking Minority Member; Boehnke, Caldier, Chandler, Dye, Hoff, Jacobsen, Rude, Schmick and Steele.

Minority Report: Without recommendation. Signed by 2 members: Representatives Corry, Assistant Ranking Minority Member; Harris.

Staff: Yvonne Walker (786-7841).

Background:

The Office of Civil Legal Aid (OCLA) is an independent judicial branch agency established by the Legislature in 2005 to administer and oversee state funds appropriated by the Legislature for the provision of civil legal aid services to eligible low-income people in Washington.

The OCLA is prohibited from providing direct representation of clients. Instead, moneys appropriated by the Legislature for civil representation are to be used solely for the purposes of contracting with qualified legal aid programs for legal representation of indigent persons in matters relating to:

- domestic relations and family law matters;
- governmental assistance and services;
- health care;
- housing and utilities;
- mortgage foreclosures;
- consumer, financial services, credit, and bankruptcy;
- employment;
- rights of residents of long-term care facilities;
- wills, estates, and living wills;
- elder abuse;
- guardianship;
- disability rights;
- education, including special education;
- administrative agency decisions; and
- discrimination prohibited by local, state, or federal law.

Moneys distributed to qualified legal aid programs by the 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, candidate, or ballot measure, or voter registration or transportation activities;
- representation in fee-generating cases;
- organizing any association, union, or federation, or representing a labor union;
- representation of individuals who are in the United States without legal authority;
- picketing, demonstrations, strikes, or boycotts;
- engaging in inappropriate solicitation; or
- conducting training programs that: advocate particular public policies, encourage or facilitate political activities, labor or antilabor activities, boycotts, picketing, strikes or demonstrations, or attempt to influence legislation or rulemaking.

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.

Summary of Bill:

The prohibition on the use of funds by qualified legal aid programs to represent individuals who are in the United States without legal authority is removed.

Appropriation: None.

Fiscal Note: Available.

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

Staff Summary of Public Testimony (Civil Rights & Judiciary):

(In support) This bill eliminates discriminatory provisions that deny equal protection and enforcement of state laws that protect all state residents. Current law denies immigrants the protection under or the ability to enforce these laws because it makes state-funded legal assistance unavailable to them. If the Legislature wants to deny immigrants the protection of state laws of general applicability, it should do so, as it has done in limited circumstances, directly and explicitly in the body of those laws.

The prohibition on the use of state funds for civil legal aid to people in the United States without legal authority also places immigrants in great danger because those who could harm them understand that these individuals are unable to secure the legal help they need, whether it is to prevent an eviction or foreclosure of their home, wrongful garnishment,

secure a protection order, or defend against predatory debt collection. Washington is a nationwide leader in terms of labor standards and protections, but many workers still experience labor violations, along with immigration-based retaliation, when they try to enforce their rights. State labor laws do not exclude undocumented workers, but civil legal aid funding does, and the lack of unrestricted legal services funding is a tremendous obstacle for small organizations providing labor-related legal aid.

Emergency Coronavirus Disease 2019 civil legal aid funding does not have the same prohibition on the use of funds to assist undocumented individuals. This bill will have no fiscal impact, as the availability of state funding is subject to appropriation by the Legislature. Elimination of this prohibition simply ensures equity in the availability of civil legal aid services for all Washingtonians who have important legal rights at stake.

(Opposed) None.

Staff Summary of Public Testimony (Appropriations):

(In support) This bill is important to not only the state but to the nation. The work that is being done for undocumented individuals sets a precedent for how we treat one another. Although this is a small bill it does a lot for the people in the community.

Currently under state law, state legal aid providers cannot serve undocumented individuals so there is nowhere else to go to get assistance when they are evicted and need a place to stay. This bill removes a discriminatory provision that denies access to people who are otherwise protected by our laws, but just not when they are facing crisis and need legal help. This bill will not require additional funding. Legal aid attorneys provide services to residents that meet the minimum access standard which is based on the rate of legal aid attorneys to all people living in Washington that have incomes below the federal poverty guidelines. State legal providers will always have to prioritize and allocate scarce resources. This bill states that nobody should be categorically denied legal help because of their immigration status.

(Opposed) None.

Persons Testifying (Civil Rights & Judiciary): Representative Lekanoff, prime sponsor; Jim Bamberger, Washington State Office of Civil Legal Aid; Danielle Alvarado, Fair Work Center; and OlgaLucia Herrera, Spokane Immigrant Rights Coalition.

Persons Testifying (Appropriations): Representative Lekanoff, prime sponsor; Jim Bamberger, Washington State Office of Civil Legal Aid.

Persons Signed In To Testify But Not Testifying (Civil Rights & Judiciary): None.

Persons Signed In To Testify But Not Testifying (Appropriations): None.