
HOUSE BILL 2739

State of Washington

58th Legislature

2004 Regular Session

By Representatives Darneille, Shabro, Lantz, Skinner, Lovick and Moeller

Read first time 01/20/2004. Referred to Committee on Judiciary.

1 AN ACT Relating to fiscal support for civil indigent legal
2 services, county law libraries, and related justice system activities
3 and creating an office of civil legal services; amending RCW 27.24.070,
4 36.18.012, 36.18.020, 43.08.250, 43.08.260, and 43.08.270; adding a new
5 chapter to Title 2 RCW; creating a new section; recodifying RCW
6 43.08.260 and 43.08.270; and providing effective dates.

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

8 NEW SECTION. **Sec. 1.** The legislature finds that there exists a
9 crisis in the capacity of the justice system to meet the civil legal
10 needs of low-income people, that there is an urgent need to address
11 this crisis, that counties continue to experience significant justice
12 system related needs, that county-based law libraries play an important
13 role in helping members of the public understand and effectively assert
14 important legal rights and that they face significant needs for new
15 revenue, and that action needs to be taken to expand the revenue base
16 available to address these and other important justice system
17 operations. The legislature further finds that in order to secure the
18 needed additional revenue available for these activities, it is

1 necessary and appropriate to increase certain fees and costs for
2 services provided in association with the initiation and conduct of
3 civil actions in the superior courts of this state.

4 **Sec. 2.** RCW 27.24.070 and 1992 c 54 s 6 are each amended to read
5 as follows:

6 In each county pursuant to this chapter, the county treasurer shall
7 deposit in the county or regional law library fund a sum equal to
8 ((~~twelve~~)) seventeen dollars for every new probate or civil filing fee,
9 including appeals, collected by the clerk of the superior court and
10 six dollars for every fee collected for the commencement of a civil
11 action in district court for the support of the law library in that
12 county or the regional law library to which the county belongs:
13 PROVIDED, That upon a showing of need the ((~~twelve~~)) seventeen dollar
14 contribution may be increased up to ((~~fifteen~~)) twenty dollars or in
15 counties with multiple library sites up to thirty dollars upon the
16 request of the law library board of trustees and with the approval of
17 the county legislative body or bodies.

18 **Sec. 3.** RCW 36.18.012 and 2001 c 146 s 1 are each amended to read
19 as follows:

20 (1) Revenue collected under this section is subject to division
21 with the state for deposit in the public safety and education account
22 under RCW 36.18.025.

23 (2) The party filing a transcript or abstract of judgment or
24 verdict from a United States court held in this state, or from the
25 superior court of another county or from a district court in the county
26 of issuance, shall pay at the time of filing a fee of fifteen dollars.

27 (3) The clerk shall collect a fee of twenty dollars for: Filing a
28 paper not related to or a part of a proceeding, civil or criminal, or
29 a probate matter, required or permitted to be filed in the clerk's
30 office for which no other charge is provided by law.

31 (4) If the defendant serves or files an answer to an unlawful
32 detainer complaint under chapter 59.18 or 59.20 RCW, the plaintiff
33 shall pay before proceeding with the unlawful detainer action
34 ((~~eighty~~)) one hundred fifty dollars.

35 (5) For a restrictive covenant for filing a petition to strike

1 discriminatory provisions in real estate under RCW 49.60.227 a fee of
2 twenty dollars must be charged.

3 (6) A fee of twenty dollars must be charged for filing a will only,
4 when no probate of the will is contemplated.

5 (7) A fee of two dollars must be charged for filing a petition,
6 written agreement, or written memorandum in a nonjudicial probate
7 dispute under RCW 11.96A.220.

8 (8) A fee of thirty-five dollars must be charged for filing a
9 petition regarding a common law lien under RCW 60.70.060.

10 (9) For certification of delinquent taxes by a county treasurer
11 under RCW 84.64.190, a fee of five dollars must be charged.

12 (10) For the filing of a tax warrant for unpaid taxes or
13 overpayment of benefits by any agency of the state of Washington, a fee
14 of five dollars on or after July 22, 2001, and for the filing of such
15 a tax warrant or overpayment of benefits on or after July 1, 2003, a
16 fee of twenty dollars, of which forty-six percent of the first five
17 dollars is directed to the public safety and education account
18 established under RCW 43.08.250.

19 **Sec. 4.** RCW 36.18.020 and 2000 c 9 s 1 are each amended to read as
20 follows:

21 (1) Revenue collected under this section is subject to division
22 with the state public safety and education account under RCW 36.18.025
23 and with the county or regional law library fund under RCW 27.24.070.

24 (2) Clerks of superior courts shall collect the following fees for
25 their official services:

26 (a) The party filing the first or initial paper in any civil
27 action, including, but not limited to an action for restitution,
28 adoption, or change of name, shall pay, at the time the paper is filed,
29 a fee of ~~((one))~~ two hundred ~~((ten))~~ dollars except, in an unlawful
30 detainer action under chapter 59.18 or 59.20 RCW for which the
31 plaintiff shall pay a case initiating filing fee of ~~((thirty))~~ fifty
32 dollars, or in proceedings filed under RCW 28A.225.030 alleging a
33 violation of the compulsory attendance laws where the petitioner shall
34 not pay a filing fee. The ~~((thirty))~~ fifty dollar filing fee under
35 this subsection for an unlawful detainer action shall not include an
36 order to show cause or any other order or judgment except a default
37 order or default judgment in an unlawful detainer action.

1 (b) Any party, except a defendant in a criminal case, filing the
2 first or initial paper on an appeal from a court of limited
3 jurisdiction or any party on any civil appeal, shall pay, when the
4 paper is filed, a fee of (~~one~~) two hundred (~~ten~~) dollars.

5 (c) For filing of a petition for judicial review as required under
6 RCW 34.05.514 a filing fee of (~~one~~) two hundred (~~ten~~) dollars.

7 (d) For filing of a petition for unlawful harassment under RCW
8 10.14.040 a filing fee of forty-one dollars.

9 (e) For filing the notice of debt due for the compensation of a
10 crime victim under RCW 7.68.120(2)(a) a fee of (~~one~~) two hundred
11 (~~ten~~) dollars.

12 (f) In probate proceedings, the party instituting such proceedings,
13 shall pay at the time of filing the first paper therein, a fee of
14 (~~one~~) two hundred (~~ten~~) dollars.

15 (g) For filing any petition to contest a will admitted to probate
16 or a petition to admit a will which has been rejected, or a petition
17 objecting to a written agreement or memorandum as provided in RCW
18 11.96A.220, there shall be paid a fee of (~~one~~) two hundred (~~ten~~)
19 dollars.

20 (h) Upon conviction or plea of guilty, upon failure to prosecute an
21 appeal from a court of limited jurisdiction as provided by law, or upon
22 affirmance of a conviction by a court of limited jurisdiction, a
23 defendant in a criminal case shall be liable for a fee of (~~one~~) two
24 hundred (~~ten~~) dollars.

25 (i) With the exception of demands for jury hereafter made and
26 garnishments hereafter issued, civil actions and probate proceedings
27 filed prior to midnight, July 1, 1972, shall be completed and governed
28 by the fee schedule in effect as of January 1, 1972: PROVIDED, That no
29 fee shall be assessed if an order of dismissal on the clerk's record be
30 filed as provided by rule of the supreme court.

31 (3) No fee shall be collected when a petition for relinquishment of
32 parental rights is filed pursuant to RCW 26.33.080 or for forms and
33 instructional brochures provided under RCW 26.50.030.

34 **Sec. 5.** RCW 43.08.250 and 2003 1st sp.s. c 25 s 918 are each
35 amended to read as follows:

36 The money received by the state treasurer from fees, fines,
37 forfeitures, penalties, reimbursements or assessments by any court

1 organized under Title 3 or 35 RCW, or chapter 2.08 RCW, shall be
2 deposited in the public safety and education account which is hereby
3 created in the state treasury. The legislature shall appropriate the
4 funds in the account to promote traffic safety education, highway
5 safety, criminal justice training, crime victims' compensation,
6 judicial education, the judicial information system, civil
7 representation of indigent persons under RCW 43.08.260 (as recodified
8 by this act), winter recreation parking, drug court operations, and
9 state game programs. During the fiscal biennium ending June 30, 2005,
10 the legislature may appropriate moneys from the public safety and
11 education account for purposes of appellate indigent defense and other
12 operations of the office of public defense, the criminal litigation
13 unit of the attorney general's office, the treatment alternatives to
14 street crimes program, crime victims advocacy programs, justice
15 information network telecommunication planning, treatment for
16 supplemental security income clients, sexual assault treatment,
17 operations of the office of administrator for the courts, security in
18 the common schools, alternative school start-up grants, programs for
19 disruptive students, criminal justice data collection, Washington state
20 patrol criminal justice activities, drug court operations, unified
21 family courts, local court backlog assistance, financial assistance to
22 local jurisdictions for extraordinary costs incurred in the
23 adjudication of criminal cases, domestic violence treatment and related
24 services, the department of corrections' costs in implementing chapter
25 196, Laws of 1999, reimbursement of local governments for costs
26 associated with implementing criminal and civil justice legislation,
27 the replacement of the department of corrections' offender-based
28 tracking system, secure and semi-secure crisis residential centers,
29 HOPE beds, the family policy council and community public health and
30 safety networks, the street youth program, public notification about
31 registered sex offenders, and narcotics or methamphetamine-related
32 enforcement, education, training, and drug and alcohol treatment
33 services.

34 **Sec. 6.** RCW 43.08.260 and 1997 c 319 s 2 are each amended to read
35 as follows:

36 (1)(a) The legislature recognizes the ethical obligation of
37 attorneys to represent clients without interference by third parties in

1 the discharge of professional obligations to clients. However, to
2 ensure the most beneficial use of state resources, the legislature
3 finds that it is within the authority of the legislature to specify the
4 categories of legal cases in which qualified legal aid programs may
5 provide civil representation with state moneys. Accordingly, moneys
6 appropriated for civil legal representation (~~pursuant to this~~
7 ~~section~~) shall not be used for legal representation that is either
8 outside the scope of this section or prohibited by this section.

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

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

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

31 (4) The (~~department of community, trade, and economic~~
32 ~~development~~) office of civil legal services shall establish a
33 distribution formula based on the distribution by county of individuals
34 with incomes below the official federal poverty level guidelines. When
35 entering into a contract with a qualified legal services provider under
36 this section, the (~~department~~) office of civil legal services shall
37 require the provider to provide legal services in a manner that

1 maximizes geographic access in accordance with the formula established
2 in this subsection (4).

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

5 (a) Lobbying.

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

11 (A) In connection with any act, bill, resolution, or similar
12 legislation by the congress of the United States or by any state or
13 local legislative body, or any administrative rule, rule-making
14 activity, standard, rate, or other enactment by any federal, state, or
15 local administrative agency;

16 (B) In connection with any referendum, initiative, constitutional
17 amendment, or any similar procedure of the congress, any state
18 legislature, any local council, or any similar governing body acting in
19 a legislative capacity; or

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

23 (ii) "Lobbying" does not include the response of an employee of a
24 legal aid program to a written request from a governmental agency, an
25 elected or appointed official, or committee on a specific matter. This
26 exception does not authorize communication with anyone other than the
27 requesting party, or agent or employee of such agency, official, or
28 committee.

29 (b) Grass roots lobbying. For purposes of this section, "grass
30 roots lobbying" means preparation, production, or dissemination of
31 information the purpose of which is to encourage the public at large,
32 or any definable segment thereof, to contact legislators or their staff
33 in support of or in opposition to pending or proposed legislation; or
34 contribute to or participate in a demonstration, march, rally, lobbying
35 campaign, or letter writing or telephone campaign for the purpose of
36 influencing the course of pending or proposed legislation.

37 (c) Class action lawsuits.

1 (d) Participating in or identifying the program with prohibited
2 political activities. For purposes of this section, "prohibited
3 political activities" means (i) any activity directed toward the
4 success or failure of a political party, a candidate for partisan or
5 nonpartisan office, a partisan political group, or a ballot measure;
6 (ii) advertising or contributing or soliciting financial support for or
7 against any candidate, political group, or ballot measure; or (iii)
8 voter registration or transportation activities.

9 (e) Representation in fee-generating cases. For purposes of this
10 section, "fee-generating" means a case that might reasonably be
11 expected to result in a fee for legal services if undertaken by a
12 private attorney. The charging of a fee pursuant to subsection (6) of
13 this section does not establish the fee-generating nature of a case.

14 A fee-generating case may be accepted when: (i) The case has been
15 rejected by the local lawyer referral services or by two private
16 attorneys; (ii) neither the referral service nor two private attorneys
17 will consider the case without payment of a consultation fee; (iii)
18 after consultation with the appropriate representatives of the private
19 bar, the program has determined that the type of case is one that
20 private attorneys do not ordinarily accept, or do not accept without
21 prepayment of a fee; or (iv) the director of the program or the
22 director's designee has determined that referral of the case to the
23 private bar is not possible because documented attempts to refer
24 similar cases in the past have been futile, or because emergency
25 circumstances compel immediate action before referral can be made, but
26 the client is advised that, if appropriate and consistent with
27 professional responsibility, referral will be attempted at a later
28 time.

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

33 (g) Representation of undocumented aliens.

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

35 (i) Engaging in inappropriate solicitation. For purposes of this
36 section, "inappropriate solicitation" means promoting the assertion of
37 specific legal claims among persons who know of their rights to make a
38 claim and who decline to do so. Nothing in this subsection precludes

1 a legal services program or its employees from providing information
2 regarding legal rights and responsibilities or providing information
3 regarding the program's services and intake procedures through
4 community legal education activities, responding to an individual's
5 specific question about whether the individual should consult with an
6 attorney or take legal action, or responding to an individual's
7 specific request for information about the individual's legal rights or
8 request for assistance in connection with a specific legal problem.

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

15 (6) The (~~department~~) office of civil legal services may establish
16 requirements for client participation in the provision of civil legal
17 services under this section, including but not limited to copayments
18 and sliding fee scales.

19 (7)(a) Contracts entered into by the (~~department of community,~~
20 ~~trade, and economic development~~) office of civil legal services with
21 qualified legal services programs under this section must specify that
22 the program's expenditures of moneys distributed under this section:

23 (i) Must be audited annually by an independent outside auditor.
24 These audit results must be provided to the (~~department of community,~~
25 ~~trade, and economic development~~) office of civil legal services; and

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

27 (b)(i) Any entity auditing a legal services program under this
28 section shall have access to all records of the legal services program
29 to the full extent necessary to determine compliance with this section,
30 with the exception of confidential information protected by the United
31 States Constitution, the state Constitution, the attorney-client
32 privilege, and applicable rules of attorney conduct.

33 (ii) The legal services program shall have a system allowing for
34 production of case-specific information, including client eligibility
35 and case type, to demonstrate compliance with this section, with the
36 exception of confidential information protected by the United States
37 Constitution, the state Constitution, the attorney-client privilege,

1 and applicable rules of attorney conduct. Such information shall be
2 available to any entity that audits the program.

3 (8) The (~~department of community, trade, and economic~~
4 ~~development~~) office of civil legal services must recover or withhold
5 amounts determined by an audit to have been used in violation of this
6 section.

7 (9) The (~~department of community, trade, and economic~~
8 ~~development~~) office of civil legal services may adopt rules to
9 implement this section.

10 NEW SECTION. Sec. 7. (1) There is created an office of civil
11 legal services as an independent agency of the judicial branch. The
12 office shall not provide direct representation of clients.

13 (2) Activities of the office of civil legal services shall be
14 carried out by a director of civil legal services. The director of
15 civil legal services shall be appointed by the supreme court from a
16 list of three names forwarded by the access to justice board.
17 Qualifications for the director include admission to practice law in
18 this state for at least five years, experience in representation of
19 low-income people in civil matters, which experience may be in the form
20 of volunteer representation, knowledge of and demonstrated commitment
21 to promoting civil equal justice efforts, and proven managerial or
22 supervisory experience. The director shall:

23 (a) Contract with one or more qualified legal aid providers to
24 provide civil indigent representation authorized by RCW 43.08.260 (as
25 recodified by this act);

26 (b) Monitor and oversee the use of state funding to ensure
27 compliance with this chapter and other applicable conditions;

28 (c) Report biennially to the administrator for the courts, the
29 supreme court, the access to justice board, and the joint legislative
30 civil legal services oversight committee on the status of access to the
31 civil justice system for low-income people and make recommendations
32 regarding efforts that should be undertaken to enhance access; and

33 (d) Submit a biennial budget request.

34 **Sec. 8.** RCW 43.08.270 and 1997 c 319 s 3 are each amended to read
35 as follows:

1 The joint legislative civil legal services oversight committee is
2 established.

3 (1) The committee's members are one member from each of the
4 minority and majority caucuses of the house of representatives, who are
5 appointed by the speaker of the house of representatives, and one
6 member from each of the minority and majority caucuses of the senate,
7 who are appointed by the president of the senate.

8 (2)(a) The committee shall oversee the activities of the office of
9 civil legal services and the provision of civil legal services funded
10 through RCW 43.08.260 (as recodified by this act) and shall act as a
11 forum for discussion of issues related to state-funded civil legal
12 services.

13 (b) By December 1, 1997, and by December 1st of each year
14 thereafter, the committee must report to the appropriate standing
15 policy and fiscal committees of the legislature on the provision of
16 legal services under RCW 43.08.260 (as recodified by this act).

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

20 (4) The committee shall meet at least (~~four~~) two times during
21 each fiscal year. The committee shall accept public testimony at (~~a~~
22 ~~minimum of two of~~) these meetings.

23 NEW SECTION. Sec. 9. RCW 43.08.260 (as amended by this act) and
24 43.08.270 (as amended by this act) are each recodified as a new chapter
25 in Title 2 RCW.

26 NEW SECTION. Sec. 10. Section 7 of this act is added to the new
27 chapter created in section 9 of this act.

28 NEW SECTION. Sec. 11. (1) Sections 2 through 5 and 9 of this act
29 take effect July 1, 2004.

30 (2) The remainder of this act takes effect July 1, 2005.

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