
HOUSE BILL 1072

State of Washington

67th Legislature

2021 Regular Session

By Representatives Lekanoff and Valdez

Prefiled 01/04/21.

1 AN ACT Relating to removing only one of the restrictions on the
2 use of civil legal aid funds; and amending RCW 2.53.030.

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

4 **Sec. 1.** RCW 2.53.030 and 2018 c 21 s 2 are each amended to read
5 as follows:

6 (1)(a) The legislature recognizes the ethical obligation of
7 attorneys to represent clients without interference by third parties
8 in the discharge of professional obligations to clients. The
9 legislature further finds that the prevalence of civil legal problems
10 experienced by low-income people in Washington state exceeds the
11 capacity of the state-funded legal aid system to address. To ensure
12 the most beneficial use of state resources, the legislature finds it
13 appropriate to authorize legal assistance with respect to civil legal
14 problems that directly affect important rights and basic needs of
15 individual low-income residents and their families and to define
16 certain limits on the use of state moneys appropriated for civil
17 legal aid. Accordingly, moneys appropriated for civil legal aid
18 pursuant to this section shall not be used for legal representation
19 that is either outside the scope of or prohibited by this section.

20 (b) Nothing in this section is intended to limit the authority of
21 existing entities, including but not limited to the Washington state

1 bar association, the public disclosure commission, the state auditor,
2 and the federal legal services corporation to resolve issues within
3 their respective jurisdictions.

4 (2) Any money appropriated by the legislature for civil legal aid
5 to indigent persons pursuant to this section shall be administered by
6 the office of civil legal aid established under RCW 2.53.020, and
7 shall be used solely for the purpose of contracting with qualified
8 legal aid programs for legal representation of indigent persons in
9 matters relating to: (a) Domestic relations and family law matters,
10 (b) governmental assistance and services, (c) health care, (d)
11 housing and utilities, (e) mortgage foreclosures, (f) consumer,
12 financial services, credit, and bankruptcy, (g) employment, (h)
13 rights of residents of long-term care facilities, (i) wills, estates,
14 and living wills, (j) elder abuse, (k) guardianship, (l) disability
15 rights, (m) education including special education, (n) administrative
16 agency decisions, and (o) discrimination prohibited by local, state,
17 or federal law.

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

24 (4) When entering into a contract with a qualified legal aid
25 provider under this section, the office of civil legal aid shall
26 require the provider to provide legal aid in a manner that maximizes
27 geographic access throughout the state and meets generally accepted
28 standards for the delivery of civil legal aid.

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

31 (a) Lobbying.

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

37 (A) In connection with any act, bill, resolution, or similar
38 legislation by the congress of the United States or by any state or
39 local legislative body, or any administrative rule, rule-making

1 activity, standard, rate, or other enactment by any federal, state,
2 or local administrative agency;

3 (B) In connection with any referendum, initiative, constitutional
4 amendment, or any similar procedure of the congress, any state
5 legislature, any local council, or any similar governing body acting
6 in a legislative capacity; or

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

11 (ii) "Lobbying" does not include the response of an employee of a
12 legal aid program to a written request from a governmental agency, an
13 elected or appointed official, or committee on a specific matter.
14 This exception does not authorize communication with anyone other
15 than the requesting party, or agent or employee of such agency,
16 official, or committee.

17 (b) Grass roots lobbying. For purposes of this section, "grass
18 roots lobbying" means preparation, production, or dissemination of
19 information the purpose of which is to encourage the public at large,
20 or any definable segment thereof, to contact legislators or their
21 staff in support of or in opposition to pending or proposed
22 legislation; or contribute to or participate in a demonstration,
23 march, rally, lobbying campaign, or letter writing or telephone
24 campaign for the purpose of influencing the course of pending or
25 proposed legislation.

26 (c) Class action lawsuits.

27 (d) Participating in or identifying the program with prohibited
28 political activities. For purposes of this section, "prohibited
29 political activities" means (i) any activity directed toward the
30 success or failure of a political party, a candidate for partisan or
31 nonpartisan office, a partisan political group, or a ballot measure;
32 (ii) advertising or contributing or soliciting financial support for
33 or against any candidate, political group, or ballot measure; or
34 (iii) voter registration or transportation activities.

35 (e) Representation in fee-generating cases. For purposes of this
36 section, "fee-generating" means a case that might reasonably be
37 expected to result in a fee for legal aid if undertaken by a private
38 attorney. The charging of a fee pursuant to subsection (6) of this
39 section does not establish the fee-generating nature of a case.

1 A fee-generating case may be accepted when: (i) The case has been
2 rejected by the local lawyer referral services or by two private
3 attorneys; (ii) neither the referral service nor two private
4 attorneys will consider the case without payment of a consultation
5 fee; (iii) after consultation with the appropriate representatives of
6 the private bar, the program has determined that the type of case is
7 one that private attorneys do not ordinarily accept, or do not accept
8 without prepayment of a fee; or (iv) the director of the program or
9 the director's designee has determined that referral of the case to
10 the private bar is not possible because documented attempts to refer
11 similar cases in the past have been futile, or because emergency
12 circumstances compel immediate action before referral can be made,
13 but the client is advised that, if appropriate and consistent with
14 professional responsibility, referral will be attempted at a later
15 time.

16 (f) Organizing any association, union, or federation, or
17 representing a labor union. However, nothing in this subsection
18 (5)(f) prohibits the provision of legal aid to clients as otherwise
19 permitted by this section.

20 (g) ~~((Representation of individuals who are in the United States
21 without legal authority.~~

22 ~~(h))~~ Picketing, demonstrations, strikes, or boycotts.

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

36 ~~((j))~~ (i) Conducting training programs that: (i) Advocate
37 particular public policies; (ii) encourage or facilitate political
38 activities, labor or antilabor activities, boycotts, picketing,
39 strikes, or demonstrations; or (iii) attempt to influence legislation

1 or rule making. Nothing in this subsection (5)(~~(j)~~) (i) precludes
2 representation of clients as otherwise permitted by this section.

3 (6) The office of civil legal aid may establish requirements for
4 client participation in the provision of civil legal aid under this
5 section, including but not limited to copayments and sliding fee
6 scales.

7 (7)(a) Contracts entered into by the office of civil legal aid
8 with qualified legal aid programs under this section must specify
9 that the program's expenditures of moneys distributed under this
10 section:

11 (i) Must be audited annually by an independent outside auditor.
12 These audit results must be provided to the office of civil legal
13 aid; and

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

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

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

28 (8) The office of civil legal aid must recover or withhold
29 amounts determined by an audit to have been used in violation of this
30 section.

31 (9) The office of civil legal aid may adopt rules to implement
32 this section.

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