

**Chapter 2.53 RCW
CIVIL LEGAL AID**

Sections

- 2.53.005 Findings.
- 2.53.010 Civil legal aid oversight committee.
- 2.53.020 Office of civil legal aid—Director's duties.
- 2.53.025 Statewide children's legal representation program.
- 2.53.030 Public funds appropriated for civil legal aid to indigent persons—Use—Distribution formula—Audit—Rules.
- 2.53.045 Fund distribution for attorneys appointed in dependency proceedings.
- 2.53.050 Fund distribution for attorneys appointed for indigent tenants.
- 2.53.055 Kinship care legal aid coordinator.
- 2.53.900 Effective date—2005 c 105.

RCW 2.53.005 Findings. The legislature finds that the provision of civil legal aid services to indigent persons is an important component of the state's responsibility to provide for the proper and effective administration of civil and criminal justice. The legislature further finds that state-funded legal aid services should be administered by an independent office of civil legal aid located within the judicial branch and subject to formal continuing oversight that includes bipartisan legislative representation. [2005 c 105 s 1.]

RCW 2.53.010 Civil legal aid oversight committee. (1) There is created a civil legal aid oversight committee consisting of the following members:

(a) Three persons appointed by the supreme court from a list of nominees submitted by the access to justice board, one of whom at the time of appointment is income eligible to receive state-funded civil legal aid;

(b) Two persons appointed by the board for judicial administration;

(c) Two senators, one from each of the two largest caucuses, appointed by the president of the senate; and two members of the house of representatives, one from each of the two largest caucuses, appointed by the speaker of the house of representatives;

(d) One person appointed by the Washington state bar association; and

(e) One person appointed by the governor.

(2) During the term of his or her appointment, an appointee may not be employed by a state-funded legal aid provider.

(3) Members shall each serve a three-year term, subject to renewal for no more than one additional three-year term. The oversight committee shall develop rules that provide for the staggering of terms so that, after the first three years of the committee's existence, the terms of one-third of the members expire each year. Members of the oversight committee receive no compensation for their services as members of the oversight committee, but may be reimbursed for travel and other expenses in accordance with rules adopted by the office of financial management.

(4) The oversight committee shall: Oversee the activities of the office of civil legal aid created in RCW 2.53.020; review the performance of the director of the office of civil legal aid; and may, from time to time, make recommendations to the supreme court, the access to justice board, and the legislature regarding the provision of civil legal aid funded through RCW 2.53.030. [2005 c 105 s 4.]

RCW 2.53.020 Office of civil legal aid—Director's duties. (1)

There is created an office of civil legal aid as an independent agency of the judicial branch.

(2) Activities of the office of civil legal aid shall be carried out by a director of civil legal aid services. The director of civil legal aid services shall be appointed by the supreme court from a list of three names forwarded by the access to justice board.

Qualifications for the director include admission to practice law in this state for at least five years; experience in representation of low-income people in civil matters, which experience may be in the form of volunteer representation; knowledge of and demonstrated commitment to promoting access to the civil justice system for indigent persons; and proven managerial or supervisory experience. The director shall serve at the pleasure of the supreme court and receive a salary to be fixed by the oversight committee.

(3) The director shall:

(a) Contract with one or more qualified legal aid providers to provide civil legal aid services authorized by RCW 2.53.030;

(b) Monitor and oversee the use of state funding to ensure compliance with this chapter;

(c) Report quarterly to the civil legal aid oversight committee established in RCW 2.53.010 and the supreme court's access to justice board on the use of state funds for legal aid; 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; and report biennially on the status of access to the civil justice system for low-income people eligible for state-funded legal aid; and

(d) Submit budget requests.

(4) The office shall not provide direct representation of clients. [2018 c 21 s 1; 2005 c 105 s 5.]

RCW 2.53.025 Statewide children's legal representation program.

(1) The statewide children's legal representation program is established within the office of civil legal aid. The children's legal representation program shall ensure the provision of standards-based representation informed by best practice models, rigorous data analysis, race and other equity considerations that cause or perpetuate racial and other disparities in the child welfare system, involvement of stakeholders, including youth and young adults impacted by the system.

(2) The statewide children's legal representation program is responsible for implementation of RCW 13.34.212 and 2.53.045 except that it is the court's responsibility to appoint attorneys in dependency proceedings. [2021 c 210 s 5.]

Findings—Intent—2021 c 210: See note following RCW 13.34.090.

RCW 2.53.030 Public funds appropriated for civil legal aid to indigent persons—Use—Distribution formula—Audit—Rules. (1) (a) The legislature recognizes the ethical obligation of attorneys to represent clients without interference by third parties in the discharge of professional obligations to clients. The legislature further finds that the prevalence of civil legal problems experienced by low-income people in Washington state exceeds the capacity of the state-funded legal aid system to address. To ensure the most beneficial use of state resources, the legislature finds it appropriate to authorize legal assistance with respect to civil legal problems that directly affect important rights and basic needs of individual low-income residents and their families and to define certain limits on the use of state moneys appropriated for civil legal aid. Accordingly, moneys appropriated for civil legal aid pursuant to this section shall not be used for legal representation that is either outside the scope of or prohibited by this section.

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

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

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

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

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

(a) Lobbying.

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

(A) In connection with any act, bill, resolution, or similar legislation by the congress of the United States or by any state or

local legislative body, or any administrative rule, rule-making activity, standard, rate, or other enactment by any federal, state, or local administrative agency;

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

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

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

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

(c) Class action lawsuits.

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

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

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

(f) Organizing any association, union, or federation, or representing a labor union. However, nothing in this subsection (5) (f)

prohibits the provision of legal aid to clients as otherwise permitted by this section.

(g) Picketing, demonstrations, strikes, or boycotts.

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

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

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

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

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

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

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

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

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

(9) The office of civil legal aid may adopt rules to implement this section. [2021 c 58 s 1; 2018 c 21 s 2; 2005 c 105 s 3; 1997 c 319 s 2; 1995 c 399 s 62; 1992 c 54 s 4. Formerly RCW 43.08.260.]

Intent—1997 c 319: "It is the intent of the legislature to promote the provision of civil legal services to indigent persons, subject to available funds. To the extent that funds are appropriated for civil legal services for the indigent, the legislature intends

that civil legal services be offered within an oversight framework that ensures accountability." [1997 c 319 s 1.]

Effective date—1992 c 54: See note following RCW 36.18.020.

RCW 2.53.045 Fund distribution for attorneys appointed in dependency proceedings. (1) Money appropriated by the legislature for legal services provided by an attorney appointed pursuant to RCW 13.34.212 must be administered by the office of civil legal aid established under RCW 2.53.020.

(2) The statewide children's legal representation program shall enter into contracts with attorneys and agencies for the provision of legal services under RCW 2.53.025 to remain within appropriated amounts.

(3) Prior to distributing state funds under subsection (2) of this section, the statewide children's legal representation program must verify that attorneys providing legal representation to children under RCW 13.34.212 meet the standards of practice, caseload limits, and training guidelines adopted by the children's representation work group established in section 9, chapter 210, Laws of 2021. [2021 c 210 s 7; 2018 c 21 s 3; 2014 c 108 s 3.]

Findings—Intent—2021 c 210: See note following RCW 13.34.090.

Finding—Construction—Effective date—2014 c 108: See notes following RCW 13.34.100.

RCW 2.53.050 Fund distribution for attorneys appointed for indigent tenants. (1) Moneys appropriated by the legislature for legal services provided by an attorney appointed pursuant to RCW 59.18.640 must be administered by the office of civil legal aid established under RCW 2.53.020. The office of civil legal aid must enter into contracts with attorneys and agencies for the provision of legal services under RCW 59.18.640 to remain within appropriated amounts.

(2) The legislature recognizes that the office of civil legal aid needs time to properly implement the right to attorney legal representation for indigent tenants under and consistent with RCW 59.18.640. Within 90 days after April 22, 2021, the office of civil legal aid must submit to the appropriate legislative committees a plan to fully implement the tenant representation program under and consistent with RCW 59.18.640 within 12 months of April 22, 2021. [2021 c 115 s 9.]

Finding—Intent—Application—Effective date—2021 c 115: See notes following RCW 59.18.620.

RCW 2.53.055 Kinship care legal aid coordinator. (1) Subject to amounts specifically appropriated for this purpose, the role of kinship care legal aid coordinator is hereby created at the office of civil legal aid. The office may contract with a separate nonprofit legal aid organization to satisfy the requirements of this section.

(2) (a) The kinship care legal aid coordinator shall consult with the following entities:

(i) The kinship care oversight committee as provided for in RCW 74.13.621;

(ii) The Washington state supreme court access to justice board's pro bono council;

(iii) The Washington state bar association moderate means program;

(iv) The department of social and health services, aging and long-term support administration; and

(v) The office of public defense.

(b) The kinship care legal aid coordinator shall work with entities stated in (a) of this subsection to identify and facilitate the development of local and regional kinship care legal aid initiatives, and further efforts to implement relevant recommendations from the kinship care oversight committee as provided for in RCW 74.13.621.

(3) The kinship care legal aid coordinator shall maintain the following duties:

(a) Develop, expand, and deliver training materials designed to help pro bono and low bono attorneys provide legal advice and assistance to kinship caregivers on matters that relate to their ability to meet physical, mental, social, educational, and other needs of children and youth in their care;

(b) Produce a biennial report outlining activities undertaken by the coordinator; legal aid resources developed at the statewide, regional, and local levels; and other information regarding development and expansion of legal aid services to kinship caregivers in Washington state. Reports are due to the department of children, youth, and families, department of social and health services, and relevant standing committees of the legislature by December 1st of each even-numbered year. [2019 c 465 s 1.]

Effective date—2019 c 465: "This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect June 30, 2019." [2019 c 465 s 4.]

RCW 2.53.900 Effective date—2005 c 105. This act is necessary for the immediate preservation of the public peace, health, or safety, or support of the state government and its existing public institutions, and takes effect July 1, 2005. [2005 c 105 s 9.]