

ENROLLED SENATE
BILL NO. 1253

By: Haney and Hobson of the
Senate

and

Hamilton and Steidley of
the House

An Act relating to legal services for indigent persons; providing for allocation of funds for legal representation to indigent persons in civil legal matters; providing for allocation formula; providing contract condition; requiring certain report; providing for maintenance of certain books and records for specified time period; providing for audits and costs therefor; authorizing alternative audits; providing for submission of copy of audits to Administrative Director of the Courts; limiting type of cases for which funds may be expended for certain fiscal years; prohibiting use for funds for certain activities; defining term; creating the Legal Services Revolving Fund; providing sources of revenue; stating purpose; appropriating certain monies to the State Supreme Court for transfer to certain revolving fund; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 921.1 of Title 12, unless there is created a duplication in numbering, reads as follows:

A. The Supreme Court shall allocate funds from the Legal Services Revolving Fund to provide legal representation to indigent persons in this state in civil legal matters to the extent that

funds are available from the Legal Services Revolving Fund. The Administrative Director of the Courts shall be responsible for allocating these funds pursuant to contract with eligible regional or statewide organizations which ordinarily render legal services to indigent persons. The funds shall be allocated for the benefit of indigent clients in all seventy-seven (77) counties of Oklahoma on a pro rata basis, utilizing an allocation formula that distributes funds according to the number of residents whose incomes are less than the official United States federal poverty guidelines, based on the United States census data, as a percentage of the total number of these residents in this state and which reserves funds for services for specialized areas of law.

B. As used in this section, "eligible organization" means an entity that:

1. Is organized as a not-for-profit corporation that is tax exempt pursuant to the provisions of paragraph (3) of subsection (c) of Section 501 of the United States Internal Revenue Code of 1986, as amended;

2. Has as its primary purpose the furnishing of legal assistance to eligible clients;

3. Has a board of directors or other governing body the majority of which is comprised of attorneys who are admitted to practice in this state and who are approved to serve on such body by the governing bodies of the state or county bar associations and has at least one-third of the membership who, when selected, are eligible clients; and

4. Is incorporated pursuant to any applicable laws of this state.

C. As a condition of the contract, the organization shall be required to determine the eligibility of any person seeking legal services pursuant to this section.

D. The Administrative Director of the Courts shall prepare annually and distribute to the Judiciary committees of the Senate and the House of Representatives, the Legal Services Committee of the Oklahoma Bar Association, and the Supreme Court a report detailing expenditures of funds for representation to indigent persons in civil legal matters.

E. Each organization that contracts to provide legal services pursuant to subsection A of this section shall maintain books and records in accordance with generally accepted accounting principles. The books and records shall account for the receipt and expenditure of all funds paid pursuant to contract. Books and records shall be maintained for a period of five (5) years from the close of the fiscal year of the contract period. The State Auditor and Inspector shall audit each organization annually. The necessary expense of each audit, including, but not limited to, the cost of typing, printing, and binding, shall be paid from funds of the organization. In lieu of the audit by the State Auditor and Inspector, the organization may submit an audit prepared by an independent auditing firm for compliance with federal auditing requirements. A copy of the audit prepared by or submitted to the State Auditor and Inspector shall be submitted to the Administrative Director of the Courts.

G. For fiscal years 1997 and 1998, funds for representation of indigent persons in civil legal matters shall be limited to family law legal services with priority given to cases involving domestic and family violence and abuse. In no event shall such funds ever be used for any of the following activities:

1. Provision of legal services in a fee-generating case unless appropriate private representation is not available;

2. Provision of legal services in any criminal proceeding;

3. Provision of legal services collaterally attacking the validity of a criminal conviction;

4. Provision of legal services which seek to procure an abortion;

5. Provision of legal representation relating to the desegregation of any school or school system;

6. Provision of legal services involving any proceeding derived from the Military Selective Service Act;

7. Provision of legal services to advocate for or oppose any altering of a legislative, judicial, or elective district at any level of government; and

8. Provision of legal services to challenge a census of the United States of America.

H. There is hereby created in the State Treasury a revolving fund for the Oklahoma Supreme Court to be designated the "Legal Services Revolving Fund". The fund shall be a continuing fund, not subject to fiscal year limitations, and shall consist of all monies received by the Oklahoma Supreme Court for indigent legal services from funds appropriated to the fund, federal funds, gifts, donations, and grants. All monies accruing to the credit of said fund are hereby appropriated and may be budgeted and expended by the Administrative Director of the Courts for the purpose of providing legal services to indigent clients pursuant to the provisions of this section. Expenditures from said fund shall be made upon warrants issued by the State Treasurer against claims filed as prescribed by law with the Director of State Finance for approval and payment.

SECTION 2. There is hereby appropriated to the State Supreme Court from any monies not otherwise appropriated from the General Revenue Fund of the State Treasury for the fiscal year ending June 30, 1997, the sum of Four Hundred Fifty Thousand Dollars (\$450,000.00) for transfer to the "Legal Services Revolving Fund" created pursuant to subsection H of Section 1 of this act.

SECTION 3. This act shall become effective July 1, 1996.

SECTION 4. It being immediately necessary for the preservation of the public peace, health and safety, an emergency is hereby declared to exist, by reason whereof this act shall take effect and be in full force from and after its passage and approval.