

Council Substitute for House Bill No. 491

An act relating to civil legal assistance; creating the Florida Access to Civil Legal Assistance Act; providing legislative intent and purpose; providing definitions; specifying powers of the Department of Community Affairs for certain purposes; limiting use of certain funds for certain purposes; requiring the department to contract for delivery of civil legal assistance to certain persons through not-for-profit legal aid organizations; providing contract requirements; specifying application; requiring the department to ensure accountability; requiring an annual audit; providing for eligibility for state support; providing for conditional repeal; providing limitations on use of state funds; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. Short title.—This act may be cited as the “Florida Access to Civil Legal Assistance Act.”

Section 2. Legislative intent.—It is the intent of the Legislature to establish an administrative framework whereby public funds may be used in an effective and efficient manner to enhance the availability of civil legal assistance to the poor in this state. The Legislature finds that the lack of adequate and equitable legal services available to the indigent population, particularly the children and elderly of this state, unnecessarily burdens existing social and human services programs. It is the purpose of this act to promote the availability of civil legal assistance to the poor and improve access to justice by establishing a streamlined method to utilize available state funds in furtherance of this goal.

Section 3. Definitions.—For purposes of this act:

(1) “Department” means the Department of Community Affairs.

(2) “Eligible client” means a person whose income is equal to or below 150 percent of the then-current federal poverty guidelines prescribed for the size of the household of the person seeking assistance by the United States Department of Health and Human Services or disabled veterans who are in receipt of, or eligible to receive, Veterans Administration pension benefits or supplemental security income.

(3) “Legal assistance” means the provision of civil legal services consistent with the rules regulating The Florida Bar, subject to the limitations in section 5.

(4) “Not-for-profit legal aid organization” means a not-for-profit organization operated in this state that provides as its primary purpose civil legal services without charge to eligible clients.

Section 4. Authority and duties of the department.—The department shall have the powers necessary or appropriate to carry out the purposes and

provisions of this act, including, but not limited to, the power to contract with a statewide not-for-profit organization that provides funding for civil legal assistance to the poor in this state to allocate funds to not-for-profit legal aid organizations consistent with the provisions of this act.

Section 5. Limitations.—No funds received or allocated pursuant to this act shall be used to:

(1) Lobby or influence the passage or defeat of any legislation before any municipal, county, or state legislative or administrative body.

(2) Provide legal assistance or advice with respect to any criminal proceeding or any federal or state postconviction proceeding. For purposes of this subsection, “criminal proceeding” means an adversary judicial process prosecuted by a public officer and initiated by formal complaint, information, or indictment charging a person with an offense classified or denominated as criminal by applicable law and punishable by death, imprisonment, jail sentence, or criminal fine.

(3) Sue the state or any of its agencies or political subdivisions.

(4) Sue any college or university.

(5) Initiate or participate in a class action suit.

(6) Provide legal assistance or advice with respect to any noncriminal infraction or any enforcement proceeding instituted by the state or its agencies or political subdivisions pursuant to chapter 316, chapter 318, chapter 320, or chapter 322, Florida Statutes.

(7) Contest any regulatory decision by any municipal, county, or state administrative or legislative body.

(8) File or assist in the filing of private causes of action under federal or state statutes enforced by federal or state agencies relating to or arising out of employment or the terms or conditions of employment.

Section 6. Funding.—In connection with funds received pursuant to this act, the department shall contract with a not-for-profit, charitable organization that meets the qualifications of s. 501(c)(3) of the United States Internal Revenue Code, as amended, that provides funding statewide for civil legal assistance to the poor for the administration, allocation, and distribution of any or all such funds in a manner consistent with the provisions of this act. Such contract shall provide that distribution of at least 80 percent of such funds shall be based annually by county on a per capita basis upon the number of persons in the county whose income is 125 percent or less of the then-current federal poverty guidelines of the United States Department of Health and Human Services. For purposes of this section, the source of data identifying the number of persons per county shall be the latest available figures of persons per county from the Bureau of the Census of the United States Department of Commerce. Such contract shall provide that up to 15 percent of such funds shall be distributed annually to statewide and regional not-for-profit legal aid organizations and that up to 5 percent of such funds shall be provided for administrative costs.

Section 7. Eligible activities.—Funds received or allocated pursuant to this act may be used to secure the legal rights of eligible clients relating to family law, juvenile law, entitlements to federal government benefits, protection from domestic violence, elder and child abuse, and immigration by providing legal assistance and education regarding legal rights and duties under the law.

Section 8. Accountability.—In any contract allocating funds pursuant to this act, the department shall ensure that funds received or allocated pursuant to this act are expended in a manner consistent with the terms and intent of this act and shall provide for an annual audit of such expenditures.

Section 9. State support.—Programs funded pursuant to this act shall be eligible for state support, including, but not limited to, access to the SUNCOM Network services. Accounts for SUNCOM services furnished to program eligible entities shall be billed directly to the department, as program administrator, and paid with the funding provided.

Section 10. If any of the limitations on the use of funds received or allocated under this act is found to violate the Constitution of the United States or the State Constitution or otherwise found to be unenforceable:

(1) The entire act shall be null and void.

(2) All appropriations made for the purposes of this act and not expended are repealed.

(3) All unspent funds received by any entity pursuant to this act or the act appropriating funds for the purpose of this act shall be returned to the department for transfer to the treasury to the credit of the fund from which they were appropriated.

(4) No further funds appropriated for the purposes of this act shall be distributed or expended.

Section 11. This act shall not be construed to create a statutory right to counsel in any proceeding. This act shall not be construed to create any statutory right accruing to any attorney.

Section 12. All appropriations made for the purposes of this act shall only be used for legal education or assistance in family law, juvenile law, entitlement to federal benefits, protection from domestic violence, elder abuse, child abuse, or immigration law. These funds shall not be used in criminal or post-conviction relief matters, for lobbying activities, to sue the state, its agencies or political sub-divisions, or colleges or universities, for class action lawsuits, to provide legal assistance with respect to noncriminal infractions pursuant to chapter 316, chapter 318, chapter 320, or chapter 322, to contest regulatory decisions of any municipal, county, or state administrative or legislative body, or to file or assist in the filing of private causes of action under federal or state statutes relating to or arising out of employment or terms or conditions of employment. The contracting organization shall require pilot projects to provide data on the number of clients served, the types of cases, the reasons the cases were closed, and the state dollars saved and

federal dollars brought into the state because of the legal services provided. The contracting organization shall provide to the Department of Community Affairs, within sixty (60) days of the completion of the contract, a report on the legal services provided, the state dollars saved, and the federal dollars brought into the state.

Section 13. This act shall take effect upon becoming a law.

Approved by the Governor May 30, 2002.

Filed in Office Secretary of State May 30, 2002.