

Public Law 95-222
95th Congress

An Act

To amend the Legal Services Corporation Act to provide authorization of appropriations for additional fiscal years, and for other purposes.

Dec. 28, 1977
[H.R. 6666]

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. This Act may be cited as the "Legal Services Corporation Act Amendments of 1977".

Legal Services
Corporation Act
Amendments of
1977.
42 USC 2701
note.

DECLARATION OF PURPOSE

SEC. 2. Section 1001 of the Legal Services Corporation Act (42 U.S.C. 2996) is amended by inserting before the semicolon at the end of paragraph (3) "and assist in improving opportunities for low-income persons consistent with the purposes of this Act".

MEMBERSHIP OF GOVERNING BOARD

SEC. 3. Section 1004(a) of the Legal Services Corporation Act (42 U.S.C. 2996c(a)) is amended by inserting at the end thereof the following new sentence: "Effective with respect to appointments made after the date of enactment of the Legal Services Corporation Act Amendments of 1977 but not later than July 31, 1978, the membership of the Board shall be appointed so as to include eligible clients, and to be generally representative of the organized bar, attorneys providing legal assistance to eligible clients, and the general public.".

Appointment.

SUNSHINE PROVISION

SEC. 4. Section 1004(g) of the Legal Services Corporation Act (42 U.S.C. 2996c(g)) is amended by striking out all that follows "open" and inserting in lieu thereof "and shall be subject to the requirements and provisions of section 552b of title 5, United States Code (relating to open meetings)".

SUPPORT ASSISTANCE

SEC. 5. (a) Paragraph (3) of section 1006(a) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)) is amended by striking out "and not" and inserting in lieu thereof a comma and "or".

(b) Section 1006(a)(3)(A) of the Legal Services Corporation Act (42 U.S.C. 2996e(a)(3)(A)) is amended by inserting at the end thereof the following: "except that broad general legal or policy research unrelated to representation of eligible clients may not be undertaken by grant or contract."

(c) Section 1010 of the Legal Services Corporation Act (42 U.S.C. 2996i) is amended by adding at the end thereof the following new subsection:

"(d) Not more than 10 percent of the amounts appropriated pursuant to subsection (a) of this section for any fiscal year shall be available for grants or contracts under section 1006(a)(3) in any such year."

Supra.

POWERS, DUTIES, AND LIMITATIONS OF THE CORPORATION AND RECIPIENTS

SEC. 6. (a) Section 1006(b)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(b)(1)) is amended by inserting "(A)" after "Sec. 1006. (b)(1)" and by adding at the end thereof the following new subparagraph:

"(B) No question of whether representation is authorized under this title, or the rules, regulations or guidelines promulgated pursuant to this title, shall be considered in, or affect the final disposition of, any proceeding in which a person is represented by a recipient or an employee of a recipient. A litigant in such a proceeding may refer any such question to the Corporation which shall review and dispose of the question promptly, and take appropriate action. This subparagraph shall not preclude judicial review available under applicable law."

Review

(b) Section 1006(c)(1) of the Legal Services Corporation Act (42 U.S.C. 2996e(c)(1)) is amended to read as follows:

"(1) participate in litigation unless the Corporation or a recipient of the Corporation is a party, or a recipient is representing an eligible client in litigation in which the interpretation of this title or a regulation promulgated under this title is an issue, and shall not participate on behalf of any client other than itself; or"

Appointment
without
compensation.

(c) Section 1006(d) of the Legal Services Corporation Act (42 U.S.C. 2996e(d)) is amended by adding at the end thereof the following new paragraph:

"(6) Attorneys employed by a recipient shall be appointed to provide legal assistance without reasonable compensation only when such appointment is made pursuant to a statute, rule, or practice applied generally to attorneys practicing in the court where the appointment is made."

ACTIVITIES OF STAFF ATTORNEYS

SEC. 7. (a) Paragraph (2) of section 1006(e) of the Legal Services Corporation Act (42 U.S.C. 2996e(e)(2)) is amended by inserting "and staff attorneys" after "Corporation", and by inserting before the period at the end thereof a comma and the following: "except that no staff attorney may be a candidate in a partisan political election".

(b) Section 1007(a)(6) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(6)) is amended by striking out the matter following clause (C).

REIMBURSEMENT FOR SUCCESSFUL DEFENDANTS

SEC. 8. The first sentence of section 1006(f) of the Legal Services Corporation Act (42 U.S.C. 2996e(f)) is amended by striking out "may" and inserting in lieu thereof "shall".

ASSISTANCE CRITERIA

SEC. 9. (a) Paragraph (2)(B)(iv) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(B)(iv)) is amended to read as follows:

"(iv) such other factors as relate to financial inability to afford legal assistance, which may include evidence of a prior determination that such individual's lack of income results from refusal or unwillingness, without good cause, to seek or accept an employment situation; and"

(b) (1) Paragraph (2) (C) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(2)(C)) is amended to read as follows:

“(C) insure that (i) recipients, consistent with goals established by the Corporation, adopt procedures for determining and implementing priorities for the provision of such assistance, taking into account the relative needs of eligible clients for such assistance (including such outreach, training, and support services as may be necessary), including particularly the needs for service on the part of significant segments of the population of eligible clients with special difficulties of access to legal services or special legal problems (including elderly and handicapped individuals); and (ii) appropriate training and support services are provided in order to provide such assistance to such significant segments of the population of eligible clients;”.

(2) Section 1008(c) of the Legal Services Corporation Act (42 U.S.C. 2996g(c)) is amended by adding at the end thereof the following new sentence: “Such report shall include a description of services provided pursuant to section 1007(a)(2)(C) (i) and (ii).”.

Annual report,
contents.

Supra.

(c) Paragraph (5) of section 1007(a) of the Legal Services Corporation Act (42 U.S.C. 2996f(a)(5)) is amended to read as follows:

“(5) insure that no funds made available to recipients by the Corporation shall be used at any time, directly or indirectly, to influence the issuance, amendment, or revocation of any executive order or similar promulgation by any Federal, State, or local agency, or to undertake to influence the passage or defeat of any legislation by the Congress of the United States, or by any State or local legislative bodies, or State proposals by initiative petition, except where—

“(A) representation by an employee of a recipient for any eligible client is necessary to the provision of legal advice and representation with respect to such client's legal rights and responsibilities (which shall not be construed to permit an attorney or a recipient employee to solicit a client, in violation of professional responsibilities, for the purpose of making such representation possible); or

“(B) a governmental agency, legislative body, a committee, or a member thereof—

“(i) requests personnel of the recipient to testify, draft, or review measures or to make representations to such agency, body, committee, or member, or

“(ii) is considering a measure directly affecting the activities under this title of the recipient or the Corporation.”.

LIMITATIONS ON USE OF FUNDS

SEC. 10. Section 1007(b) of the Legal Services Corporation Act (42 U.S.C. 2996f(b)) is amended to read as follows:

“(b) No funds made available by the Corporation under this title, either by grant or contract, may be used—

“(1) to provide legal assistance (except in accordance with guidelines promulgated by the Corporation) with respect to any fee-generating case (which guidelines shall not preclude the provision of legal assistance in cases in which a client seeks only statutory benefits and appropriate private representation is not available);

"(2) to provide legal assistance with respect to any criminal proceeding, except to provide assistance to a person charged with a misdemeanor or lesser offense or its equivalent in an Indian tribal court;

"(3) to provide legal assistance in civil actions to persons who have been convicted of a criminal charge where the civil action arises out of alleged acts or failures to act and the action is brought against an officer of the court or against a law enforcement official for the purpose of challenging the validity of the criminal conviction;

"(4) for any of the political activities prohibited in paragraph (6) of subsection (a) of this section;

"(5) to make grants to or enter into contracts with any private law firm which expends 50 percent or more of its resources and time litigating issues in the broad interests of a majority of the public;

"(6) to support or conduct training programs for the purpose of advocating particular public policies or encouraging political activities, labor or antilabor activities, boycotts, picketing, strikes, and demonstrations, as distinguished from the dissemination of information about such policies or activities, except that this provision shall not be construed to prohibit the training of attorneys or paralegal personnel necessary to prepare them to provide adequate legal assistance to eligible clients;

"(7) to initiate the formation, or act as an organizer, of any association, federation, or similar entity, except that this paragraph shall not be construed to prohibit the provision of legal assistance to eligible clients;

"(8) to provide legal assistance with respect to any proceeding or litigation which seeks to procure a nontherapeutic abortion or to compel any individual or institution to perform an abortion, or assist in the performance of an abortion, or provide facilities for the performance of an abortion, contrary to the religious beliefs or moral convictions of such individual or institution;

"(9) to provide legal assistance with respect to any proceeding or litigation relating to the desegregation of any elementary or secondary school or school system, except that nothing in this paragraph shall prohibit the provision of legal advice to an eligible client with respect to such client's legal rights and responsibilities; or

"(10) to provide legal assistance with respect to any proceeding or litigation arising out of a violation of the Military Selective Service Act or of desertion from the Armed Forces of the United States, except that legal assistance may be provided to an eligible client in a civil action in which such client alleges that he was improperly classified prior to July 1, 1973, under the Military Selective Service Act or prior corresponding law."

50 USC app.
451.

GOVERNING BODIES OF RECIPIENTS

SEC. 11. Section 1007(c) of the Legal Services Corporation Act (42 U.S.C. 2996f(c)) is amended by striking out "and which includes at least one individual eligible to receive legal assistance under this title." and inserting in lieu thereof "and at least one-third of which consists of persons who are, when selected, eligible clients who may also be representatives of associations or organizations of eligible clients."

NOTIFICATION

SEC. 12. Section 1007(f) of the Legal Services Corporation Act (42 U.S.C. 2996f(f)) is amended by striking all that follows "Governor" and inserting in lieu thereof a comma and: "the State bar association of any State, and the principal local bar associations (if there be any) of any community, where legal assistance will thereby be initiated, of such grant, contract, or project. Notification shall include a reasonable description of the grant application or proposed contract or project and request comments and recommendations."

ELIGIBLE CLIENTS' SPECIAL NEEDS ASSESSMENT STUDY

SEC. 13. Section 1007 of the Legal Services Corporation Act (42 U.S.C. 2996f) is amended by adding at the end thereof the following new subsection:

"(h) The Corporation shall conduct a study on whether eligible clients who are—

"(1) veterans,

"(2) native Americans,

"(3) migrants or seasonal farm workers,

"(4) persons with limited English-speaking abilities, and

"(5) persons in sparsely populated areas where a harsh climate and an inadequate transportation system are significant impediments to receipt of legal services

have special difficulties of access to legal services or special legal problems which are not being met. The Corporation shall report to Congress not later than January 1, 1979, on the extent and nature of any such problems and difficulties and shall include in the report and implement appropriate recommendations."

Report to
Congress.

AUDITS AND RECORDKEEPING

SEC. 14. Paragraph (2) of section 1009(b) of the Legal Services Corporation Act (42 U.S.C. 2996h(b)(2)) is amended by striking out the period at the end of the last sentence and inserting in lieu thereof "throughout the period beginning on the date such possession or custody commences and ending three years after such date, but the General Accounting Office may require the retention of such books, accounts, financial records, reports, files, papers, or property for a longer period under section 117(b) of the Accounting and Auditing Act of 1950 (31 U.S.C. 67(b))."

FINANCING

SEC. 15. (a) Section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended by inserting after the first sentence the following new sentence: "There are authorized to be appropriated for the purpose of carrying out the activities of the Corporation \$205,000,000 for the fiscal year 1978, and such sums as may be necessary for each of the two succeeding fiscal years."

Appropriation
authorization.

(b) The last sentence of section 1010(a) of the Legal Services Corporation Act (42 U.S.C. 2996i(a)) is amended to read as follows: "Appropriations for that purpose shall be made for not more than two fiscal years, and shall be paid to the Corporation in annual installments at the beginning of each fiscal year in such amounts as may be specified in Acts of Congress making appropriations."

HEARING EXAMINERS

Appointment.

SEC. 16. Section 1011(2) of the Legal Services Corporation Act (42 U.S.C. 2996j(2)) is amended by inserting before the period at the end thereof a comma and "and, when requested, such hearing shall be conducted by an independent hearing examiner. Such hearing shall be held prior to any final decision by the Corporation to terminate financial assistance or suspend or deny funding. Hearing examiners shall be appointed by the Corporation in accordance with procedures established in regulations promulgated by the Corporation".

EFFECTIVE DATES

42 USC 2996f
note.

SEC. 17. (a) (1) The amendment made by section 11 of this Act shall be effective six months after the first day of the first calendar month following the date of enactment of this Act.

42 USC 2996i
note.

(2) The amendment made by section 15 of this Act shall be effective with respect to fiscal years beginning after September 30, 1977.

42 USC 2996
note.

(b) The amendments made by provisions of this Act other than sections 11 and 15 shall be effective on the date of enactment of this Act.

Approved December 28, 1977.

LEGISLATIVE HISTORY:

HOUSE REPORT No. 95-310 (Comm. on the Judiciary) and 95-825 (Comm. of Conference).

SENATE REPORT No. 95-172 accompanying S. 1303 (Comm. on Human Resources). CONGRESSIONAL RECORD, Vol. 123 (1977):

June 9, 27, considered and passed House.

Oct. 12, considered and passed Senate, amended, in lieu of S 1303.

Dec. 7, House agreed to conference report.

Dec. 15, Senate agreed to conference report.