

104TH CONGRESS
1ST SESSION

H. R. 2277

To abolish the Legal Services Corporation and provide the States with money to fund qualified legal services.

IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

Mr. GEKAS (for himself, Mr. ARMEY, Mr. HYDE, and Mr. INGLIS) introduced the following bill; which was referred to the Committee on the Judiciary

A BILL

To abolish the Legal Services Corporation and provide the States with money to fund qualified legal services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Legal Aid Act of
5 1995”.

6 **SEC. 2. LEGAL SERVICES CORPORATION**

7 The Legal Services Corporation Act (42 U.S.C.
8 2996–2996l) is amended to read as follows:

9 **“SECTION 1. SHORT TITLE.**

10 “This Act may be cited as the ‘Legal Aid Grant Act’.

1 **“SEC. 2. DEFINITIONS.**

2 “For purposes of this Act:

3 “(1) QUALIFIED LEGAL SERVICE PROVIDER.—

4 “(A) IN GENERAL.—The term ‘qualified
5 legal service provider’ means—

6 “(i) any individual who is licensed to
7 practice law in a State for not less than 3
8 calendar years, who has practiced law in
9 such State not less than 3 calendar years,
10 and who is so licensed during the period of
11 a contract under section 4; or

12 “(ii) a person who employs or con-
13 tracts with an individual described in
14 clause (i) to provide qualified legal serv-
15 ices.

16 Nothing in this subparagraph shall be inter-
17 preted to prohibit a qualified legal service pro-
18 vider from employing an individual who is not
19 described in clause (i) to assist in providing
20 qualified legal services.

21 “(B) NOT QUALIFIED.—No individual shall
22 be considered, or employed by, a qualified legal
23 service provider if such individual during the 10
24 years preceding the submission of a bid for a
25 contract under section 4—

26 “(i) has been convicted of a felony;

1 “(ii) has been suspended or disbarred
2 from the practice of law for misconduct,
3 incompetence, or neglect of a client in any
4 State;

5 “(iii) has been found in contempt of a
6 court of competent jurisdiction in any
7 State or Federal court; or

8 “(iv) has been sanctioned under Fed-
9 eral Rule of Civil Procedure 11 or an
10 equivalent State rule of procedure applica-
11 ble in civil actions; or

12 if such individual has a criminal charge pending
13 on the date of the submission of a bid for a
14 contract under section 4.

15 “(C) ADDITIONAL REQUIREMENTS.—No
16 State may impose a requirement on an individ-
17 ual or person as a condition to bidding on a
18 contract under section 4 or to being awarded
19 such a contract which requirement is different
20 from any other requirement of subparagraph
21 (B).

22 “(2) QUALIFIED LEGAL SERVICES.—The term
23 ‘qualified legal services’ means—

1 “(A) mediation, negotiation, arbitration,
2 counseling, advice, instruction, referral, or rep-
3 resentation, and

4 “(B) legal research or drafting in support
5 of the services described in subparagraph (A),
6 provided by or under the supervision of a qualified
7 legal service provider to a qualified client for a quali-
8 fied cause of action.

9 “(3) QUALIFIED CLIENT.—The term ‘qualified
10 client’ means any individual who is a United States
11 citizen or an alien admitted for permanent residence
12 who resided for more than 50 percent of the most
13 recent full month in a household the income of
14 which from any source, which was received or held
15 for the benefit of a member of the household, was
16 equal to or less than the poverty line established
17 under section 673(2) of the Community Services
18 Block Grant Act (42 U.S.C. 9902(2)). The term
19 ‘household’ means a dwelling occupied by at least
20 one adult.

21 “(4) QUALIFIED CAUSE OF ACTION.—

22 “(A) The term ‘qualified cause of action’
23 means only a civil cause of action which results
24 only from—

1 “(i) landlord and tenant disputes, in-
2 cluding an eviction from housing except an
3 eviction where the prima facie case for the
4 eviction is based on criminal conduct;

5 “(ii) foreclosure of a debt on a quali-
6 fied client’s residence;

7 “(iii) the filing of a petition under
8 chapter 7 or 12 of title 11, United States
9 Code, or under chapter 13 of such title un-
10 less a petition of eviction has preceded the
11 filing of such petition;

12 “(iv) enforcement of a debt;

13 “(v) an application for a statutory
14 benefit;

15 “(vi) appeal of a denial of a statutory
16 benefit on a statutory ground;

17 “(vii) child custody and support;

18 “(viii) action to quiet title;

19 “(ix) activities involving spousal or
20 child abuse on behalf of the abused party;

21 “(x) an insurance claim;

22 “(xi) competency hearing; or

23 “(xii) probate.

24 “(B) Such term does not include—

1 “(i) a class action under Federal,
2 State, or local law; or

3 “(ii) any challenge to the constitu-
4 tionality of any statute.

5 Additional causes of action qualify as a quali-
6 fied cause of action if they arise out of the
7 same transaction as a cause of action described
8 in subparagraph (A) unless such additional
9 causes of action are described in clause (i) or
10 (ii).

11 “(5) STATE.—The term ‘State’ means any
12 State of the United States, the District of Columbia,
13 the Commonwealth of Puerto Rico, the Virgin Is-
14 lands, Guam, American Samoa, the Trust Territory
15 of the Pacific Islands, and any other territory or
16 possession of the United States and includes any
17 recognized governing body of an Indian Tribe or
18 Alaskan Native Village that carries out substantial
19 governmental powers and duties.

20 **“SEC. 3. GRANTS.**

21 “(a) GRANT AUTHORITY.—The Attorney General
22 shall make grants to States for the provision of qualified
23 legal services. To receive a grant under this subsection a
24 State shall make an application to the Attorney General.

1 Such an application shall be in such form and submitted
2 in such manner as the Attorney General may require.

3 “(b) POVERTY LINE.—Grants shall be made under
4 subsection (a) to States in such proportion as the number
5 of residents of each State which receive a grant who live
6 in households having income equal to or less than the pov-
7 erty line established under section 673(2) of the Commu-
8 nity Services Block Grant Act (42 U.S.C. 9902(2)) bears
9 to the total number of residents in the United States living
10 in such households.

11 “(c) RETENTION OF GRANT FUNDS.—Each State
12 may in any fiscal year retain for administrative costs not
13 more than 5 percent of the amount granted to the State
14 under subsection (a) in such fiscal year. The remainder
15 of such grant shall be paid under contracts to qualified
16 legal service providers in the State for the provision in
17 the State of qualified legal services. If a State which has
18 received a grant under subsection (a) has at the end of
19 any fiscal year funds which have not been obligated, such
20 State shall return such funds to the Attorney General.

21 “(d) REQUIREMENTS OF THIS ACT.—No State may
22 receive a grant under subsection (a) unless the State has
23 certified to the Attorney General that the State will com-
24 ply with and enforce the requirements of this Act.

1 “(e) LIMITATION ON USE OF GRANT FUNDS.—None
2 of the funds provided under subsection (a) shall be used
3 by a qualified legal service provider—

4 “(1) to make available any funds, personnel, or
5 equipment for use in advocating or opposing any
6 plan or proposal or represent any party or partici-
7 pate in any other way in litigation, that is intended
8 to or has the effect of altering, revising, or reappor-
9 tioning a legislative, judicial, or elective district at
10 any level of government, including influencing the
11 timing or manner of the taking of a census;

12 “(2) to attempt to influence the issuance,
13 amendment, or revocation of any executive order,
14 regulation, policy, or similar promulgation by any
15 Federal, State, or local agency;

16 “(3) to attempt to influence the passage or de-
17 feat of any legislation, constitutional amendment,
18 referendum, initiative, confirmation proceeding, or
19 any similar procedure of the Congress of the United
20 States or by any State or local legislative body;

21 “(4) to support or conduct training programs
22 for the purpose of advocating particular public poli-
23 cies or encouraging political activities, labor or anti-
24 labor activities, boycotts, picketing, strikes, and

1 demonstrations, including the dissemination of infor-
2 mation about such policies or activities;

3 “(5) to participate in any litigation, lobbying,
4 rulemaking or any other matter with respect to
5 abortion;

6 “(6) to participate in any litigation or provide
7 any representation on behalf of a local, State, or
8 Federal prisoner;

9 “(7) to pay for any personal service, advertise-
10 ment, telegram, telephone communication, letter, or
11 printed or written matter or to pay administrative
12 expenses or related expenses, associated with an ac-
13 tivity prohibited in paragraph (1), (2), (3), (4), (5),
14 or (6);

15 “(8) to solicit in-person any client for the pur-
16 pose of providing any legal service; or

17 “(9) to pay any voluntary membership dues to
18 any private or non-profit organization.

19 “(f) LIMITATION ON USE OF STATE FUNDS.—A
20 State which receives a grant under subsection (a) and
21 which also distributes State funds for the provision of legal
22 services shall require that such State funds be used to pro-
23 vide qualified legal services to qualified clients and shall
24 impose on the use of such State funds the limitations pre-
25 scribed by subsection (e).

1 “(g) ATTORNEYS’ FEES.—A qualified legal service
2 provider of any qualified client or any client of such pro-
3 vider may not claim or collect attorneys’ fees from parties
4 to any litigation initiated by such client.

5 “(h) AUTHORIZATION OF APPROPRIATIONS.—For
6 grants under subsection (a) there are authorized to be ap-
7 propriated to the Attorney General \$278,000,000 for fis-
8 cal year 1996 and \$141,000,000 for fiscal year 1997.

9 **“SEC. 4. CONTRACTS.**

10 “(a) IN GENERAL.—Each State which receives a
11 grant under section 3(a) shall make funds under the grant
12 available for contracts entered into for the provision of
13 qualified legal services within the State.

14 “(b) BIDS.—

15 “(1) AUTHORITY.—The Governor of each State
16 shall designate the authority of the State which shall
17 be responsible for soliciting and awarding bids for
18 contracts for the provision of qualified legal services
19 within such State.

20 “(2) SERVICE AREA.—The authority of a State
21 designated under paragraph (1) shall designate serv-
22 ice areas within the State. Such service areas shall
23 be the counties or parishes within a State but such
24 authority may combine contiguous counties or par-

1 ishes to form a service area to assure the adequate
2 provision of qualified legal services.

3 “(3) NON-ENGLISH-SPEAKING CLIENTS.—If 5
4 percent or more of the population of qualified clients
5 in a qualified legal service provider’s service area in-
6 cludes individuals whose household language is other
7 than English, the qualified legal service provider
8 shall include provision in the provider’s bid for satis-
9 fying the communication needs of that portion of
10 such population.

11 “(c) AVAILABILITY OF FUNDS.—A State shall allo-
12 cate grant funds for contracts for the provision of quali-
13 fied legal services in a service area on the same basis as
14 grants are made available to States under section 3(b).

15 “(d) CONTRACT AWARDS.—A State shall award a
16 contract for the provision of qualified legal services in a
17 service area to the applicant who is best qualified, as de-
18 termined by the State, and who in its bid offers to provide,
19 in accordance with section 5, the greatest number of hours
20 of qualified legal services in such area.

21 “(e) FORM AND BILLING.—A State contract awarded
22 under subsection (d) shall be in such form as the State
23 requires. The contract shall provide for the rendering of
24 bills supported by time records at the close of each month
25 in which qualified legal services are provided. A State shall

1 identifying such client, the general nature of the work per-
2 formed in each increment, and the account which will be
3 charged for such work.

4 “(e) QUESTIONNAIRE.—Each qualified client shall be
5 provided a self-mailing customer satisfaction questionnaire
6 in a form approved by the authority granting the contract
7 under section 4 which identifies the qualified legal service
8 provider and is preaddressed to such authority.

9 “(f) ATTORNEY CLIENT PRIVILEGE.—Any qualified
10 client who receives legal services other than advice or legal
11 services provided by mail or telephone shall execute with
12 respect to such services a waiver of attorney client and
13 attorney work product privilege as a condition to receiving
14 such service. The waiver shall be limited to the extent nec-
15 essary to determine the quantity and quality of the service
16 rendered by the qualified legal service provider.

17 “(g) RECORDS OF QUALIFICATIONS.—A qualified
18 legal service provider shall make and maintain records de-
19 tailing the basis upon which the provider determined the
20 qualifications of qualified clients. Such records shall be
21 made and maintained for 3 years following the termi-
22 nation of a contract under section 4 for the provision of
23 legal services to such clients.

24 “(h) AUDITS.—A qualified legal service provider shall
25 consent to audits by the General Accounting Office and

1 the authority which awarded a contract to such provider.
2 Any such audit may be conducted at the provider's prin-
3 cipal place of business. Such an audit shall be limited to
4 a determination of whether such provider is meeting the
5 requirements of this Act and the provider's contract under
6 section 4.

7 “(i) RECOVERY OF FEES.—A contract shall provide
8 for the recovery of reasonable attorneys' fees in any action
9 brought to compel payment to a qualified legal service pro-
10 vider under a contract under section 4. Such fees shall
11 not be payable out of funds provided under this Act.

12 “(j) TERMINATION AND RECOVERY OF FUNDS.—The
13 authority which awarded a contract shall terminate a
14 qualified legal service provider who fails to abide by the
15 terms of this Act. A breach of contract by a qualified legal
16 service provider shall entitle the authority to terminate the
17 contract, to award a new contract, and to recover any
18 funds improperly expended by the provider, together with
19 reasonable attorneys' fees and interest at the statutory
20 rate in the State for interest on judgments. If such a
21 breach was willful, the provider shall pay to the authority
22 which awarded the contract damages equal to the one half
23 of the amount improperly expended by the provider.”.

1 **SEC. 3. TRANSITION AND EFFECTIVE DATE.**

2 (a) TERMINATION.—The Legal Services Corporation
3 shall terminate on the expiration of 6 months after the
4 date of the enactment of this Act.

5 (b) PENDING CASES.—During the 6-month period
6 after the termination of the Legal Services Corporation,
7 the Attorney General may make funds available to grant-
8 ees under the Legal Services Corporation Act to bring to
9 a completion any legal action filed in a State or Federal
10 court on or before the date of the enactment of this Act.
11 The Attorney General shall use funds appropriated to the
12 Attorney General under section 3(h) of the Legal Aid
13 Grant Act to fund such grantees. Such funds for such pur-
14 pose may not exceed 1 percent of the amount appropriated
15 to the Attorney General under such section 3(h) for fiscal
16 year 1996.

17 (c) TRANSITION.—Upon termination of such Cor-
18 poration all assets, liabilities, obligations, property, and
19 records employed directly or held or used primarily in con-
20 nection with any function of the President of the Legal
21 Services Corporation in carrying out legal services activi-
22 ties under the Legal Services Corporation Act shall be
23 transferred to the Attorney General.

24 (d) ACTION OF THE PRESIDENT.—Notwithstanding
25 any other provision of law, upon termination of the Legal

1 Services Corporation the President of the Legal Services
2 Corporation shall take such action as may be necessary—

3 (1) to assist the Attorney General in the initial
4 undertaking of the Attorney General's responsibil-
5 ities under the Legal Aid Grant Act; and

6 (2) to transfer to the Attorney General for use
7 under the Legal Aid Grant Act all unexpended bal-
8 ances of funds appropriated for the purpose of car-
9 rying out legal services programs and activities
10 under the Legal Services Corporation Act.

11 (e) EFFECTIVE DATE.—The amendment made by
12 section 1 shall take effect on the date of the enactment
13 of this Act.

○