

By the Committee on Comprehensive Planning, Local and Military Affairs; and Senator Saunders

316-1216-02

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A bill to be entitled
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 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

1 improve access to justice by establishing a streamlined method
2 to utilize available state funds in furtherance of this goal.

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

4 (1) "Department" means the Department of Community
5 Affairs.

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

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

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

21 Section 4. Authority and duties of the
22 department.--The department shall have the powers necessary or
23 appropriate to carry out the purposes and provisions of this
24 act, including, but not limited to, the power to contract with
25 a statewide not-for-profit organization that provides funding
26 for civil legal assistance to the poor in this state to
27 allocate funds to not-for-profit legal aid organizations
28 consistent with the provisions of this act.

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

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

4 (2) Provide legal assistance or advice with respect to
5 any criminal proceeding or any federal or state post
6 conviction proceeding. For purposes of this subsection,
7 "criminal proceeding" means an adversary judicial process
8 prosecuted by a public officer and initiated by formal
9 complaint, information, or indictment charging a person with
10 an offense classified or denominated as criminal by applicable
11 law and punishable by death, imprisonment, jail sentence, or
12 criminal fine.

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

15 (4) Initiate or participate in a class action suit.

16 (5) Sue any college or university.

17 Section 6. Funding.--In connection with funds received
18 pursuant to this act, the department shall contract with a
19 not-for-profit, charitable organization that meets the
20 qualifications of s. 501(c)(3) of the United States Internal
21 Revenue Code, as amended, that provides funding statewide for
22 civil legal assistance to the poor for the administration,
23 allocation, and distribution of any or all such funds in a
24 manner consistent with the provisions of this act. Such
25 contract shall provide that distribution of at least 80
26 percent of such funds shall be based annually by county on a
27 per capita basis upon the number of persons in the county
28 whose income is 125 percent or less of the then-current
29 federal poverty guidelines of the United States Department of
30 Health and Human Services. For purposes of this section, the
31 source of data identifying the number of persons per county

1 shall be the latest available figures of persons per county
2 from the Bureau of the Census of the United States Department
3 of Commerce. Such contract shall provide that up to 15 percent
4 of such funds shall be distributed annually to statewide and
5 regional not-for-profit legal aid organizations and that up to
6 5 percent of such funds shall be provided for administrative
7 costs.

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

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

20 Section 9. State support.--Programs funded pursuant to
21 this act shall be eligible for state support, including, but
22 not limited to, access to the SUNCOM Network services.

23 Section 10. This act shall take effect upon becoming a
24 law.

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STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
COMMITTEE SUBSTITUTE FOR
SB 512

The CS differs from the bill as filed as follows:

- the definition of "eligible client" is clarified to include disabled veterans receiving disability benefits from the VA; and
- specifies that funds provided under this act may not be used to for any federal or state post-conviction proceedings; to sue political subdivisions of the state; or to sue any colleges or universities.