



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #201

Civil Legal Services for Victims of Domestic Violence and Sexual Abuse (Children and Families -- Economic Support and Child Care)

[LFB 2017-19 Budget Summary: Page 97, #1]

CURRENT LAW

The Department of Children and Families (DCF) provides the Wisconsin Trust Account Foundation, Inc. (WisTAF) \$500,000 annually under the federal temporary assistance for needy families (TANF) program to distribute annual awards of up to \$75,000 to programs that provide civil legal services to low-income families related to domestic abuse, sexual abuse, and restraining orders and injunctions for individuals at risk under s. 813.123 of the Wisconsin Statutes. Grant funds can only be used to provide legal services in civil matters for which TANF block grant moneys may be used to individuals whose gross incomes are at or below 200% of the federal poverty level. Funding cannot be used to provide legal services for litigation against the state.

2015 Act 55 provided for a sunset provision which prevented the provision of grant funds after June 30, 2017. Further, Act 55 required WisTAF to submit a plan to DCF to detail the proposed use of the funds and required WTAF report to DCF on the use of the funds.

GOVERNOR

The bill would continue the TANF allocation at current funding levels for WisTAF to grant to programs that provide civil legal services to low-income families which address domestic abuse, sexual abuse, and restraining orders and injunctions for individuals at risk. However, the sunset provision in Act 55 would remain effective. As a result, the bill allocates \$500,000 FED annually to a grant program for which DCF is legally unable to provide funding.

DISCUSSION POINTS

1. WisTAF is a nonprofit corporation created in 1986 by the Wisconsin Supreme Court to administrate funding for civil legal aid for low-income Wisconsin residents. WisTAF administrates various legal aid programs, including the interest on lawyers' trusts account program, public interest legal serves fund, and cy pres awards.

2. The 2016 Joint Legislative Council Study Committee on Access to Civil Legal Services (Study Committee) reviewed the funding and delivery of legal services for the indigent in civil cases, including the need for legal services by indigent civil litigants, the availability of non-GPR sources of revenue to provide civil legal services for the indigent, and current operations.

3. On February 3, 2017, the Study Committee submitted its report to the Joint Legislative Council.¹ As stated in the report, the Study Committee members discussed whether to recommend funding from the state's TANF block grant for civil legal services in the 2017-19 biennial budget. Specifically, whether to recommend that: (a) the \$500,000 annual grant program for WisTAF under Act 55 be continued; and (b) an additional \$500,000 per year be provided for a broader range of civil legal services. No consensus was reached on the issue.

4. Instead, the Study Committee recommended three bill drafts. One draft, now introduced as 2017 AB 115, relates to the authority of DCF, the Department of Justice, and the Department of Health Services to allocate federal grant money for civil legal aid. AB 115 would recognize the difficulty low-income, indigent, vulnerable, and at-risk populations face in fulfilling basic human needs caused or compounded by lack of access to civil legal services and further recognize that providing these populations with free or reduced-fee civil legal services can be an effective way to eliminate or reduce the dependence of such persons on public assistance or other government programs. AB 115 would encourage the Departments of Administration, Health Services, Children and Families, Workforce Development, and Justice to allocate, to the extent authorized by federal law, any federal block grant money they administer and that is intended to benefit low-income, indigent, vulnerable, or at-risk populations for the purpose for providing civil legal aid to qualified individuals. However, AB 115 did not require the agencies to fund civil legal services or provide additional funding for these departments to do so.

5. The attachment shows the grants distributed by WisTAF for legal services related to domestic violence and sexual abuse in 2015-16. WisTAF made 13 grants ranging from \$5,000 to \$50,000. According to WisTAF's 2015-16 report, grantees provided various legal services to more than 700 TANF-eligible domestic abuse and sexual assault survivors in 45 counties, such as legal advice and representation in civil litigation. The grantees opened and closed 508 cases, such as cases relating to representation in litigation about a family matter, obtaining custody or visitation rights, or obtaining child support. In aggregate, clients served were awarded more than \$7,600 in monthly child support, maintenance, and affordable housing credits, and more than \$179,700 in total lump sum divisions of property to which they were entitled.

¹ The report is available on the Study Committee's website at the following address:
https://docs.legis.wisconsin.gov/misc/lc/study/2016/1492/070_joint_legislative_council_recommendations_to_the_2017_18_legislature/jlcr_2017_08.

6. The administration states that the inclusion of the TANF allocation for civil legal services in the bill was in error and was not meant to alter the original intention under Act 55 for the grant program to sunset after the 2015-17 biennium.

7. The Committee could remove the allocation for civil legal services as was originally intended under Act 55 (Alternative 1). This would reduce costs to the TANF program by \$500,000 annually. The bills recommended by the Study Committee have been introduced and the Study Committee did not recommend increased TANF funding for civil legal services. Therefore, the Committee could decide to not provide TANF funding.

8. Conversely, the Committee could retain the TANF allocation for civil legal services and instead alter and codify the non-statutory provisions of Act 55 to remove the sunset provision and continue the grant program going forward (Alternative 2). This would provide \$500,000 to support legal services for victims of domestic violence and sexual abuse. Because the TANF allocation was already included in the bill, no additional funding would be required.

9. During its public hearings on the budget, the Committee heard testimony from individuals who asked that funding for the grant program be expanded. This could be accomplished in two ways. First, in addition to removing the sunset provision, the Committee could also increase the TANF allocation for civil legal services by \$500,000 FED annually (Alternative 3). This would provide a total of \$1,000,000 FED annually to support legal services for victims of domestic violence and sexual abuse.

10. Second, in addition to removing the sunset provision, the Committee could also provide an additional \$500,000 federal TANF funds annually to broaden the program to provide grants for legal services under s. 49.1635 of the Wisconsin Statutes (Alternative 4). Since 2003-04, this section has permitted DCF to provide up to \$100,000 of TANF funding to WisTAF each fiscal year to support civil legal services if there is underspending in TANF-related programs. DCF has not used its authority under this provision to provide funding to WisTAF partly because no funding was provided in prior budgets to support it. This alternative would allow WisTAF to provide grants for staff attorneys, paralegals, volunteers, law school programs, self-help and other assistance programs to assist needy families with basic legal needs both in and outside of the court system, such as family law (such as protecting abuse victims, custody and visitation issues, and paternity and child support), housing law (such as preventing homelessness, foreclosures, and housing discrimination), health law (such as providing advice and advocating for disabled, veterans, children, and seniors in Medicaid, Medicare, and other health programs), and assisting consumers and debtors. Legal assistance would only be provided for needy families that qualify for temporary assistance for needy families under federal TANF regulations and who would have incomes up to 200% of the federal poverty level (\$40,840 for a family of 3 in 2017). The additional funding would be available to WisTAF to the extent it can be matched with private donations.

ALTERNATIVES

1. Repeal the TANF allocation for grants to WisTAF for civil legal services for low-income families relating to domestic violence, sexual abuse, and injunctions and restraining orders

for persons at risk. This would reduce appropriations for TANF related expenditures by \$500,000 FED annually.

ALT 1	Change to	
	Base	Bill
FED	- \$1,000,000	- \$1,000,000

2. Modify the bill to remove the sunset provision from 2015 Wisconsin Act 55, section 9106(2q) and alter and codify the non-statutory language in order to continue the TANF allocation for grants to WisTAF for civil legal services for low-income families relating to domestic violence, sexual abuse, and injunctions and restraining orders for persons at risk. There would be no change in funding under the bill and base.

3. Modify the bill to both: (a) remove the sunset provision from 2015 Wisconsin Act 55, section 9106(2q) and alter and codify the non-statutory language in order to continue the TANF allocation for grants to WisTAF for civil legal services for low-income families relating to domestic violence, sexual abuse, and injunctions and restraining orders for persons at risk; and (b) provide an additional \$500,000 annually from federal TANF funds for such grants.

ALT 3	Change to	
	Base	Bill
FED	\$1,000,000	\$1,000,000

4. Modify the bill to both: (a) remove the sunset provision from 2015 Wisconsin Act 55, section 9106(2q) and alter and codify the non-statutory language in order to continue the TANF allocation for grants to WisTAF for civil legal services for low-income families relating to domestic violence, sexual abuse, and injunctions and restraining orders for persons at risk; and (b) provide an additional \$500,000 annually from federal TANF funds for a broader range of civil legal services for needy families under s. 49.1635 of the Wisconsin Statutes. Section 49.1635 would be modified to require DCF funding to provide TANF funding to the extent matched from private donations, up to a maximum of \$500,000 FED annually.

ALT 4	Change to	
	Base	Bill
FED	\$1,000,000	\$1,000,000

Prepared by: John D. Gentry
Attachment

ATTACHMENT

Wisconsin Trust Account Foundation, Inc.

2015-16 Domestic Violence Sexual Abuse Civil Legal Services Grants

<u>Grantee</u>	<u>2015-16</u>
CASDA	\$33,700
Centro Legal por Derechos Humanos	50,000
Community Justice Inc.	40,000
End Domestic Abuse Wisconsin (RISE)	25,000
Family Services of Southern Wisconsin and Northern Illinois (partnering with Legal Action of Wisconsin)	37,500
Golden House (partnering with Legal Action of Wisconsin)	37,500
Haven	40,000
Indianhead Community Action Agency	50,000
Legal Action of Wisconsin (partnering with Christine Ann Center)	37,500
Legal Aid Society - Milwaukee	26,300
Rainbow House Domestic Abuse Services (partnering with Law Office of Aaron M. Krzewinski)	5,000
Sojourner Family Peace Center (partnering with Legal Action of Wisconsin)	30,000
Wisconsin Judicare Inc.	<u>37,500</u>
TOTAL	\$450,000