



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #110

Civil Legal Assistance (Administration -- General Agency Provisions)

[LFB 2021-23 Budget Summary: Page 25, #6, and Page 94, #21]

CURRENT LAW

The Wisconsin Trust Account Foundation, Inc. (WisTAF) is a nonprofit created in 1986 by the Wisconsin Supreme Court to increase access to legal services. To date, WisTAF has distributed \$62 million to civil legal aid organizations that provide low-income residents with information, advice, and representation on non-criminal matters. The Foundation is governed by a 15-member board, comprised of attorneys, judges, and non-attorneys with relevant experience, and has 3.6 full-time employees.

The Department of Children and Families (DCF) is budgeted temporary assistance for needy families (TANF) funding of \$500,000 FED annually to support WisTAF. These funds may not be used for litigation against the state and may only be used to support specific civil legal services (related to domestic abuse, sexual abuse, or restraining orders for certain at-risk elderly and disabled individuals) for TANF-eligible individuals with incomes of less than 200% of the federal poverty level. Information from WisTAF's 2020 report on its 2019-20 activities under its domestic violence and sexual abuse civil legal services program is provided in Attachment 2. Current law also allows DCF to identify underspending in the federal block grant aids appropriation for TANF and provide such funds to WisTAF under certain conditions.

DISCUSSION POINTS

1. A national study in 2017 found that 71% of low-income households had experienced a civil legal problem in the past year; however, the majority were unable to access legal assistance to address the issue. The need for aid was higher for survivors of domestic violence or sexual assault, parents and guardians, and people with disabilities. Each year in Wisconsin, the Foundation estimates that 565,000 residents need civil legal assistance but are unable to access such services.

2. The COVID-19 pandemic has led to an increase in demand for legal services related to domestic violence, employment, eviction, and healthcare. In 2020, legal aid providers nationwide reported an 18% increase in the number of eligible clients. Legal aid providers in Wisconsin also reported increases in the number of clients who were denied assistance due to capacity limitations.

3. Each year, WisTAF provides grants to civil legal aid providers to support program operations and increase low-income residents' access to non-criminal legal representation. All grants require approval by the Foundation's board of directors. The board reviews grant applications based on their relevance to program goals, proposed target client populations, geographic areas served, anticipated outcomes, and demonstration of program quality or successful usage of past funds. The Foundation also evaluates current grantees to monitor how funds are spent and to ensure recipients abide by grant conditions specific to the type of funding received. In 2019, WisTAF disbursed \$2.7 million in grants to 24 organizations that served 10,800 clients, as shown in Attachment 1.

4. The Foundation is supported through a combination of public and private funds. In 2019, the organization received public support of \$561,100 from the federal TANF allocation (\$500,000) and fees paid by nonresident lawyers participating in a particular action in Wisconsin (\$61,100). As shown in the table below, Wisconsin spends less on civil legal aid compared to neighboring states. The regional per-capita average in 2019 was \$0.78 per resident, compared to \$0.10 per resident in Wisconsin.

Public Spending on Civil Legal Aid, 2019

	<u>Total</u>	<u>Per Capita</u>
Minnesota	\$14,720,000	\$2.61
Michigan	6,477,000	0.65
Illinois	2,800,000	0.22
Iowa	2,634,601	0.84
Indiana	1,900,000	0.28
Wisconsin	561,100	0.10
Midwest Average	4,848,784	0.78

Information provided by the Wisconsin Trust Account Foundation, Inc. Public spending includes state funds, federal funds, court fees, and filing charges.

5. In 2019, the Foundation received private support totaling \$2.9 million from interest on lawyers' trust accounts, public interest legal service funds, and allocations from certain settlements. It should be noted that revenues from private sources have declined, in part because of low interest rates. For example, interest earnings on the lawyers' trust accounts are projected to decline by 40% between 2020 and 2021, a difference of \$500,000. The Foundation anticipates that private funding will remain limited through 2023 due to a sustained decline in federal interest rates.

6. Under 2007 Act 20, the Department of Administration (DOA) was authorized to provide

\$1.0 million GPR annually during the 2007-09 biennium to WisTAF for civil legal assistance grants. The Foundation indicates that this state support helped offset a decrease in private funds during the recession. For example, interest earnings from lawyers' trust accounts declined from \$2.0 million in 2007 to \$345,000 in 2009.

7. Under 2009 Act 28, the DOA funding source was changed from the general fund to the justice information system surcharge. The program was appropriated \$1,958,600 PR in 2009-10 and \$2,546,100 PR in 2010-11. Under 2011 Act 32, the DOA program and associated statutory language were deleted. Subsequently, WisTAF reported that service providers had to reduce staffing and eligible clients were turned away without assistance.

8. As introduced, 2021 Assembly Bill 68/Senate Bill 111 (AB 68/SB 111) would increase public funding for WisTAF and modify how grant funds can be used. The bill would create an annual civil legal assistance appropriation under DOA and provide \$2.0 million GPR annually for grants to programs that provide civil legal services to indigent persons. Funds could be used as a match for other federal and private grants, but could only be used for the purposes for which the funding was provided.

9. Further, AB 68/SB 111 would increase the TANF allocation for WisTAF from \$500,000 to \$1,000,000 FED annually and expand the legal services for which federal funds may be used to include cases involving evictions. Further, AB 68/SB 111 would repeal the current \$75,000 annual maximum award per recipient, and repeal provisions that permit the state to distribute unspent TANF funds to WisTAF.

10. According to WisTAF, the current \$75,000 award limit disadvantages rural areas, where a large geographic area is covered by a small number of civil legal aid organizations. Current restrictions also reduce the availability of services for individuals who do not qualify for TANF, such as childless disabled persons and veterans. Organizations have a limited ability to help clients with cases relating to eviction, unemployment compensation, consumer law, and health insurance, as TANF funds cannot be used for these cases.

11. Given increased demand for civil legal services, a decrease in available private funds, and the comparative amounts spent by neighboring states, the Committee could provide \$2.0 million GPR and \$500,000 FED annually and modify limitations on civil legal assistance grants. Wisconsin would spend approximately \$0.52 per capita on civil legal assistance. At this level, Wisconsin would spend more per capita on civil legal aid than amounts reported by Illinois and Indiana. [Alternative 1]

12. Alternatively, the Committee could decide to only provide \$500,000 FED annually and modify the use of TANF funds. Grant recipients would have an increased capacity to meet the needs of TANF-eligible residents, and would be authorized to assist with eviction cases. Under this alternative, funding for WisTAF would increase to \$1.0 million FED per year and Wisconsin would spend approximately \$0.17 per capita on civil legal assistance. [Alternative 2]

13. Another option would be to fund, rather than repeal, provisions of current law that allow for distributions of unused TANF funds to WisTAF [Alternative 3]. Since 2003-04, s. 49.1635 of the Wisconsin Statutes has permitted DCF to identify underspending in the federal block grant aids

appropriation for TANF and provide up to \$100,000 to WisTAF under certain conditions. Grants by WisTAF under this provision may be used for a broader array of services compared to the proposed TANF funding identified above. However, DCF indicates that these provisions have not been used for more than 15 years. The Administration indicates that it is cumbersome to plan on spending funding that has been allocated by law for other purposes.

14. Modifying current law and providing TANF funding in an amount chosen by the Committee 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 (\$43,920 for a family of three in 2021).

15. As required under current law, each organization to which WisTAF distributes funding would be required match 100% of the grant amount with private donations. No more than 10% of the funding could be used by WisTAF for administration.

16. Finally, the Committee could decide that the current level of public funding is sufficient and take no action. The Foundation would still be provided base funding of \$500,000 FED annually, and would be able to spend private funds to assist clients who do not qualify for TANF. This alternative would maintain the state's current funding commitment (spend at approximately \$0.10 per capita on civil legal aid). [Alternative 4]

ALTERNATIVES

1. Create an annual civil legal assistance appropriation under DOA and provide \$2,000,000 GPR annually. Require DOA to pay the amounts appropriated to WisTAF for grants to programs that provide civil legal services. Specify that grant funds may be used as a match for other federal and private grants, but may only be used for the purposes for which the funding was provided.

Provide an additional \$500,000 FED annually from TANF and expand the legal services for which grants may be used to include cases involving evictions. Repeal the \$75,000 annual maximum award amount any program can receive. Repeal provisions that permit DCF to distribute unspent TANF funds that had previously been allocated for other purposes to WisTAF.

ALT 1	Change to Base
GPR	\$4,000,000
FED	<u>1,000,000</u>
Total	\$5,000,000

2. Provide an additional \$500,000 FED annually from TANF and expand the legal services for which grants may be used to include cases involving evictions. Repeal the \$75,000 annual maximum award amount any program can receive. Repeal provisions that permit DCF to distribute unspent TANF funds that had previously been allocated for other purposes to WisTAF.

ALT 2	Change to Base
FED	\$1,000,000

3. Modify s. 49.1635 of the Wisconsin Statutes to repeal provisions allowing DCF to distribute up to \$100,000 of unused TANF funds and instead provide TANF from s. 49.175(1)(j) in an amount of selected by the Committee for a broader range of civil legal services for needy families, such as one of the following: (a) \$500,000 FED annually; (b) \$1,000,000 FED annually; (c) \$1,500,000 FED annually; (d) \$2,000,000 FED annually; or (e) \$2,500,000 FED annually.

ALT 3	Change to Base
a. FED	\$1,000,000
b. FED	2,000,000
c. FED	3,000,000
d. FED	4,000,000
e. FED	5,000,000

4. Take no action.

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ATTACHMENT 1

Wisconsin Trust Account Foundation, Inc. Grant Recipients, 2019

<u>Grantee</u>	<u>Area Served</u>	<u>Grant Award</u>
Legal Action of Wisconsin, Inc.	39 counties in Southern Wisconsin	\$1,169,100
Wisconsin Judicare, Inc.	33 counties in Northern Wisconsin and 11 federally-recognized Native American tribes	499,000
Legal Aid Society of Milwaukee, Inc.	Milwaukee County	269,500
Disability Rights Wisconsin	Statewide	110,000
Centro Legal por Derechos Humanos, Inc.	Milwaukee and Waukesha counties	104,700
Indianhead Community Action Agency	9 counties in Northern, Northwestern, and Northcentral Wisconsin	76,600
Community Justice, Inc.	14 counties in Southern and Southwestern Wisconsin	75,600
Kids Matter Inc.	Milwaukee and Waukesha counties, limited services statewide	53,000
ABC for Health	Statewide	43,500
Metro Milwaukee Mediation Services, Inc.	Statewide	40,000
Center Against Sexual & Domestic Abuse	Ashland, Bayfield, and Douglas counties	38,700
Golden House, Inc.	Brown and Kewaunee counties	33,600
Vivent Health	Statewide	25,000
Rainbow House Domestic Abuse Services, Inc.	Marinette and Oconto counties	21,400
LOTUS Legal Clinic, Inc.	Statewide	20,800
Catholic Charities of the Archdiocese of Milwaukee	10 counties in Southeastern Wisconsin	20,000
Winnebago Conflict Resolution Center, Inc.	Winnebago County	20,000
Portage County Legal Aid Society	Portage County	17,000
Catholic Charities of the Diocese of La Crosse	19 counties in Western, Southwestern, and Central Wisconsin	15,000
Household Abuse Victims Emergency Network	Lincoln County	15,000
Women and Children's Horizons	Kenosha County	13,600
The Women's Center	Southeastern Wisconsin	13,400
Legal Aid Society of Door County	Door County	10,000
End Domestic Abuse Wisconsin	Statewide	<u>9,300</u>
Total		\$2,713,800

ATTACHMENT 2

PROTECTING CHILDREN & FAMILIES AGAINST VICTIMIZATION



Submitted to DCF
September 30, 2020

2019-2020 Domestic Violence and Sexual Abuse
Civil Legal Services Program



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Appendix Table 2: 2019-2020 DVSA/TANF Civil Legal Services Grant Awards

GRANTEE AGENCY	2019-2020 DVSA GRANT AWARD AMOUNT
Center Against Sexual & Domestic Abuse (CASDA)	\$32,500
Centro Legal por Derechos Humanos, Inc.	\$50,000
Community Justice, Inc.	\$50,000
End Domestic Abuse Wisconsin (RISE)	\$20,000
Family Advocates, Inc.	0
Golden House (partnering with Legal Action of Wisconsin)	\$37,500
HAVEN, Inc.	\$20,000
Indianhead Community Action Agency	\$50,000
Kids Matter Inc.	\$30,000
Legal Action of Wisconsin (partnering with Christine Ann Center)	\$37,500
LOTUS Legal Clinic, Inc.	\$15,000
Rainbow House Domestic Abuse Services (partnering with Law Office of Aaron M. Krzewinski)	\$22,500
The Women's Center (partnering with Legal Action of Wisconsin)	\$15,000
Wisconsin Judicare, Inc.	\$50,000
Women's and Children's Horizons (partnering with Legal Action of Wisconsin)	\$20,000
TOTAL:	\$ 450,000

Appendix 4: Clients Served with 2019-2020 DVSA/TANF Funding by Judicial District

