

Union Calendar No. 136

104<sup>TH</sup> CONGRESS  
1<sup>ST</sup> SESSION

**H. R. 2277**

[Report No. 104-255]

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## A BILL

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

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SEPTEMBER 21, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

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 IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 7, 1995

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

SEPTEMBER 21, 1995

Additional sponsors: Mr. MILLER of Florida and Mr. ROHRBACHER

SEPTEMBER 21, 1995

Reported with an amendment, committed to the Committee of the Whole House on the State of the Union, and ordered to be printed

[Strike out all after the enacting clause and insert the part printed in italic]

[For text of introduced bill, see copy of bill as introduced on September 7, 1995]

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**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,*

1 **SECTION 1. SHORT TITLE.**

2 *This Act may be cited as the “Legal Aid Act of 1995”.*

3 **SEC. 2. LEGAL SERVICES CORPORATION.**

4 *The Legal Services Corporation Act (42 U.S.C. 2996–*  
5 *2996l) is amended to read as follows:*

6 **“SECTION 1. SHORT TITLE.**

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

8 **“SEC. 2. DEFINITIONS.**

9 *“For purposes of this Act:*

10 *“(1) QUALIFIED LEGAL SERVICE PROVIDER.—*

11 *“(A) IN GENERAL.—The term ‘qualified*  
12 *legal service provider’ means—*

13 *“(i) any individual who is licensed to*  
14 *practice law in a State for not less than 3*  
15 *calendar years, who has practiced law in*  
16 *such State not less than 3 calendar years,*  
17 *and who is so licensed during the period of*  
18 *a contract under section 4; or*

19 *“(ii) a person who employs or con-*  
20 *tracts with an individual described in*  
21 *clause (i) to provide qualified legal services.*

22 *Nothing in this subparagraph shall be inter-*  
23 *preted to prohibit a qualified legal service pro-*  
24 *vider from employing an individual who is not*  
25 *described in clause (i) to assist in providing*  
26 *qualified legal services.*

1           “(B) *NOT QUALIFIED.*—No individual shall  
2           be considered, or employed by, a qualified legal  
3           service provider if such individual during the 10  
4           years preceding the submission of a bid for a  
5           contract under section 4—

6                     “(i) has been convicted of a felony; or

7                     “(ii) has been suspended or disbarred  
8                     from the practice of law for misconduct, in-  
9                     competence, or neglect of a client in any  
10                    State; or

11           if such individual has a criminal charge pending  
12           on the date of the submission of a bid for a con-  
13           tract under section 4. In determining whether to  
14           award a contract under section 4, a State may  
15           also consider, to the extent the State considers it  
16           relevant in evaluating the qualifications of an  
17           applicant, whether an applicant has been found  
18           in contempt of a court of competent jurisdiction  
19           in any State or Federal court or has been sanc-  
20           tioned under Federal Rule of Civil Procedure 11  
21           or an equivalent State rule of procedure applica-  
22           ble in civil actions.

23           “(C) *ADDITIONAL REQUIREMENTS.*—No  
24           State may impose a requirement on an individ-  
25           ual or person as a condition to bidding on a

1           *contract under section 4 or to being awarded*  
2           *such a contract which requirement is different*  
3           *from any other requirement of subparagraph*  
4           *(B).*

5           “(2) *QUALIFIED LEGAL SERVICES.*—*The term*  
6           *‘qualified legal services’ means—*

7                   “(A) *mediation, negotiation, arbitration,*  
8                   *counseling, advice, instruction, referral, or rep-*  
9                   *resentation, and*

10                   “(B) *legal research or drafting in support of*  
11                   *the services described in subparagraph (A),*  
12           *provided by or under the supervision of a qualified*  
13           *legal service provider to a qualified client for a quali-*  
14           *fied cause of action.*

15           “(3) *QUALIFIED CLIENT.*—*The term ‘qualified*  
16           *client’ means any individual who is a United States*  
17           *citizen or an alien admitted for permanent residence*  
18           *who in the 3 months prior to seeking legal assistance*  
19           *from a qualified legal service provider had an income*  
20           *from any source which was equal to or less than the*  
21           *poverty line established under section 673(2) of the*  
22           *Community Services Block Grant Act (42 U.S.C.*  
23           *9902(2)).*

24           “(4) *QUALIFIED CAUSE OF ACTION.*—

1           “(A) The term ‘qualified cause of action’  
2 means only a civil cause of action which results  
3 only from—

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

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

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

15           “(iv) enforcement of a debt;

16           “(v) an application for a statutory  
17 benefit;

18           “(vi) appeal of a denial of a statutory  
19 benefit on a statutory ground;

20           “(vii) child custody and support;

21           “(viii) action to quiet title;

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

24           “(x) an insurance claim;

25           “(xi) competency hearing;

1                   “(xii) probate;

2                   “(xiii) divorce or separation;

3                   “(xiv) employment matters; or

4                   “(xv) consumer fraud.

5                   *Additional causes of action qualify as a qualified*  
6                   *cause of action if they arise out of the same*  
7                   *transaction as a cause of action described in this*  
8                   *subparagraph unless such additional causes of*  
9                   *action are described in clause (i) of subpara-*  
10                  *graph (B).*

11                  “(B) Such term does not include—

12                   “(i) a class action under Federal,  
13                   State, or local law; or

14                   “(ii) any challenge to the constitu-  
15                   tionality of any statute.

16                  “(5) STATE.—The term ‘State’ means any State  
17                  of the United States, the District of Columbia, the  
18                  Commonwealth of Puerto Rico, the Virgin Islands,  
19                  Guam, American Samoa, the Trust Territory of the  
20                  Pacific Islands, and any other territory or possession  
21                  of the United States and includes any recognized gov-  
22                  erning body of an Indian Tribe or Alaskan Native  
23                  Village that carries out substantial governmental  
24                  powers and duties.

1 **“SEC. 3. GRANTS.**

2       “(a) *GRANT AUTHORITY.*—The Attorney General shall  
3 *direct the Office of Justice Programs to make grants to*  
4 *States for the provision of qualified legal services and to*  
5 *insure compliance with the requirements of this Act. To re-*  
6 *ceive a grant under this subsection a State shall make an*  
7 *application to the Attorney General. Such an application*  
8 *shall be in such form and submitted in such manner as*  
9 *the Attorney General may require.*

10       “(b) *POVERTY LINE.*—Grants shall be made under sub-  
11 *section (a) to States in such proportion as the number of*  
12 *residents of each State which receive a grant who live in*  
13 *households having income equal to or less than the poverty*  
14 *line established under section 673(2) of the Community*  
15 *Services Block Grant Act (42 U.S.C. 9902(2)) bears to the*  
16 *total number of residents in the United States living in such*  
17 *households.*

18       “(c) *RETENTION OF GRANT FUNDS.*—Each State may  
19 *in any fiscal year retain for administrative costs not more*  
20 *than 5 percent of the amount granted to the State under*  
21 *subsection (a) in such fiscal year. The remainder of such*  
22 *grant shall be paid under contracts to qualified legal service*  
23 *providers in the State for the provision in the State of*  
24 *qualified legal services. If a State which has received a*  
25 *grant under subsection (a) has at the end of any fiscal year*

1 *funds which have not been obligated, such State shall return*  
2 *such funds to the Attorney General.*

3       “(d) *REQUIREMENTS OF THIS ACT.*—No State may re-  
4 *ceive a grant under subsection (a) unless the State has cer-*  
5 *tified to the Attorney General that the State will comply*  
6 *with and enforce the requirements of this Act.*

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

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

18           “(2) *to attempt to influence the issuance, amend-*  
19 *ment, or revocation of any executive order, regulation,*  
20 *policy, or similar promulgation by any Federal,*  
21 *State, or local agency;*

22           “(3) *to attempt to influence the passage or defeat*  
23 *of any legislation, constitutional amendment, referen-*  
24 *dum, initiative, confirmation proceeding, or any*

1 *similar procedure of the Congress of the United States*  
2 *or by any State or local legislative body;*

3 *“(4) to support or conduct training programs for*  
4 *the purpose of advocating particular public policies*  
5 *or encouraging political activities, labor or anti-labor*  
6 *activities, boycotts, picketing, strikes, and demonstra-*  
7 *tions, including the dissemination of information*  
8 *about such policies or activities;*

9 *“(5) to participate in any litigation, lobbying,*  
10 *rulemaking or any other matter with respect to abor-*  
11 *tion;*

12 *“(6) to participate in any litigation or provide*  
13 *any representation on behalf of a local, State, or Fed-*  
14 *eral prisoner;*

15 *“(7) to pay for any personal service, advertise-*  
16 *ment, telegram, telephone communication, letter, or*  
17 *printed or written matter or to pay administrative*  
18 *expenses or related expenses, associated with an activ-*  
19 *ity prohibited in paragraph (1), (2), (3), (4), (5), or*  
20 *(6);*

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

23 *“(9) to pay any voluntary membership dues to*  
24 *any private or non-profit organization.*

1       “(f) *LIMITATION ON USE OF STATE FUNDS.*—A State  
2 which receives a grant under subsection (a) and which also  
3 distributes State funds for the provision of legal services  
4 shall require that such State funds be used to provide quali-  
5 fied legal services to qualified clients and shall impose on  
6 the use of such State funds the limitations prescribed by  
7 subsection (e).

8       “(g) *ATTORNEYS’ FEES.*—A qualified legal service pro-  
9 vider of any qualified client or any client of such provider  
10 may not claim or collect attorneys’ fees from parties to any  
11 litigation initiated by such client.

12       “(h) *EVASION.*—Any attempt to avoid or otherwise  
13 evade the requirements of this Act is prohibited.

14       “(i) *AUTHORIZATION OF APPROPRIATIONS.*—For  
15 grants under subsection (a) there are authorized to be ap-  
16 propriated to the Attorney General \$278,000,000 for fiscal  
17 year 1996, \$250,000,000 for fiscal year 1997, 175,000,000  
18 for fiscal year 1998, and \$100,000,000 for fiscal year 1999.

19       **“SEC. 4. CONTRACTS.**

20       “(a) *IN GENERAL.*—Each State which receives a grant  
21 under section 3(a) shall make funds under the grant avail-  
22 able for contracts entered into for the provision of qualified  
23 legal services within the State.

24       “(b) *BIDS.*—

1           “(1) *AUTHORITY.*—*The Governor of each State*  
2 *shall designate the authority of the State which shall*  
3 *be responsible for soliciting and awarding bids for*  
4 *contracts for the provision of qualified legal services*  
5 *within such State.*

6           “(2) *SERVICE AREA.*—*The authority of a State*  
7 *designated under paragraph (1) shall designate serv-*  
8 *ice areas within the State. Such service areas shall be*  
9 *the counties or parishes within a State but such au-*  
10 *thority may combine contiguous counties or parishes*  
11 *to form a service area to assure the adequate provi-*  
12 *sion of qualified legal services.*

13           “(3) *NON-ENGLISH-SPEAKING CLIENTS.*—*If 5*  
14 *percent or more of the population of qualified clients*  
15 *in a qualified legal service provider’s service area in-*  
16 *cludes individuals whose household language is other*  
17 *than English, the qualified legal service provider shall*  
18 *include provision in the provider’s bid for satisfying*  
19 *the communication needs of that portion of such pop-*  
20 *ulation.*

21           “(c) *AVAILABILITY OF FUNDS.*—*A State shall allocate*  
22 *grant funds for contracts for the provision of qualified legal*  
23 *services in a service area on the same basis as grants are*  
24 *made available to States under section 3(b).*

1           “(d) *CONTRACT AWARDS.*—A State shall award a con-  
2 tract for the provision of qualified legal services in a service  
3 area to the applicant who is best qualified, as determined  
4 by the State, and who in its bid offers to provide, in accord-  
5 ance with section 5, the greatest number of hours of quali-  
6 fied legal services provided by lawyers or paralegals in such  
7 area. In determining which applicant is best qualified, a  
8 State shall consider the reputations of the principals of the  
9 applicant, the quality, feasibility, and cost effectiveness of  
10 plans submitted by the applicant for the delivery of quali-  
11 fied legal services to the qualified clients to be served, and  
12 a demonstration of willingness to abide by the restrictions  
13 of this Act.

14           “(e) *FORM AND BILLING.*—A State contract awarded  
15 under subsection (d) shall be in such form as the State re-  
16 quires. The contract shall provide for the rendering of bills  
17 supported by time records at the close of each month in  
18 which qualified legal services are provided. A State shall  
19 make payment to a qualified legal service provider at the  
20 contract rate only for hours of qualified legal services pro-  
21 vided and supported by appropriate records. The contract  
22 rate shall be the total dollar amount of the contract divided  
23 by the total hours bid by the qualified legal service provider.  
24 A State shall have 60 days to make full payment of such  
25 bills.

1 **“SEC. 5. REQUIREMENTS FOR THE PROVISION OF QUALI-**  
2 **FIED LEGAL SERVICES UNDER A CONTRACT.**

3 “(a) *TERM.*—*The term of a contract entered into under*  
4 *section 4 shall be not more than 1 year.*

5 “(b) *MANNER OF PROVISION OF SERVICES.*—*A quali-*  
6 *fied legal service provider shall service the legal needs of*  
7 *qualified clients under a contract entered into under section*  
8 *4 in a professional manner consistent with applicable law.*

9 “(c) *CASE FILES.*—*A qualified legal service provider*  
10 *shall maintain a qualified client’s case file, including any*  
11 *pleadings and research, at least until the later of 5 years*  
12 *after the resolution of client’s cause of action or 5 years*  
13 *after the termination of the contract under which services*  
14 *were provided to such client or as provided by the applica-*  
15 *ble code of professional responsibility.*

16 “(d) *TIME RECORDS.*—*A qualified legal service pro-*  
17 *vider shall keep daily time records of the provision of serv-*  
18 *ices to a qualified client in one tenth of an hour increments*  
19 *identifying such client, the general nature of the work per-*  
20 *formed in each increment, and the account which will be*  
21 *charged for such work.*

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

1       “(f) *ATTORNEY CLIENT PRIVILEGE.*—Any qualified  
2 *client who receives legal services other than advice or legal*  
3 *services provided by mail or telephone shall execute with*  
4 *respect to such services a waiver of attorney client and at-*  
5 *torney work product privilege as a condition to receiving*  
6 *such service. The waiver shall be limited to the extent nec-*  
7 *essary to determine the quantity and quality of the service*  
8 *rendered by the qualified legal service provider and compli-*  
9 *ance with this Act. Such waiver shall not constitute a waiv-*  
10 *er as to other parties. The use of such waiver or any infor-*  
11 *mation obtained under such waiver for any purpose other*  
12 *than determining the quantity and quality of the service*  
13 *of a provider or compliance with this Act shall be strictly*  
14 *prohibited.*

15       “(g) *RECORDS OF QUALIFICATIONS.*—A qualified legal  
16 *service provider shall make and maintain records detailing*  
17 *the basis upon which the provider determined the qualifica-*  
18 *tions of qualified clients. Such records shall be made and*  
19 *maintained for 3 years following the termination of a con-*  
20 *tract under section 4 for the provision of legal services to*  
21 *such clients.*

22       “(h) *AUDITS.*—A qualified legal service provider shall  
23 *consent to audits by the Attorney General, the General Ac-*  
24 *counting Office, or the authority which awarded a contract*  
25 *to such provider. Any such audit may be conducted at the*

1 provider's principal place of business. Such an audit shall  
2 be limited to a determination of whether such provider is  
3 meeting the requirements of this Act and the provider's con-  
4 tract under section 4.

5       “(i) *RECOVERY OF FEES.*—A contract shall provide for  
6 the recovery of reasonable attorneys' fees in any successful  
7 action brought to compel payment to a qualified legal serv-  
8 ice provider under a contract under section 4.

9       “(j) *TERMINATION AND RECOVERY OF FUNDS.*—The  
10 Attorney General, the Governor, or the authority which  
11 awarded a contract shall terminate a qualified legal service  
12 provider who is found to have committed a material vio-  
13 lation of this Act. A material violation shall include in-  
14 volvement with any prohibited activity. A breach of con-  
15 tract by a qualified legal service provider shall entitle the  
16 Governor or the authority to terminate the contract, to  
17 award a new contract, and to recover any funds improperly  
18 expended by the provider, together with interest at the statu-  
19 tory rate in the State for interest on judgments. If such  
20 a breach was willful, the provider shall pay to the authority  
21 which awarded the contract an additional amount equal  
22 to one half of the amount improperly expended by the pro-  
23 vider.”.

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 date*  
4 *of the enactment of this Act.*

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

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

23 (d) *ACTION OF THE PRESIDENT.*—*Notwithstanding*  
24 *any other provision of law, upon termination of the Legal*  
25 *Services Corporation the President of the Legal Services*  
26 *Corporation shall take such action as may be necessary—*

1           (1) *to assist the Attorney General in the initial*  
2           *undertaking of the Attorney General's responsibilities*  
3           *under the Legal Aid Grant Act; and*

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

9           (e) *EFFECTIVE DATE.*—*The amendment made by sec-*  
10          *tion 2 shall take effect on the date of the enactment of this*  
11          *Act.*

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