

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1989

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SENATE BILL 1049\*

Short Title: Access to Justice/Indigents.

(Public)

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Sponsors: Senators Daniel; Ballance, Ezzell, Hunt of Durham, Hunt of Moore, Kaplan, Marvin, Odom, Parnell, Rauch, Richardson, Sands, Staton, Swain, Tally, Walker, and Ward.

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Referred to: Judiciary I.

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May 1, 1989

1 A BILL TO BE ENTITLED  
2 AN ACT TO ENSURE ACCESS TO THE CIVIL JUSTICE SYSTEM FOR  
3 INDIGENTS IN NORTH CAROLINA.

4 The General Assembly of North Carolina enacts:

5 Section 1. Chapter 7A of the General Statutes is amended by adding a new  
6 Article to read:

7 **“ARTICLE 37A.**

8 **“CIVIL ACCESS TO JUSTICE ACT.**

9 **“§ 7A-474.1. Legislative findings and purpose.**

10 The General Assembly of North Carolina declares it to be its purpose to provide  
11 access to legal representation for indigent persons in certain kinds of civil matters. The  
12 General Assembly finds that such representation can best be provided in an efficient,  
13 effective, and economic manner through Legal Services of North Carolina, Inc., and the  
14 geographically based field programs in this State receiving funds under the Legal  
15 Services Corporation Act (42 U.S.C. §2996 et seq.).

16 **“§ 7A-474.2. Definitions.**

17 The following definitions shall apply throughout this Article, unless the context  
18 otherwise requires:

- 19 (1) ‘Eligible client’ means a resident of North Carolina financially eligible  
20 for representation under the Legal Services Corporation Act,  
21 regulations, and interpretations adopted thereunder (45 CFR §1611,  
22 and subsequent revisions).

- 1           (2) 'Legal assistance' means the provision of any legal services, as defined  
2 by Chapter 84 of the General Statutes, consistent with this Article.  
3 Provided, that all legal services provided hereunder shall be performed  
4 consistently with the Rules of Professional Conduct promulgated by  
5 the North Carolina State Bar. Provided, further, that no funds  
6 appropriated under this Article shall be used for lobbying to influence  
7 the passage or defeat of any legislation before any state or national  
8 legislative body.
- 9           (3) 'Legal Services of North Carolina, Inc.,' means the not-for-profit  
10 corporation established by the North Carolina Bar Association to  
11 administer the system of local legal services programs primarily  
12 funded under the Legal Services Corporation Act (42 U.S.C. §2996 et  
13 seq.) and the interest on Lawyer's Trust Accounts program of the  
14 North Carolina State Bar.
- 15           (4) 'Geographically based field programs' means the 15 local not-for-  
16 profit corporations supported by funds from Legal Services of North  
17 Carolina, Inc., and the Legal Services Corporation and which provide  
18 civil legal services to low-income residents of geographic service areas  
19 comprising all 100 counties in North Carolina.

20 **"§ 7A-474.3. Eligible activities and limitations.**

21           (a) Eligible Activities. Funds appropriated under this Article shall be used only  
22 for the following purposes:

- 23           (1) To provide legal assistance to eligible clients;  
24           (2) To provide education to eligible clients regarding their rights and  
25 duties under the law;  
26           (3) To involve the private bar in the representation of eligible clients  
27 pursuant to this Article.

28           (b) Eligible Cases. Legal assistance shall be provided to eligible clients under  
29 this Article only in the following types of cases:

- 30           (1) Family violence or spouse abuse;  
31           (2) Assistance for the disabled in obtaining federal Social Security  
32 benefits;  
33           (3) Representation of eligible farmers faced with the potential of farm  
34 foreclosure;  
35           (4) Representation of eligible clients over the age of 60 regarding the  
36 following matters:  
37           a. Wills and estates;  
38           b. Safe and sanitary housing;  
39           c. Pensions and retirement rights;  
40           d. Social Security and Medicare rights;  
41           e. Access to health care;  
42           f. Food and nutrition; and  
43           g. Transportation.

- 1           (5) Representation of eligible clients designed to enable them to obtain the  
 2 necessary skills and means to obtain meaningful employment at a  
 3 decent wage and reduce the public welfare rolls; and
- 4           (6) Representation of eligible clients under the age of 21 or eligible  
 5 families with legal problems affecting persons under the age of 21  
 6 regarding the following matters:
- 7               a. Financial support and custody of children;  
 8               b. Day care;  
 9               c. Child abuse or neglect;  
 10              d. Safe and sanitary housing;  
 11              e. Food and nutrition; and  
 12              f. Access to health care.
- 13       (c) Limitations. No funds appropriated under this Article shall be used for any of  
 14 the following purposes:
- 15           (1) To provide legal assistance with respect to any proceeding or litigation  
 16 which seeks to procure a nontherapeutic abortion or to compel any  
 17 individual or institution to perform an abortion, or assist in the  
 18 performance of an abortion, or provide facilities for the performance of  
 19 an abortion;
- 20           (2) To provide legal assistance with respect to any criminal proceeding;
- 21           (3) To provide legal assistance to any agricultural employee or migrant  
 22 farmworker employed in North Carolina with regard to the terms of  
 23 the worker's employment;
- 24           (4) To provide legal assistance to any prisoner within the North Carolina  
 25 Department of Correction with regard to the terms of that person's  
 26 incarceration; or
- 27           (5) To provide legal assistance to persons with mental handicaps residing  
 28 in State institutions with regard to the terms and conditions of the  
 29 treatment or services provided to them by the State.

30 **"§ 7A-474.4. Funds.**

31 Funds to provide representation pursuant to this Article shall be provided to Legal  
 32 Services of North Carolina, Inc., for provision of direct services by and support of the  
 33 geographically based programs based upon the eligible client population in each  
 34 program's geographic coverage area. Funds authorized by law shall be provided by the  
 35 Administrative Office of the Courts to Legal Services of North Carolina, Inc., by a  
 36 contract between those entities.

37 **"§ 7A-474.5. Records and reports.**

38 Legal Services of North Carolina, Inc., shall keep appropriate records and make  
 39 periodic reports, as requested, to the Administrative Office of the Courts."

40       Sec. 2. There is appropriated from the General Fund to the Administrative  
 41 Office of the Courts, three million five hundred thousand dollars (\$3,500,000) for the  
 42 1989-90 fiscal year and three million five hundred thousand dollars (\$3,500,000) for the  
 43 1990-91 fiscal year for the implementation of this act.

44       Sec. 3. This act shall become effective July 1, 1989.