

GENERAL ASSEMBLY OF NORTH CAROLINA

SESSION 1999

H

1

HOUSE BILL 1418

Short Title: Funding for Legal Services.

(Public)

Sponsors: Representatives Baddour; Nesbitt (Primary Sponsors), Smith, and Hardaway.

Referred to: Appropriations.

April 29, 1999

A BILL TO BE ENTITLED

AN ACT TO DEDICATE A PORTION OF COURT COSTS TO PROVIDE ACCESS TO CIVIL JUSTICE.

The General Assembly of North Carolina enacts:

Section 1. G.S. 7A-304(a)(4) reads as rewritten:

"(4) For support of the General Court of Justice, the sum of sixty-one dollars (\$61.00) in the district court, including cases before a magistrate, and the sum of sixty-eight dollars (\$68.00) in the superior court, to be remitted to the State Treasurer. The State Treasurer shall remit a portion of each fee collected under this subdivision, in an amount equal to that specified in the table below, to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>1999-2000</u>	<u>\$ 2.00</u>
<u>2000-2001</u>	<u>4.00</u>
<u>2001-2002</u>	<u>6.00</u>
<u>2002-2003</u>	<u>8.00</u>
<u>2003-2004 and after</u>	<u>10.00."</u>

Section 2. G.S. 7A-305(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of fifty-five dollars (\$55.00) in the superior court, and the sum of forty dollars (\$40.00) in the district court except that if the case is assigned to a magistrate the sum shall be twenty-eight dollars (\$28.00). Sums collected under this ~~subsection~~ subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit a portion of each fee collected under this subdivision, in an amount equal to that specified in the table below, to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>1999-2000</u>	<u>\$ 2.00</u>
<u>2000-2001</u>	<u>4.00</u>
<u>2001-2002</u>	<u>6.00</u>
<u>2002-2003</u>	<u>8.00</u>
<u>2003-2004 and after</u>	<u>10.00."</u>

Section 3. G.S. 7A-306(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice the sum of twenty-six dollars (\$26.00). In addition, in proceedings involving land, except boundary disputes, if the fair market value of the land involved is over one hundred dollars (\$100.00), there shall be an additional sum of thirty cents (30¢) per one hundred dollars (\$100.00) of value, or major fraction thereof, not to exceed a maximum additional sum of two hundred dollars (\$200.00). Fair market value is determined by the sale price if there is a sale, the appraiser's valuation if there is no sale, or the appraised value from the property tax records if there is neither a sale nor an appraiser's valuation. Sums collected under this ~~subsection~~ subdivision shall be remitted to the State Treasurer. The State Treasurer shall remit a portion of each fee collected under this subdivision, in an amount equal to that specified in the table below, to the North Carolina State Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>1999-2000</u>	<u>\$ 2.00</u>
<u>2000-2001</u>	<u>4.00</u>
<u>2001-2002</u>	<u>6.00</u>
<u>2002-2003</u>	<u>8.00</u>
<u>2003-2004 and after</u>	<u>10.00."</u>

Section 4. G.S. 7A-307(a)(2) reads as rewritten:

"(2) For support of the General Court of Justice, the sum of twenty-six dollars (\$26.00), plus an additional forty cents (40¢) per one hundred dollars (\$100.00), or major fraction thereof, of the gross estate, not to exceed three thousand dollars (\$3,000). Gross estate shall include the fair market value of all personalty when received, and all proceeds from the sale of realty coming into the hands of the fiduciary, but shall not

1 include the value of realty. In collections of personal property by
 2 affidavit, the fee based on the gross estate shall be computed from the
 3 information in the final affidavit of collection made pursuant to G.S.
 4 28A-25-3 and shall be paid when that affidavit is filed. In all other
 5 cases, this fee shall be computed from the information reported in the
 6 inventory and shall be paid when the inventory is filed with the clerk. If
 7 additional gross estate, including income, comes into the hands of the
 8 fiduciary after the filing of the inventory, the fee for such additional
 9 value shall be assessed and paid upon the filing of any account or report
 10 disclosing such additional value. For each filing the minimum fee shall
 11 be ten dollars (\$10.00). Sums collected under this ~~subsection~~ subdivision
 12 shall be remitted to the State Treasurer. The State Treasurer shall remit
 13 a portion of each fee collected under this subdivision, in an amount
 14 equal to that specified in the table below, to the North Carolina State
 15 Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>1999-2000</u>	<u>\$ 2.00</u>
<u>2000-2001</u>	<u>4.00</u>
<u>2001-2002</u>	<u>6.00</u>
<u>2002-2003</u>	<u>8.00</u>
<u>2003-2004 and after</u>	<u>10.00."</u>

22 Section 5. G.S. 7A-474.1 reads as rewritten:

23 **"§ 7A-474.1. Legislative findings and purpose.**

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

30 Section 6. G.S. 7A-474.2 reads as rewritten:

31 **"§ 7A-474.2. Definitions.**

32 The following definitions shall apply throughout this Article, unless the context
 33 otherwise requires:

- 34 (1) "Eligible client" means a resident of North Carolina financially eligible
 35 for representation under the Legal Services Corporation Act,
 36 regulations, and interpretations adopted thereunder (45 CFR § 1611, and
 37 subsequent revisions).
- 38 (2) "Legal assistance" means the provision of any legal services, as defined
 39 by Chapter 84 of the General Statutes, consistent with this Article.
 40 Provided, that all legal services provided hereunder shall be performed
 41 consistently with the Rules of Professional Conduct promulgated by the
 42 North Carolina State Bar. Provided, further, that no funds appropriated
 43 under this Article shall be used for lobbying to influence the passage or

1 defeat of any legislation before any municipal, county, state, or national
2 legislative body.

3 (3) ~~"Legal Services of North Carolina, Inc.," means the not for profit~~
4 ~~corporation established by the North Carolina Bar Association to~~
5 ~~administer the system of local legal services programs primarily funded~~
6 ~~under the Legal Services Corporation Act (42 U.S.C. § 2996 et seq.) and~~
7 ~~the interest on Lawyer's Trust Accounts program of the North Carolina~~
8 ~~State Bar.~~

9 (4) ~~"Geographically based Geographically based field programs" means the~~
10 ~~15 local following five not-for-profit corporations supported by funds~~
11 ~~from Legal Services of North Carolina, Inc., and the Legal Services~~
12 ~~Corporation and which provide civil legal services to low-income~~
13 ~~residents of geographic service areas comprising all 100 counties in~~
14 ~~North Carolina using State funds to serve the counties listed: Legal~~
15 ~~Services of the Southern Piedmont, serving Cabarrus, Gaston,~~
16 ~~Mecklenburg, Stanly, and Union Counties; Legal Aid Society of~~
17 ~~Northwest North Carolina, serving Davie, Forsyth, Iredell, Stokes,~~
18 ~~Surry, and Yadkin Counties; North Central Legal Assistance Program,~~
19 ~~servng Durham, Franklin, Granville, Person, Vance, and Warren~~
20 ~~Counties; Pisgah Legal Services, serving Buncombe, Henderson,~~
21 ~~Madison, Polk, Rutherford, and Transylvania Counties; and Legal~~
22 ~~Services of North Carolina, serving 83 counties in North Carolina."~~

23 Section 7. G.S. 7A-474.4 reads as rewritten:

24 **"§ 7A-474.4. Funds.**

25 Funds to provide representation pursuant to this Article shall be provided to ~~Legal~~
26 ~~Services of North Carolina, Inc., the North Carolina State Bar~~ for provision of direct
27 services by and support of the ~~geographically based programs based upon the eligible client~~
28 ~~population in each program's geographic coverage area. Funds authorized by law shall be~~
29 ~~provided by the North Carolina State Bar to Legal Services of North Carolina, Inc., by a contract~~
30 ~~between those entities geographically based field programs. The North Carolina State Bar~~
31 ~~shall allocate these funds as follows:~~

32 (1) ~~Pisgah Legal Services shall receive an allocation calculated by dividing~~
33 ~~the number of eligible clients in Buncombe, Henderson, Madison, Polk,~~
34 ~~Rutherford, and Transylvania Counties by the number of eligible clients~~
35 ~~in the entire State, then multiplying by the total amount of federal Legal~~
36 ~~Services Corporation funding for the State for the preceding calendar~~
37 ~~year.~~

38 (2) ~~All remaining funds shall be allocated directly to each of the five~~
39 ~~geographically based field programs based upon the eligible client~~
40 ~~population in each area program.~~

41 The North Carolina State Bar shall not use any of these funds for its administrative
42 costs."

43 Section 8. G.S. 7A-474.5 reads as rewritten:

1 **"§ 7A-474.5. Records and reports.**

2 ~~Legal Services of North Carolina, Inc.,~~ The geographically based field programs shall
3 keep appropriate records and make periodic reports, as requested, to the North Carolina
4 State Bar."

5 Section 9. Of the funds remitted to the State Bar pursuant to the provisions of
6 G.S. 7A-304(a)(4), 7A-305(a)(2), 7A-306(a)(2), and 7A-307(a)(2) in each fiscal year, the
7 sum of two hundred fifty thousand dollars (\$250,000) shall be provided to Pisgah Legal
8 Services, Inc., for the provision of services described in G.S. 7A-474.4, in order to
9 compensate for federal funding not received by Pisgah Legal Services, Inc.

10 Section 10. This act becomes effective July 1, 1999, and applies to fees paid
11 on or after that date.