

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2001**

S

1

SENATE BILL 536

Short Title: Funding for Legal Services. (Public)

Sponsors: Senators Clodfelter; Ballance, Gulley, Jordan, Kinnaird, Odom, and Rand.

Referred to: Appropriations/Base Budget.

March 19, 2001

1 A BILL TO BE ENTITLED
2 AN ACT TO DEDICATE A PORTION OF COURT COSTS TO PROVIDE ACCESS
3 TO CIVIL JUSTICE.

4 The General Assembly of North Carolina enacts:

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

6 "(4) For support of the General Court of Justice, the sum of sixty-five
7 dollars (\$65.00) in the district court, including cases before a
8 magistrate, and the sum of seventy-two dollars (\$72.00) in the superior
9 court, to be remitted to the State Treasurer. The State Treasurer shall
10 remit a portion of each fee collected under this subdivision, in an
11 amount equal to that specified in the table below, to the North Carolina
12 State Bar for the provision of services described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
<u>2001-2002</u>	<u>\$1.15</u>
<u>2002-2003</u>	<u>2.00</u>
<u>2003-2004</u>	<u>3.00</u>
<u>2004-2005</u>	<u>4.00</u>
<u>2005-2006 and after</u>	<u>5.00."</u>

13
14
15
16
17
18
19 **SECTION 2.** G.S. 7A-305(a)(2) reads as rewritten:

20 "(2) For support of the General Court of Justice, the sum of fifty-nine
21 dollars (\$59.00) in the superior court, and the sum of forty-four dollars
22 (\$44.00) in the district court except that if the case is assigned to a
23 magistrate the sum shall be thirty-three dollars (\$33.00). Sums
24 collected under this ~~subsection~~ subdivision shall be remitted to the
25 State Treasurer. The State Treasurer shall remit a portion of each fee
26 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>2001-2002</u>	<u>\$1.15</u>
<u>2002-2003</u>	<u>2.00</u>
<u>2003-2004</u>	<u>3.00</u>
<u>2004-2005</u>	<u>4.00</u>
<u>2005-2006 and after</u>	<u>5.00."</u>

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

"(2) For support of the General Court of Justice the sum of thirty dollars (\$30.00). 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>2001-2002</u>	<u>\$1.15</u>
<u>2002-2003</u>	<u>2.00</u>
<u>2003-2004</u>	<u>3.00</u>
<u>2004-2005</u>	<u>4.00</u>
<u>2005-2006 and after</u>	<u>5.00."</u>

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

"(2) For support of the General Court of Justice, the sum of thirty dollars (\$30.00), 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 include the value of realty. In collections of personal property by affidavit, the fee based on the gross estate shall be computed from the information in the final affidavit of collection made pursuant to G.S. 28A-25-3 and shall be paid when that affidavit is filed. In all other cases, this fee shall be computed from the information reported in the inventory and shall be paid when the inventory is filed with the clerk. If additional gross estate, including income, comes into the hands of

1 the fiduciary after the filing of the inventory, the fee for such
 2 additional value shall be assessed and paid upon the filing of any
 3 account or report disclosing such additional value. For each filing the
 4 minimum fee shall be fifteen dollars (\$15.00). Sums collected under
 5 this ~~subsection~~ subdivision shall be remitted to the State Treasurer.
 6 The State Treasurer shall remit a portion of each fee collected under
 7 this subdivision, in an amount equal to that specified in the table
 8 below, to the North Carolina State Bar for the provision of services
 9 described in G.S. 7A-474.4:

<u>Fiscal Year</u>	<u>Amount</u>
10 <u>2001-2002</u>	<u>\$1.15</u>
11 <u>2002-2003</u>	<u>2.00</u>
12 <u>2003-2004</u>	<u>3.00</u>
13 <u>2004-2005</u>	<u>4.00</u>
14 <u>2005-2006 and after</u>	<u>5.00."</u>

15
 16 **SECTION 5.** G.S. 7A-474.1 reads as rewritten:

17 "**§ 7A-474.1. Legislative findings and purpose.**

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

24 **SECTION 6.** G.S. 7A-474.2 reads as rewritten:

25 "**§ 7A-474.2. Definitions.**

26 The following definitions shall apply throughout this Article, unless the context
 27 otherwise requires:

- 28 (1) "Eligible client" means a resident of North Carolina financially eligible
 29 for representation under the Legal Services Corporation Act,
 30 regulations, and interpretations adopted thereunder (45 CFR § 1611,
 31 and subsequent revisions).
- 32 (2) "Legal assistance" means the provision of any legal services, as
 33 defined by Chapter 84 of the General Statutes, consistent with this
 34 Article. Provided, that all legal services provided hereunder shall be
 35 performed consistently with the Rules of Professional Conduct
 36 promulgated by the North Carolina State Bar. Provided, further, that
 37 no funds appropriated under this Article shall be used for lobbying to
 38 influence the passage or defeat of any legislation before any municipal,
 39 county, state, or national legislative body.
- 40 (3) ~~"Legal Services of North Carolina, Inc.," means the not-for-profit~~
 41 ~~corporation established by the North Carolina Bar Association to~~
 42 ~~administer the system of local legal services programs primarily~~
 43 ~~funded under the Legal Services Corporation Act (42 U.S.C. § 2996 et~~

1 ~~seq.) and the interest on Lawyer's Trust Accounts program of the~~
2 ~~North Carolina State Bar.~~

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

17 **SECTION 7.** G.S. 7A-474.4 reads as rewritten:

18 **"§ 7A-474.4. Funds.**

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

- 26 (1) Pisgah Legal Services shall receive an allocation calculated by
27 dividing the number of eligible clients in Buncombe, Henderson,
28 Madison, Polk, Rutherford, and Transylvania Counties by the number
29 of eligible clients in the entire State, then multiplying by the total
30 amount of federal Legal Services Corporation funding for the State for
31 the preceding calendar year; and
32 (2) All remaining funds shall be allocated directly to each of the five
33 geographically based field programs based upon the eligible client
34 population in each area program.

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

37 **SECTION 8.** G.S. 7A-474.5 reads as rewritten:

38 **"§ 7A-474.5. Records and reports.**

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

42 **SECTION 9.** Of the funds remitted to the State Bar pursuant to the
43 provisions of G.S. 7A-304(a)(4), 7A-305(a)(2), 7A-306(a)(2), and 7A-307(a)(2) in each
44 fiscal year, the sum of two hundred fifty thousand dollars (\$250,000) shall be provided

- 1 to Pisgah Legal Services, Inc., in order to compensate for federal funding not received
- 2 by Pisgah Legal Services, Inc.
- 3 **SECTION 10.** This act becomes effective July 1, 2001.