

Assembly Bill No. 2301

CHAPTER 165

An act to add Section 6033 to the Business and Professions Code, relating to attorneys.

[Approved by Governor August 28, 2006. Filed with
Secretary of State August 28, 2006.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2301, Committee on Judiciary. State Bar: legal services to the poor. Existing law, the State Bar Act, provides for the licensing and regulation of attorneys by the State Bar of California. Existing law authorizes the State Bar to collect annual membership fees and specified voluntary fees and donations.

This bill would also authorize the State Bar to collect voluntary financial support for nonprofit organizations providing free legal services to persons of limited means. In order to implement these provisions, the bill would require the State Bar, in consultation with the Chief Justice, to appoint a task force to analyze other programs and propose a method for collection and distribution of voluntary contributions, as specified. The bill would require that the method and any recommended voluntary contribution amount adopted by the Board of Governors be implemented for the 2008 fiscal year. The bill would require periodic review and adjustment of the method and any voluntary contribution amount, in consultation with affected service providers and other key stakeholders.

The people of the State of California do enact as follows:

SECTION 1. The Legislature hereby finds and declares all of the following:

(a) There is an increasingly dire need for legal services for poor Californians. Due to insufficient funding, existing programs providing free services in civil matters to indigent and disadvantaged persons, especially underserved groups such as elderly, disabled, children, and non-English-speaking persons, do not adequately meet the needs of these persons.

(b) Legal services programs encourage peaceful dispute resolution, efficiently serve millions of poor clients, and promote an ordered society and the peaceful resolution of disputes.

(c) Approximately 80 percent of the legal needs of poor Californians are not being met. Despite the establishment of the state's Equal Access Fund, and impressive gains in efficiency and fundraising by legal aid

programs, the current “justice gap” in California is estimated to be at least three hundred and fifty million dollars (\$350,000,000), in large part because of federal funding cuts and escalating poverty rates, particularly among children.

(d) California’s poverty rate is higher than the national average, and the gap between rich and poor has only worsened in recent years, putting a greater strain on legal services organizations. Although legal services eligibility limits are strict, more than half of all people who meet the standards and seek assistance regarding problems for which legal services offices provide service are currently being turned away simply for lack of resources.

(e) Respect for the law depends upon public confidence in the accessibility of the justice system. Whether disputes are brought to the legal system for resolution or decided in less desirable ways depends in part on whether the courts are available to all who face legal problems. Moreover, the fair resolution of conflicts through the legal system offers financial and economic benefits by reducing the need for many state services and allowing people to help themselves.

(f) Opinion surveys show, disturbingly, that more than two-thirds of Californians believe low-income people usually receive worse outcomes in court than others. Respect for a system of laws is not encouraged if most people perceive, rightly or wrongly, that justice is only for the wealthy.

(g) A lack of representation not only disadvantages people with legal problems, it also burdens the justice system itself and impairs the administration of justice. California courts are facing an ever increasing number of parties who go to court without legal counsel, largely because they cannot afford representation. Unrepresented litigants typically are unfamiliar with court procedures and forms, as well as with their rights and obligations, which leaves them disadvantaged in court and consumes significant court resources.

(h) California continues to lag far behind other industrial states in total funding of legal services for the poor. Our record is also dismal in comparison to other countries whose economies are similar in size or even smaller than California’s economy.

(i) Every lawyer has a professional responsibility to provide legal services to those unable to pay. Many lawyers perform substantial pro bono services or make financial contributions in lieu of performing pro bono services. However, many lawyers, particularly solo practitioners, small firms, and lawyers in the public sector, face special challenges in providing pro bono legal services. The private bar, acting on its own, cannot and should not be called upon to provide full civil representation for California’s poor. Nonetheless, the legal profession should play a lead role in the effort to improve the justice system, and each lawyer has a personal obligation as a member of the profession to ensure that all persons have equal access to the courts for redress of grievances and access to lawyers when legal services are necessary, including through the

provision of pro bono services and through financial support to nonprofit organizations that provide free legal services to the poor.

(j) Facilitating the collection of voluntary financial contributions by lawyers to legal services organizations is consistent with the mission of the State Bar of California to aid in matters pertaining to the improvement of the administration of justice, including matters that may advance the professional interests of the members of the State Bar and matters concerning the relations of the State Bar with the public.

SEC. 2. Section 6033 is added to the Business and Professions Code, to read:

6033. (a) Notwithstanding any other provision of law, the State Bar is expressly authorized to facilitate the professional responsibilities of members by collecting, in conjunction with the State Bar's collection of its annual membership dues or otherwise, voluntary financial support for nonprofit organizations that provide free legal services to persons of limited means.

(b) To implement this section, the State Bar, in consultation with the Chief Justice of California, shall appoint a task force of key stakeholders to analyze the mechanisms and experience of bar associations that have adopted programs for the collection of financial contributions from bar members and shall propose an appropriate method for facilitating the collection and distribution of voluntary contributions that is best calculated to generate the greatest level of financial support and participation from State Bar members, taking into account such issues as the justice-gap between the legal needs of low-income people in California and the legal resources available to assist them. The method and any recommended voluntary contribution amount adopted by the Board of Governors of the State Bar of California shall be implemented for the 2008 fiscal year, and shall be reviewed and adjusted as needed after two years and, thereafter, every five years as needed, in consultation with affected service providers and other key stakeholders.