

Correctional Legal Equality and Access to Justice Act (CLEAJ Act)

SECTION 1. SHORT TITLE

This Act may be cited as the “Correctional Legal Equality and Access to Justice Act” or the “CLEAJ Act.”

SECTION 2. LEGISLATIVE FINDINGS AND PURPOSE

The Legislature finds that:

1. Individuals incarcerated in state correctional facilities are wards of the State and are wholly dependent on the State for basic needs, including safety, medical care, and protection from harm.
2. Incarcerated individuals face substantial barriers to accessing legal representation, including:
 - Inability to earn income sufficient to retain counsel
 - Limited access to legal resources
 - Lack of state provided legal representation regarding challenges of prison staff misconduct
3. When correctional staff are accused of misconduct, the State typically provides legal representation and covers associated legal costs for those employees.
4. This imbalance creates a structural inequality in legal proceedings involving incarcerated individuals and correctional personnel.
5. Provision to legal representation is essential to ensuring constitutional protections, accountability, and the fair administration of justice.

Purpose:

To establish a fair and equitable system that ensures incarcerated individuals have meaningful state funded provisions of legal representation when alleging harm, rights violations, or misconduct by correctional staff or institutions.

SECTION 3. DEFINITIONS

- **“Incarcerated individual”**: Any person confined in a state correctional facility.
- **“Covered claim”**: A claim alleging:
 - Civil rights violations
 - Excessive force
 - Deliberate indifference to medical needs
 - Wrongful death
 - Retaliation or denial of due process
- **“State-funded legal representation”**: Legal counsel and associated costs funded by the State under this Act.
- **“Independent Legal Access Office (ILAO)”**: The entity established to administer this Act.

SECTION 4. RIGHT TO STATE-FUNDED LEGAL REPRESENTATION FOR INCARCERATED INDIVIDUALS

1. An incarcerated individual shall be eligible for state-funded legal representation when bringing a covered claim against:
 - o The Department of Corrections
 - o Correctional staff
 - o Contractors or agents acting on behalf of the State
 2. Eligibility shall be determined based on:
 - o Indigency or inability to reasonably retain private counsel
 - o A preliminary showing that the claim is non-frivolous
 3. Representation shall include:
 - o Legal counsel
 - o Filing fees
 - o Expert witness costs where necessary
 - o Investigation and evidence-gathering expenses
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SECTION 5. INDEPENDENT LEGAL ACCESS OFFICE (ILAO)

1. There is hereby established an Independent Legal Access Office, separate from the Department of Corrections.
 2. The ILAO shall:
 - o Evaluate applications for representation
 - o Assign qualified independent counsel
 - o Oversee funding and case management
 - o Ensure independence from correctional authorities
 3. The ILAO shall maintain a panel of attorneys qualified in civil rights and correctional law.
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SECTION 6. COST RESPONSIBILITY AND RECOVERY

1. The State shall fund legal representation under this Act through appropriated funds.
 2. In cases where:
 - o Misconduct is substantiated, or
 - o Liability is establishedthe State may seek cost recovery from:
 - o Responsible individuals (where permitted by law)
 - o Insurance mechanisms
 - o Agency budgets
 3. Courts may award attorney's fees and costs consistent with existing civil rights statutes.
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SECTION 7. SAFEGUARDS AGAINST ABUSE

1. Claims determined to be frivolous or made in bad faith may result in:
 - o Denial or termination of representation
 - o Administrative sanctions consistent with facility rules
 2. The ILAO shall establish screening procedures to ensure resources are directed toward legitimate claims.
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SECTION 8. EQUALITY IN LEGAL PROCEEDINGS

1. In any civil action involving a covered claim:
 - The court shall ensure equitable access to evidence, discovery, and legal resources
 - Incarcerated individuals shall not be disadvantaged due to custodial status
2. Facilities shall provide reasonable access to:
 - Legal materials
 - Communication with counsel
 - Participation in legal proceedings

SECTION 9. DATA COLLECTION AND TRANSPARENCY

1. The ILAO shall publish annual reports including:
 - Number of applications and approvals
 - Types of claims filed
 - Case outcomes
 - Costs incurred and recovered
2. Reports shall be anonymized and publicly accessible.

SECTION 10. FEDERAL ALIGNMENT

This Act aligns with constitutional protections and federal civil rights enforcement priorities and may support eligibility for federal funding related to legal access and correctional reform.

SECTION 11. EFFECTIVE DATE

This Act shall take effect 12 months after enactment.