

Legal Rights Service

- GRF funding decreases by 11.7% in FY 2002 and by 1.1% in FY 2003
- Federal funding increases by 11.0% in FY 2002 with level funding in FY 2003

OVERVIEW

The Legal Rights Service (LRS) was created in 1975 as an independent state agency to protect the rights of persons who are disabled. The agency investigates and acts upon allegations of rights violations, provides legal representation and case advocacy in individual and class action cases, and makes sure that disabled persons are informed of their rights. LRS also conducts public hearings and subpoenas persons in order to obtain information needed to perform their duties. The agency has a staff of 44, consisting of attorneys, advocates, administrators, policy analysts, and support. Their offices are located in the Atlas Building in Columbus.

The Legal Rights Service Commission provides oversight for LRS. The Commission has seven members: three appointed by the Speaker of the House of Representatives; three appointed by the President of the Senate; and one, the chairperson, is appointed by the Chief Justice of the Supreme Court. The Commission is responsible for appointing an executive director for LRS and advising on LRS's budget and policies.

LRS receives several federal grants. Traditionally, LRS served individuals with developmental disabilities and/or mental illness. However, about six years ago the agency became involved in two federal grant programs that significantly expanded the number of individuals that LRS serves to include physical impairments such as deafness, blindness, cancer, traumatic brain injury, and multiple sclerosis.

Legal Rights Service is about 80 percent federally funded and about 18 percent state GRF funded. The executive recommendations include an 11.7 percent decrease for LRS in state GRF funding in FY 2002 and a decrease of 1.1 percent in FY 2003. Although the agency will be able to maintain current service levels for the most part, it may need to temporarily freeze intake hours for certain areas (e.g.: special education cases when Individual Education Plans come out).

One program which could experience an increase in intake demand is the Protection and Advocacy for Individual Rights (PAIR) program. This program provides advocate services for individuals who have been discriminated against or whose rights have been violated based upon a significant disability, including people with chronic or serious medical conditions, people with physical disabilities, and people

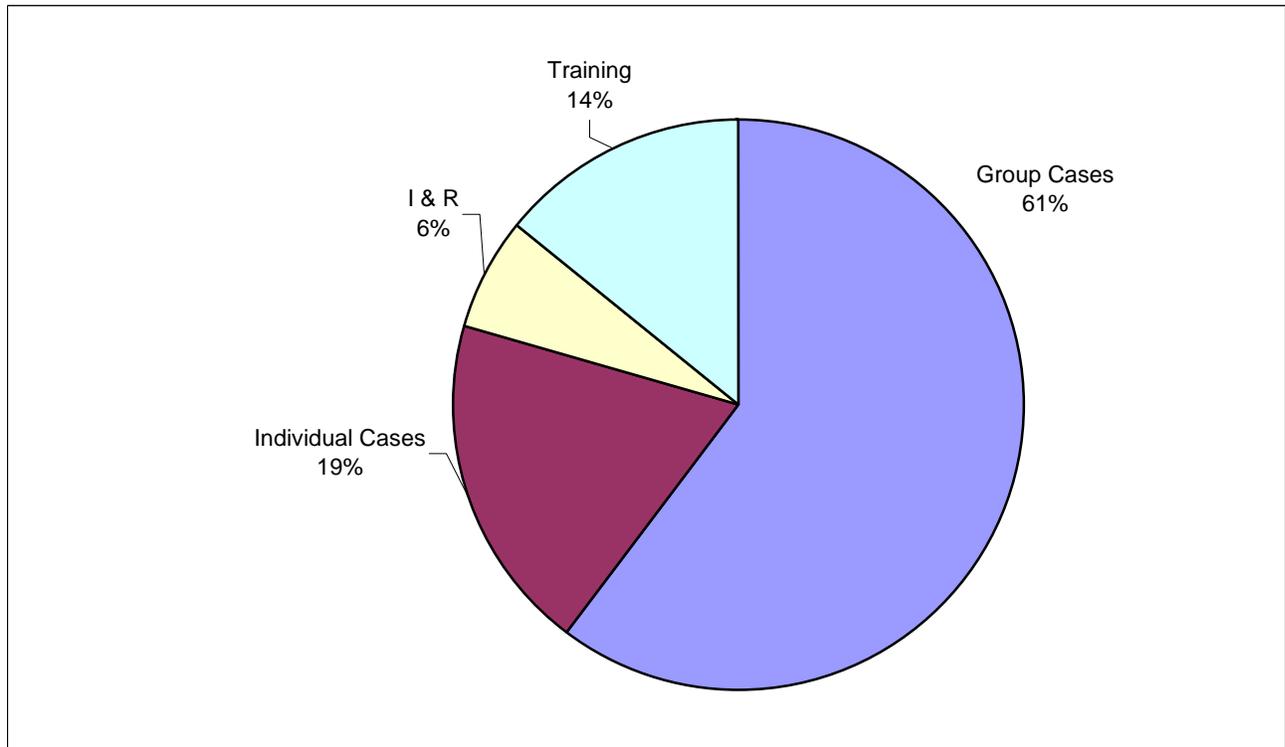
with traumatic brain injury who were injured after age 22. Since the number of potential program participants is sizable, costs related to client intake activities could increase significantly.

ADDITIONAL FACTS AND FIGURES

Legal Rights Service - Staffing Levels						
Category	1998	1999	2000	2001	Estimated	
					2002	2003
Administration	5	5	5	5	5	5
Administrative Support	4	5	5	5	5	5
Program Support	2	2	2	2	2	2
Policy Analysis	2	3	3	3	3	3
Attorneys	9	9	9	10	10	10
Advocates	15	17	18	19	19	19
Totals	37	41	42	44	44	44

All Casework and Information and Referrals (I & R)

Total of 14,666 Individuals Served



ANALYSIS OF EXECUTIVE PROPOSAL

Legal Rights Service

Purpose To protect and guarantee the human, civil, and legal rights of people with disabilities.

The following table shows the line items that are used to fund Legal Rights Service, as well as the Governor's recommended funding levels.

Fund	ALI	Title	FY 2002	FY 2003
GRF	054-100	Personal Services	\$286,165	\$281,223
GRF	054-200	Maintenance	\$47,165	\$48,108
GRF	054-300	Equipment	\$2,579	\$2,631
GRF	054-401	Ombudsman	\$335,176	\$331,761
416	054-601	Gifts and Donations	\$1,319	\$1,352
5M0	054-610	Settlements	\$75,000	\$75,000
524	054-608	Traumatic Brain Injury	\$21,550	\$0
3B8	054-603	Protection and Advocacy – Mentally Ill	\$810,314	\$810,314
3K7	054-604	Family Support Collaborative	\$242,500	\$242,500
3N3	054-606	Protection and Advocacy – Individual Rights	\$468,445	\$468,445
3N9	054-607	Assistive Technology	\$50,000	\$50,000
3T2	054-609	Client Assistance Program	\$406,772	\$406,772
305	054-602	Protection and Advocacy – Developmentally Disabled	\$1,068,109	\$1,068,109
Total funding: LEGAL RIGHTS SERVICE			\$3,815,094	\$3,786,215

Legal Rights Service is a single-program series agency. Specific activities of the Legal Rights Service Commission that this analysis will focus on include:

- **OMBUDSMAN PROGRAMS/LEGAL SECTION**
- **FEDERAL PROGRAMS**

OMBUDSMAN PROGRAMS/LEGAL SECTION

Program Description: The Executive Director appoints ombudspersons, disabilities rights advocates, and attorneys who advocate for individual and systemic change through individual, group and class action cases, monitoring policies, legislative activity, and education and training. LRS represents large numbers of clients through systematic investigation and negotiations, and policy development. Legal action is taken only as a last resort. Under law, LRS is required to facilitate the resolution of complaints through non-legal means whenever possible. In federal fiscal year 2000, LRS provided services to more than 14,000 Ohioans with disabilities. The ombudsman program served almost 4,700 Ohioans through individual or group cases, and through the provision of information and referral. LRS also participates on committees and advisory groups of public and private agencies.

Ombudsman Programs: LRS operates state-funded Developmental Disabilities and Mental Health Ombudsman programs. Ombudsman program funding pays for only non-legal actions. The Ombudsman section is charged with receiving complaints and resolving them through informal techniques of mediation, conciliation, or persuasion. The section acts on complaints from mentally retarded and other developmentally disabled persons and mentally ill persons, their relatives or guardians, public officials or interested citizens regarding health and safety, abuse and neglect, and rights violations. They notify the Department of Mental Retardation and Developmental Disabilities, the Department of Mental Health, or any other appropriate governmental agency of the complaint. If the situation cannot be satisfactorily resolved, the Ombudsman can recommend action to the appropriate authorities. If the complaint involves the commission of a crime or the violation of standards of professional conduct, the section may notify the Attorney General, county prosecuting attorney, or other appropriate law enforcement agency. The Ombudsman section also monitors major unusual incident reports from public and private facilities and community providers, and recommends changes to policies and rules that affect people with disabilities.

In FY 2000, almost 15,000 major unusual incident (MUI) reports were received by LRS. Almost 64 percent of these MUI occur at community MR/DD agencies with another 27 percent occurring in community mental health agencies.

Legal Section: LRS's legal section investigates and acts upon allegations of rights violations. The section seeks settlements through advocacy and negotiation, and provides legal representation in individual and class actions. During the current biennium, LRS has settled two long-standing class action suits with the Department of Mental Retardation and Developmental Disabilities. These two suits were the *Barbara C.* case and the *Sermak v. Ritchey* case. LRS is currently attempting to negotiate a settlement in the *Martin v. Taft* case, though it appears that this suit will go to trial. Funds received by LRS as a result of legal settlements and attorney fees are deposited into Fund 5M0 and are appropriated in line item 054-610, Settlements. These moneys may only be used for the program from which the settlement or attorney fees were derived.

Funding Source: GRF

Line Items: 054-100, Personal Services; 054-200, Maintenance; 054-300, Equipment; 054-401, Ombudsman; 054-601, Gifts and Donations; 054-610, Settlements.

Implication of the Executive Recommendation: The executive recommendations for LRS's non-federal programs include GRF decreases of 11.7 percent in FY 2002 and 1.1 percent in FY 2003. The biggest funding reductions occurred in line items 054-100, Personal Services (reduction of 12.7 percent in FY 2002) and 054-401, Ombudsman (reduction of 11.6 percent in FY 2002). As a result of the funding levels contained in the recommendations, LRS may need to hold intake hours steady and may need to temporarily freeze intake for particular areas of substance (e.g.: special education when the individual education plans are produced). When LRS freezes intake, they attempt to provide information and referrals to resources to assist families in need of services.

The GRF funding recommendations for the ombudsman program will require LRS to scale back the program.

FEDERAL PROGRAMS

Program Descriptions: LRS operates six federal programs. They are as follows:

Protection and Advocacy for Individuals with Developmental Disabilities (PADD) - The LRS Developmental Disabilities program protects and advocates for the human and civil rights of people with developmental disabilities in developmental centers, schools, and in communities. This program served a total of 6,176 individuals in federal fiscal year (FFY) 2000.

Protection and Advocacy for Individuals with Mental Illness (PAIMI) – The LRS Mental Health program serves adults, children, and youth who are in, or who have been recently discharged from (within 90 days), public and private psychiatric hospitals or units. Work on community mental health cases is funded with GRF moneys only. This program served a total of 1,971 individuals in FFY 2000.

Protection and Advocacy for Individual Rights (PAIR) – The PAIR program serves individuals with any significant disability other than those served by the PADD, PAIMI, and Client Assistance Programs. For example, PAIR eligible individuals include persons with chronic or serious medical conditions, people with physical disabilities, and people with traumatic brain injury who received the disabling injury after age 22. The PAIR program advocates for people who have been discriminated against or whose rights have been violated. This program served a total of 1,294 individuals in FFY 2000.

Protection and Advocacy for Assistive Technology (PAAT) – The Ohio State University Research Foundation administers this federal grant and contracts with LRS to help people with disabilities and their families access assistive technology devices and services through legal representation and self-advocacy.

Client Assistance Program (CAP) – The purpose of the CAP program is to establish a system to insure the rights of individuals seeking from, or receiving services through, the Rehabilitation Service Commission's Bureau of Vocational Rehabilitation (BVR) or Bureau of Services for the Visually Impaired (BSVI). The Client Assistance Program informs, advises, and can pursue legal, administrative, or other appropriate remedies for clients and client applicants experiencing employment-related problems. The Client Assistance Program is prohibited from bringing any class actions. This program served a total of 438 individuals in FFY 2000.

Family Support Collaborative – LRS receives this federal grant through the Ohio Developmental Disabilities Council. The purpose of the grant is to identify children and youth with disabilities in out-of-home placements; to identify barriers that keep children from living with a family; to plan for coordinated, efficient supports and services that assist children with disabilities to live with birth, adoptive, or foster families; and to bring together stakeholders to develop policy toward this end.

Funding Sources: With the exception of the Family Support Collaborative program, for which the state is required to provide matching funds (33 percent state match), these programs are 100 percent federally funded.

Line Items: 054-602, Protection and Advocacy – Developmentally Disabled; 054-603, Protection and Advocacy – Mentally Ill; 054-604, Family Support Collaborative; 054-606, Protection and Advocacy – Individual Rights; 054-607, Assistive Technology; 054-609, Client Assistance Program.

Implication of the Executive Recommendation: The executive recommendations include an 11.0 percent increase in FY 2002 with no increase in FY 2003. These levels in conjunction with the GRF decreases will allow for continued services in these federally funded programs, with the exception of the assistive technology line item, which included a decrease of 21.9 percent.

PERMANENT AND TEMPORARY LAW

This section describes permanent and temporary law provisions contained in the executive budget that will affect the department's activities and spending decisions during the next biennium.

Permanent Law Provisions

There are no permanent law provisions for Legal Rights Service.

Temporary Law Provisions

There are no temporary law provisions for Legal Rights Service.

REQUESTS NOT FUNDED

Legal Rights Service						
Fund Line Item	FY 2002 Requested	FY 2002 Recommended	Difference	FY 2003 Requested	FY 2003 Recommended	Difference
GRF 054-100	\$325,220	\$286,165	(\$39,055)	\$345,602	\$281,223	(\$64,379)
GRF 054-401	\$374,231	\$335,176	(\$39,055)	\$396,140	\$331,761	(\$64,379)

LRS requested an additional \$78,110 in GRF appropriation authority in FY 2002 and an additional \$128,758 in FY 2003 that was not funded. The moneys would have covered payroll costs for the agency. LRS service did receive, however, \$200,000 per fiscal year more than requested for the total of its federally funded line items. This added appropriation authority should help LRS absorb the GRF funding reductions, provided that the actual federal award matches what LRS expects.

LSC Budget Spreadsheet by Line Item, FY 2002 - FY 2003

<i>Fund ALI ALI Title</i>	Revised Estimated 2001	As Introduced 2002	House Passed 2002	% Change Est. 2001 to House 2002	As Introduced 2003	House Passed 2003	% Change House 2002 to House 2003
LRS Legal Rights Service							
GRF 054-100 Personal Services	\$324,369	\$ 286,165	\$ 274,718	-15.3%	\$ 281,223	\$ 269,974	-1.7%
GRF 054-200 Maintenance	\$49,672	\$ 47,165	\$ 45,278	-8.8%	\$ 48,108	\$ 46,184	2.0%
GRF 054-300 Equipment	\$2,744	\$ 2,579	\$ 2,476	-9.8%	\$ 2,631	\$ 2,526	2.0%
GRF 054-401 Ombudsman	\$375,569	\$ 335,176	\$ 321,769	-14.3%	\$ 331,761	\$ 318,491	-1.0%
General Revenue Fund Total	\$ 752,354	\$ 671,085	\$ 644,241	-14.4%	\$ 663,723	\$ 637,175	-1.1%
416 054-601 Gifts and Donations	\$1,291	\$ 1,319	\$ 1,319	2.2%	\$ 1,352	\$ 1,352	2.5%
524 054-608 Traumatic Brain Injury	\$103,450	\$ 21,550	\$ 21,550	-79.2%	\$ 0	\$ 0	-100.0%
5M0 054-610 Settlements	\$425,000	\$ 75,000	\$ 75,000	-82.4%	\$ 75,000	\$ 75,000	0.0%
General Services Fund Group Total	\$ 529,741	\$ 97,869	\$ 97,869	-81.5%	\$ 76,352	\$ 76,352	-22.0%
305 054-602 Protection & Advocacy - Developmentally Disabled	\$1,059,481	\$ 1,068,109	\$ 1,068,109	0.8%	\$ 1,068,109	\$ 1,068,109	0.0%
3B8 054-603 Protection & Advocacy - Mentally Ill	\$706,422	\$ 810,314	\$ 810,314	14.7%	\$ 810,314	\$ 810,314	0.0%
3N3 054-606 Protection & Advocacy - Individual Rights	\$334,739	\$ 468,445	\$ 468,445	39.9%	\$ 468,445	\$ 468,445	0.0%
3N9 054-607 Assistive Technology	\$64,000	\$ 50,000	\$ 50,000	-21.9%	\$ 50,000	\$ 50,000	0.0%
3R9 054-604 Family Support Collaborative	\$200,000	\$ 242,500	\$ 242,500	21.3%	\$ 242,500	\$ 242,500	0.0%
3T2 054-609 Client Assistance Program	\$380,000	\$ 406,772	\$ 406,772	7.0%	\$ 406,772	\$ 406,772	0.0%
Federal Special Revenue Fund Group Total	\$ 2,744,642	\$ 3,046,140	\$ 3,046,140	11.0%	\$ 3,046,140	\$ 3,046,140	0.0%
Total All Budget Fund Groups	\$ 4,026,737	\$ 3,815,094	\$ 3,788,250	-5.9%	\$ 3,786,215	\$ 3,759,667	-0.8%

General Revenue Fund

GRF 054-100 Personal Services

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$304,653	\$319,275	\$331,826	\$327,673	\$286,165	\$281,223
	4.8%	3.9%	-1.3%	-12.7%	-1.7%

Source: GRF

Legal Basis: ORC section 5123.60

Purpose: This line item funds LRS's personnel costs, including a very small portion of which is allotted for purchased personal service contracts.

GRF 054-200 Maintenance

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$48,146	\$47,639	\$50,355	\$50,174	\$47,165	\$48,108
	-1.1%	5.7%	-0.4%	-6.0%	2.0%

Source: GRF

Legal Basis: ORC section 5123.60

Purpose: This line item funds LRS's maintenance costs.

GRF 054-300 Equipment

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$2,634	\$2,400	\$2,960	\$2,744	\$2,579	\$2,631
	-8.9%	23.3%	-7.3%	-6.0%	2.0%

Source: GRF

Legal Basis: ORC section 5123.60

Purpose: This line item funds LRS's equipment costs.

GRF 054-401 Ombudsman

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$370,763	\$361,073	\$387,036	\$379,363	\$335,176	\$331,761
	-2.6%	7.2%	-2.0%	-11.6%	-1.0%

Source: GRF

Legal Basis: originally established by Sub. S.B. 322 of the 116th G.A.

Purpose: This line item funds the Ombudsman Section of the Legal Rights Service. This section receives and investigates complaints from mentally retarded and other developmentally disabled persons and mentally ill persons, their relatives or guardians, public officials or interested citizens. The section notifies the Department of Mental Retardation and Developmental Disabilities, the Department of Mental Health or any other appropriate governmental agency of a complaint. If the situation cannot be satisfactorily resolved, the Ombudsman can recommend action to the appropriate authorities. If the complaint involves the commission of a crime or the violation of standards of professional conduct, the section may notify the Attorney General, county prosecuting attorney, or other appropriate law enforcement agency.

General Services Fund Group

416 054-601 Gifts and Donations

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$561	\$0	\$0	\$1,291	\$1,319	\$1,352
	-100.0%	N/A	N/A	2.2%	2.5%

Source: GSF: income from staff speaking engagements and the sale of manuals; agencies requesting speakers to reimburse travel costs if they are able to do so and used; miscellaneous income for other services provided; private donations

Legal Basis: originally established by Am. Sub. H.B. 204 of the 113th G.A.

Purpose: To fulfill advocacy functions for the mentally ill, mentally retarded, and developmentally disabled in the state's institutions. The funds in this line item cover the cost of paper, copying supplies, and printing associated with the production of Legal Rights Service materials.

524 054-608 Traumatic Brain Injury

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$0	\$100,000	\$0	\$103,450	\$21,550	\$0
	N/A	-100.0%	N/A	-79.2%	-100.0%

Source: GSF: CFDA 93.234 This federal grant was received from the Ohio Rehabilitation Services Commission.

Legal Basis: originally established by the Controlling Board on August 18, 1998

Purpose: To identify the current status of supports and services to children, youth, and adults with traumatic brain injury; identify the target populations and services necessary to support them in families or neighborhood homes; and recommend a mechanism to provide coordinated Medicaid services for the target populations.

The Ohio Rehabilitation Services Commission awarded this grant to Legal Rights Service for the development of a Medicaid waiver for persons with traumatic brain injury in cooperation with the Head Injury Advisory Council and the Ohio Brain Injury Association.

5M0 054-610 Settlements

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$0	\$0	\$0	\$425,000	\$75,000	\$75,000
	N/A	N/A	N/A	-82.4%	0.0%

Source: GSF: Legal settlements and attorney fees

Legal Basis: originally established by Controlling Board on May 22, 2000

Purpose: Moneys deposited into Fund 5M0 and appropriated in this line item are required to go back into the program from which the settlement/attorney fees were derived. These moneys are typically used for one-time expenditures, but have also been used to temporarily cover payroll costs. The majority of the moneys currently in the fund are derived from a settlement with the Department of Mental Retardation and Developmental Disabilities in the Sermak v. Ritchie case. LRS will use this money to provide evaluations for class members, pay for start up costs for class members who have not yet relocated, and to pay for certain medical/adaptive assistive equipment for class members.

Federal Special Revenue Fund Group

305 054-602 Protection & Advocacy - Developmentally Disabled

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$1,070,962	\$804,739	\$1,149,805	\$1,059,481	\$1,068,109	\$1,068,109
	-24.9%	42.9%	-7.9%	0.8%	0.0%

Source: FED: CFDA 93.630, Administration on Developmental Disabilities-Basic Support (under the Developmental Disability Services and Facilities Construction Act for a variety of programs and facilities serving developmentally disabled persons) and Advocacy Grants

Legal Basis: originally established by Controlling Board on March 30, 1981

Purpose: Activities funded through the grant include technical assistance to local citizen advocacy groups, maintenance of a toll-free hot line, advocacy training, expanded case assistance, investigation of rights violations and information dissemination through a monthly newsletter.

3B8 054-603 Protection & Advocacy - Mentally Ill

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$740,349	\$623,527	\$743,084	\$706,422	\$810,314	\$810,314
	-15.8%	19.2%	-4.9%	14.7%	0.0%

Source: FED: CFDA 93.138, Protection and Advocacy for Individuals with Mental Illness

Legal Basis: originally established by Controlling Board on November 11, 1986

Purpose: These moneys are to be used to protect and advocate for the rights of the mentally ill or those persons alleged to be mentally ill, and to investigate reported incidents of abuse or neglect. The Legal Rights Service receives this federal funding as the state's designated protection and advocacy agency.

3N3 054-606 Protection & Advocacy - Individual Rights

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$235,959	\$343,188	\$378,952	\$334,739	\$468,445	\$468,445
	45.4%	10.4%	-11.7%	39.9%	0.0%

Source: FED: CFDA 84.240, Program of Protection and Advocacy of Individual Rights (administered by the U.S. Department of Education)

Legal Basis: originally established by Controlling Board on November 2, 1993

Purpose: To serve all individuals with any disability who are not eligible for services funded with Protection and Advocacy for Individuals with Mental Illness funding or Protection and Advocacy for Individuals with Developmental Disabilities funding, or through the Client Assistance Program.

3N9 054-607 Assistive Technology

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$56,491	\$81,156	\$73,960	\$64,000	\$50,000	\$50,000
	43.7%	-8.9%	-13.5%	-21.9%	0.0%

Source: FED: CFDA 84.224, State Grants for Technology - Related Assistance to Individuals with Disability (available through the Technology-Related Assistance Act of 1994)

Legal Basis: originally established by Controlling Board on November 1, 1994

Purpose: To provide protection and advocacy services to people with disabilities who are in need of assistive technology devices. Specifically, LRS uses this money to provide legal representation for people with disabilities who need these devices, but are impeded by rules, squabbles over jurisdiction and responsibilities between public agencies, or funding limitations. LRS attempts to solve these issues through medication and negotiation before resorting to litigation.

3R9 054-604 Family Support Collaborative

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$12,818	\$105,551	\$178,356	\$200,000	\$242,500	\$242,500
	723.5%	69.0%	12.1%	21.3%	0.0%

Source: FED: CFDA 93.630, a three-year grant from the Ohio Developmental Disabilities Planning Council

Legal Basis: originally established by the Controlling Board on June 22, 1998

Purpose: To identify children and youth with disabilities in out-of-home placements; to identify barriers that keep children from living with a family; to plan for coordinated, efficient supports and services that assist children with disabilities to live with birth, adoptive or foster families; and to bring together stakeholders to develop policy toward this end.

3T2 054-609 Client Assistance Program

1998	1999	2000	2001 Estimate	2002 Executive Proposal	2003 Executive Proposal
\$0	\$360,034	\$436,964	\$380,000	\$406,772	\$406,772
	N/A	21.4%	-13.0%	7.0%	0.0%

Source: FED: CFDA 84.161, Client Assistance Program (federal funds through the Rehabilitation Act of 1973, as amended)

Legal Basis: originally established by H.B. 204 of the 113th G.A.

Purpose: The purpose of the program is to establish a system to insure the rights of individuals seeking or receiving services from through the Rehabilitation Service Commission's Bureau of Vocational Rehabilitation (BVR) or Bureau of Services for the Visually Impaired (BSVI). The Client Assistance Program informs, advises, and can pursue legal, administrative, or other appropriate remedies for clients and client applicants experiencing employment-related problems. The Client Assistance Program is prohibited from bringing any class actions.

As Introduced

As Passed by the House

Permanent Law Changes**Subject: Legal Rights Service Commission Vacancies****section: 5123.60**

No provision.

Prohibits the Administrator of the Legal Rights Service from pursuing specified legal actions that the Administrator is otherwise authorized by law to take until any vacancies existing in the membership of the Legal Rights Service Commission have been filled. This change will potentially lead to a decrease in expenditures if LRS is unable to pursue class action lawsuits due to vacancies in the LRS Commission.
