

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 300

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE ACCESS TO JUSTICE FUND; AMENDING CHAPTER 16, TITLE 1, IDAHO  
2 CODE, BY THE ADDITION OF A NEW SECTION 1-1626, IDAHO CODE, TO CREATE THE  
3 ACCESS TO JUSTICE FUND IN THE STATE TREASURY AND TO PROVIDE FOR WHAT MON-  
4 EYS IN THE FUND MAY BE USED; AND AMENDING SECTION 31-3201A, IDAHO CODE,  
5 TO INCREASE CERTAIN FILING FEES AND TO PROVIDE FOR REMITTANCE OF THE FEE  
6 INCREASE IN THE ACCESS TO JUSTICE FUND.  
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 16, Title 1, Idaho Code, be, and the same is  
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-  
11 ignated as Section 1-1626, Idaho Code, and to read as follows:

12 1-1626. ACCESS TO JUSTICE FUND. (1) There is hereby created in the  
13 state treasury the access to justice fund. Moneys deposited into the fund  
14 pursuant to section 31-3201A, Idaho Code, shall be perpetually appropri-  
15 ated to Idaho legal aid services, inc., to provide legal representation for  
16 indigent persons in civil matters and to meet the costs of maintaining the  
17 operation of Idaho legal aid services, inc. Moneys in the fund may not be  
18 expended for class action lawsuits, criminal cases or lawsuits against the  
19 state of Idaho.

20 (2) The administrative director of the supreme court shall establish  
21 procedures for the distribution and accountability of moneys in the fund.

22 SECTION 2. That Section 31-3201A, Idaho Code, be, and the same is hereby  
23 amended to read as follows:

24 31-3201A. COURT FEES. The clerk of the district court in addition to  
25 the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addi-  
26 tion to the fee levied by chapter 2, title 73, Idaho Code, shall charge, de-  
27 mand and receive the following fees for services rendered by him in discharg-  
28 ing the duties imposed upon him by law:

29 (1) Civil cases. A fee of ~~fifty~~ sixty dollars (\$~~560.00~~) for filing a  
30 civil case of any type in the district court or in the magistrate's division  
31 of the district court with the following exceptions:

32 (a) The fee for small claims shall be as provided in section 1-2303,  
33 Idaho Code;

34 (b) No filing fee shall be charged in the following types of cases:

35 (i) Cases brought under chapter 3, title 66, Idaho Code, for com-  
36 mitment of mentally ill persons;

37 (ii) Cases brought under the juvenile corrections act;

38 (iii) Cases brought under the child protective act;

39 (iv) Demands for bond before a personal representative is ap-  
40 pointed in probate;

- 1 (v) Petitions for sterilization;  
 2 (vi) Petitions for judicial consent to abortion;  
 3 (vii) Registration of trusts and renunciations;  
 4 (viii) Petitions for leave to compromise the disputed claim of a  
 5 minor;  
 6 (ix) Petitions for a civil protection order or to enforce a for-  
 7 eign civil protection order pursuant to chapter 63, title 39,  
 8 Idaho Code;  
 9 (x) Objections to the appointment of a guardian filed by a minor  
 10 or an incapacitated person;  
 11 (xi) Proceedings to suspend a license for nonpayment of child  
 12 support pursuant to section 7-1405, Idaho Code;  
 13 (xii) Proceedings under the uniform post-conviction procedure  
 14 act as provided in chapter 49, title 19, Idaho Code;  
 15 (xiii) Filings of a custody decree from another state;  
 16 (xiv) Filings of any answer after an initial appearance fee has  
 17 been paid.

18 The filing fee of ~~fifty~~ sixty dollars (\$~~50~~60.00) shall be distributed as fol-  
 19 lows: seventeen dollars (\$17.00) of such filing fee shall be paid to the  
 20 county treasurer for deposit in the district court fund of the county; ten  
 21 dollars (\$10.00) of such filing fee shall be paid to the county treasurer who  
 22 shall, within five (5) days after the end of the month, pay such fees to the  
 23 state treasurer for deposit into the ISTARs technology fund; seventeen dol-  
 24 lars (\$17.00) of such filing fee shall be paid to the county treasurer who  
 25 shall pay such fees to the state treasurer for deposit in accordance with  
 26 subsection (15) of this section; ~~and~~ six dollars (\$6.00) of such filing fee  
 27 shall be paid to the county treasurer who shall, within five (5) days after  
 28 the end of the month, pay such fees to the state treasurer for deposit in the  
 29 senior magistrate judges fund; and ten dollars (\$10.00) of such filing fee  
 30 shall be paid to the county treasurer who shall, within five (5) days after  
 31 the end of the month, pay such fees to the state treasurer for deposit in the  
 32 access to justice fund.

33 (2) Felonies and misdemeanors. A fee of seventeen dollars and fifty  
 34 cents (\$17.50) shall be paid, but not in advance, by each person found guilty  
 35 of any felony or misdemeanor, except when the court orders such fee waived  
 36 because the person is indigent and unable to pay such fee. If the magistrate  
 37 court facilities are provided by the county, five dollars (\$5.00) of such fee  
 38 shall be paid to the county treasurer for deposit in the district court fund  
 39 of the county; and twelve dollars and fifty cents (\$12.50) of such fee shall  
 40 be paid to the county treasurer who shall pay such fees to the state treasurer  
 41 for deposit in accordance with subsection (15) of this section. If the mag-  
 42 istrate court facilities are provided by a city, five dollars (\$5.00) of such  
 43 fee shall be paid to the city treasurer for deposit in the city general fund,  
 44 two dollars and fifty cents (\$2.50) of such fee shall be paid to the city  
 45 treasurer for deposit in the city capital facilities fund for the construc-  
 46 tion, remodeling and support of magistrate court facilities, and ten dollars  
 47 (\$10.00) of such fee shall be paid to the county treasurer who shall pay such  
 48 fees to the state treasurer for deposit in accordance with subsection (15) of  
 49 this section.

1 (3) Infractions. A fee of sixteen dollars and fifty cents (\$16.50)  
2 shall be paid, but not in advance, by each person found to have committed  
3 an infraction or any minor traffic, conservation or ordinance violation;  
4 provided that the judge or magistrate may in his or her discretion consoli-  
5 date separate nonmoving traffic offenses into one (1) offense for purposes  
6 of assessing such fee. If the magistrate court facilities are provided by  
7 the county, five dollars (\$5.00) of such fee shall be paid to the county  
8 treasurer for deposit in the district court fund of the county; and eleven  
9 dollars and fifty cents (\$11.50) of such fee shall be paid to the county  
10 treasurer, who shall pay such fees to the state treasurer for deposit in  
11 accordance with subsection (15) of this section. If the magistrate court  
12 facilities are provided by a city, five dollars (\$5.00) of such fee shall be  
13 paid to the city treasurer for deposit in the city general fund, two dollars  
14 and fifty cents (\$2.50) of such fee shall be paid to the city treasurer for  
15 deposit in the city capital facilities fund for the construction, remodeling  
16 and support of magistrate court facilities, and nine dollars (\$9.00) of such  
17 fee shall be paid to the county treasurer who shall pay such fees to the state  
18 treasurer for deposit in accordance with subsection (15) of this section.

19 (4) Initial appearance other than plaintiff. A fee of ~~thirty~~ forty dol-  
20 lars (~~\$34~~40.00) shall be paid for any filing constituting the initial appear-  
21 ance by a party, except the plaintiff, in any civil action in the district  
22 court or in the magistrate's division of the district court, except small  
23 claims. If two (2) or more parties are making their initial appearance in the  
24 same filing, then only one (1) filing fee shall be collected. Of such fee,  
25 four dollars (\$4.00) shall be paid to the county treasurer for deposit in the  
26 district court fund of the county; ten dollars (\$10.00) of such fee shall be  
27 paid to the county treasurer who shall, within five (5) days after the end  
28 of the month, pay such fees to the state treasurer for deposit into the IS-  
29 TARS technology fund; ten dollars (\$10.00) of such fee shall be paid to the  
30 county treasurer who shall pay such fees to the state treasurer for deposit  
31 in accordance with subsection (15) of this section; ~~and~~ six dollars (\$6.00)  
32 of such fee shall be paid to the county treasurer who shall, within five (5)  
33 days after the end of the month, pay such fees to the state treasurer for de-  
34 posit in the senior magistrate judges fund; and ten dollars (\$10.00) of such  
35 fee shall be paid to the county treasurer who shall, within five (5) days af-  
36 ter the end of the month, pay such fees to the state treasurer for deposit in  
37 the access to justice fund.

38 (5) Accountings. A fee of nine dollars (\$9.00) shall be paid by the per-  
39 son or persons required to make an account pursuant to either chapter 11 or  
40 chapter 18, title 15, Idaho Code, at the time such account is filed. All of  
41 such fee shall be paid to the county treasurer for deposit in the district  
42 court fund of the county.

43 (6) Distribution of estate. A fee of ~~twenty~~thirty-five dollars  
44 (\$~~23~~35.00) shall be paid upon the filing of a petition of the executor or ad-  
45 ministrator or of any person interested in an estate for the distribution of  
46 such estate, six dollars (\$6.00) of such fee shall be paid to the county trea-  
47 surer for deposit in the district court fund of the county; thirteen dollars  
48 (\$13.00) of such fee shall be paid to the county treasurer who shall pay such  
49 fees to the state treasurer for deposit in accordance with subsection (15) of  
50 this section; ~~and~~ six dollars (\$6.00) of such fee shall be paid to the county

1 treasurer who shall, within five (5) days after the end of the month, pay such  
2 fees to the state treasurer for deposit in the senior magistrate judges fund;  
3 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who  
4 shall, within five (5) days after the end of the month, pay such fees to the  
5 state treasurer for deposit in the access to justice fund.

6 (7) Third party claim. A fee of ~~fourteen~~ twenty-four dollars (~~\$124.00~~)  
7 shall be paid by a party filing a third party claim as defined in the Idaho  
8 rules of civil procedure. Eight dollars (\$8.00) of such fee shall be paid to  
9 the county treasurer for deposit in the district court fund of the county;  
10 ~~and six dollars (\$6.00) of such fee shall be paid to the county treasurer who~~  
11 ~~shall, within five (5) days after the end of the month, pay such fees to the~~  
12 ~~state treasurer for deposit in the senior magistrate judges fund; and ten~~  
13 ~~dollars (\$10.00) of such fee shall be paid to the county treasurer who shall,~~  
14 ~~within five (5) days after the end of the month, pay such fees to the state~~  
15 ~~treasurer for deposit in the access to justice fund.~~

16 (8) Cross-claims. A fee of ~~fourteen~~ twenty-four dollars (~~\$124.00~~)  
17 shall be paid by any party filing a cross-claim. Eight dollars (\$8.00) of  
18 such fee shall be paid to the county treasurer for deposit in the district  
19 court fund of the county; ~~and six dollars (\$6.00) of such fee shall be paid~~  
20 ~~to the county treasurer who shall, within five (5) days after the end of the~~  
21 ~~month, pay such fees to the state treasurer for deposit in the senior magis-~~  
22 ~~trate judges fund; and ten dollars (\$10.00) of such fee shall be paid to the~~  
23 ~~county treasurer who shall, within five (5) days after the end of the month,~~  
24 ~~pay such fees to the state treasurer for deposit in the access to justice~~  
25 ~~fund.~~

26 (9) Change of venue. A fee of nine dollars (\$9.00) shall be paid by a  
27 party initiating a change of venue. Such fee shall be paid to the clerk of the  
28 court of the county to which venue is changed. All of such fee shall be paid  
29 to the county treasurer for deposit in the district court fund of the county.

30 (10) Reopening a case. A fee of ~~fifteen~~ twenty-five dollars (~~\$125.00~~)  
31 shall be paid by any party appearing after judgment or applying to reopen a  
32 case. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer  
33 for deposit in the district court fund of the county; and six dollars (\$6.00)  
34 of such fee shall be paid to the county treasurer who shall, within five (5)  
35 days after the end of the month, pay such fees to the state treasurer for de-  
36 posit in the senior magistrate judges fund. A fee of thirty-eight dollars  
37 (\$38.00) shall be paid by a party applying to reopen a divorce action or mod-  
38 ify a divorce decree, with seventeen dollars (\$17.00) of the fee to be paid  
39 to the county treasurer for deposit in the district court fund of the county;  
40 fifteen dollars (\$15.00) of such fee to be paid to the county treasurer who  
41 shall pay such fees to the state treasurer for deposit in accordance with  
42 subsection (15) of this section; ~~and six dollars (\$6.00) of such fee to be~~  
43 ~~paid to the county treasurer who shall, within five (5) days after the end~~  
44 ~~of the month, pay such fees to the state treasurer for deposit in the senior~~  
45 ~~magistrate judges fund; and ten dollars (\$10.00) of such fee shall be paid~~  
46 ~~to the county treasurer who shall, within five (5) days after the end of the~~  
47 ~~month, pay such fees to the state treasurer for deposit in the access to jus-~~  
48 ~~tice fund.~~

49 (11) Appeal to district court. A fee of ~~fifteen~~ twenty-five dollars  
50 (~~\$125.00~~) shall be paid by a party taking an appeal from the magistrate's

1 division of the district court to the district court; ~~and~~ six dollars (\$6.00)  
2 of such fee shall be paid to the county treasurer who shall, within five (5)  
3 days after the end of the month, pay such fees to the state treasurer for  
4 deposit in the senior magistrate judges fund; and ten dollars (\$10.00) of  
5 such fee shall be paid to the county treasurer who shall, within five (5) days  
6 after the end of the month, pay such fees to the state treasurer for deposit  
7 in the access to justice fund. No additional fee shall be required if a new  
8 trial is granted. All of such fee shall be paid to the county treasurer for  
9 deposit in the district court fund of the county.

10 (12) Appeal to supreme court. A fee of ~~fifteen~~ twenty-five dollars  
11 (~~\$125.00~~) shall be paid by the party taking an appeal from the district court  
12 to the supreme court for comparing and certifying the transcript on appeal,  
13 if such certificate is required. Nine dollars (\$9.00) of such fee shall be  
14 paid to the county treasurer for deposit in the district court fund of the  
15 county; ~~and~~ six dollars (\$6.00) of such fee shall be paid to the county trea-  
16 surer who shall, within five (5) days after the end of the month, pay such  
17 fees to the state treasurer for deposit in the senior magistrate judges fund;  
18 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who  
19 shall, within five (5) days after the end of the month, pay such fees to the  
20 state treasurer for deposit in the access to justice fund.

21 (13) Fees not covered by this section shall be set by rule or administra-  
22 tive order of the supreme court.

23 (14) All fees required to be paid by this section or by rule or admin-  
24 istrative order of the supreme court shall be collected by the clerk of the  
25 district court or by a person appointed by the clerk of the district court  
26 for this purpose. If it appears that there is a necessity for such fees to  
27 be collected by persons other than the clerk of the district court or a per-  
28 son designated by the clerk for such purpose, the supreme court by rule or  
29 administrative order may provide for the designation of persons authorized  
30 to receive such fees. Persons so designated shall account for such fees in  
31 the same manner required of the clerk of the district court and shall pay such  
32 fees to the clerk of the district court of the county in which such fees are  
33 collected.

34 (15) That portion of the filing fees required to be remitted to the state  
35 treasurer for deposit pursuant to subsections (1), (2), (3), (4), (6) and  
36 (10) of this section shall be apportioned eighty-six percent (86%) to the  
37 state general fund and fourteen percent (14%) to the peace officers stan-  
38 dards and training fund authorized in section 19-5116, Idaho Code, within  
39 five (5) days after the end of the month in which such fees were remitted to  
40 the county treasurer. That portion of the filing fees required to be remit-  
41 ted to a city treasurer for deposit in the city's general fund shall be re-  
42 mitted within five (5) days after the end of the month in which such fees were  
43 remitted to the county treasurer.

44 (16) Of the fees derived from the filing of any divorce action required  
45 to be transmitted to the state treasurer, the county treasurer shall retain  
46 five dollars (\$5.00), which shall be separately identified and deposited in  
47 the district court fund of the county. Such moneys shall be used exclusively  
48 for the purpose of establishing a uniform system of qualifying and approving  
49 persons, agencies or organizations to conduct evaluations of persons con-  
50 victed of domestic assault or battery as provided in section 18-918, Idaho

1 Code, and the administration of section 18-918(7), Idaho Code, relating to  
2 the evaluation and counseling or other treatment of such persons, includ-  
3 ing the payment of the costs of evaluating and counseling or other treatment  
4 of an indigent defendant. No provision of chapter 52, title 39, Idaho Code,  
5 shall apply to the moneys provided for in this subsection.

6 (17) In consideration of the aforesaid fees the clerk of the district  
7 court shall be required to perform all lawful service that may be required of  
8 him by any party thereto; provided, that he shall not prepare and furnish any  
9 certified copy of any file or record in an action except printed transcript  
10 on appeal, without additional compensation as provided by law.