

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 300, As Amended

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 Idaho state controller shall distribute moneys in the fund to  
21 Idaho legal aid services.

22 (3) Funds shall only be used by Idaho legal aid services to provide le-  
23 gal representation and advocacy to low-income Idahoans in civil matters con-  
24 cerning domestic violence, abused and neglected children, elder care and ex-  
25 ploitation, foreclosures and veterans' issues.

26 (4) Moneys expended pursuant to subsection (3) of this section may not  
27 be used for class action lawsuits, criminal cases, representation of persons  
28 who are incarcerated, cases concerning abortion or reproductive issues,  
29 representation of undocumented persons or lawsuits against the state of  
30 Idaho, its employees in their employment capacity, political subdivisions  
31 of the state or those political subdivisions' employees in their employment  
32 capacity.

33 (5) Idaho legal aid services is directed to provide annually a report to  
34 the legislature reflecting an accounting of expenditures from the access to  
35 justice fund.

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

38 31-3201A. COURT FEES. The clerk of the district court in addition to  
39 the fees and charges imposed by chapter 20, title 1, Idaho Code, and in addi-  
40 tion to the fee levied by chapter 2, title 73, Idaho Code, shall charge, de-

1 mand and receive the following fees for services rendered by him in discharg-  
2 ing the duties imposed upon him by law:

3 (1) Civil cases. A fee of ~~fifty~~ sixty dollars (\$~~5~~60.00) for filing a  
4 civil case of any type in the district court or in the magistrate's division  
5 of the district court with the following exceptions:

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

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

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

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

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

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

15 (v) Petitions for sterilization;

16 (vi) Petitions for judicial consent to abortion;

17 (vii) Registration of trusts and renunciations;

18 (viii) Petitions for leave to compromise the disputed claim of a  
19 minor;

20 (ix) Petitions for a civil protection order or to enforce a for-  
21 eign civil protection order pursuant to chapter 63, title 39,  
22 Idaho Code;

23 (x) Objections to the appointment of a guardian filed by a minor  
24 or an incapacitated person;

25 (xi) Proceedings to suspend a license for nonpayment of child  
26 support pursuant to section 7-1405, Idaho Code;

27 (xii) Proceedings under the uniform post-conviction procedure  
28 act as provided in chapter 49, title 19, Idaho Code;

29 (xiii) Filings of a custody decree from another state;

30 (xiv) Filings of any answer after an initial appearance fee has  
31 been paid.

32 The filing fee of ~~fifty~~ sixty dollars (\$~~5~~60.00) shall be distributed as fol-  
33 lows: seventeen dollars (\$17.00) of such filing fee shall be paid to the  
34 county treasurer for deposit in the district court fund of the county; ten  
35 dollars (\$10.00) of such filing fee shall be paid to the county treasurer who  
36 shall, within five (5) days after the end of the month, pay such fees to the  
37 state treasurer for deposit into the ISTARs technology fund; seventeen dol-  
38 lars (\$17.00) of such filing fee shall be paid to the county treasurer who  
39 shall pay such fees to the state treasurer for deposit in accordance with  
40 subsection (15) of this section; ~~and~~ six dollars (\$6.00) of such filing fee  
41 shall be paid to the county treasurer who shall, within five (5) days after  
42 the end of the month, pay such fees to the state treasurer for deposit in the  
43 senior magistrate judges fund; and ten dollars (\$10.00) of such filing fee  
44 shall be paid to the county treasurer who shall, within five (5) days after  
45 the end of the month, pay such fees to the state treasurer for deposit in the  
46 access to justice fund.

47 (2) Felonies and misdemeanors. A fee of seventeen dollars and fifty  
48 cents (\$17.50) shall be paid, but not in advance, by each person found guilty  
49 of any felony or misdemeanor, except when the court orders such fee waived  
50 because the person is indigent and unable to pay such fee. If the magistrate

1 court facilities are provided by the county, five dollars (\$5.00) of such fee  
2 shall be paid to the county treasurer for deposit in the district court fund  
3 of the county; and twelve dollars and fifty cents (\$12.50) of such fee shall  
4 be paid to the county treasurer who shall pay such fees to the state treasurer  
5 for deposit in accordance with subsection (15) of this section. If the mag-  
6 istrate court facilities are provided by a city, five dollars (\$5.00) of such  
7 fee shall be paid to the city treasurer for deposit in the city general fund,  
8 two dollars and fifty cents (\$2.50) of such fee shall be paid to the city  
9 treasurer for deposit in the city capital facilities fund for the construc-  
10 tion, remodeling and support of magistrate court facilities, and ten dollars  
11 (\$10.00) of such fee shall be paid to the county treasurer who shall pay such  
12 fees to the state treasurer for deposit in accordance with subsection (15) of  
13 this section.

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

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

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

6 (6) Distribution of estate. A fee of ~~twenty~~thirty-five dollars  
7 (\$~~23~~35.00) shall be paid upon the filing of a petition of the executor or ad-  
8 ministrator or of any person interested in an estate for the distribution of  
9 such estate, six dollars (\$6.00) of such fee shall be paid to the county trea-  
10 surer for deposit in the district court fund of the county; thirteen dollars  
11 (\$13.00) of such fee shall be paid to the county treasurer who shall pay such  
12 fees to the state treasurer for deposit in accordance with subsection (15) of  
13 this section; ~~and~~ six dollars (\$6.00) of such fee shall be paid to the county  
14 treasurer who shall, within five (5) days after the end of the month, pay such  
15 fees to the state treasurer for deposit in the senior magistrate judges fund;  
16 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who  
17 shall, within five (5) days after the end of the month, pay such fees to the  
18 state treasurer for deposit in the access to justice fund.

19 (7) Third party claim. A fee of ~~fourteen~~twenty-four dollars (\$~~1~~24.00)  
20 shall be paid by a party filing a third party claim as defined in the Idaho  
21 rules of civil procedure. Eight dollars (\$8.00) of such fee shall be paid to  
22 the county treasurer for deposit in the district court fund of the county;  
23 ~~and~~ six dollars (\$6.00) of such fee shall be paid to the county treasurer who  
24 shall, within five (5) days after the end of the month, pay such fees to the  
25 state treasurer for deposit in the senior magistrate judges fund; and ten  
26 dollars (\$10.00) of such fee shall be paid to the county treasurer who shall,  
27 within five (5) days after the end of the month, pay such fees to the state  
28 treasurer for deposit in the access to justice fund.

29 (8) Cross-claims. A fee of ~~fourteen~~twenty-four dollars (\$~~1~~24.00)  
30 shall be paid by any party filing a cross-claim. Eight dollars (\$8.00) of  
31 such fee shall be paid to the county treasurer for deposit in the district  
32 court fund of the county; ~~and~~ six dollars (\$6.00) of such fee shall be paid  
33 to the county treasurer who shall, within five (5) days after the end of the  
34 month, pay such fees to the state treasurer for deposit in the senior magis-  
35 trate judges fund; and ten dollars (\$10.00) of such fee shall be paid to the  
36 county treasurer who shall, within five (5) days after the end of the month,  
37 pay such fees to the state treasurer for deposit in the access to justice  
38 fund.

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

43 (10) Reopening a case. A fee of ~~fifteen~~twenty-five dollars (\$~~1~~25.00)  
44 shall be paid by any party appearing after judgment or applying to reopen a  
45 case. Nine dollars (\$9.00) of such fee shall be paid to the county treasurer  
46 for deposit in the district court fund of the county; and six dollars (\$6.00)  
47 of such fee shall be paid to the county treasurer who shall, within five (5)  
48 days after the end of the month, pay such fees to the state treasurer for de-  
49 posit in the senior magistrate judges fund; and ten dollars (\$10.00) of such  
50 fee shall be paid to the county treasurer who shall, within five (5) days af-

1 ter the end of the month, pay such fees to the state treasurer for deposit  
2 in the access to justice fund. A fee of ~~thirty~~forty-eight dollars (\$~~34~~48.00)  
3 shall be paid by a party applying to reopen a divorce action or modify a di-  
4 vorce decree, with seventeen dollars (\$17.00) of the fee to be paid to the  
5 county treasurer for deposit in the district court fund of the county; fif-  
6 teen dollars (\$15.00) of such fee to be paid to the county treasurer who shall  
7 pay such fees to the state treasurer for deposit in accordance with subsec-  
8 tion (15) of this section; and six dollars (\$6.00) of such fee to be paid to  
9 the county treasurer who shall, within five (5) days after the end of the  
10 month, pay such fees to the state treasurer for deposit in the senior magis-  
11 trate judges fund; and ten dollars (\$10.00) of such fee shall be paid to the  
12 county treasurer who shall, within five (5) days after the end of the month,  
13 pay such fees to the state treasurer for deposit in the access to justice  
14 fund.

15 (11) Appeal to district court. A fee of ~~fifteen~~ twenty-five dollars  
16 (~~\$12~~25.00) shall be paid by a party taking an appeal from the magistrate's  
17 division of the district court to the district court; ~~and~~ six dollars (\$6.00)  
18 of such fee shall be paid to the county treasurer who shall, within five (5)  
19 days after the end of the month, pay such fees to the state treasurer for  
20 deposit in the senior magistrate judges fund; and ten dollars (\$10.00) of  
21 such fee shall be paid to the county treasurer who shall, within five (5) days  
22 after the end of the month, pay such fees to the state treasurer for deposit  
23 in the access to justice fund. No additional fee shall be required if a new  
24 trial is granted. All of such fee shall be paid to the county treasurer for  
25 deposit in the district court fund of the county.

26 (12) Appeal to supreme court. A fee of ~~fifteen~~ twenty-five dollars  
27 (~~\$12~~25.00) shall be paid by the party taking an appeal from the district court  
28 to the supreme court for comparing and certifying the transcript on appeal,  
29 if such certificate is required. Nine dollars (\$9.00) of such fee shall be  
30 paid to the county treasurer for deposit in the district court fund of the  
31 county; ~~and~~ six dollars (\$6.00) of such fee shall be paid to the county trea-  
32 surer who shall, within five (5) days after the end of the month, pay such  
33 fees to the state treasurer for deposit in the senior magistrate judges fund;  
34 and ten dollars (\$10.00) of such fee shall be paid to the county treasurer who  
35 shall, within five (5) days after the end of the month, pay such fees to the  
36 state treasurer for deposit in the access to justice fund.

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

39 (14) All fees required to be paid by this section or by rule or admin-  
40 istrative order of the supreme court shall be collected by the clerk of the  
41 district court or by a person appointed by the clerk of the district court  
42 for this purpose. If it appears that there is a necessity for such fees to  
43 be collected by persons other than the clerk of the district court or a per-  
44 son designated by the clerk for such purpose, the supreme court by rule or  
45 administrative order may provide for the designation of persons authorized  
46 to receive such fees. Persons so designated shall account for such fees in  
47 the same manner required of the clerk of the district court and shall pay such  
48 fees to the clerk of the district court of the county in which such fees are  
49 collected.

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

11 (16) Of the fees derived from the filing of any divorce action required  
12 to be transmitted to the state treasurer, the county treasurer shall retain  
13 five dollars (\$5.00), which shall be separately identified and deposited in  
14 the district court fund of the county. Such moneys shall be used exclusively  
15 for the purpose of establishing a uniform system of qualifying and approving  
16 persons, agencies or organizations to conduct evaluations of persons con-  
17 victed of domestic assault or battery as provided in section 18-918, Idaho  
18 Code, and the administration of section 18-918(7), Idaho Code, relating to  
19 the evaluation and counseling or other treatment of such persons, includ-  
20 ing the payment of the costs of evaluating and counseling or other treatment  
21 of an indigent defendant. No provision of chapter 52, title 39, Idaho Code,  
22 shall apply to the moneys provided for in this subsection.

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