

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 (\$~~50~~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 (\$~~50~~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 (\$348.00)
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 (~~\$125.00~~) 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 (~~\$125.00~~) 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.