

JAN 23 2015

A BILL FOR AN ACT

RELATING TO INDIGENT LEGAL SERVICES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Section 605-5, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§605-5 License fee. The clerk of the supreme court shall
4 ~~[exact]~~ :

5 (1) Exact from every practitioner, upon the practitioner's
6 receiving a license, an admission fee of \$10, for the
7 benefit of the State~~[-]~~; and

8 (2) Assess and collect an annual surcharge on license fee
9 on every practitioner in the amount of \$100, to be
10 paid into the indigent legal assistance fund
11 established by section 607-5.7."

12 SECTION 2. Section 607-5.7, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "§607-5.7 Surcharge for indigent legal services. (a) In
15 addition to the costs and fees prescribed in section 607-5, any
16 person in a civil action in the circuit court who is required to



1 pay an initial filing fee shall pay an additional surcharge at
2 the time of the person's initial filing as follows:

3 (1) Effective January 1, 2012, \$50; and

4 (2) Effective January 1, 2014, \$65.

5 (b) In addition to the costs and fees prescribed in
6 section 607-4, any person in a civil action in the district
7 court who is required to pay an initial filing fee shall pay an
8 additional surcharge at the time of the person's initial filing
9 as follows:

10 (1) Effective January 1, 2012, \$25; and

11 (2) Effective January 1, 2014, \$35.

12 (c) Any person in a civil action in the courts of appeal
13 who is required to pay an initial filing fee also shall pay an
14 additional surcharge at the time of the person's filing as
15 follows:

16 (1) Effective January 1, 2012, \$50; and

17 (2) Effective January 1, 2014, \$65.

18 (d) Initial filings for which surcharges in this section
19 shall be assessed include:



(1) Complaints, petitions, interventions, applications for special proceedings, and answers containing one or more cross-claims or counter-claims; and

(2) Third-party complaints, but shall not include post-judgment civil process.

(e) No surcharge in this section shall be assessed against:

(1) Small claims cases;

(2) Petitions for temporary restraining orders;

(3) Petitions for protective orders;

(4) Any party who has received the court's permission to proceed in forma pauperis; or

(5) Any party proceeding on behalf of the county or State.

Surcharges subject to this section shall be limited to one payment per party.

(f) There is established a special fund to be known as the indigent legal assistance fund. The funds raised under subsections (a), (b), (c), ~~[and]~~, (d), and (g) shall be transmitted to the administrative director of the courts and deposited in the indigent legal assistance fund.



1 (g) The annual surcharge on license fee on every
2 practitioner, established pursuant to section 605-5, shall be
3 deposited in the indigent legal assistance fund. The State
4 shall match the surcharge deposited into the indigent legal
5 assistance fund up to an amount of \$ annually.

6 ~~[(g)]~~ (h) This fund shall be administered by the
7 administrative director of the courts, or pursuant to contract
8 with the administrative director of the courts. If the fund is
9 administered pursuant to contract with the administrative
10 director of the courts, the contractor shall be a nonprofit
11 organization that has at least one year's experience in
12 administering grants to providers of civil legal services for
13 indigents. The fund administrator shall receive not more than
14 five per cent of the total amount collected under this section
15 each fiscal year as compensation for performing the duties under
16 this section.

17 ~~[(h)]~~ (i) The fund administrator shall annually accept
18 applications for grants funded from the indigent legal
19 assistance fund from organizations that provide civil legal
20 assistance to indigent persons. Applications shall be received
21 no later than April 15 for assistance in the following fiscal



1 year. The fund administrator shall determine the specific
2 information required of the applicant and, at a minimum, shall
3 require applicants to provide information concerning:

- 4 (1) Their governance, staffing, and total annual budget;
- 5 (2) Other funding sources;
- 6 (3) Geographic area of service;
- 7 (4) The number of clients served in the previous fiscal
8 year; and
- 9 (5) The nature and scope of services provided.

10 ~~[(i)]~~ (j) To be eligible for assistance from the indigent
11 legal assistance fund, an applicant shall meet all of the
12 following standards at the time of application:

- 13 (1) Be either a nonprofit organization incorporated and
14 operated exclusively in Hawaii and determined by the
15 Internal Revenue Service to be exempt from federal
16 income tax or a program operated exclusively in Hawaii
17 by an accredited nonprofit law school; provided that
18 the organization or program provides as its primary
19 purpose and function civil legal services to indigent
20 persons;



- (2) Have a governing board whose members have no material conflict of interest and serve without compensation;
- (3) Have bylaws or policies that describe the manner in which business is conducted, and policies that relate to nepotism and management of potential conflict of interest situations;
- (4) Have at least one year's experience in providing civil legal services to indigents;
- (5) Be licensed and accredited, as applicable, in accordance with the requirements of federal, state, and county governments;
- (6) Agree not to charge client fees for services that are funded in any part by a grant from the indigent legal assistance fund, except that token payments for costs and expenses shall not be considered fees;
- (7) Agree to use any grant received under this section exclusively to provide civil legal services to indigent persons; and
- (8) Have in place sound financial management systems, a client grievance procedure, a method of ensuring the quality of service provided, and a policy that



1 provides that no person may interfere with any
2 attorneys funded in whole or in part by this section
3 in carrying out their professional responsibilities to
4 their clients, as established by the Hawaii rules of
5 professional conduct.

6 ~~[(j)]~~ (k) The administrative director of the courts, or
7 the contractor administering the fund pursuant to contract with
8 the administrative director of the courts, shall review, on a
9 biennial basis, the indigent legal assistance fund to determine
10 whether it is meeting the civil legal needs of indigent persons
11 and shall report its findings and recommendations to the
12 legislature no later than twenty days prior to the convening of
13 the regular session of the legislature in each even-numbered
14 year beginning with the regular session of 2014.

15 ~~[(k)]~~ (l) Funds shall be distributed on a pro rata basis
16 to organizations that meet the criteria in subsection (i), based
17 upon the portion of their total budget expended in the prior
18 year for civil legal services to indigent persons as compared to
19 the combined total expended in the prior year for legal services
20 by all qualifying organizations applying for funding. An
21 applicant that provides services other than civil legal services



1 to indigent persons may establish its proportionate entitlement
2 to funds based upon financial statements that strictly segregate
3 the portion of the organization's expenditures in the prior year
4 that were devoted exclusively to the provision of civil legal
5 services for indigents.

6 ~~[(1)]~~ (m) As used in this section, unless the context
7 otherwise requires:

8 "Civil legal services" means direct legal services provided
9 by attorneys or by attorney-supervised staff to clients in civil
10 matters, including pro bono, judicial, and administrative
11 advocacy relating to the civil legal problems of indigents.

12 "Indigent person" means:

13 (1) Any individual whose income is not greater than one
14 hundred twenty-five per cent of the official poverty
15 line established by the Secretary of Health and Human
16 Services under the Community Services Block Grant Act,
17 42 U.S.C. section 9902;

18 (2) Any individual who is eligible for free services under
19 the Older Americans Act or Developmentally Disabled
20 Act; or



1 (3) Any organization or client group whose purpose is to
2 further the interests of indigent persons and which is
3 at least fifty per cent composed of persons who meet
4 the requirements of paragraph (1) or (2)."

5 SECTION 3. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 4. This Act shall take effect on July 1, 2015.
8

INTRODUCED BY: Shzanne Chun Oakland

Shzanne Chun Oakland



Report Title:

Attorneys Annual License Fee Surcharge; Indigent Legal Assistance Fund

Description:

Requires the clerk of the supreme court to assess and collect an annual surcharge on license fee on every law practitioner in the amount of \$100, to be paid into the indigent legal assistance fund and to be matched by the State up to an unspecified amount annually.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

