

Amendment No. 85

Senate Amendment to Senate Bill No. 177

(BDR 2-522)

Proposed by: Committee on Judiciary**Amendment Box:****Resolves Conflicts with:** N/A**Amends:** Summary: Yes Title: Yes Preamble: No Joint Sponsorship: No Digest: Yes

Adoption of this amendment will MAINTAIN a 2/3s majority vote requirement for final passage of SB177 (§§ 2, 3, 4, 5, 6).

ASSEMBLY ACTION	Initial and Date	SENATE ACTION	Initial and Date
Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____	Adopted <input type="checkbox"/> Lost <input type="checkbox"/>	_____
Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____	Concurred In <input type="checkbox"/> Not <input type="checkbox"/>	_____
Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____	Receded <input type="checkbox"/> Not <input type="checkbox"/>	_____

Amend the bill as a whole by renumbering sections 1 through 3 as sections 2 through 4 and adding a new section designated section 1, following the enacting clause, to read as follows:

“Section 1. NRS 12.015 is hereby amended to read as follows:

12.015 1. Any person who desires to prosecute or defend a civil action may ~~file~~:

(a) **File** an affidavit with the court setting forth with particularity facts concerning his income, property and other resources which establish that he is unable to prosecute or defend the action because he is unable to pay the costs of so doing ~~[-]~~; **or**

(b) **Submit a statement or otherwise indicate to the court that he is a client of a program for legal aid.**

BAW/BJE

Date: 4/11/2005

S.B. No. 177—Makes various changes concerning fees charged in civil actions.



2. If the ~~{judge}~~ *court* is satisfied that ~~{the}~~ *a person who files an affidavit pursuant to subsection 1* is unable to pay the costs ~~{, he}~~ *of prosecuting or defending the action or if the court finds that a person is a client of a program for legal aid, the court* shall order:

(a) The clerk of the court:

(1) To allow the person to commence or defend the action without costs; and

(2) To file or issue any necessary writ, process, pleading or paper without charge.

(b) The sheriff or other appropriate public officer within this State to make personal service of any necessary writ, process, pleading or paper without charge.

~~{2.}~~ 3. If the person is required to have proceedings reported or recorded, or if the court determines that the reporting, recording or transcription of proceedings would be helpful to the adjudication or appellate review of the case, the court shall order that the reporting, recording or transcription be performed at the expense of the county in which the action is pending but at a reduced rate as set by the county.

~~{3.}~~ 4. If the person prevails in the action, the court shall enter its order requiring the losing party to pay into court within 5 days the costs which would have been incurred by the prevailing party, and those costs must then be paid as provided by law.

~~{4.}~~ 5. Where the affidavit establishes that the person is unable to defend an action, the running of the time within which to appear and answer or otherwise defend is tolled during the period between the filing of the affidavit and the ruling of the court thereon.

~~{5.}~~ 6. An affidavit filed pursuant to this section, and any application or request for an order filed with the affidavit, does not constitute a general appearance before the court by the affiant or give the court personal jurisdiction over him.

~~{6.}~~ 7. The order of the court to which application is made pursuant to this section is not appealable.

8. *As used in this section, “client of a program for legal aid” means a person:*

(a) Who is represented by an attorney who is employed by or volunteering for a program for legal aid organized under the auspices of the State Bar of Nevada, a county or local bar association, a county or municipal program for legal services or other program funded by this State or the United States to provide legal assistance to indigent persons; and

(b) Whose eligibility for such representation is based upon indigency.”.

Amend sec. 3, page 5, by deleting lines 9 and 10.

Amend the bill as whole by renumbering sec. 4 as sec. 6 and adding a new section designated sec. 5, following sec. 3, to read as follows:

“**Sec. 5.** NRS 4.060 is hereby amended to read as follows:

4.060 1. Except as otherwise provided in this section and NRS 33.017 to 33.100, inclusive, each justice of the peace shall charge and collect the following fees:

(a) On the commencement of any action or proceeding in the justice’s court, other than in actions commenced pursuant to chapter 73 of NRS, to be paid by the party commencing the action:

If the sum claimed does not exceed \$1,000	\$28.00
If the sum claimed exceeds \$1,000 but does not exceed \$2,500	50.00
If the sum claimed exceeds \$2,500 but does not exceed \$4,500	100.00
If the sum claimed exceeds \$4,500 but does not exceed \$6,500	125.00
If the sum claimed exceeds \$6,500 but does not exceed \$7,500	150.00
If the sum claimed exceeds \$7,500 but does not exceed \$10,000	175.00

In all other civil actions.....	28.00
(b) For the preparation and filing of an affidavit and order in an action commenced pursuant to chapter 73 of NRS:	
If the sum claimed does not exceed \$1,000	25.00
If the sum claimed exceeds \$1,000 but does not exceed \$2,500	45.00
If the sum claimed exceeds \$2,500 but does not exceed \$5,000	65.00
(c) On the appearance of any defendant, or any number of defendants answering jointly, to be paid by him or them on filing the first paper in the action, or at the time of appearance:	
In all civil actions.....	12.00
For every additional defendant, appearing separately	6.00
(d) No fee may be charged where a defendant or defendants appear in response to an affidavit and order issued pursuant to the provisions of chapter 73 of NRS.	
(e) For the filing of any paper in intervention.....	6.00
(f) For the issuance of any writ of attachment, writ of garnishment, writ of execution or any other writ designed to enforce any judgment of the court	6.00
(g) For filing a notice of appeal, and appeal bonds.....	12.00
One charge only may be made if both papers are filed at the same time.	
(h) For issuing supersedeas to a writ designed to enforce a judgment or order of the court	12.00
(i) For preparation and transmittal of transcript and papers on appeal transfer of a case or file to the district court	[12.00] 16.00
(j) For celebrating a marriage and returning the certificate to the county recorder	50.00

(k) For entering judgment by confession	6.00
(l) For preparing any copy of any record, proceeding or paper, for each page.....	[-30] 1.00
(m) For each certificate of the clerk, under the seal of the court	3.00
(n) For electronically searching records or files [in his] within the office, for each [year] search	1.00

(o) ***For retrieving records or files in his office:***

For the first record or file5.00

For each additional record or file.....2.50

(p) For filing and acting upon each bail or property bond40.00

2. A justice of the peace shall not charge or collect any of the fees set forth in subsection 1 for any service rendered by him to the county in which his township is located.

3. A justice of the peace shall not charge or collect the fee pursuant to paragraph (j) of subsection 1 if he performs a marriage ceremony in a commissioner township.

4. Except as otherwise provided by an ordinance adopted pursuant to the provisions of NRS 244.207, the justice of the peace shall, on or before the fifth day of each month, account for and pay to the county treasurer all fees collected during the preceding month, except for the fees he may retain as compensation and the fees he is required to pay to the State Controller pursuant to subsection 5.

5. The justice of the peace shall, on or before the fifth day of each month, pay to the State Controller:

(a) An amount equal to \$5 of each fee collected pursuant to paragraph (j) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Account for Aid for Victims of Domestic Violence in the State General Fund.

(b) One-half of the fees collected pursuant to paragraph ~~{{(o)}}~~ (p) of subsection 1 during the preceding month. The State Controller shall deposit the money in the Fund for the Compensation of Victims of Crime.”.

Amend the title of the bill to read as follows:

“AN ACT relating to courts; providing that a client of a legal aid program which provides services to indigent persons may be allowed to proceed as an indigent litigant without submitting further proof of indigency to the court; increasing certain fees charged in connection with a civil action in a district court; increasing certain fees that certain boards of county commissioners may impose for the filing of certain actions in district courts and justices’ courts; providing that certain fees charged in connection with a civil action in a district court may be used to support programs for alternative methods of resolving disputes; establishing and increasing certain fees for certain services provided in justices’ courts; and providing other matters properly relating thereto.”.

Amend the summary of the bill to read as follows:

“SUMMARY—Makes various changes related to fees charged in district courts and justices’ courts. (BDR 2-522)”.

**If this amendment is adopted, the Legislative
Counsel's Digest will be changed to read as follows:**

Legislative Counsel's Digest:

Existing law allows a person who desires to prosecute or defend a civil action but is unable to pay the required filing fees or costs to file an affidavit with the court stating with particularity the facts that establish his indigency. (NRS 12.015)

This bill allows a person who is a client of a legal aid program and who desires to prosecute or defend a civil action to indicate to the court that he is such a client. If the court finds that a person is such a client, the person will be allowed to proceed as an indigent litigant and not be required to pay the required filing fees and costs.

Existing law establishes certain fees for filing documents in connection with a civil action in district court. (NRS 19.013) Existing law also imposes an additional filing fee which must be paid upon commencing, answering or appearing in an action or proceeding. The money collected from the additional fee is used to fund programs for arbitration in civil actions. (NRS 19.0315)

This bill increases the fee imposed for filing an action and the fee for the appearance of any defendant or defendants appearing jointly in a case. This bill also increases the additional filing fee that is used to fund programs for arbitration and provides that the fee may also be used to support other programs for the resolution of disputes through the use of other alternative methods of resolving disputes.

Existing law authorizes certain boards of county commissioners to impose a filing fee in district and justices' courts to offset the cost of providing pro bono programs and of providing free legal services to abused and neglected children and to victims of domestic violence. (NRS 4.071, 19.0312)

This bill increases the maximum amount of the fee that those boards of county commissioners are authorized to impose.

Existing law requires a justice of the peace to charge and collect fees for certain services provided in a justice's court. (NRS 4.060)

This bill establishes new fees for retrieving records or files in the justice's court and increases the fees charged for preparation and transfer of a case to the district court.