

SENATE BILL NO. 177—COMMITTEE ON JUDICIARY

(ON BEHALF OF THE NEVADA SUPREME COURT)

MARCH 10, 2005

Referred to Committee on Judiciary

SUMMARY—Makes various changes related to fees charged in district courts. (BDR 2-522)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

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 the maximum amount of 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; and providing other matters properly relating thereto.

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 the person is such a client, the person will be allowed to proceed as an indigent litigant. As such, the person is not required to pay the filing fees and costs.

Existing law imposes a 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 provides that this fee may be imposed by the board of county commissioners rather than mandated by statute and increases the maximum amount that the board may impose for the fee. This bill also provides that the fee may 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 that those boards of county commissioners are authorized to impose for the fee.

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT 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 ~~to~~; or

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

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 ~~to~~ ~~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.



~~13-1~~ 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.

~~14-1~~ 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.

~~15-1~~ 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.

~~16-1~~ 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.*

Sec. 2. NRS 19.0312 is hereby amended to read as follows:

19.0312 1. Except as otherwise provided in subsection 2, in addition to any other fee required by law, in each county that charges a fee pursuant to NRS 19.031 to offset a portion of the costs of providing legal services without a charge to indigent or elderly persons, a board of county commissioners may impose by ordinance a filing fee to offset a portion of the costs of providing pro bono programs and of providing legal services without a charge to abused or neglected children and victims of domestic violence to be remitted to the organization operating the program for legal services that receives the fees charged pursuant to NRS 19.031 for programs for the indigent in an amount not to exceed:

(a) ~~Five~~ Ten dollars to be paid on the commencement of any civil action or proceeding in the district court for which a filing fee is required and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required.

(b) Twenty-five dollars to be paid on the filing of any motion or other paper that seeks to modify or adjust a final order that was issued pursuant to chapter 125, 125B or 125C of NRS and on the filing of any answer or response to such a motion or other paper.



2. A board of county commissioners may not by ordinance impose a filing fee pursuant to paragraph (b) of subsection 1 for:

(a) A motion filed solely to adjust the amount of support for a child set forth in a final order; or

(b) A motion for reconsideration or for a new trial that is filed within 10 days after a final judgment or decree has been issued.

3. On or before the first Monday of each month, in a county in which a fee has been imposed pursuant to subsection 1, the county clerk shall account for and pay over to the county treasurer any such fees collected by him during the preceding month. The county treasurer shall remit quarterly to the organization to which the fees are to be paid pursuant to subsection 1 all the money received by him from the county clerk.

4. Any fees collected pursuant to this section must be used for the benefit of the persons to whom the organization operating the program for legal services that receives money pursuant to this section provides legal services without a charge.

Sec. 3. NRS 19.0315 is hereby amended to read as follows:

19.0315 1. Except as otherwise provided in NRS 19.034, on the commencement of any civil action or proceeding in the district court for which a filing fee is required, and on the filing of any answer or appearance in any such action or proceeding for which a filing fee is required, ~~{the county clerk shall charge and collect a fee of \$5 from}~~ *a board of county commissioners may impose by ordinance a filing fee in an amount not to exceed \$15 to offset a portion of the costs of providing programs of arbitration and other alternative methods of resolving disputes on* the party commencing, answering or appearing in the action or proceeding. These fees are in addition to any other fee required by law.

2. On or before the first Monday of each month, the county clerk shall pay over to the county treasurer the amount of all fees collected by him pursuant to subsection 1 for credit to an account for *court* programs of arbitration *and other alternative methods of resolving disputes* in the county general fund. The money in the account must be used only to support programs for the arbitration of civil actions pursuant to NRS 38.250 ~~{}~~ *and programs for the resolution of disputes through the use of other alternative methods of resolving disputes pursuant to NRS 38.258.*

3. The provisions of this section apply only in judicial districts in which a program of arbitration has been established pursuant to NRS 38.250.

Sec. 4. NRS 4.071 is hereby amended to read as follows:

4.071 1. In addition to any other fee required by law, in each county that charges a fee pursuant to NRS 19.031 to offset a portion



1 of the costs of providing legal services without a charge to indigent
2 or elderly persons, a board of county commissioners may impose by
3 ordinance a filing fee to offset a portion of the costs of providing pro
4 bono programs and of providing legal services without a charge to
5 abused or neglected children and victims of domestic violence to be
6 remitted to the organization operating the program for legal services
7 that receives the fees charged pursuant to NRS 19.031 for programs
8 for the indigent in an amount not to exceed ~~155~~ \$10 to be paid on
9 the commencement of any action or proceeding in the justice's court
10 for which a filing fee is required and on the filing of any answer or
11 appearance in any such action or proceeding for which a filing fee is
12 required.

13 2. On or before the first Monday of each month, in a county in
14 which a fee has been imposed pursuant to subsection 1, the justice
15 of the peace shall account for and pay over to the county treasurer
16 any such fees collected by him during the preceding month. The
17 county treasurer shall remit quarterly to the organization to which
18 the fees are to be paid pursuant to subsection 1 all the money
19 received by him from the justice of the peace.

20 3. Any fees collected pursuant to this section must be used for
21 the benefit of the persons to whom the organization operating the
22 program for legal services that receives money pursuant to this
23 section provides legal services without a charge.



