

JAN 23 2008

A BILL FOR AN ACT

RELATING TO SURCHARGE FOR INDIGENT LEGAL SERVICES.

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

1 SECTION 1. The legislature finds that in the report
2 entitled, "The 2007 Assessment of Civil Legal Needs and Barriers
3 of Low- and Moderate-Income People of Hawaii," four out of five
4 low- and moderate-income residents do not have their legal
5 services needs met and that legal service providers are only
6 able to assist one in three who contact them for assistance.
7 The legislature further finds that to increase the delivery of
8 legal service, more funding is necessary and can be generated by
9 increasing the surcharge for indigent legal services, as
10 recommended by the Access to Justice Hui in it's report
11 entitled, "The Community Wide Action Plan: Ten Steps to Increase
12 Access to Justice in Hawaii by 2010."

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

15 1. By amending subsections (a) and (b) to read:

16 "(a) In addition to the costs and fees prescribed in
17 section 607-5, any person in a civil action in the circuit court



1 who is required to pay an initial filing fee shall pay an
2 additional surcharge of [~~\$25~~] \$50 at the time of the person's
3 initial filing. Initial filings for which this surcharge shall
4 be assessed include;

- 5 (1) Complaints, petitions, interventions, applications for
6 special proceedings, and answers containing one or
7 more cross-claims or counter-claims; and
8 (2) Third party complaints, but shall not include post-
9 judgment civil process.

10 (b) In addition to the costs and fees prescribed in
11 section 607-4, any person [~~who files an action for summary~~
12 ~~possession in the district court~~] in a civil action in the
13 district court who is required to pay an initial filing fee
14 shall pay an additional surcharge of [~~\$10~~] \$25 at the time of
15 the person's initial filing. Any person in a civil action in
16 the supreme court who is required to pay an initial filing fee
17 also shall pay an additional surcharge of \$25 at the time of the
18 person's filing. No surcharge shall be assessed against:

- 19 (1) Small claims cases;
20 (2) Petitions for temporary restraining orders;
21 (3) Petitions for protective orders;



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

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

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

6 2. By amending subsection (h) to read:

7 "(h) As used in this section, unless the context otherwise
8 requires:

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

13 "Indigent person" means:

14 (1) Any individual whose income is not greater than [~~one~~
15 ~~hundred twenty-five~~] two hundred fifty per cent of the
16 official poverty line established by the Secretary of
17 Health and Human Services under the Community Services
18 Block Grant Act, Title 42 [U.S.C. section] United
19 States Code Section 9902;

20 (2) Any individual who is eligible for free services under
21 the Older Americans Act or Developmentally Disabled
22 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, 2008.

8

INTRODUCED BY: *R. J. O'Neil*
by request



Report Title:

Indigent Legal Services; Surcharge

Description:

Increases indigent legal services funding by increasing the surcharge on initial filing fees for civil actions.

