

ENROLLED ACT NO. 58, HOUSE OF REPRESENTATIVES

SIXTIETH LEGISLATURE OF THE STATE OF WYOMING
2010 BUDGET SESSION

AN ACT relating to indigent civil legal services; providing for additional fees to fund indigent civil legal services; establishing an indigent civil legal services account; creating and providing for administration of an indigent civil legal services program; authorizing rulemaking; establishing priorities for provision of legal services; authorizing the expenditure of funds for the program as specified; providing for reports; and providing for an effective date.

Be It Enacted by the Legislature of the State of Wyoming:

Section 1. W.S. 5-2-121 and 5-2-122 are created to read:

5-2-121. Indigent civil legal services account created; purposes.

(a) There is created the indigent civil legal services account to be administered by the supreme court. The account shall receive all funds paid to the state treasurer from the fees imposed to support indigent civil legal services, pursuant to W.S. 2-2-401, 5-2-202, 5-3-205, 5-3-206, 5-6-108, 5-6-204, 5-6-303, 5-9-135, 5-9-144, 6-10-102 and 6-10-103. Funds within the account shall be used by the supreme court for the establishment and operation of a statewide program to provide civil legal services to indigent individuals within the state. Interest accruing to this account shall be retained in the account and shall be expended for the purposes provided in this section. No funds shall be expended from the account until the legislature appropriates the funds.

(b) For the fiscal biennium commencing July 1, 2012 and each fiscal biennium thereafter, the supreme court

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shall include in its proposed budget a biennial budget and plan for the account. Each biennial plan and proposed budget shall be submitted to the joint appropriations interim committee and the joint judiciary interim committee. Each biennial plan submitted under this subsection beginning with the biennium commencing July 1, 2012 shall include case statistics and program costs for the preceding biennium. The joint judiciary interim committee may submit any comments it deems appropriate to the joint appropriations interim committee.

(c) The supreme court shall provide for the conduct of audits of the account on a biennial basis beginning July 1, 2011. The audits shall be available for public review.

5-2-122. Indigent civil legal services program created; purposes.

(a) An indigent civil legal services program is created to be operated in accordance with the following:

(i) The supreme court shall develop a comprehensive plan for funding a statewide program of civil legal services to the indigent from the account. By November 1, 2010 and again by May 1, 2011, the court shall submit to the joint appropriations interim committee and the joint judiciary interim committee reports on the plan of operation for the program;

(ii) The supreme court may operate the program directly, or contract with a nonprofit organization to operate the program;

(iii) The court shall adopt rules and regulations for the program prior to implementation subject to the following:

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(A) In adopting rules and regulations governing the program the court shall set the following priorities, which are not intended to be exclusive, but to provide direction on the management and operation of the program:

(I) Cases in which an indigent individual is a defendant in a lawsuit;

(II) Cases in which an indigent individual is seeking to enforce a court order;

(III) Cases involving domestic relations and family law;

(IV) Matters involving general legal advice to indigent individuals.

(B) In adopting rules and regulations governing the program, the court shall prohibit the program from providing legal representation in the following areas:

(I) Cases seeking tort damages;

(II) Criminal defense;

(III) Cases against public agencies or political subdivisions seeking to change or overturn existing rules, regulations and policies. This prohibition shall not limit the program's ability to represent indigent individuals who are seeking benefits that may be owed them by public entities.

(iv) The rules shall establish eligibility standards for the receipt of services. The eligibility

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standards shall require that civil legal services be funded from the account only for individuals whose total household income does not exceed two hundred percent (200%) of the federal poverty level;

(v) The program shall be operated in coordination with other publicly or privately funded programs providing civil legal services to the indigent with a goal of developing an integrated system for the delivery of indigent civil legal services on a statewide basis by July 1, 2011;

(vi) The program shall be coordinated with the Wyoming state bar and other entities on private attorney involvement, pro bono civil legal services and educational programs;

(vii) For funding under the program, the program shall establish a statewide single point of entry for indigent civil legal services or establish other operations that allow for simplified and easily available access to the program;

(viii) The program may grant funds to existing eligible programs to assist in providing civil legal services and may be used to enhance the civil legal services that the existing programs are providing;

(ix) The program may receive grants and donations which shall be deposited to the account;

(x) The program shall establish uniform standards for the delivery of civil legal services and operate programmatic and fiscal management programs to ensure accountability for all funds.

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Section 2. W.S. 2-2-401(a) by creating a new paragraph (iv), 5-2-202, 5-3-205, 5-3-206(a)(i), (vii) and (x), 5-6-108, 5-6-204, 5-6-303, 5-9-135, 5-9-144, 6-10-102 and 6-10-103 are amended to read:

2-2-401. Schedule; additional charges.

(a) For probate matters filed or commenced, the clerk of the district court shall collect fees as follows:

(iv) In addition to the original filing fee under paragraph (a)(i) of this subsection, an indigent civil legal services fee in the amount of ten dollars (\$10.00), which shall be deposited into the indigent civil legal services account established by W.S. 5-2-121.

5-2-202. Collection of fees.

The clerk of the supreme court shall collect the following fees from the plaintiff in error or appellant, or in case of an original proceeding the plaintiff or relator shall, at the time of filing the petition in error or record on appeal or when commencing the cause in this court, the sum of twenty-five dollars (\$25.00). At the time of filing, the clerk also shall collect a court automation fee in the amount of ten dollars (\$10.00) which shall be deposited into the judicial systems automation account established by W.S. 5-2-120, and an indigent civil legal services fee in the amount of ten dollars (\$10.00) which shall be deposited into the indigent civil legal services account established by W.S. 5-2-121. Other fees or charges to be assessed within the clerk's office are to be determined under rules of the supreme court.

5-3-205. Collection of fees in advance; payment to treasurer; liability for collection.

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(a) All fees prescribed by statute for civil business, shall be collected in advance by the clerk and except as otherwise provided in this section shall be paid to the treasurer of the county at the end of each month. ~~except that the clerk shall remit the court automation fee prescribed by W.S. 2-2-401(a)(iii), 5-3-206(a)(i), (vii) and (x), 6-10-102 and 6-10-103 to the judicial systems automation account established by W.S. 5-2-120 at the end of each month.~~ The clerk shall be liable under his bond for the collection and payment of such fees. The clerk shall remit:

(i) The court automation fee prescribed by W.S. 2-2-401(a)(iii), 5-3-206(a)(i), (vii) and (x), 6-10-102 and 6-10-103 to the judicial systems automation account established by W.S. 5-2-120 at the end of each month;

(ii) The indigent civil legal services fee prescribed by W.S. 2-2-401(a)(iv), 5-3-206(a)(i), (vii) and (x), 6-10-102 and 6-10-103 to the indigent civil legal services account established by W.S. 5-2-121 at the end of each month.

5-3-206. Fees.

(a) For all civil matters filed or commenced, the clerk of each district court shall charge the following fees:

(i) For filing instruments or documents in each civil action and certifying one (1) copy of any order, decree or judgment at the time of its filing for each party, an original filing fee of ~~sixty dollars (\$60.00)~~ seventy dollars (\$70.00) which shall be paid by the plaintiff. This fee shall apply to original actions

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commenced and to actions that are reopened after a final decree previously has been entered. Ten dollars (\$10.00) of the filing fee ~~of sixty dollars (\$60.00)~~ shall be for court automation, ten dollars (\$10.00) shall be for indigent civil legal services and both shall be remitted as provided in W.S. 5-3-205;

(vii) For all transcripts in cases appealed to the supreme court, ~~sixty dollars (\$60.00)~~ seventy dollars (\$70.00), including certificates, seals and transmission. Ten dollars (\$10.00) of the fee ~~of sixty dollars (\$60.00)~~ under this paragraph shall be for court automation, ten dollars (\$10.00) shall be for indigent civil legal services and both shall be remitted as provided in W.S. 5-3-205;

(x) For docketing and in payment of clerk's fee after docketing incident to any appeal or bill of exception from a justice's court, ~~thirty dollars (\$30.00)~~ forty dollars (\$40.00), and for docketing any transcript of judgment from justice's court upon the judgment and execution dockets, ~~twenty dollars (\$20.00)~~ thirty dollars (\$30.00), which amount shall be paid by appellant, or by judgment holder to the clerk at time of docketing. Ten dollars (\$10.00) of any fee imposed under this paragraph shall be for court automation, ten dollars (\$10.00) shall be for indigent civil legal services and both shall be remitted as provided in W.S. 5-3-205.

5-6-108. Costs.

(a) Each city or town in the state of Wyoming may prescribe by ordinance such costs in all trials before municipal courts as may be necessary or deemed expedient. However, the costs shall not exceed ten dollars (\$10.00). All costs collected shall be turned into the treasury of

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the city or town. By ordinance a city or town may prescribe:

(i) A court automation fee of ten dollars (\$10.00) as a cost to be paid by every person guilty of a violation of a city or town ordinance;

(ii) An indigent civil legal services fee of ten dollars (\$10.00) as a cost to be paid by every person guilty of a violation of a city or town ordinance.

5-6-204. Fines and penalties to be paid to city treasurer; report of cases; failure to comply with section.

All fines and penalties collected and arising from a breach of a city ordinance shall be deposited with the city treasurer, and the municipal judge shall report at the end of each calendar month a list of all cases for violations of city ordinances instituted in his court, and the disposition thereof, with a statement of the fines, penalties and costs received. At the end of each month the judge shall deposit with the city treasurer all fines, penalties and costs received. If the municipal judge fails to report and deposit all fines, penalties and costs for a period of twenty-five (25) days, his office shall be declared vacant. If a city enacts an ordinance prescribing a court automation fee as provided in W.S. ~~5-6-108~~ 5-6-108(a)(i), the fee shall be remitted to the judicial systems automation account established by W.S. 5-2-120. If a city enacts an ordinance prescribing the indigent civil legal services fee as provided in W.S. 5-6-108(a)(ii), the fee shall be remitted to the indigent civil legal services account established by W.S. 5-2-121.

5-6-303. Disposition of fines and penalties.

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All fines and penalties collected, arising from a breach of the ordinances of the town, shall be paid into the town treasury. If a town enacts an ordinance prescribing a court automation fee as provided in W.S. ~~5-6-108~~ 5-6-108(a)(i), the fee shall be remitted to the judicial systems automation account established by W.S. 5-2-120. If a town enacts an ordinance prescribing an indigent civil legal services fee as provided in W.S. 5-6-108(a)(ii), the fee shall be remitted to the indigent civil legal services account established by W.S. 5-2-121.

5-9-135. Filing fee.

For all civil matters the circuit court shall collect from the plaintiff an original filing fee of twenty dollars (\$20.00), ~~and~~ a court automation fee of ten dollars (\$10.00), and an indigent civil legal services fee of ten dollars (\$10.00) excluding small claims civil actions as provided in W.S. 1-21-201 through 1-21-205 which shall have a filing fee of ten dollars (\$10.00). The court automation fee shall be deposited into the judicial systems automation account and the indigent civil legal services fee shall be deposited into the indigent civil legal services account as provided by W.S. 5-9-144.

5-9-144. Receipts for money paid into court.

When any money is paid into a circuit court, a receipt for said amount shall be issued promptly upon a form prescribed by the Wyoming supreme court. The receipts shall be prenumbered in numerical sequence. The original copy shall be delivered to a payor making payment by cash or in person, otherwise the original shall be attached to the court file. A copy shall be filed in the office of the issuing judge. The receipts shall be prenumbered by the printer, and the printer shall give to the supreme court a

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receipt showing the numbers so printed. Except as provided in W.S. 5-9-106, the circuit court shall pay all fines, forfeitures and other penalties to the county treasurer and all fees, costs and other receipts to the state treasurer. The court automation fee prescribed by W.S. 5-9-135 or established by court rule shall be deposited by the state treasurer into the judicial systems automation account established by W.S. 5-2-120. The indigent civil legal services fee prescribed by W.S. 5-9-135 shall be deposited by the state treasurer into the indigent civil legal services account established by W.S. 5-2-121.

6-10-102. Imposition of fine for any felony; maximum fine where not established by statute; court automation fee; indigent civil legal services fee.

The court may impose a fine as part of the punishment for any felony. If the statute does not establish a maximum fine, the fine shall be not more than ten thousand dollars (\$10,000.00). The court shall impose a court automation fee of ten dollars (\$10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301. The fee shall be remitted as provided by W.S. 5-3-205. In addition to the court automation fee the court shall impose an indigent civil legal services fee of ten dollars (\$10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301 or 35-7-1037. The indigent civil legal services fee shall be remitted as provided in W.S. 5-3-205(a)(ii).

6-10-103. Penalties for misdemeanors where not prescribed by statute; court automation fee; indigent civil legal services fee.

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Unless a different penalty is prescribed by law, every crime declared to be a misdemeanor is punishable by imprisonment in the county jail for not more than six (6) months, a fine of not more than seven hundred fifty dollars (\$750.00), or both. The court shall impose a court automation fee of ten dollars (\$10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301. The fee shall be remitted as provided by W.S. 5-3-205. In addition to the court automation fee the court shall impose an indigent civil legal services fee of ten dollars (\$10.00) in every criminal case wherein the defendant is found guilty, enters a plea of guilty or no contest or is placed on probation under W.S. 7-13-301. The indigent civil legal services fee shall be remitted as provided in W.S. 5-3-205(a)(ii).

Section 3. The supreme court is authorized to expend from the indigent civil legal services account up to two million five hundred thousand dollars (\$2,500,000.00) to operate the indigent civil legal services program for the period from July 1, 2010 through June 30, 2012. Notwithstanding any other provision of law, these funds shall not be transferred or expended for any other purpose.

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Section 4. This act is effective July 1, 2010.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the House.

Chief Clerk