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HB 843/96 - JUD

1997 Regular Session
7r2109

By: Delegates Montague, Rosenberg, Grosfeld, Doory, C. Davis, Opara, Marriott, McIntosh, Valderrama, Watson, T. Murphy, Bobo, Kirk, Nathan-Pulliam, Menes, Turner, Exum, Genn, B. Hughes, Rawlings, Hecht, R. Baker, E. Burns, Dypski, Shriver, Branch, Dewberry, and Parker

Introduced and read first time: January 31, 1997

Assigned to: Judiciary

Committee Report: Favorable with amendments

House action: Adopted

Read second time: March 23, 1997

CHAPTER _____

1 AN ACT concerning

2 **Civil District Court Fees - Maryland Legal Services Corporation Funding**

3 FOR the purpose of requiring the ~~District and circuit courts~~ Chief Judge of the District
4 Court to assess and collect a certain surcharge in addition to certain civil court fees
5 collected; establishing the Maryland Legal Services Corporation Fund; requiring the
6 proceeds of the surcharges collected to be distributed to the Maryland Legal
7 Services Corporation Fund for use in accordance with the Maryland Legal Services
8 Corporation Act; providing for the appropriation of moneys collected under this
9 Act; providing for the termination of this Act; and generally relating to the
10 assessment and collection of certain civil court surcharges.

11 BY repealing and reenacting, with amendments,
12 Article - Courts and Judicial Proceedings
13 Section ~~7-202 and~~ 7-301(c)
14 Annotated Code of Maryland
15 (1995 Replacement Volume and 1996 Supplement)

16 **Preamble**

17 ~~WHEREAS, There is a need to provide equal access to the system of justice for~~
18 ~~individuals who seek redress of grievances; and~~

19 ~~WHEREAS, Assuring equal access to justice for all our citizens is a fundamental~~
20 ~~responsibility of government and is essential to maintain respect for law and public~~
21 ~~institutions; and~~

2

1 WHEREAS, There is a need to continue and expand legal assistance in civil matters
2 to those who would otherwise be unable to afford adequate legal counsel; and

3 WHEREAS, The funding of legal assistance programs for those who are unable to
4 afford legal counsel will serve the ends of justice and the general welfare of all Maryland
5 citizens; and

6 WHEREAS, Maryland's legal services programs are currently able to provide
7 assistance to income eligible persons in less than twenty five percent of the civil legal
8 matters where such services are needed; and

9 WHEREAS, Federal funding for civil legal services in Maryland declined by
10 thirty two percent, or \$1,300,000, in 1996; and

11 WHEREAS, The annual level of funding received by the Maryland Legal Services
12 Corporation from the interest on the lawyer trust account program to help fund civil legal
13 services in our State has declined by nearly thirty five percent, or approximately
14 \$1,600,000, since 1992 while State general revenue funding for general civil legal
15 assistance to the poor of approximately \$560,000 annually has been eliminated; and

16 WHEREAS, As a result of current circumstances in our State the need for civil
17 legal assistance by Maryland's low income population is increasing even as the resources
18 for such services are declining; and

19 WHEREAS, Eighteen other states in the United States have established filing fee
20 surcharges in civil matters before state courts to be allocated to the provision of legal
21 assistance for low income persons in civil matters; and

22 WHEREAS, As a result of the current crisis which our State faces in assuring the
23 provision of legal assistance to our citizens, in 1995 the Maryland State Bar Association
24 established the Maryland Coalition on Civil Justice, which is a statewide task force
25 directed to undertake a comprehensive review of the system, services, delivery, priorities,
26 review, and funding of legal services in Maryland; and

27 WHEREAS, The Maryland Coalition of Civil Justice urges the establishment of a
28 filing fee surcharge on civil cases in our circuit and District Courts to help fund legal
29 assistance in our State; now, therefore,

30 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
31 MARYLAND, That the Laws of Maryland read as follows:

32 **Article - Courts and Judicial Proceedings**

33 ~~7-202.~~

34 ~~(a) (1) The State Court Administrator shall determine the amount of all court
35 costs and charges for the circuit courts of the counties with the approval of the Board of
36 Public Works. The fees and charges shall be uniform throughout the State.~~

37 ~~(2) The Comptroller of the State shall require clerks of court to collect all
38 fees required to be collected by law.~~

1 (b) The clerk may not charge the State, any county, municipality, or Baltimore
 2 City any fee provided by this subtitle, unless the State, county, municipality, or Baltimore
 3 City first gives its consent.

4 (c) The clerk is entitled to a reasonable fee for performing any other service that
 5 is not enumerated in this subtitle or in §§ 3-601 through 3-603 of the Real Property
 6 Article of the Code.

7 ~~(D) THE STATE COURT ADMINISTRATOR, AS PART OF THE ADMINISTRATOR'S~~
 8 ~~DETERMINATION OF THE AMOUNT OF COURT COSTS AND CHARGES IN CIVIL CASES,~~
 9 ~~SHALL ASSESS A SURCHARGE WHICH SHALL NOT BE MORE THAN \$10 PER CASE THAT~~
 10 ~~IS DEPOSITED INTO A NONLAPSING FUND TO BE DEDICATED TO THE MARYLAND~~
 11 ~~LEGAL SERVICES CORPORATION FOR CIVIL LEGAL SERVICES TO INDIGENTS AS~~
 12 ~~PROVIDED BY ARTICLE 10, §§ 45A THROUGH 45-O OF THE CODE.~~

13 ~~[(d)] (E) If a party in a proceeding feels aggrieved by any fee permitted under this~~
 14 ~~subtitle or by §§ 3-601 through 3-603 of the Real Property Article of the Code, the party~~
 15 ~~may request a judge of that circuit court to determine the reasonableness of the fee.~~

16 7-301.

17 (c) (1) The filing fees and costs in a civil case are those prescribed by law
 18 subject to modification by law, rule, or administrative regulation.

19 (2) ~~THE THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ASSESS A~~
 20 ~~SURCHARGE WHICH SHALL NOT BE MORE THAN \$3 PER SUMMARY EJECTMENT~~
 21 ~~CASE, \$5 PER CASE THAT IS~~

22 (3) ~~THE SURCHARGE SHALL BE~~ DEPOSITED INTO A NONLAPSING FUND
 23 TO BE DEDICATED TO THE MARYLAND LEGAL SERVICES CORPORATION FOR CIVIL
 24 LEGAL SERVICES TO INDIGENTS AS PROVIDED BY ARTICLE 10, §§ 45A THROUGH 45-O
 25 OF THE CODE.

26 [(2)] ~~(3)~~ (4) The Court of Appeals may provide by rule for waiver of
 27 prepayment of filing fees and other costs in cases of indigency.

28 SECTION 2. AND BE IT FURTHER ENACTED, That:

29 (a) In this section, "Fund" means the Maryland Legal Services Corporation Fund.

30 (b) In Fiscal Year 1998, moneys derived from the surcharge assessed in civil cases
 31 under § 7-301 of the Courts Article, as enacted by Section 1 of this Act, shall be
 32 transferred to the Fund.

33 (c) The Fund is a nonlapsing fund that is not subject to § 7-302 of the State
 34 Finance and Procurement Article.

35 (d) Expenditures from the Fund shall be made pursuant to an appropriation
 36 approved by the General Assembly in the annual State budget or by the budget
 37 amendment procedure provided for in § 7-209 of the State Finance and Procurement
 38 Article.

1 (e) The moneys distributed to the Fund shall be used by the Maryland Legal
2 Services Corporation to fund civil legal services to indigents as provided by Article 10, §§
3 45A through 45-O of the Code.

4 SECTION ~~2~~ 3, AND BE IT FURTHER ENACTED, That this Act shall take effect
5 ~~June~~ July 1, 1997. It shall remain effective until June 30, 1998 and, at the end of June 30,
6 1998, with no further action required by the General Assembly, this Act shall be
7 abrogated and of no further force and effect.