

SENATE BILL 332

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1998 Regular Session
8r1608

By: **Senators Green, Stone, Kelley, Hughes, Forehand, Boozer,
Middlebrooks, Ferguson, Sfikas, Jimeno, Hollinger, Blount, Lawlah,
Currie, McFadden, Conway, Frosh, Pinsky, and Trotter**

Introduced and read first time: February 5, 1998
Assigned to: Judicial Proceedings

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 19, 1998

CHAPTER _____

1 AN ACT concerning

2 **Civil Court Fees - Maryland Legal Services Corporation Fund**

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

11 FOR the purpose of establishing the Maryland Legal Services Corporation Fund;
12 providing that the Fund is a nonlapsing fund; requiring the Treasurer to invest
13 and reinvest the Fund in the same manner as other State funds and to credit
14 any investment earnings to the Fund; requiring the Fund to be administered by
15 the Administrative Office of the Courts; requiring expenditures from the Fund
16 to be made in accordance with an appropriation in the annual State budget or by
17 budget amendment; requiring moneys distributed and appropriated to the Fund
18 to be used by the Maryland Legal Services Corporation to fund civil legal
19 services to indigents; requiring the State Court Administrator to assess a
20 certain surcharge on court costs and charges in civil cases in the circuit courts;
21 requiring the Chief Judge of the District Court to assess a certain surcharge on
22 filing fees and costs in civil cases in the District Court; requiring the surcharges
23 to be deposited into the Fund; requiring the Governor to appropriate a certain
24 amount in the State budget each year to the Fund; authorizing the Governor to
25 transfer certain abandoned property funds to the Fund; requiring the interest

1 on certain attorney trust accounts to be payable to the Fund; authorizing the
 2 Administrative Office of the Courts, in consultation with the Maryland Legal
 3 Services Corporation, to waive a certain requirement under certain
 4 circumstances; requiring certain financial institutions to pay the net interest on
 5 certain accounts to the Fund; and generally relating to the Maryland Legal
 6 Services Corporation Fund.

7 BY repealing and reenacting, with amendments,
 8 Article 10 - Legal Officials
 9 Section 45-O
 10 Annotated Code of Maryland
 11 (1996 Replacement Volume and 1997 Supplement)

12 BY repealing and reenacting, with amendments,
 13 Article - Business Occupations and Professions
 14 Section 10-303
 15 Annotated Code of Maryland
 16 (1995 Replacement Volume and 1997 Supplement)

17 BY repealing and reenacting, with amendments,
 18 Article - Courts and Judicial Proceedings
 19 Section 7-202 and 7-301(c)
 20 Annotated Code of Maryland
 21 (1995 Replacement Volume and 1997 Supplement)

22 BY adding to
 23 Article - Courts and Judicial Proceedings
 24 Section 7-408
 25 Annotated Code of Maryland
 26 (1995 Replacement Volume and 1997 Supplement)

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

29 **Article 10 - Legal Officials**

30 45-O.

31 (a) (1) The Governor shall appropriate at least \$500,000 in the State budget
 32 each year to [support the activities of the Corporation] THE MARYLAND LEGAL
 33 SERVICES CORPORATION FUND ESTABLISHED UNDER § 7-408 OF THE COURTS
 34 ARTICLE.

35 (2) The appropriation to [support the Corporation] THE FUND shall be
 36 in the State operating budget that is submitted to the General Assembly in the third
 37 week of January each year, or in any supplement to that State budget.

1 (b) (1) To support the appropriation in subsection (a)(1) of this section or in
 2 addition to any appropriation in subsection (a)(1) of this section, the Governor may
 3 transfer to the [Corporation] FUND up to \$500,000 on July 1 of each year from the
 4 portion of abandoned property funds deposited in the general funds of the State under
 5 § 17-317 of the Commercial Law Article.

6 (2) To the extent that the balance in the portion of abandoned property
 7 funds deposited in the general funds of the State under § 17-317 of the Commercial
 8 Law Article, after deducting all costs of administering the fund, is less than \$500,000,
 9 then only the balance may be transferred in accordance with subsection (b)(1) of this
 10 section.

11 (c) [The Board shall use all appropriated funds solely for the funding of the
 12 Corporation's legal assistance programs. No appropriated funds may be used for the
 13 Corporation's administrative expenses.] ALL MONEYS APPROPRIATED TO THE
 14 MARYLAND LEGAL SERVICES CORPORATION FUND UNDER THIS SECTION SHALL BE
 15 USED IN ACCORDANCE WITH § 7-408(G) OF THE COURTS ARTICLE.

16 (d) Nonstate funds received by the Corporation shall be accounted for and
 17 reported as receipts and disbursements separate and distinct from State funds.

18 **Article - Business Occupations and Professions**

19 10-303.

20 (a) Subject to this section a lawyer shall deposit trust money in an attorney
 21 trust account, all interest on which is payable to the Maryland Legal Services
 22 Corporation [solely for the charitable purposes set forth in the Maryland Legal
 23 Services Corporation Act] FUND ESTABLISHED UNDER § 7-408 OF THE COURTS
 24 ARTICLE.

25 (b) A lawyer shall deposit trust money in an interest bearing account under
 26 this section whenever the lawyer reasonably expects that, for the period that the
 27 lawyer expects to hold the trust money, the interest that it would earn:

28 (1) would not exceed \$50; or

29 (2) (i) would exceed \$50; but

30 (ii) would not cover the cost of administering an interest bearing
 31 account on which interest is payable to the client or beneficial owner.

32 (c) The ADMINISTRATIVE OFFICE OF THE COURTS, IN CONSULTATION WITH
 33 THE Maryland Legal Services [Corporation] CORPORATION, may waive the
 34 provisions of subsection (b) of this section with respect to a lawyer or law firm that
 35 demonstrates that it will cost the Maryland Legal Services Corporation FUND more in
 36 service charges to open and maintain an attorney trust account [for the purposes of
 37 the Maryland Legal Services Corporation] WITH THE INTEREST PAYABLE TO THE
 38 MARYLAND LEGAL SERVICES CORPORATION FUND than will be generated in interest
 39 by the attorney trust account.

1 (d) (1) At least quarterly, each financial institution that has an account
 2 described under this section shall:

3 (i) deduct from the total interest accumulated in the account any
 4 service charge due on the account; and

5 (ii) pay the net interest to the Maryland Legal Services Corporation
 6 FUND.

7 (2) A financial institution:

8 (i) may not charge against the individual accounts of a lawyer any
 9 service charges for trust moneys in an account under this section; and

10 (ii) may charge the Maryland Legal Services Corporation FUND.

11 **Article - Courts and Judicial Proceedings**

12 7-202.

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

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

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

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

24 (D) THE STATE COURT ADMINISTRATOR, AS PART OF THE ADMINISTRATOR'S
 25 DETERMINATION OF THE AMOUNT OF COURT COSTS AND CHARGES IN CIVIL CASES,
 26 SHALL ASSESS A SURCHARGE THAT:

27 (1) MAY NOT BE MORE THAN \$10 PER CASE; AND

28 (2) ~~SHALL BE DEPOSITED INTO A NONLAPSING FUND TO BE DEDICATED~~
 29 ~~TO THE MARYLAND LEGAL SERVICES CORPORATION FOR CIVIL LEGAL SERVICES TO~~
 30 ~~INDIGENTS AS PROVIDED BY ARTICLE 10, §§ 45A THROUGH 45 O OF THE CODE THE~~
 31 MARYLAND LEGAL SERVICES CORPORATION FUND ESTABLISHED UNDER § 7-408 OF
 32 THIS TITLE.

33 [(d)] (E) If a party in a proceeding feels aggrieved by any fee permitted under
 34 this subtitle or by §§ 3-601 through 3-603 of the Real Property Article of the Code,

1 the party may request a judge of that circuit court to determine the reasonableness of
2 the fee.

3 7-301.

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

6 (2) THE CHIEF JUDGE OF THE DISTRICT COURT SHALL ASSESS A
7 SURCHARGE THAT:

8 (I) MAY NOT BE MORE THAN \$5 \$2 PER CIVIL CASE; AND

9 (II) ~~SHALL BE DEPOSITED INTO A NONLAPSING FUND TO BE~~
10 ~~DEDICATED TO THE MARYLAND LEGAL SERVICES CORPORATION FOR CIVIL LEGAL~~
11 ~~SERVICES TO INDIGENTS AS PROVIDED BY ARTICLE 10, §§ 45A THROUGH 45-O OF THE~~
12 ~~CODE THE MARYLAND LEGAL SERVICES CORPORATION FUND ESTABLISHED UNDER §~~
13 ~~7-408 OF THIS TITLE.~~

14 [(2)] (3) The Court of Appeals may provide by rule for waiver of
15 prepayment of filing fees and other costs in cases of indigency.

16 7-408.

17 (A) IN THIS SECTION, "FUND" MEANS THE MARYLAND LEGAL SERVICES
18 CORPORATION FUND.

19 (B) THERE IS A MARYLAND LEGAL SERVICES CORPORATION FUND.

20 ~~(C) IN FISCAL YEAR 1999, MONEYS DERIVED FROM THE SURCHARGE~~
21 ~~ASSESSED IN CIVIL CASES UNDER §§ 7-202 AND 7-301 OF THIS ARTICLE SHALL BE~~
22 ~~TRANSFERRED TO THE FUND.~~

23 (C) THE FUND CONSISTS OF:

24 (1) MONEYS DEPOSITED TO THE FUND FROM THE SURCHARGE
25 ASSESSED IN CIVIL CASES UNDER §§ 7-202 AND 7-301 OF THIS TITLE;

26 (2) MONEYS APPROPRIATED TO THE FUND UNDER ARTICLE 10, § 45-O OF
27 THE CODE; AND

28 (3) INTEREST ON ATTORNEY TRUST ACCOUNTS PAID TO THE FUND
29 UNDER § 10-303 OF THE BUSINESS OCCUPATIONS AND PROFESSIONS ARTICLE.

30 (D) THE FUND IS A NONLAPSING FUND THAT IS NOT SUBJECT TO § 7-302 OF
31 THE STATE FINANCE AND PROCUREMENT ARTICLE.

32 (E) THE TREASURER SHALL:

33 (1) INVEST AND REINVEST THE FUND IN THE SAME MANNER AS OTHER
34 STATE FUNDS; AND

1 (2) CREDIT ANY INVESTMENT EARNINGS TO THE FUND.

2 ~~(E)~~ (F) (1) THE FUND SHALL BE ADMINISTERED BY THE ADMINISTRATIVE
3 OFFICE OF THE COURTS.

4 (2) EXPENDITURES FROM THE FUND SHALL BE MADE IN ACCORDANCE
5 WITH AN APPROPRIATION REQUESTED BY THE JUDICIAL BRANCH OF THE STATE
6 GOVERNMENT UNDER § 7-108 OF THE STATE FINANCE AND PROCUREMENT ARTICLE
7 AND APPROVED BY THE GENERAL ASSEMBLY IN THE ANNUAL STATE BUDGET OR BY
8 THE BUDGET AMENDMENT PROCEDURE UNDER ~~§ 7-209~~ § 7-208.1 OF THE STATE
9 FINANCE AND PROCUREMENT ARTICLE.

10 ~~(F)~~ (G) THE MONEYS DISTRIBUTED TO THE FUND SHALL BE USED BY THE
11 MARYLAND LEGAL SERVICES CORPORATION TO FUND CIVIL LEGAL SERVICES TO
12 INDIGENTS AS PROVIDED BY ARTICLE 10, §§ 45A THROUGH 45-O OF THE CODE.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
14 effect July 1, 1998.