

BILL ANALYSIS

Senate Research Center
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S.B. 1085
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Finance
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AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The persistent economic downturn has led to an increase in poverty, budget shortfalls, and historically low interest rates on the Interest on Lawyers' Trust Accounts (IOLTA). These factors have created a strain on the available resources for Texans in need of civil legal services.

Funds generated from IOLTA are a primary source of civil legal aid funding in Texas. Due to low interest rates, IOLTA revenue for legal aid in 2011 to 2012 is projected to fall to only \$5 million per year, which will result in \$15 million less in available funds compared to levels in 2007. A \$20 million appropriation in 2009 resolved this funding shortfall and allowed legal services organizations to continue to provide legal aid to more than 100,000 low-income Texas families annually. With the economic decline, one out of five Texans now financially qualifies for basic civil legal services. Nearly half of the cases involve domestic abuse or other family law issues. Without continued funding, it can be expected that thousands of low-income Texans will be left without needed legal representation.

In 2009, the legislature recognized the IOLTA shortfall and approved an increase in the filing fee to fund civil legal services. The filing fee for justice courts was increased by \$5 and by \$10 for county courts. District courts were omitted from the legislation in 2009.

A legislative appropriation to resolve the \$20 million funding shortfall for basic civil legal services during the upcoming biennium would be ideal, but this is unlikely. Alternatively, funding for civil legal services should come from increasing the existing filing fee to fund civil legal services for indigents on any civil action or proceeding requiring a filing fee in district courts, from \$5 to \$15 in family law cases and proceeds and from \$10 to \$20 in any case other than a family law case. S.B. 1085 creates this fee increase.

As proposed, S.B. 1085 amends current law relating to the fees collected by district court clerks on the filing of certain civil actions or proceedings to fund basic civil legal services.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 133.152(a), Local Government Code, as follows:

(a) Requires the clerk of a district court, in addition to other fees collected under Section 133.151(a) (relating to collecting the fees on the filing of any civil suit) or otherwise authorized or required by law, to collect the following fees on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee:

(1) \$15, rather than \$5, in family law cases and proceedings as defined by Section 25.0002 (Definition), Government Code; and

(2) \$20, rather than \$10, in any case other than a case described by Subdivision (1).

SECTION 2. Amends Section 101.0615, Government Code, as follows:

Sec. 101.0615. DISTRICT COURT FEES AND COSTS: LOCAL GOVERNMENT CODE. Requires the clerk of a district court to collect certain fees and costs under the Local Government Code, including on the filing of any civil action or proceeding requiring a filing fee, including an appeal, and on the filing of any counterclaim, cross-action, intervention, interpleader, or third-party action requiring a filing fee, to fund civil legal services for the indigent, for family law cases and proceedings as defined by Section 25.0002, Government Code (Sec. 133.152, Local Government Code), \$15, rather than \$5; or, for any case other than a case described by Subparagraph (i) (Sec. 133.152, Local Government Code), \$20, rather than \$10.

SECTION 3. (a) Provides that Section 51.607 (Implementation of New or Amended Court Costs and Fees), Government Code, does not apply to the imposition or change in the amount of a fee imposed under Section 133.152(a), Local Government Code, as amended by this Act, or under Section 101.0615, Government Code, as amended by this Act.

(b) Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2011.