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**AB-3047 Court fees: waiver: Indian Child Welfare Act.** (2017-2018)

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**Assembly Bill No. 3047**

**CHAPTER 399**

An act to amend Section 70617 of the Government Code, relating to court fees.

[ Approved by Governor September 14, 2018. Filed with Secretary of State September 14, 2018. ]

**LEGISLATIVE COUNSEL'S DIGEST**

AB 3047, Daly. Court fees: waiver: Indian Child Welfare Act.

Existing law establishes fees for various court filings, including a \$500 fee for filing in superior court an application to appear as counsel pro hac vice and a fee for the annual renewal of that application.

This bill would waive the fee and renewal fee for filing pro hac vice when the applicant is an attorney representing a tribe in a child welfare matter under the federal Indian Child Welfare Act.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

**THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:**

**SECTION 1.** Section 70617 of the Government Code, as amended by Section 12 of Chapter 45 of the Statutes of 2018, is amended to read:

**70617.** (a) Except as provided in subdivisions (d) and (e), the uniform fee for filing a motion, application, or any other paper requiring a hearing subsequent to the first paper, is sixty dollars (\$60). Papers for which this fee shall be charged include the following:

- (1) A motion listed in paragraphs (1) to (12), inclusive, of subdivision (a) of Section 1005 of the Code of Civil Procedure.
- (2) A motion or application to continue a trial date.
- (3) An application for examination of a third person controlling defendant's property under Section 491.110 or 491.150 of the Code of Civil Procedure.
- (4) Discovery motions under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.
- (5) A motion for a new trial of a civil action or special proceeding.
- (6) An application for an order for a judgment debtor examination under Section 708.110 or 708.160 of the Code of Civil Procedure.
- (7) An application for an order of sale of a dwelling under Section 704.750 of the Code of Civil Procedure.

(8) An ex parte application that requires a party to give notice of the ex parte appearance to other parties.

(b) There shall be no fee under subdivision (a) or (c) for filing any of the following:

(1) A motion, application, demurrer, request, notice, or stipulation and order that is the first paper filed in an action and on which a first paper filing fee is paid.

(2) An amended notice of motion.

(3) A civil case management statement.

(4) A request for trial de novo after judicial arbitration.

(5) A stipulation that does not require an order.

(6) A request for an order to prevent civil harassment.

(7) A request for an order to prevent domestic violence.

(8) A request for entry of default or default judgment.

(9) A paper requiring a hearing on a petition for emancipation of a minor.

(10) A paper requiring a hearing on a petition for an order to prevent abuse of an elder or dependent adult.

(11) A paper requiring a hearing on a petition for a writ of review, mandate, or prohibition.

(12) A paper requiring a hearing on a petition for a decree of change of name or gender.

(13) A paper requiring a hearing on a petition to approve the compromise of a claim of a minor.

(c) The fee for filing the following papers not requiring a hearing is twenty dollars (\$20):

(1) A request, application, or motion for, or a notice of, the continuance of a hearing or case management conference. The fee shall be charged no more than once for each continuance. The fee shall not be charged if the continuance is required by the court.

(2) A stipulation and order.

(3) A request for an order authorizing service of summons by posting or by publication under Section 415.45 or 415.50 of the Code of Civil Procedure.

(d) The fee for filing a motion for summary judgment or summary adjudication of issues is five hundred dollars (\$500).

(e) (1) The fee for filing in the superior court an application to appear as counsel pro hac vice is five hundred dollars (\$500). This fee is in addition to any other fee required of the applicant. Two hundred fifty dollars (\$250) of the fee collected under this paragraph shall be transmitted to the state for deposit into the Immediate and Critical Needs Account of the State Court Facilities Construction Fund, established in Section 70371.5. The remaining two hundred fifty dollars (\$250) of the fee shall be transmitted to the state for deposit into the Trial Court Trust Fund, established in Section 68085.

(2) An attorney whose application to appear as counsel pro hac vice has been granted shall pay to the superior court, on or before the anniversary of the date the application was granted, an annual renewal fee of five hundred dollars (\$500) for each year that the attorney maintains pro hac vice status in the case in which the application was granted. The entire fee collected under this paragraph shall be transmitted to the state for deposit into the Trial Court Trust Fund, established in Section 68085.

(3) Fees imposed by this subdivision shall be waived when the applicant is an attorney representing a tribe in a child welfare matter under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(f) Regardless of whether each motion or matter is heard at a single hearing or at separate hearings, the filing fees required by subdivisions (a), (c), (d), and (e) apply separately to each motion or other paper filed. The Judicial Council may publish rules to give uniform guidance to courts in applying fees under this section.

(g) This section shall become inoperative on July 1, 2023, and, as of January 1, 2024, is repealed, unless a later enacted statute, that becomes operative on or before January 1, 2024, deletes or extends the dates on which it becomes inoperative and is repealed.

**SEC. 2.** Section 70617 of the Government Code, as amended by Section 13 of Chapter 45 of the Statutes of 2018, is amended to read:

**70617.** (a) Except as provided in subdivisions (d) and (e), the uniform fee for filing a motion, application, or any other paper requiring a hearing subsequent to the first paper, is forty dollars (\$40). Papers for which this fee shall be charged include the following:

- (1) A motion listed in paragraphs (1) to (12), inclusive, of subdivision (a) of Section 1005 of the Code of Civil Procedure.
- (2) A motion or application to continue a trial date.
- (3) An application for examination of a third person controlling defendant's property under Section 491.110 or 491.150 of the Code of Civil Procedure.
- (4) Discovery motions under Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.
- (5) A motion for a new trial of a civil action or special proceeding.
- (6) An application for an order for a judgment debtor examination under Section 708.110 or 708.160 of the Code of Civil Procedure.
- (7) An application for an order of sale of a dwelling under Section 704.750 of the Code of Civil Procedure.
- (8) An ex parte application that requires a party to give notice of the ex parte appearance to other parties.

(b) There shall be no fee under subdivision (a) or (c) for filing any of the following:

- (1) A motion, application, demurrer, request, notice, or stipulation and order that is the first paper filed in an action and on which a first paper filing fee is paid.
- (2) An amended notice of motion.
- (3) A civil case management statement.
- (4) A request for trial de novo after judicial arbitration.
- (5) A stipulation that does not require an order.
- (6) A request for an order to prevent civil harassment.
- (7) A request for an order to prevent domestic violence.
- (8) A request for entry of default or default judgment.
- (9) A paper requiring a hearing on a petition for emancipation of a minor.
- (10) A paper requiring a hearing on a petition for an order to prevent abuse of an elder or dependent adult.
- (11) A paper requiring a hearing on a petition for a writ of review, mandate, or prohibition.
- (12) A paper requiring a hearing on a petition for a decree of change of name or gender.
- (13) A paper requiring a hearing on a petition to approve the compromise of a claim of a minor.

(c) The fee for filing the following papers not requiring a hearing is twenty dollars (\$20):

- (1) A request, application, or motion for, or a notice of, the continuance of a hearing or case management conference. The fee shall be charged no more than once for each continuance. The fee shall not be charged if the continuance is required by the court.
- (2) A stipulation and order.
- (3) A request for an order authorizing service of summons by posting or by publication under Section 415.45 or 415.50 of the Code of Civil Procedure.

(d) The fee for filing a motion for summary judgment or summary adjudication of issues is five hundred dollars (\$500).

(e) (1) The fee for filing in the superior court an application to appear as counsel pro hac vice is five hundred dollars (\$500). This fee is in addition to any other fee required of the applicant. Two hundred fifty dollars (\$250) of the fee collected under this paragraph shall be transmitted to the state for deposit into the Immediate and Critical Needs Account of the State Court Facilities

Construction Fund, established in Section 70371.5. The remaining two hundred fifty dollars (\$250) of the fee shall be transmitted to the state for deposit into the Trial Court Trust Fund, established in Section 68085.

(2) An attorney whose application to appear as counsel pro hac vice has been granted shall pay to the superior court, on or before the anniversary of the date the application was granted, an annual renewal fee of five hundred dollars (\$500) for each year that the attorney maintains pro hac vice status in the case in which the application was granted. The entire fee collected under this paragraph shall be transmitted to the state for deposit into the Trial Court Trust Fund, established in Section 68085.

(3) Fees imposed by this subdivision shall be waived when the applicant is an attorney representing a tribe in a child welfare matter under the federal Indian Child Welfare Act (25 U.S.C. Sec. 1901 et seq.).

(f) Regardless of whether each motion or matter is heard at a single hearing or at separate hearings, the filing fees required by subdivisions (a), (c), (d), and (e) apply separately to each motion or other paper filed. The Judicial Council may publish rules to give uniform guidance to courts in applying fees under this section.

(g) This section shall become operative on July 1, 2023.