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HOUSE BILL 143

45TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2001

INTRODUCED BY

Gail C. Beam

FOR THE COURTS AND CRIMINAL JUSTICE COMMITTEE

AN ACT

RELATING TO JAILS; CHANGING THE RATE AT WHICH REDUCTIONS IN  
FINES, PENALTIES OR COSTS ARE COMPUTED; AMENDING SECTIONS OF  
THE NMSA 1978.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 33-3-11 NMSA 1978 (being Laws 1889,  
Chapter 9, Section 1, as amended) is amended to read:

"33-3-11. JAIL FOR NONPAYMENT OF FINE. --

A. Whenever any person is committed to [~~prison~~]  
jail for nonpayment of any fine or costs or both, he shall be  
credited with [~~five dollars (\$5.00)~~] one hundred dollars  
(\$100) a day in reduction thereof for each day or portion of a  
day of [~~imprisonment~~] incarceration. When the person has  
remained [~~imprisoned~~] incarcerated a sufficient length of time  
to extinguish the fine or cost or both, computed at this rate,

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1 or has paid to the sentencing court the amount of the fine or  
2 costs or both, remaining after deducting credit allowed by  
3 this section and obtaining from the court an order of release  
4 from commitment, the officer having the prisoner in custody  
5 shall discharge him from custody under commitment.

6 B. If the person in custody makes an affidavit  
7 that he has no property out of which he can pay the fine and  
8 costs, either or any part, the prisoner shall not be retained  
9 in custody longer than three months even though the fine and  
10 costs or either exceeds [~~four hundred fifty dollars (\$450)~~]  
11 the amount credited toward repayment during those three  
12 months. The affidavit shall be delivered to the sheriff or  
13 jail administrator as defined in Section 4-44-19 NMSA 1978  
14 having custody of the prisoner. "

15 Section 2. Section 35-15-3 NMSA 1978 (being Laws 1884,  
16 Chapter 39, Section 19, as amended) is amended to read:

17 "35-15-3. PROCEDURE--COMMITMENT.--

18 A. In any action for the violation of any  
19 ordinance in which an arrest has not been made, a warrant for  
20 the arrest of the defendant may issue in the first instance  
21 upon the affidavit of any person making a complaint that he  
22 has reasonable grounds to believe the party charged is guilty.  
23 Any person arrested upon such warrant shall, without  
24 unnecessary delay, be taken before the proper officer to be  
25 tried for the alleged offense or be allowed to post an

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1 appropriate bond.

2 B. Any municipality may provide by ordinance that  
3 the first process shall be a citation or summons in cases  
4 involving violations of any municipal ordinance not amounting  
5 to a breach of the peace, requiring the party charged to  
6 appear before the municipal court at a time fixed in the  
7 citation or summons. The ordinance may also provide that,  
8 upon the failure of the party charged to appear, a warrant for  
9 his arrest shall immediately issue by the municipal judge for  
10 the offense specified in the citation or summons, commanding  
11 that the party charged shall be arrested and proceedings had  
12 as in the case when arrest is made upon a warrant issued upon  
13 affidavit as provided in Subsection A of this section.

14 C. Any person upon whom any fine or penalty is  
15 imposed may, upon order of the court convicting him, be  
16 committed to the county jail, municipal jail, detention  
17 facility or other place provided by the municipality for the  
18 incarceration of offenders until the fine or penalty is fully  
19 paid. The ~~[imprisonment]~~ period of incarceration shall not  
20 exceed ninety days for any one offense except as authorized in  
21 Subsection C of Section 3-17-1 NMSA 1978. The municipal  
22 governing body may provide by ordinance that every person so  
23 committed shall work for the municipal corporation, at such  
24 labor as his strength will permit, within or without the jail  
25 or other place provided for the incarceration, not exceeding

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1 ten hours each working day. Each offender shall be credited  
2 with [~~five dollars (\$5.00)~~] one hundred dollars (\$100) per day  
3 in reduction of any fine."

4 Section 3. EFFECTIVE DATE. -- The effective date of the  
5 provisions of this act is July 1, 2001.

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