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HOUSE BILL 767

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

INTRODUCED BY

W. Ken Martinez

AN ACT

RELATING TO COURTS; INCREASING CERTAIN COURT FEES FOR THE
PURPOSE OF PROVIDING CIVIL LEGAL SERVICES TO LOW-INCOME
PERSONS; CREATING THE CIVIL LEGAL SERVICES COMMISSION; MAKING
AN APPROPRIATION.

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

Section 1. Section 34-6-40 NMSA 1978 (being Laws 1968,
Chapter 69, Section 42, as amended) is amended to read:

"34-6-40. FINANCE--FEES. --

A. District court clerks shall collect in civil
matters docketing any cause, whether original or reopened or
by appeal or transfer from any inferior court, a fee of
~~[eighty-two dollars (\$82.00)]~~ one hundred seven dollars
(\$107), ten dollars (\$10.00) of which shall be deposited in
the court automation fund and twenty-five dollars (\$25.00) of

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1 which shall be deposited in the civil legal services fund.

2 B. District court clerks shall collect for every
3 answer to an initial complaint or petition in any civil matter
4 a fee of twenty-five dollars (\$25.00), which shall be
5 deposited in the civil legal services fund.

6 [~~B-~~] C. No fees or costs shall be taxed against
7 the state, its political subdivisions or the nonprofit
8 corporations authorized to be formed under the Educational
9 Assistance Act.

10 [~~C-~~] D. Except as otherwise specifically provided
11 by law, docket fees shall be paid into the general fund. "

12 Section 2. Section 35-6-1 NMSA 1978 (being Laws 1968,
13 Chapter 62, Section 92, as amended) is amended to read:

14 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
15 "CONVICTED".--

16 A. Magistrate judges, including metropolitan court
17 judges, shall assess and collect and shall not waive, defer or
18 suspend the following costs:

19 docket fee, criminal actions under Section 29-5-1 NMSA
20 1978 \$ 1.00;
21 docket fee, to be collected prior to docketing any other
22 criminal action, except as provided in Subsection B
23 of Section 35-6-3 NMSA 1978 20.00.
24 Proceeds from this docket fee shall be transferred
25 to the administrative office of the courts for

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1 deposit in the court facilities fund;

2 docket fee, ten dollars (\$10.00) of which shall be

3 deposited in the court automation fund and fifteen

4 dollars (\$15.00) of which shall be deposited in the

5 civil legal services fund, to be collected prior to

6 docketing any civil action, except as provided in

7 Subsection A of Section 35-6-3 NMSA

8 1978 [47.00] 62.00;

9 answer fee, which shall be deposited in the civil legal

10 services fund, to be collected prior to filing an

11 answer to any civil action, except as provided in

12 Subsection A of Section 35-6-3 NMSA 1978 . . . 15.00

13 jury fee, to be collected from the party demanding trial

14 by jury in any civil action at the time the demand

15 is filed or made 25.00;

16 copying fee, for making and certifying copies of any

17 records in the court, for each page copied by

18 photographic process50.

19 Proceeds from this copying fee shall be transferred

20 to the administrative office of the courts for

21 deposit in the court facilities fund; and

22 copying fee, for computer-generated or electronically

23 transferred copies, per page 1.00.

24 Proceeds from this copying fee shall be transferred

25 to the administrative office of the courts for

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1 deposit in the court automation fund.

2 Except as otherwise specifically provided by law, docket
3 fees shall be paid into the court facilities fund.

4 B. Except as otherwise provided by law, no other
5 costs or fees shall be charged or collected in the magistrate
6 or metropolitan court.

7 C. The magistrate or metropolitan court may grant
8 free process to any party in any civil proceeding or special
9 statutory proceeding upon a proper showing of indigency. The
10 magistrate or metropolitan court may deny free process if it
11 finds that the complaint on its face does not state a cause of
12 action.

13 D. As used in this subsection, "convicted" means
14 the defendant has been found guilty of a criminal charge by
15 the magistrate or metropolitan judge, either after trial, a
16 plea of guilty or a plea of nolo contendere. Magistrate
17 judges, including metropolitan court judges, shall assess and
18 collect and shall not waive, defer or suspend the following
19 costs:

- 20 (1) corrections fee in any county without a
21 metropolitan court, to be collected upon conviction from
22 persons convicted of violating any provision of the Motor
23 Vehicle Code involving the operation of a motor vehicle,
24 convicted of a crime constituting a misdemeanor or a petty
25 misdemeanor or convicted of violating any ordinance that may

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1 be enforced by the imposition of a term of imprisonment
2 \$10.00;

3 (2) court automation fee, to be collected
4 upon conviction from persons convicted of violating any
5 provision of the Motor Vehicle Code involving the operation of
6 a motor vehicle, convicted of a crime constituting a
7 misdemeanor or a petty misdemeanor or convicted of violating
8 any ordinance that may be enforced by the imposition of a term
9 of imprisonment 10.00;

10 (3) traffic safety fee, to be collected upon
11 conviction from persons convicted of violating any provision
12 of the Motor Vehicle Code involving the operation of a motor
13 vehicle 3.00;

14 (4) judicial education fee, to be collected
15 upon conviction from persons convicted of operating a motor
16 vehicle in violation of the Motor Vehicle Code, convicted of a
17 crime constituting a misdemeanor or a petty misdemeanor or
18 convicted of violating any ordinance punishable by a term of
19 imprisonment 1.00;

20 (5) brain injury services fee, to be
21 collected upon conviction from persons convicted of violating
22 any provision of the Motor Vehicle Code involving the
23 operation of a motor vehicle 5.00;

24 and

25 (6) court facilities fee, to be collected

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1 upon conviction from persons convicted of violating any
2 provision of the Motor Vehicle Code involving the operation of
3 a motor vehicle, convicted of a crime constituting a
4 misdemeanor or a petty misdemeanor or convicted of violating
5 any ordinance that may be enforced by the imposition of a term
6 of imprisonment as follows:

- 7 in a county with a metropolitan court 24.00;
- 8 in any other county 10.00.

9 E. Metropolitan court judges shall assess and
10 collect and shall not waive, defer or suspend as costs a
11 mediation fee not to exceed five dollars (\$5.00) for the
12 docketing of small claims and criminal actions specified by
13 metropolitan court rule. Proceeds of the mediation fee shall
14 be deposited into the metropolitan court mediation fund. "

15 Section 3. [NEW MATERIAL] CIVIL LEGAL SERVICES--
16 COMMISSION-- FUND-- DISBURSEMENT. --

17 A. The "civil legal services commission" is
18 created. The commission shall be composed of five members,
19 all of whom have experience with the civil legal matters
20 affecting low-income persons. The members shall be appointed
21 as follows:

- 22 (1) two members appointed by the governor;
- 23 (2) two members, both of whom shall be
24 attorneys, appointed by the supreme court; and
- 25 (3) one member, who shall be an attorney,

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1 appointed by the state bar of New Mexico.

2 B. The initial appointee of the state bar shall
3 serve for three years. One of the initial members appointed
4 by the governor and one of the initial members appointed by
5 the supreme court shall serve for one year and the other
6 initial members appointed by the governor and by the supreme
7 court shall serve for two years. Thereafter, the terms of all
8 members shall be for three years.

9 C. Staff and meeting space for the commission
10 shall be provided by the local government division of the
11 department of finance and administration. The commission
12 shall elect a chair and such other officers as it deems
13 appropriate and shall meet at the call of the chair. Members
14 of the commission shall receive per diem and mileage pursuant
15 to the Per Diem and Mileage Act and shall receive no other
16 compensation.

17 D. The commission shall:

18 (1) pursuant to the Procurement Code, solicit
19 proposals for disbursements from the civil legal services
20 fund;

21 (2) enter into contracts for the expenditure
22 of the civil legal services fund, less administrative costs as
23 provided in Subsection E of this section, for the purpose of
24 improving civil legal services for low-income persons. The
25 contracts shall be entered into with nonprofit organizations:

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1 (a) whose mission is to provide a range
2 of free legal services to New Mexicans living in poverty and
3 who demonstrate the capacity to cooperate with state and local
4 bar associations, pro bono programs and private attorneys to
5 increase the availability of free legal services to
6 impoverished New Mexicans; or

7 (b) whose programs increase and
8 coordinate statewide access to and provisions of civil legal
9 services for persons living in poverty through the use of
10 technology; provided that no more than fifty percent of the
11 annual expenditures from the civil legal services fund shall
12 be used for purposes of this subparagraph; and

13 (3) adopt such rules as are necessary to
14 carry out the provisions of this section.

15 E. The local government division of the department
16 of finance and administration, pursuant to rules of the
17 commission, shall administer the contracts and programs
18 provided for in this section; provided that no more than five
19 percent of the annual expenditures from the civil legal
20 services fund shall be for administrative costs. The division
21 shall require an annual accounting from each organization
22 receiving funds pursuant to this section.

23 F. Money disbursed pursuant to this section shall
24 not be used by a recipient to:

25 (1) support lobbying, as defined in the

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1 Lobbyist Regulation Act; or

2 (2) bring suit against the state.

3 G. The "civil legal services fund" is created in
4 the state treasury. All earnings of the fund shall be
5 credited to the fund, and any unexpended or unencumbered
6 balance in the fund shall not revert to another fund at the
7 end of a fiscal year. Disbursements from the fund shall be by
8 warrant drawn by the secretary of finance and administration
9 pursuant to vouchers signed by the director of the local
10 government division of the department of finance and
11 administration. Money in the fund is appropriated to the
12 local government division and the civil legal services
13 commission for the purposes of carrying out the provisions of
14 this section.

15 H. As used in this section, "civil legal services"
16 means a full range of free legal services provided by
17 attorneys or attorney-supervised staff in noncriminal matters
18 to low-income persons living in New Mexico.

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

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