

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 jail for nonpayment of any fine or costs or both, he shall be credited with eight times the federal hourly minimum wage a day in reduction thereof for each day or portion of a day of incarceration. When the person has remained incarcerated a sufficient length of time to extinguish the fine or cost or both, computed at this rate, or has paid to the sentencing court the amount of the fine or costs or both, remaining after deducting credit allowed by this section and obtaining from the court an order of release from commitment, the officer having the prisoner in custody shall discharge him from custody under commitment.

B. If the person in custody makes an affidavit that he has no property out of which he can pay the fine and costs, either or any part, the prisoner shall not be retained in custody longer than sixty days even though the fine and

costs or either exceeds the amount credited toward repayment during those sixty days. The affidavit shall be delivered to the sheriff or jail administrator as defined in Section 4-44-19 NMSA 1978 having custody of the prisoner."

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

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

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

B. Any municipality may provide by ordinance that the first process shall be a citation or summons in cases involving violations of any municipal ordinance not amounting to a breach of the peace, requiring the party charged to appear before the municipal court at a time fixed in the citation or summons. The ordinance may also provide that, upon the failure of the party charged to appear, a warrant for his arrest shall immediately issue by the municipal judge for the offense specified in the citation or summons,

commanding that the party charged shall be arrested and proceedings had as in the case when arrest is made upon a warrant issued upon affidavit as provided in Subsection A of this section.

C. Any person upon whom any fine or penalty is imposed may, upon order of the court convicting him, be committed to the county jail, municipal jail, detention facility or other place provided by the municipality for the incarceration of offenders until the fine or penalty is fully paid. The period of incarceration shall not exceed sixty days for any one offense except as authorized in Subsection C of Section 3-17-1 NMSA 1978. The municipal governing body may provide by ordinance that every person so committed shall work for the municipal corporation, at such labor as his strength will permit, within or without the jail or other place provided for the incarceration, not exceeding ten hours each working day. Each offender shall be credited with eight times the federal hourly minimum wage per day in reduction of any fine."

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