

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 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 which shall be deposited in the civil legal services fund.

B. No fees or costs shall be taxed against the state, its political subdivisions or the nonprofit corporations authorized to be formed under the Educational Assistance Act.

C. Except as otherwise specifically provided by law, docket fees shall be paid into the general fund."

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

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

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

docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00;

docket fee, to be collected prior to docketing any
other
criminal action, except as provided in Subsection

B
of Section 35-6-3 NMSA 1978 20.00.

Proceeds from this docket fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund;

docket fee, ten dollars (\$10.00) of which shall be deposited in the court automation fund and fifteen dollars (\$15.00) of which shall be deposited in

the
to
civil legal services fund, to be collected prior to docketing any civil action, except as provided in Subsection A of Section 35-6-3 NMSA 1978 . 62.00;

jury fee, to be collected from the party demanding trial by jury in any civil action at the time the demand is filed or made 25.00;

copying fee, for making and certifying copies of any records in the court, for each page copied by

photographic process50.

Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court facilities fund; and

copying fee, for computer-generated or electronically transferred copies, per page 1.00.

Proceeds from this copying fee shall be transferred to the administrative office of the courts for deposit in the court automation fund.

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

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

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

D. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate or metropolitan judge, either after trial, a plea of guilty or a plea of nolo contendere. Magistrate

judges, including metropolitan court judges, shall assess and collect and shall not waive, defer or suspend the following costs:

(1) corrections fee in any county without a metropolitan court, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment \$10.00;

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

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

(4) judicial education fee, to be collected upon conviction from persons convicted of operating a motor vehicle in violation of the Motor Vehicle Code, convicted of

a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance punishable by a term of imprisonment 1.00;

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

and

(6) court facilities fee, to be collected upon conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as follows:

in a county with a metropolitan court 24.00;

in any other county 10.00.

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

Section 3. CIVIL LEGAL SERVICES-- COMMISSION-- FUND-- DISBURSEMENT. --

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

- (1) two members appointed by the governor;
- (2) two members, both of whom shall be attorneys, appointed by the supreme court; and
- (3) one member, who shall be an attorney, appointed by the state bar of New Mexico.

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

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

D. The commission shall:

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

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

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

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

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

E. The local government division of the department of finance and administration, pursuant to rules of the commission, shall administer the contracts and

programs provided for in this section; provided that no more than five percent of the annual expenditures from the civil legal services fund shall be for administrative costs. The division shall require an annual accounting from each organization receiving funds pursuant to this section.

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

(1) support lobbying, as defined in the Lobbyist Regulation Act; or

(2) bring suit against the state.

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

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

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