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SENATE BILL 498

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

INTRODUCED BY

Shannon Robinson

AN ACT

RELATING TO THE COURTS; PROVIDING THAT BENCH WARRANTS ISSUED BY A MAGISTRATE COURT BEFORE JANUARY 1, 2001 AND REMAINING UNSERVED ARE UNENFORCEABLE; PROVIDING CONDITIONS BEFORE WARRANTS MAY BE ISSUED; PROVIDING THAT ASSESSED FEES SHALL NOT BE COLLECTED IN CERTAIN INSTANCES.

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

Section 1. [NEW MATERIAL] MAGISTRATE COURTS--BENCH WARRANTS. --No bench warrant shall be issued by a magistrate court unless:

A. notice of the intent to issue a bench warrant has been sent to the last known address of the individual intended to be arrested; and

B. either:

(1) within thirty days after the date of the

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1 notice, the individual has not filed a motion to contest the
2 issuance of the warrant; or

3 (2) within thirty days after the date of the
4 notice, the individual has filed a motion to contest the
5 issuance of the warrant and, at a hearing, the court decides
6 that the warrant should be issued.

7 Section 2. Section 35-6-5 NMSA 1978 (being Laws 1993,
8 Chapter 261, Section 7) is amended to read:

9 "35-6-5. MAGISTRATE COURT WARRANT ENFORCEMENT FUND--
10 FEE--ADMINISTRATION--USE OF MONEY IN FUND.--

11 A. There is created in the state treasury the
12 "magistrate court warrant enforcement fund" to be administered
13 by the administrative office of the courts.

14 B. Upon issuance of a bench warrant, a magistrate
15 court shall assess a fee of one hundred dollars (\$100) against
16 the individual whose arrest is commanded by the bench warrant;
17 provided that the fee shall not be collected from the estate
18 of an individual who dies before the warrant can be served.

19 Money collected pursuant to the fee assessment authorized by
20 this subsection shall be deposited in the magistrate court
21 warrant enforcement fund.

22 C. All balances in the magistrate court warrant
23 enforcement fund are appropriated to the administrative office
24 of the courts for the primary purpose of employing personnel
25 and purchasing equipment and services to aid in the collection

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1 of fines, fees or costs owed to the magistrate courts. After
2 satisfaction of the primary purpose, any money remaining in
3 the fund may, to the extent deemed necessary by the director
4 of the administrative office of the courts, be used for the
5 secondary purpose of partially reimbursing law enforcement
6 agencies for the expense of serving bench warrants issued by
7 the magistrate courts, pursuant to an intergovernmental
8 agreement entered into between the law enforcement agency and
9 the administrative office of the courts.

10 D. Payments from the magistrate court warrant
11 enforcement fund shall be made upon warrants drawn by the
12 secretary of finance and administration pursuant to vouchers
13 issued and signed by the director of the administrative office
14 of the courts.

15 E. Any balance remaining in the magistrate court
16 warrant enforcement fund at the end of a fiscal year shall not
17 revert to the state general fund. "

18 Section 3. TEMPORARY PROVISION--AMNESTY FOR PRIOR
19 WARRANTS. --

20 A. A bench warrant issued by a magistrate court
21 prior to January 1, 2001 and, on the effective date of this
22 act, not yet served upon the individual ordered to be arrested
23 is unenforceable.

24 B. No fee assessed pursuant to Subsection B of
25 Section 35-6-5 NMSA 1978 shall be collected if the warrant is

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unenforceable pursuant to Subsection A of this section.