

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR  
HOUSE BILL 139

**56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023**

AN ACT

RELATING TO COURTS; ELIMINATING COURT FEES; PROVIDING  
ADDITIONAL WAYS OF SERVING COMMUNITY SERVICE TO PAY FINES, FEES  
OR COSTS; REDUCING IMPRISONMENT FOR NONPAYMENT OF FINES OR  
COSTS; AMENDING JAIL FOR NONPAYMENT OF FINES OR COSTS;  
REPEALING SECTIONS 31-12-6 THROUGH 31-12-8, 31-12-11, 31-12-13,  
35-14-11 AND 66-8-116.3 NMSA 1978 (BEING LAWS 1858-1859, P. 30;  
LAWS 1981, CHAPTER 367, SECTIONS 1 AND 2; LAWS 2003, CHAPTER  
387, SECTION 1; LAWS 2015, CHAPTER 10, SECTION 3; LAWS 1983,  
CHAPTER 134, SECTION 6; AND LAWS 1989, CHAPTER 318, SECTION 35,  
AS AMENDED).

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

**SECTION 1.** Section 31-12-3 NMSA 1978 (being Laws 1971,  
Chapter 236, Section 1, as amended) is amended to read:

"31-12-3. PAYING FINES, FEES OR COSTS IN INSTALLMENTS--  
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1 COMMUNITY SERVICE OPTION.--

2 A. Any person sentenced to pay a fine or to pay  
3 fees and costs in any criminal proceeding against ~~[him]~~ the  
4 person, either in addition to or without a term of  
5 imprisonment, ~~[may in the discretion of the court]~~ shall be  
6 allowed to pay such fine, fees or costs in installments of such  
7 amounts, at such times and upon such conditions as the court  
8 may fix.

9 B. The defendant may also be required to serve a  
10 period of time in labor to be known as "community service" in  
11 lieu of all or part of the fine, ~~[If unable to pay the fees or~~  
12 ~~costs, he may be granted permission to perform community~~  
13 ~~service in lieu of them as well]~~ fees or costs. The labor  
14 shall be meaningful, shall not be suspended or deferred and  
15 shall be of a type that benefits the public at large or any  
16 public, charitable or educational entity or institution,  
17 including job training, school attendance or participation in  
18 social service or rehabilitation programs, and is consistent  
19 with Article 9, Section 14 of the constitution of New Mexico.  
20 Any person performing community service pursuant to court order  
21 shall be immune from civil liability arising out of the  
22 community service other than for gross negligence, shall not be  
23 entitled to wages or considered an employee for any purpose and  
24 shall not be entitled to workers' compensation, unemployment or  
25 any other benefits otherwise provided by law. Instead, a

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1 person who performs community service shall receive credit  
2 toward the fine, fees or costs at twice the rate of the  
3 prevailing [~~federal~~] state hourly minimum wage. Unless  
4 otherwise provided, however, the total fine, fees and costs  
5 shall be payable forthwith.

6 [~~B.~~] C. The court may at any time revise, modify,  
7 reduce or enlarge the amount of the installment or the time and  
8 conditions fixed for payment of it.

9 [~~C.~~] D. When a defendant sentenced to pay a fine in  
10 installments or ordered to pay fees or costs defaults in  
11 payment, the court, upon motion of the prosecutor or upon its  
12 own motion, may require the defendant to show cause why [~~his~~]  
13 the defendant's default should not be treated as contumacious  
14 and may issue a summons or a warrant of arrest for [~~his~~] the  
15 defendant's appearance. It shall be a defense that the  
16 defendant did not willfully refuse to obey the order of the  
17 court or that [~~he~~] the defendant made a good faith effort to  
18 obtain the funds required for the payment. If the defendant's  
19 default was contumacious, the court may order [~~him~~] the  
20 defendant committed until the fine or a specified part of it or  
21 the fees or costs are paid. A defendant who is ordered to a  
22 period of confinement under this subsection shall receive  
23 credit toward the fine, fees or costs at twenty-four times the  
24 rate of the state minimum wage for each day or portion of a day  
25 of incarceration. A defendant shall receive credit at the same

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1 rate for all pre-sentence confinement served. The maximum term  
2 of imprisonment for such contumacious nonpayment shall be  
3 specified in the order of commitment.

4 ~~[D.]~~ E. If it appears that a defendant's default in  
5 the payment of a fine, fees or costs is not contumacious, the  
6 court may allow the defendant additional time for payment,  
7 reduce the amount of the fine or of each installment, revoke  
8 the fine or the unpaid portion in whole or in part or require  
9 the defendant to perform community service in lieu of the fine,  
10 fees or costs."

11 SECTION 2. Section 31-12-9 NMSA 1978 (being Laws 1981,  
12 Chapter 367, Section 3, as amended) is amended to read:

13 "31-12-9. CRIME LABORATORY FUND CREATED--APPROPRIATION.--  
14 There is created in the state treasury the "crime laboratory  
15 fund". ~~[All fees collected pursuant to the provisions of~~  
16 ~~Sections 31-12-7 and 31-12-8 NMSA 1978 shall be transmitted~~  
17 ~~monthly to the administrative office of the courts for credit~~  
18 ~~to the crime laboratory fund. All balances in the crime~~  
19 ~~laboratory fund of fees collected pursuant to the provisions of~~  
20 ~~Subsection A of Section 31-12-7 NMSA 1978 are appropriated to~~  
21 ~~the administrative office of the courts for payment upon~~  
22 ~~invoice to the scientific laboratory division of the health and~~  
23 ~~environment department, the New Mexico state police crime~~  
24 ~~laboratory division and the Albuquerque police crime laboratory~~  
25 ~~for costs related to chemical and other tests and analyses~~

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1 ~~described in those sections and incurred by these laboratories~~  
2 ~~and local law enforcement agencies. Payments out of the crime~~  
3 ~~laboratory fund of fees collected pursuant to the provisions of~~  
4 ~~Subsection A of Section 31-12-7 NMSA 1978 shall be made on~~  
5 ~~vouchers issued and signed by the director of the~~  
6 ~~administrative office of the courts upon warrants drawn by the~~  
7 ~~department of finance and administration.] The fund consists of~~  
8 ~~gifts, grants, donations, appropriations and distributions to~~  
9 ~~the fund made pursuant to the Tax Administration Act. All~~  
10 ~~balances in the crime laboratory fund [of fees collected~~  
11 ~~pursuant to the provisions of Subsection B of Section 31-12-7~~  
12 ~~NMSA 1978] are appropriated to the traffic safety bureau of the~~  
13 ~~[transportation program division of the state highway and~~  
14 ~~transportation] department of transportation to provide funds~~  
15 ~~to approved comprehensive community programs for the prevention~~  
16 ~~of driving while under the influence of alcohol or drugs and~~  
17 ~~for other traffic safety purposes. Payment out of the crime~~  
18 ~~laboratory fund [of fees collected pursuant to the provisions~~  
19 ~~of Subsection B of Section 31-12-7 NMSA 1978] shall be made on~~  
20 ~~vouchers issued and signed by the chief of the traffic safety~~  
21 ~~bureau upon warrants drawn by the department of finance and~~  
22 ~~administration."~~

23 **SECTION 3.** Section 31-12-12 NMSA 1978 (being Laws 2003,  
24 Chapter 387, Section 2, as amended) is amended to read:

25 "31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT OR

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1 INTERVENTION FUND CREATED--APPROPRIATION--PROGRAM  
2 REQUIREMENTS.--

3 A. The "domestic violence offender treatment or  
4 intervention fund" is created in the state treasury. [~~All fees~~  
5 ~~collected pursuant to the provisions of Section 31-12-11 NMSA~~  
6 ~~1978 shall be transmitted monthly to the department of finance~~  
7 ~~and administration for credit to the domestic violence offender~~  
8 ~~treatment or intervention fund.~~] The fund consists of gifts,  
9 grants, donations, appropriations and distributions to the fund  
10 made pursuant to the Tax Administration Act.

11 B. Balances in the domestic violence offender  
12 treatment or intervention fund are appropriated to the  
13 children, youth and families department to provide funds to  
14 domestic violence offender treatment or intervention programs  
15 to defray the cost of providing treatment or intervention to  
16 domestic violence offenders. Unexpended or unencumbered  
17 balances remaining in the fund at the end of any fiscal year  
18 shall not revert to the general fund.

19 C. Payment out of the domestic violence offender  
20 treatment or intervention fund shall be made on vouchers issued  
21 and signed by the secretary of children, youth and families  
22 upon warrants drawn by the department of finance and  
23 administration.

24 D. In order to be eligible for money from the  
25 domestic violence offender treatment or intervention fund, a

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1 domestic violence offender treatment or intervention program  
2 shall include the following components in its program:

3 (1) an initial assessment to determine if a  
4 domestic violence offender will benefit from participation in  
5 the program;

6 (2) a written contract, which must be signed  
7 by the domestic violence offender, that sets forth:

8 (a) attendance and participation  
9 requirements;

10 (b) consequences for failure to attend  
11 or participate in the program; and

12 (c) a confidentiality clause that  
13 prohibits disclosure of information revealed during treatment  
14 or intervention sessions;

15 (3) strategies to hold domestic violence  
16 offenders accountable for their violent behavior;

17 (4) a requirement that group discussions are  
18 limited to members of the same gender;

19 (5) an education component that:

20 (a) defines physical, emotional, sexual,  
21 economic and verbal abuse and techniques for stopping those  
22 forms of abuse; and

23 (b) examines gender roles,  
24 socialization, the nature of violence, the dynamics of power  
25 and control and the effects of domestic violence on children;

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1 (6) a requirement that a domestic violence  
2 offender not be under the influence of alcohol or drugs during  
3 a treatment or intervention session;

4 (7) a requirement, except with respect to a  
5 domestic violence offender who is a voluntary participant in  
6 the program, that the program provide monthly written reports  
7 to the presiding judge or the domestic violence offender's  
8 probation or parole officer regarding:

9 (a) proof of the domestic violence  
10 offender's enrollment in the program;

11 (b) progress reports that address the  
12 domestic violence offender's attendance, fee payments and  
13 compliance with other program requirements; and

14 (c) evaluations of progress made by the  
15 domestic violence offender and recommendations as to whether or  
16 not to require the offender's further participation in the  
17 program; and

18 (8) a requirement that the term of the program  
19 be at least fifty-two weeks.

20 E. Counseling for couples shall not be a component  
21 of a domestic violence offender treatment or intervention  
22 program.

23 F. As used in this section, "domestic violence  
24 offender" means a person:

25 (1) convicted for an offense pursuant to the

1 provisions of the Crimes Against Household Members Act;

2 (2) convicted for violating an order of  
3 protection granted by a court pursuant to the provisions of the  
4 Family Violence Protection Act;

5 (3) referred to a domestic violence offender  
6 treatment or intervention program by a judge, a domestic  
7 violence special commissioner or the parole board; or

8 (4) who voluntarily participates in a domestic  
9 violence offender treatment or intervention program."

10 SECTION 4. A new section of Chapter 31, Article 12 NMSA  
11 1978 is enacted to read:

12 "[NEW MATERIAL] RELIEF OF COURT DEBT FOR FEES OR COSTS.--  
13 The court, by its own motion or by defendant petition, may  
14 waive fees or costs assessed prior to July 1, 2024."

15 SECTION 5. Section 33-2-40 NMSA 1978 (being Laws 1913,  
16 Chapter 50, Section 2, as amended) is amended to read:

17 "33-2-40. FINES AND COSTS--SERVICE FOR.--~~[Sec. 68.]~~ All  
18 convicts sentenced to the [~~state~~] penitentiary of New Mexico  
19 who have a fine or costs or both attached to [~~such~~] the  
20 sentence shall not be required to serve more than [~~thirty~~]  
21 fifteen days for [~~such~~] the fine or costs."

22 SECTION 6. Section 33-3-11 NMSA 1978 (being Laws 1889,  
23 Chapter 9, Section 1, as amended) is amended to read:

24 "33-3-11. JAIL FOR NONPAYMENT OF FINE OR COSTS.--

25 A. Whenever any person is committed to jail for

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1 nonpayment of any fine or costs or both, [~~he~~] the person shall  
2 be credited with [~~eight~~] twenty-four times the [~~federal~~] state  
3 hourly minimum wage a day in reduction thereof for each day or  
4 portion of a day of incarceration. When the person has  
5 remained incarcerated a sufficient length of time to extinguish  
6 the fine or cost or both, computed at this rate, or has paid to  
7 the sentencing court the amount of the fine or costs or both,  
8 remaining after deducting credit allowed by this section and  
9 obtaining from the court an order of release from commitment,  
10 the officer having the prisoner in custody shall discharge  
11 [~~him~~] the prisoner from custody under commitment.

12 B. If the person in custody makes an affidavit that  
13 [~~he~~] the person has no property out of which [~~he~~] the person  
14 can pay the fine and costs, either or any part, the prisoner  
15 shall not be retained in custody longer than [~~sixty~~] fifteen  
16 days even though the fine and costs or either exceeds the  
17 amount credited toward repayment during those [~~sixty~~] fifteen  
18 days. The affidavit shall be delivered to the sheriff or jail  
19 administrator as defined in Section 4-44-19 NMSA 1978 having  
20 custody of the prisoner."

21 SECTION 7. Section 33-3-25 NMSA 1978 (being Laws 1983,  
22 Chapter 134, Section 1, as amended) is amended to read:

23 "33-3-25. LOCAL GOVERNMENT CORRECTIONS FUND CREATED--  
24 ADMINISTRATION--DISTRIBUTION.--

25 A. There is created in the state treasury the

1 "local government corrections fund" to be administered by the  
2 ~~[administrative office of the courts]~~ local government division  
3 of the department of finance and administration. The fund  
4 consists of gifts, grants, donations, appropriations and  
5 distributions to the fund made pursuant to the Tax  
6 Administration Act.

7 B. All balances in the local government corrections  
8 fund are appropriated to the ~~[administrative office of the~~  
9 ~~courts]~~ local government division of the department of finance  
10 and administration for payment to counties for county jailer or  
11 juvenile detention officer training; for the construction  
12 planning, construction, maintenance and operation of the county  
13 detention facility, jail or juvenile detention facility; for  
14 paying the cost of housing county prisoners or juveniles in any  
15 detention facility in the state; for alternatives to  
16 incarceration; or for complying with match or contribution  
17 requirements for the receipt of federal funds relating to  
18 detention facilities, jails or juvenile detention facilities.

19 ~~[Payments shall be made quarterly upon certification by the~~  
20 ~~magistrate court or metropolitan court and the motor vehicle~~  
21 ~~division of the taxation and revenue department of eligible~~  
22 ~~amounts as provided in Subsection C of this section.~~

23 ~~C. Each county shall be eligible for a payment in~~  
24 ~~an amount equal to the costs and fees collected by a magistrate~~  
25 ~~court or a metropolitan court and the motor vehicle division~~

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1 ~~pursuant to offenses committed within the county and deposited~~  
2 ~~in the local government corrections fund.~~

3 ~~D.]~~ C. Payments from the local government  
4 corrections fund shall be made upon vouchers issued and signed  
5 by the ~~[director of the administrative office of the courts]~~  
6 local government division of the department of finance and  
7 administration upon warrants drawn by the secretary of finance  
8 and administration.

9 ~~[E.]~~ D. All money received by a county pursuant to  
10 this section shall be deposited in a special fund in the county  
11 treasury and shall be used solely for:

12 (1) county jailer or juvenile detention  
13 officer training;

14 (2) the construction planning, construction,  
15 maintenance and operation of the county detention facility,  
16 jail or juvenile detention facility;

17 (3) paying the cost of housing county  
18 prisoners or juveniles in any detention facility in the state;

19 (4) alternatives to incarceration; or

20 (5) complying with match or contribution  
21 requirements for the receipt of federal funds relating to  
22 detention facilities, jails or juvenile detention facilities."

23 **SECTION 8.** Section 34-8A-12 NMSA 1978 (being Laws 1993,  
24 Chapter 261, Section 5) is amended to read:

25 "34-8A-12. METROPOLITAN COURT WARRANT ENFORCEMENT

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1 FUND--~~[FEE]~~ ADMINISTRATION--USE OF MONEY IN FUND.--

2 A. There is created in the state treasury the  
3 "metropolitan court warrant enforcement fund" to be  
4 administered by the Bernalillo county metropolitan court.

5 ~~[B. Upon issuance of a bench warrant, the~~  
6 ~~Bernalillo county metropolitan court shall assess an~~  
7 ~~administrative fee of one hundred dollars (\$100) against the~~  
8 ~~individual whose arrest is commanded by the bench warrant.~~  
9 ~~Money collected pursuant to the fee assessment authorized by~~  
10 ~~this subsection shall be deposited in the metropolitan court~~  
11 ~~warrant enforcement fund.] The fund consists of gifts, grants,~~  
12 ~~donations, appropriations and distributions to the fund made~~  
13 ~~pursuant to the Tax Administration Act.~~

14 ~~[G.]~~ B. All balances in the metropolitan court  
15 warrant enforcement fund are appropriated to the Bernalillo  
16 county metropolitan court for the primary purpose of employing  
17 personnel and ~~[purchasing equipment and services to aid in the~~  
18 ~~collection of fines, fees or costs owed to the Bernalillo~~  
19 ~~county metropolitan court] promoting compliance with court~~  
20 ~~orders.~~ After satisfaction of the primary purpose, any money  
21 remaining in the fund may, to the extent deemed necessary by  
22 the court, be used for the secondary purpose of partially  
23 reimbursing law enforcement agencies for the expense of serving  
24 bench warrants issued by the court, pursuant to an  
25 intergovernmental agreement entered into between the law

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1 enforcement agency and the court.

2           ~~[D-]~~ C. Payments from the metropolitan court  
3 warrant enforcement fund shall be made upon warrants drawn by  
4 the secretary of finance and administration pursuant to  
5 vouchers issued and signed by the Bernalillo county  
6 metropolitan court administrator.

7           ~~[E-]~~ D. Any balance remaining in the metropolitan  
8 court warrant enforcement fund at the end of a fiscal year  
9 shall not revert to the state general fund."

10           SECTION 9. Section 34-9-14 NMSA 1978 (being Laws 1998  
11 (1st S.S.), Chapter 6, Section 7, as amended) is amended to  
12 read:

13           "34-9-14. COURT FACILITIES FUND CREATED--ADMINISTRATION--  
14 DISTRIBUTION.--

15           A. The "court facilities fund" is created in the  
16 state treasury and shall be administered by the administrative  
17 office of the courts. The fund shall consist of court fees and  
18 lease and rental revenues transferred to or deposited in the  
19 fund, gifts, grants, donations, appropriations and distributions  
20 to the fund made pursuant to the Tax Administration Act.

21           B. All court facilities fees and other revenues  
22 deposited in the fund shall be distributed monthly to the New  
23 Mexico finance authority for deposit in a special bond fund or  
24 account of the authority. The New Mexico finance authority may  
25 pledge irrevocably all of these distributions to the authority

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1 for the payment of principal, interest and any other expenses or  
 2 obligations related to the bonds issued by the authority for  
 3 financing the acquisition of real property and for the design,  
 4 construction, furnishing and equipping of a new court building  
 5 for the Bernalillo county metropolitan court in Albuquerque and  
 6 of a parking facility adjacent to the court building.

7 C. Distributions from the court facilities fund to  
 8 the New Mexico finance authority shall be made upon vouchers  
 9 issued and signed by the director of the administrative office  
 10 of the courts upon warrants drawn by the secretary of finance  
 11 and administration.

12 D. Upon certification by the New Mexico finance  
 13 authority that all payments of principal, interest and any other  
 14 expenses or obligations related to the bonds issued by the  
 15 authority for financing the acquisition of real property and for  
 16 the design, construction, furnishing and equipping of a new  
 17 court building for the Bernalillo county metropolitan court in  
 18 Albuquerque and of a parking facility adjacent to the court  
 19 building have been satisfied, the court facilities fee shall be  
 20 eliminated."

21 SECTION 10. Section 34-13-1 NMSA 1978 (being Laws 1993,  
 22 Chapter 273, Section 1) is amended to read:

23 "34-13-1. JUDICIAL EDUCATION FUND CREATED--  
 24 ADMINISTRATION--INCOME TO THE FUND.--

25 A. The "judicial education fund" is created in the  
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1 state treasury and shall be administered by the [~~institute of~~  
2 ~~public law at the university of New Mexico law school~~]  
3 administrative office of the courts. Money in the fund shall be  
4 invested by the state treasurer as provided by law and earnings  
5 of the fund shall be credited to the fund. Unexpended or  
6 unencumbered balances remaining in the fund at the end of any  
7 fiscal year shall not revert.

8 B. Money from the fund may only be expended upon  
9 appropriation by the legislature.

10 C. The judicial education fund consists of [~~judicial~~  
11 ~~education fees levied and collected pursuant to Sections 35-6-1,~~  
12 ~~35-7-4, 35-14-11, 66-8-116.3 and 66-8-119 NMSA 1978]~~ gifts,  
13 grants, donations, appropriations to the fund and distributions  
14 to the fund made pursuant to the Tax Administration Act."

15 SECTION 11. Section 34-16-1 NMSA 1978 (being Laws 2009,  
16 Chapter 244, Section 2) is amended to read:

17 "34-16-1. JUVENILE ADJUDICATION FUND CREATED.--The  
18 "juvenile adjudication fund" is created in the state treasury to  
19 provide an alternative procedure of adjudication for juveniles  
20 charged with misdemeanor offenses to help alleviate the docket  
21 of the juvenile judicial system. The fund consists of [~~juvenile~~  
22 ~~adjudication fees levied and collected pursuant to Section~~  
23 ~~66-8-116.3 NMSA 1978]~~ gifts, grants, donations, appropriations  
24 and distributions to the fund made pursuant to the Tax  
25 Administration Act. Money in the fund at the end of a fiscal

1 year shall not revert to any other fund. The department of  
2 finance and administration shall administer the fund, and money  
3 in the fund is appropriated to the department of finance and  
4 administration to administer the fund and to provide an  
5 alternative adjudication process for juveniles charged with  
6 traffic offenses and other misdemeanors. Money expended to  
7 administer the fund shall not exceed five percent of the money  
8 credited to the fund in each fiscal year. Disbursements from  
9 the fund shall be made by warrant of the secretary of finance  
10 and administration pursuant to vouchers signed by the secretary  
11 or the secretary's authorized representative."

12 SECTION 12. 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 of~~  
23 ~~Section 35-6-3 NMSA 1978. . . . . 20.00.~~

24 ~~Proceeds from this docket fee shall be transferred to~~  
25 ~~the administrative office of the courts for deposit in~~

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~~the court facilities fund;~~]

docket fee, twenty dollars (\$20.00) of which shall be deposited in the court automation fund and fifteen dollars (\$15.00) of which shall be deposited in the 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 72.00; and 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 process . . . . . 0.50.

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

1 metropolitan court.

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

8 ~~[D. As used in this subsection, "convicted" means the~~  
9 ~~defendant has been found guilty of a criminal charge by the~~  
10 ~~magistrate or metropolitan judge, either after trial, a plea of~~  
11 ~~guilty or a plea of nolo contendere. Magistrate judges,~~  
12 ~~including metropolitan court judges, shall assess and collect~~  
13 ~~and shall not waive, defer or suspend the following costs:~~

14 ~~(1) corrections fee, to be collected upon~~  
15 ~~conviction from persons convicted of violating any provision of~~  
16 ~~the Motor Vehicle Code involving the operation of a motor~~  
17 ~~vehicle, convicted of a crime constituting a misdemeanor or a~~  
18 ~~petty misdemeanor or convicted of violating any ordinance that~~  
19 ~~may be enforced by the imposition of a term of imprisonment as~~  
20 ~~follows:~~

21 ~~in a county with a metropolitan court \$10.00;~~

22 ~~in a county without a metropolitan court 20.00;~~

23 ~~(2) court automation fee, to be collected upon~~  
24 ~~conviction from persons convicted of violating any provision of~~  
25 ~~the Motor Vehicle Code involving the operation of a motor~~

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1 ~~vehicle, convicted of a crime constituting a misdemeanor or a~~  
2 ~~petty misdemeanor or convicted of violating any ordinance that~~  
3 ~~may be enforced by the imposition of a term of imprisonment~~  
4 ~~10.00;~~

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

9 ~~(4) judicial education fee, to be collected upon~~  
10 ~~conviction from persons convicted of operating a motor vehicle~~  
11 ~~in violation of the Motor Vehicle Code, convicted of a crime~~  
12 ~~constituting a misdemeanor or a petty misdemeanor or convicted~~  
13 ~~of violating any ordinance punishable by a term of imprisonment~~  
14 ~~3.00;~~

15 ~~(5) jury and witness fee, to be collected upon~~  
16 ~~conviction from persons convicted of operating a motor vehicle~~  
17 ~~in violation of the Motor Vehicle Code, convicted of a crime~~  
18 ~~constituting a misdemeanor or a petty misdemeanor or convicted~~  
19 ~~of violating any ordinance punishable by a term of imprisonment~~  
20 ~~5.00;~~

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

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

8                   ~~in a county with a metropolitan court — 24.00;~~

9                   ~~in any other county — 10.00.~~

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

16                   **SECTION 13.** Section 35-6-3 NMSA 1978 (being Laws 1968,  
 17 Chapter 62, Section 94, as amended) is amended to read:

18                   "35-6-3. MAGISTRATE COSTS--ADVANCE PAYMENT.--~~[A.]~~ Except  
 19 for parties granted free process because of indigency, any party  
 20 filing any civil action or requesting services from the  
 21 magistrate court shall pay in advance the costs required by law  
 22 to be collected by magistrates.

23                   ~~[B. Any person filing a complaint in a criminal action~~  
 24 ~~in the magistrate court shall pay in advance the costs required~~  
 25 ~~by law to be collected by magistrates, except that no costs~~

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1 ~~shall be collected from a person filing a complaint in a~~  
2 ~~criminal action alleging domestic violence, a campus security~~  
3 ~~officer, a municipal police officer, an Indian tribal or pueblo~~  
4 ~~law enforcement officer or from a full-time, salaried county or~~  
5 ~~state law enforcement officer filing the complaint.]"~~

6 SECTION 14. Section 35-6-4 NMSA 1978 (being Laws 1968,  
7 Chapter 62, Section 95, as amended) is amended to read:

8 "35-6-4. MAGISTRATE COSTS--WITNESS FEES--REIMBURSEMENT.--  
9 [A.] If the plaintiff prevails in a civil action in the  
10 magistrate court, the amount of costs collected by the  
11 magistrate in the action shall be added to the judgment entered  
12 against the defendant. Fees actually paid by the prevailing  
13 party in a civil action in the magistrate court for service of  
14 the complaint and summons and for service of subpoenas shall be  
15 taxed against the losing party. Witness fees as provided by law  
16 for proceedings in the district courts shall be taxed against  
17 the losing party in the action, subject to the limitations of  
18 the Rules of Civil Procedure for the Magistrate Courts.

19 ~~[B. As used in this subsection, "convicted" means the~~  
20 ~~defendant has been found guilty of a criminal charge by the~~  
21 ~~magistrate, either after trial, a plea of guilty or a plea of~~  
22 ~~nolo contendere. If the defendant is convicted in any criminal~~  
23 ~~action in the magistrate court, the magistrate shall attempt to~~  
24 ~~collect from the defendant the docket fee and other fees~~  
25 ~~established by law as costs in criminal actions. If the~~

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1 ~~defendant chooses not to contest a penalty assessment~~  
 2 ~~misdemeanor pursuant to Section 66-8-116 NMSA 1978, the~~  
 3 ~~magistrate shall not collect the docket fee, but shall collect~~  
 4 ~~other costs as provided in Section 35-6-1 NMSA 1978. Any costs~~  
 5 ~~so collected from the defendant shall be paid by the magistrate~~  
 6 ~~to the administrative office of the courts, except that if the~~  
 7 ~~complaining witness in the action paid such costs upon filing~~  
 8 ~~the complaint in the action, the magistrate shall refund the~~  
 9 ~~costs paid by the complaining witness.]"~~

10 SECTION 15. Section 35-6-5 NMSA 1978 (being Laws 1993,  
 11 Chapter 261, Section 7) is amended to read:

12 "35-6-5. MAGISTRATE COURT WARRANT ENFORCEMENT FUND-- [FEE]  
 13 ADMINISTRATION--USE OF MONEY IN FUND.--

14 A. There is created in the state treasury the  
 15 "magistrate court warrant enforcement fund" to be administered  
 16 by the administrative office of the courts.

17 ~~[B. Upon issuance of a bench warrant, a magistrate~~  
 18 ~~court shall assess a fee of one hundred dollars (\$100) against~~  
 19 ~~the individual whose arrest is commanded by the bench warrant.~~  
 20 ~~Money collected pursuant to the fee assessment authorized by~~  
 21 ~~this subsection shall be deposited in the magistrate court~~  
 22 ~~warrant enforcement fund.] The fund consists of gifts, grants,~~  
 23 ~~donations, appropriations and distributions to the fund made~~  
 24 ~~pursuant to the Tax Administration Act.~~

25 ~~[G.]~~ B. All balances in the magistrate court warrant

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1 enforcement fund are appropriated to the administrative office  
2 of the courts for the primary purpose of employing personnel and  
3 ~~[purchasing equipment and services to aid in the collection of~~  
4 ~~finances, fees or costs owed to the magistrate courts]~~ promoting  
5 compliance with court orders. After satisfaction of the primary  
6 purpose, any money remaining in the fund may, to the extent  
7 deemed necessary by the director of the administrative office of  
8 the courts, be used for the secondary purpose of partially  
9 reimbursing law enforcement agencies for the expense of serving  
10 bench warrants issued by the magistrate courts, pursuant to an  
11 intergovernmental agreement entered into between the law  
12 enforcement agency and the administrative office of the courts.

13 ~~[D.]~~ C. Payments from the magistrate court warrant  
14 enforcement fund shall be made upon warrants drawn by the  
15 secretary of finance and administration pursuant to vouchers  
16 issued and signed by the director of the administrative office  
17 of the courts.

18 ~~[E.]~~ D. Any balance remaining in the magistrate court  
19 warrant enforcement fund at the end of a fiscal year shall not  
20 revert to the state general fund."

21 **SECTION 16.** Section 35-7-4 NMSA 1978 (being Laws 1968,  
22 Chapter 62, Section 99, as amended) is amended to read:

23 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY REMITTANCES.--  
24 Each magistrate court shall pay to the administrative office of  
25 the courts, not later than the date each month established by

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1 regulation of the director of the administrative office, the  
 2 amount of all fines, forfeitures and costs collected by the  
 3 court during the previous month, except for amounts disbursed in  
 4 accordance with law. The administrative office shall return to  
 5 each magistrate court a written receipt itemizing all money  
 6 received. The administrative office shall deposit the amount of  
 7 all fines and forfeitures with the state treasurer for credit to  
 8 the current school fund. The administrative office shall  
 9 deposit the amount of all costs assessed prior to July 1, 2024  
 10 and collected on or after July 1, 2024, except all costs  
 11 collected pursuant to [~~Subsections D and~~] Subsection E of  
 12 Section 35-6-1 NMSA 1978, for credit to the general fund. The  
 13 amount of all costs collected pursuant to [~~Subsections D and~~]  
 14 Subsection E of Section 35-6-1 NMSA 1978 shall be credited [~~as~~  
 15 ~~follows:~~

16 ~~A. the amount of all costs collected pursuant to~~  
 17 ~~Paragraph (1) of Subsection D of Section 35-6-1 NMSA 1978 for~~  
 18 ~~credit to the local government corrections fund;~~

19 ~~B. the amount of all costs collected pursuant to~~  
 20 ~~Paragraph (2) of Subsection D of Section 35-6-1 NMSA 1978 for~~  
 21 ~~credit to the court automation fund;~~

22 ~~C. the amount of all costs collected pursuant to~~  
 23 ~~Paragraph (3) of Subsection D of Section 35-6-1 NMSA 1978 for~~  
 24 ~~credit to the traffic safety education and enforcement fund;~~

25 ~~D. the amount of all costs collected pursuant to~~

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1 Paragraph ~~(4)~~ of Subsection D of Section ~~35-6-1~~ NMSA 1978 for  
2 credit to the judicial education fund;

3 E. ~~the amount of all costs collected pursuant to~~  
4 Paragraph ~~(5)~~ of Subsection D of Section ~~35-6-1~~ NMSA 1978 for  
5 credit to the jury and witness fee fund;

6 F. ~~the amount of all costs collected pursuant to~~  
7 Paragraph ~~(6)~~ of Subsection D of Section ~~35-6-1~~ NMSA 1978 for  
8 credit to the brain injury services fund;

9 G. ~~the amount of all costs collected pursuant to~~  
10 Paragraph ~~(7)~~ of Subsection D of Section ~~35-6-1~~ NMSA 1978 for  
11 credit to the court facilities fund; and

12 H. ~~the amount of all costs collected pursuant to~~  
13 Subsection E of Section ~~35-6-1~~ NMSA 1978 for credit] to the  
14 metropolitan court mediation fund."

15 SECTION 17. Section 35-14-1 NMSA 1978 (being Laws 1961,  
16 Chapter 208, Section 1, as amended) is amended to read:

17 "35-14-1. MUNICIPAL COURT--CREATION.--

18 A. Except for municipalities with a population of  
19 fewer than two thousand five hundred or more than five thousand  
20 persons in the most recent federal decennial census lying within  
21 the boundaries of a class A county with a population of more  
22 than two hundred thousand persons in the most recent federal  
23 decennial census and municipalities that have adopted an  
24 effective ordinance pursuant to Subsection D of this section,  
25 there is established a municipal court in each incorporated

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1 municipality. The municipal courts shall be presided over by  
2 municipal judges. As used in Chapter 35, Articles 14 and 15  
3 NMSA 1978, "municipality" includes H class counties.

4 B. The governing body of a municipality that is not  
5 governed by home rule, territorial or special charter and having  
6 a population fewer than ten thousand persons in the most recent  
7 federal decennial census, where the municipal court is located  
8 twenty-five or fewer miles from the nearest magistrate court,  
9 may by resolution express its intent to designate the magistrate  
10 court of the county in which the municipality is located as the  
11 court having jurisdiction over municipal ordinances. Within  
12 fifteen days from the adoption of a resolution pursuant to this  
13 section, the governing body of the municipality shall create a  
14 "municipal ordinance jurisdiction advisory committee". The  
15 municipal ordinance jurisdiction advisory committee shall be  
16 composed of the following members, who shall be residents of the  
17 municipality:

18 (1) the mayor;  
19 (2) a member of the governing body;  
20 (3) a municipal judge;  
21 (4) the chief of police; and  
22 (5) three members of the public, each selected by  
23 the mayor, the governing body and the municipal judge.

24 C. A municipal ordinance jurisdiction advisory  
25 committee shall:

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1           (1) hold at least one public hearing on the  
2 question of designating the magistrate court of the county in  
3 which the municipality is located as the court having  
4 jurisdiction over municipal ordinances;

5           (2) hear testimony from all interested persons,  
6 including the mayor, the governing body and the municipal judge;  
7 and

8           (3) submit a report, including recommendations  
9 directly to the governing body of the municipality, with copies  
10 to the mayor and municipal judge.

11           D. Following receipt of a report from the municipal  
12 ordinance jurisdiction advisory committee, the governing body of  
13 a municipality may, subject to approval by the supreme court,  
14 adopt an ordinance upon a three-fourths' majority vote to  
15 designate the magistrate court of the county in which the  
16 municipality is located as the court having jurisdiction over  
17 municipal ordinances. An ordinance adopted shall become  
18 effective only upon supreme court approval and the expiration of  
19 the term of the municipal judge in office on the date of the  
20 supreme court's approval of the ordinance.

21           E. Within five days after the effective date of an  
22 ordinance adopted pursuant to Subsection D of this section, the  
23 governing body of the municipality shall:

24           (1) forward a copy of the ordinance to the  
25 magistrate court and to the administrative office of the courts;

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1 and

2 (2) provide to the magistrate court copies of all  
3 municipal ordinances over which the magistrate court will have  
4 jurisdiction.

5 F. A magistrate court designated pursuant to  
6 Subsection D of this section shall, with respect to ordinances  
7 of the municipality:

8 (1) follow the rules of procedure for the  
9 municipal courts and the procedures provided by Chapter 35,  
10 Article 15 NMSA 1978; and

11 (2) impose no fine or sentence greater than that  
12 permitted for municipalities

13 ~~[(3) remit monthly to the state the court~~  
14 ~~automation and judicial education fees collected pursuant to~~  
15 ~~Subsection B of Section 35-14-11 NMSA 1978 as a result of~~  
16 ~~enforcement of municipal ordinances; and~~

17 ~~(4) remit monthly to the municipality the~~  
18 ~~corrections fee collected pursuant to Subsection B of Section~~  
19 ~~35-14-11 NMSA 1978 as a result of the enforcement of municipal~~  
20 ~~ordinances].~~

21 G. Any municipality that has passed an ordinance  
22 designating the magistrate court of the county in which the  
23 municipality is located as the court having jurisdiction over  
24 municipal ordinances may re-establish the municipal court as the  
25 court having jurisdiction over municipal ordinances through the

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1 following procedures:

2 (1) the governing body of the municipality may  
3 pass an ordinance rescinding the designation that was made  
4 pursuant to Subsection B of this section; or

5 (2) following receipt of a petition signed by at  
6 least twenty percent of the registered voters who voted in the  
7 last municipal election for the office of mayor:

8 (a) convene a municipal ordinance  
9 jurisdiction advisory committee pursuant to Subsection B of this  
10 section that shall make a report and recommendation, if any, to  
11 the governing body of the municipality; and

12 (b) the governing body shall indicate its  
13 assent to re-establishment of the municipal court by ordinance.

14 H. After July 1, 2024, no court shall assess post-  
15 adjudication fees previously authorized by statute and now  
16 repealed."

17 SECTION 18. Section 66-8-119 NMSA 1978 (being Laws 1968,  
18 Chapter 62, Section 159, as amended) is amended to read:

19 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

20 A. The division shall remit all penalty assessment  
21 receipts [~~except receipts collected pursuant to Subsections A~~  
22 ~~through I of Section 66-8-116.3 NMSA 1978]~~ to the state  
23 treasurer for credit to the general fund.

24 B. The division shall remit all penalty assessment fee  
25 receipts assessed prior to July 1, 2024 and collected [pursuant

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1 to:

2                   (1) ~~Subsection A of Section 66-8-116.3 NMSA 1978~~  
3 ~~to the state treasurer for credit to the local government~~  
4 ~~corrections fund;~~

5                   (2) ~~Subsection B of Section 66-8-116.3 NMSA 1978~~  
6 ~~to the state treasurer for credit to the court automation fund;~~

7                   (3) ~~Subsection C of Section 66-8-116.3 NMSA 1978~~  
8 ~~to the state treasurer for credit to the traffic safety~~  
9 ~~education and enforcement fund;~~

10                  (4) ~~Subsection D of Section 66-8-116.3 NMSA 1978~~  
11 ~~to the state treasurer for credit to the judicial education~~  
12 ~~fund;~~

13                  (5) ~~Subsection E of Section 66-8-116.3 NMSA 1978~~  
14 ~~to the state treasurer for credit to the jury and witness fee~~  
15 ~~fund;~~

16                  (6) ~~Subsection F of Section 66-8-116.3 NMSA 1978~~  
17 ~~to the state treasurer for credit to the juvenile adjudication~~  
18 ~~fund;~~

19                  (7) ~~Subsection G of Section 66-8-116.3 NMSA 1978~~  
20 ~~to the state treasurer for credit to the brain injury services~~  
21 ~~fund;~~

22                  (8) ~~Subsection H of Section 66-8-116.3 NMSA 1978~~  
23 ~~to the state treasurer for credit to the court facilities fund;~~  
24 and

25                  (9) ~~Subsection I of Section 66-8-116.3 NMSA 1978~~

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underscored material = new  
~~[bracketed material] = delete~~

1 ~~to the state treasurer for credit to the magistrate courts~~  
2 ~~operations fund] on or after July 1, 2024 to the state treasurer~~  
3 ~~for credit to the general fund."~~

4 SECTION 19. REPEAL.--Sections 31-12-6 through 31-12-8,  
5 31-12-11, 31-12-13, 35-14-11 and 66-8-116.3 NMSA 1978 (being  
6 Laws 1858-1859, p. 30; Laws 1981, Chapter 367, Sections 1 and 2;  
7 Laws 2003, Chapter 387, Section 1; Laws 2015, Chapter 10,  
8 Section 3; Laws 1983, Chapter 134, Section 6; and Laws 1989,  
9 Chapter 318, Section 35, as amended) are repealed.

10 SECTION 20. EFFECTIVE DATE.--

11 A. The effective date of the provisions of Sections 1,  
12 5 and 6 of this act is June 16, 2023.

13 B. The effective date of the provisions of Sections 2  
14 through 4 and 7 through 19 of this act is July 1, 2024.