

HOUSE JUDICIARY COMMITTEE SUBSTITUTE FOR
HOUSE BILL 139

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

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

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,

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HJC/HB 139

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--
COMMUNITY SERVICE OPTION.--

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

B. The defendant may also be required to serve a period of time in labor to be known as "community service" in lieu of all or part of the fine, ~~[If unable to pay the fees or costs, he may be granted permission to perform community service in lieu of them as well]~~ fees or costs. The labor shall be meaningful, shall not be suspended or deferred and shall be of a type that benefits the public at large or any public, charitable or educational entity or institution, including Hf11→enrollment in←Hf11 job training Hf11→, school attendance←Hf11 Hf11→or an academic or vocational program←Hf11

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or participation in social service or rehabilitation programs,
and is consistent with Article 9, Section 14 of the
constitution of New Mexico. Any person performing community
service pursuant to court order shall be immune from civil
liability arising out of the community service other than for
gross negligence, shall not be entitled to wages or considered
an employee for any purpose and shall not be entitled to
workers' compensation, unemployment or any other benefits
otherwise provided by law. Instead, a person who performs
community service shall receive credit toward the fine, fees or
costs at twice the rate of the prevailing [~~federal~~] state
hourly minimum wage. Unless otherwise provided, however, the
total fine, fees and costs shall be payable forthwith.

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

[G.] D. When a defendant sentenced to pay a fine in
installments or ordered to pay fees or costs defaults in
payment, the court, upon motion of the prosecutor or upon its
own motion, may require the defendant to show cause why [~~his~~]
the defendant's default should not be treated as contumacious
and may issue a summons or a warrant of arrest for [~~his~~] the
defendant's appearance. It shall be a defense that the
defendant did not willfully refuse to obey the order of the
court or that [~~he~~] the defendant made a good faith effort to
obtain the funds required for the payment. If the defendant's

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default was contumacious, the court may order ~~him~~ the defendant committed until the fine or a specified part of it or the fees or costs are paid. A defendant who is ordered to a period of confinement under this subsection shall receive credit toward the fine, fees or costs at twenty-four times the rate of the state minimum wage for each day or portion of a day of incarceration. A defendant shall receive credit at the same rate for all pre-sentence confinement served. The maximum term of imprisonment for such contumacious nonpayment shall be specified in the order of commitment.

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

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

"31-12-9. CRIME LABORATORY FUND CREATED--APPROPRIATION.-- There is created in the state treasury the "crime laboratory fund". ~~[All fees collected pursuant to the provisions of Sections 31-12-7 and 31-12-8 NMSA 1978 shall be transmitted monthly to the administrative office of the courts for credit to the crime laboratory fund. All balances in the crime~~

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~~laboratory fund of fees collected pursuant to the provisions of Subsection A of Section 31-12-7 NMSA 1978 are appropriated to the administrative office of the courts for payment upon invoice to the scientific laboratory division of the health and environment department, the New Mexico state police crime laboratory division and the Albuquerque police crime laboratory for costs related to chemical and other tests and analyses described in those sections and incurred by these laboratories and local law enforcement agencies. Payments out of the crime laboratory fund of fees collected pursuant to the provisions of Subsection A of Section 31-12-7 NMSA 1978 shall be made on vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the department of finance and administration.] The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act. All balances in the crime laboratory fund [~~of fees collected pursuant to the provisions of Subsection B of Section 31-12-7 NMSA 1978~~] are appropriated to the traffic safety bureau of the [~~transportation program division of the state highway and transportation~~] department of transportation to provide funds to approved comprehensive community programs for the prevention of driving while under the influence of alcohol or drugs and for other traffic safety purposes. Payment out of the crime laboratory fund [~~of fees collected pursuant to the provisions of Subsection B of Section 31-12-7 NMSA 1978~~] shall be made on~~

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vouchers issued and signed by the chief of the traffic safety bureau upon warrants drawn by the department of finance and administration."

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

"31-12-12. DOMESTIC VIOLENCE OFFENDER TREATMENT OR INTERVENTION FUND CREATED--APPROPRIATION--PROGRAM REQUIREMENTS.--

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

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

C. Payment out of the domestic violence offender

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treatment or intervention fund shall be made on vouchers issued and signed by the secretary of children, youth and families upon warrants drawn by the department of finance and administration.

D. In order to be eligible for money from the domestic violence offender treatment or intervention fund, a domestic violence offender treatment or intervention program shall include the following components in its program:

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

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

(a) attendance and participation requirements;

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

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

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

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

(5) an education component that:

(a) defines physical, emotional, sexual,

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economic and verbal abuse and techniques for stopping those forms of abuse; and

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

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

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

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

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

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

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

E. Counseling for couples shall not be a component

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of a domestic violence offender treatment or intervention program.

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

(1) convicted for an offense pursuant to the provisions of the Crimes Against Household Members Act;

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

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

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

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

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

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

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

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SECTION 6. 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 OR COSTS.--

A. Whenever any person is committed to jail for nonpayment of any fine or costs or both, [~~he~~] the person shall be credited with [~~eight~~] twenty-four times the [~~federal~~] state 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~~] the prisoner from custody under commitment.

B. If the person in custody makes an affidavit that [~~he~~] the person has no property out of which [~~he~~] the person can pay the fine and costs, either or any part, the prisoner shall not be retained in custody longer than [~~sixty~~] fifteen days even though the fine and costs or either exceeds the amount credited toward repayment during those [~~sixty~~] fifteen 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 7. Section 33-3-25 NMSA 1978 (being Laws 1983,

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Chapter 134, Section 1, as amended) is amended to read:

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

A. There is created in the state treasury the "local government corrections fund" to be administered by the ~~[administrative office of the courts]~~ local government division of the department of finance and administration. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All balances in the local government corrections fund are appropriated to the ~~[administrative office of the courts]~~ local government division of the department of finance and administration for payment to counties for county jailer or juvenile detention officer training; for the construction planning, construction, maintenance and operation of the county detention facility, jail or juvenile detention facility; for paying the cost of housing county prisoners or juveniles in any detention facility in the state; for alternatives to incarceration; or for complying with match or contribution requirements for the receipt of federal funds relating to detention facilities, jails or juvenile detention facilities. ~~[Payments shall be made quarterly upon certification by the magistrate court or metropolitan court and the motor vehicle division of the taxation and revenue department of eligible amounts as provided in Subsection C of this section.~~

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~~C. Each county shall be eligible for a payment in an amount equal to the costs and fees collected by a magistrate court or a metropolitan court and the motor vehicle division pursuant to offenses committed within the county and deposited in the local government corrections fund.~~

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

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

- (1) county jailer or juvenile detention officer training;
- (2) the construction planning, construction, maintenance and operation of the county detention facility, jail or juvenile detention facility;
- (3) paying the cost of housing county prisoners or juveniles in any detention facility in the state;
- (4) alternatives to incarceration; or
- (5) complying with match or contribution requirements for the receipt of federal funds relating to detention facilities, jails or juvenile detention facilities."

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

"34-8A-12. METROPOLITAN COURT WARRANT ENFORCEMENT FUND--~~[FEE]~~ ADMINISTRATION--USE OF MONEY IN FUND.--

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

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

~~[G.]~~ B. All balances in the metropolitan court warrant enforcement fund are appropriated to the Bernalillo county metropolitan court for the primary purpose of employing personnel and ~~[purchasing equipment and services to aid in the collection of fines, fees or costs owed to the Bernalillo county metropolitan court]~~ promoting compliance with court orders. After satisfaction of the primary purpose, any money remaining in the fund may, to the extent deemed necessary by the court, be used for the secondary purpose of partially reimbursing law enforcement agencies for the expense of serving

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bench warrants issued by the court, pursuant to an intergovernmental agreement entered into between the law enforcement agency and the court.

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

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

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

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

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

B. All court facilities fees and other revenues deposited in the fund shall be distributed monthly to the New Mexico finance authority for deposit in a special bond fund or

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account of the authority. The New Mexico finance authority may pledge irrevocably all of these distributions to the authority for the payment of principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing the acquisition of real property and for the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque and of a parking facility adjacent to the court building.

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

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

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

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

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

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

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

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

"34-16-1. JUVENILE ADJUDICATION FUND CREATED.--The "juvenile adjudication fund" is created in the state treasury to provide an alternative procedure of adjudication for juveniles charged with misdemeanor offenses to help alleviate the docket of the juvenile judicial system. The fund consists of ~~[juvenile adjudication fees levied and collected pursuant to Section 66-8-116.3 NMSA 1978]~~ gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax

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Administration Act. Money in the fund at the end of a fiscal year shall not revert to any other fund. The department of finance and administration shall administer the fund, and money in the fund is appropriated to the department of finance and administration to administer the fund and to provide an alternative adjudication process for juveniles charged with traffic offenses and other misdemeanors. Money expended to administer the fund shall not exceed five percent of the money credited to the fund in each fiscal year. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative."

SECTION 12. 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~~

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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

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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, 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 \$10.00;~~

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

~~(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~~

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~~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 3.00;~~

~~(5) jury and witness 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 5.00;~~

~~(6) 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

~~(7) court facilities fee, to be collected upon~~

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~~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.] D.~~ 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 13. Section 35-6-3 NMSA 1978 (being Laws 1968, Chapter 62, Section 94, as amended) is amended to read:

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

~~[B. Any person filing a complaint in a criminal action in the magistrate court shall pay in advance the costs required by law to be collected by magistrates, except that no costs shall be collected from a person filing a complaint in a criminal action alleging domestic violence, a campus security~~

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~~officer, a municipal police officer, an Indian tribal or pueblo law enforcement officer or from a full-time, salaried county or state law enforcement officer filing the complaint.]"~~

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

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

~~[B. As used in this subsection, "convicted" means the defendant has been found guilty of a criminal charge by the magistrate, either after trial, a plea of guilty or a plea of nolo contendere. If the defendant is convicted in any criminal action in the magistrate court, the magistrate shall attempt to collect from the defendant the docket fee and other fees established by law as costs in criminal actions. If the defendant chooses not to contest a penalty assessment misdemeanor pursuant to Section 66-8-116 NMSA 1978, the~~

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~~magistrate shall not collect the docket fee, but shall collect other costs as provided in Section 35-6-1 NMSA 1978. Any costs so collected from the defendant shall be paid by the magistrate to the administrative office of the courts, except that if the complaining witness in the action paid such costs upon filing the complaint in the action, the magistrate shall refund the costs paid by the complaining witness.]"~~

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

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

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

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

~~[C.]~~ B. All balances in the magistrate court warrant enforcement fund are appropriated to the administrative office of the courts for the primary purpose of employing personnel and ~~[purchasing equipment and services to aid in the collection of~~

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~~finer, fees or costs owed to the magistrate courts]~~ promoting compliance with court orders. After satisfaction of the primary purpose, any money remaining in the fund may, to the extent deemed necessary by the director of the administrative office of the courts, be used for the secondary purpose of partially reimbursing law enforcement agencies for the expense of serving bench warrants issued by the magistrate courts, pursuant to an intergovernmental agreement entered into between the law enforcement agency and the administrative office of the courts.

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

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

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

"35-7-4. **MAGISTRATE ADMINISTRATION--MONTHLY REMITTANCES.--** Each magistrate court shall pay to the administrative office of the courts, not later than the date each month established by regulation of the director of the administrative office, the amount of all fines, forfeitures and costs collected by the court during the previous month, except for amounts disbursed in

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accordance with law. The administrative office shall return to each magistrate court a written receipt itemizing all money received. The administrative office shall deposit the amount of all fines and forfeitures with the state treasurer for credit to the current school fund. The administrative office shall deposit the amount of all costs assessed prior to July 1, 2024 and collected on or after July 1, 2024, except all costs collected pursuant to [~~Subsections D and~~] Subsection E of Section 35-6-1 NMSA 1978, for credit to the general fund. The amount of all costs collected pursuant to [~~Subsections D and~~] Subsection E of Section 35-6-1 NMSA 1978 shall be credited [as follows:

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

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

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

~~D. the amount of all costs collected pursuant to Paragraph (4) of Subsection D of Section 35-6-1 NMSA 1978 for credit to the judicial education fund;~~

~~E. the amount of all costs collected pursuant to Paragraph (5) of Subsection D of Section 35-6-1 NMSA 1978 for~~

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~~credit to the jury and witness fee fund;~~

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

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

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

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

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

A. Except for municipalities with a population of fewer than two thousand five hundred or more than five thousand persons in the most recent federal decennial census lying within the boundaries of a class A county with a population of more than two hundred thousand persons in the most recent federal decennial census and municipalities that have adopted an effective ordinance pursuant to Subsection D of this section, there is established a municipal court in each incorporated municipality. The municipal courts shall be presided over by municipal judges. As used in Chapter 35, Articles 14 and 15 NMSA 1978, "municipality" includes H class counties.

B. The governing body of a municipality that is not

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governed by home rule, territorial or special charter and having a population fewer than ten thousand persons in the most recent federal decennial census, where the municipal court is located twenty-five or fewer miles from the nearest magistrate court, may by resolution express its intent to designate the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances. Within fifteen days from the adoption of a resolution pursuant to this section, the governing body of the municipality shall create a "municipal ordinance jurisdiction advisory committee". The municipal ordinance jurisdiction advisory committee shall be composed of the following members, who shall be residents of the municipality:

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

C. A municipal ordinance jurisdiction advisory committee shall:

- (1) hold at least one public hearing on the question of designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances;
- (2) hear testimony from all interested persons,

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including the mayor, the governing body and the municipal judge;
and

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

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

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

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

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

F. A magistrate court designated pursuant to

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Subsection D of this section shall, with respect to ordinances of the municipality:

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

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

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

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

G. Any municipality that has passed an ordinance designating the magistrate court of the county in which the municipality is located as the court having jurisdiction over municipal ordinances may re-establish the municipal court as the court having jurisdiction over municipal ordinances through the following procedures:

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

(2) following receipt of a petition signed by at least twenty percent of the registered voters who voted in the

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last municipal election for the office of mayor:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

~~(9) Subsection I of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the magistrate courts operations fund] on or after July 1, 2024 to the state treasurer for credit to the general fund."~~

SECTION 19. REPEAL.--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,

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Section 3; Laws 1983, Chapter 134, Section 6; and Laws 1989, Chapter 318, Section 35, as amended) are repealed.

SECTION 20. EFFECTIVE DATE.--

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

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

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