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HOUSE BILL 584

42ND LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 1996

INTRODUCED BY

GARY K. KING

AN ACT

**RELATING TO JUDICIAL PROCEEDINGS; ESTABLISHING AN ANSWER FEE FOR
CIVIL ACTIONS IN TRIAL COURTS; GRANTING FREE PROCESS TO
ANSWERING PARTIES IN CIVIL ACTIONS UPON A SHOWING OF INDIGENCY;
CREATING A FUND; DEDICATING PROCEEDS IN THE FUND FOR THE
PROVISION OF CIVIL LEGAL SERVICES TO INDIGENT PERSONS; MAKING AN
APPROPRIATION.**

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

**Section 1. Section 34-6-40 NMSA 1978 (being Laws 1968,
Chapter 69, Section 42, as amended) is amended to read:**

"34-6-40. FINANCE-- FEES. --

**A. District court clerks shall collect in civil
matters docketing any cause, whether original or reopened or by
appeal or transfer from any inferior court, a fee of seventy-two
dollars (\$72.00).**

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1 B. District court clerks shall collect an answer fee
2 of twenty-five dollars (\$25.00) from a party that answers a
3 complaint, a third-party complaint, a counter-claim or a cross-
4 claim in a civil action. The district court may waive the
5 answer fee for a party in a civil action upon a proper showing
6 of indigency. The proceeds of the answer fee shall be deposited
7 in the civil legal services fund.

8 [~~B.-~~] C. No fees or costs shall be taxed against the
9 state, its political subdivisions or the nonprofit corporations
10 authorized to be formed under the Educational Assistance Act.

11 [~~C.-~~] D. Except as otherwise specifically provided by
12 law, docket fees shall be paid into the general fund. "

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

15 "35-6-1. **MAGISTRATE COSTS--SCHEDULE--DEFINITION OF**
16 **"CONVICTED".--**

17 A. [~~Each magistrate~~] Magistrates, including
18 metropolitan court judges, shall collect the following costs:

19 Docket fee, criminal actions under Section 29-5-1
20 NMSA 1978 \$ 1.00

21 Docket fee, to be collected prior to docketing any
22 other criminal action, except as provided in Subsection B of
23 Section 35-6-3 NMSA 1978 20.00

24 Docket fee, to be collected prior to docketing any
25 civil action, except as provided in Subsection A of Section

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1 35-6-3 NMSA 1978 37.00

2 Answer fee, to be collected from a party that answers
3 a complaint, a third-party complaint, a counter-claim or a
4 cross-claim in a civil action 25.00

5 The proceeds of the answer fee shall be deposited in the civil
6 legal services fund.

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

10 Copying fee, for making and certifying copies of any
11 records in the court, for each page copied by photographic
12 process50

13 Copying fee, for computer-generated or electronically
14 transferred copies, per page 1.00

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

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

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

23 C. The magistrate or metropolitan court may grant
24 free process to any party in any civil proceeding or special
25 statutory proceeding upon a proper showing of indigency. The

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1 magistrate or metropolitan court may deny free process if it
2 finds that the complaint on its face does not state a cause of
3 action.

4 D. As used in this subsection, "convicted" means
5 the defendant has been found guilty of a criminal charge by the
6 magistrate or metropolitan judge, either after trial, a plea of
7 guilty or a plea of nolo contendere. [~~Each magistrate~~]
8 Magistrates, including metropolitan court judges, shall collect
9 the following costs:

10 (1) corrections fee, to be collected upon
11 conviction from persons convicted of violating any provision of
12 the Motor Vehicle Code involving the operation of a motor
13 vehicle, convicted of a crime constituting a misdemeanor or a
14 petty misdemeanor or convicted of violating any ordinance that
15 may be enforced by the imposition of a term of

16 imprisonment \$10.00;

17 (2) court automation fee, to be collected
18 upon conviction from persons convicted of violating any
19 provision of the Motor Vehicle Code involving the operation of
20 a motor vehicle 3.00;

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

25 and

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1 (4) judicial education fee, to be collected
2 upon conviction from persons convicted of operating a motor
3 vehicle in violation of the Motor Vehicle Code, convicted of a
4 crime constituting a misdemeanor or a petty misdemeanor or
5 convicted of violating any ordinance punishable by a term of
6 imprisonment 1.00.

7 E. Metropolitan court judges shall collect as costs
8 a mediation fee not to exceed five dollars (\$5.00) for the
9 docketing of small claims and criminal actions specified by
10 metropolitan court rule. Proceeds of the mediation fee shall
11 be deposited into the metropolitan court mediation fund."

12 Section 3. [NEW MATERIAL] CIVIL LEGAL SERVICES FUND
13 CREATED-- ADMINISTRATION-- DISTRIBUTION. --

14 A. There is created in the state treasury the
15 "civil legal services fund" to be administered by the
16 administrative office of the courts.

17 B. Balances in the civil legal services fund may be
18 expended by the administrative office of the courts for the
19 purpose of entering into contracts with nonprofit organizations
20 to provide free or reduced-fee civil legal services to indigent
21 persons in New Mexico. A contract entered into for the purpose
22 of providing civil legal services to indigent persons shall be
23 in accordance with the provisions of the Procurement Code.

24 C. Balances in the civil legal services fund shall
25 not revert to the general fund at the end of any fiscal year.

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D. Payments from the civil legal services fund 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.

Section 4. EFFECTIVE DATE. -- The effective date of the provisions of this act is July 1, 1996.

State of New Mexico House of Representatives

FORTY-SECOND LEGISLATURE

SECOND SESSION, 1996

February 5, 1996

Mr. Speaker:

Your JUDICIARY COMMITTEE, to whom has been
referred

HOUSE BILL 584

has had it under consideration and reports same with
recommendation that it DO PASS, and thence referred to
the APPROPRIATIONS AND FINANCE COMMITTEE.

Respectfully submitted,

Cisco McSorley, Chairman

FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 7 For 3 Against

Yes: 7

No: Alwin, Christensen, Larranaga

Excused: Foy, Luna, Sanchez, R. G.

Absent: None

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**State of New Mexico
House of Representatives**

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

FEBRUARY 7, 1996

Mr. Speaker:

**Your APPROPRIATIONS AND FINANCE COMMITTEE, to
whom has been referred**

HOUSE BILL 584

**has had it under consideration and reports same with
recommendation that it DO PASS.**

Respectfully submitted,

Max Coll, Chairman

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FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996

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Adopted _____ Not Adopted _____

(Chief Clerk) (Chief Clerk)

Date _____

The roll call vote was 13 For 0 Against

Yes: 13

Excused: Bird, Coll, Light, Martinez, Watchman

Absent: None

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1 FORTY-SECOND LEGISLATURE
2 SECOND SESSION, 1996

HB 584/a

3
4 February 12, 1996
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8 Mr. President:

9 Your JUDICIARY COMMITTEE, to whom has been referred

10
11 HOUSE BILL 584
12

13 has had it under consideration and reports same with
14 recommendation that it DO PASS, amended as follows:
15

16 1. On page 2, line 3, strike the first comma and insert in
17 lieu thereof "or".

18 2. On page 2, lines 3 and 4, strike ", a counter-claim or a
19 cross-claim in a civil action".
20

21 3. On page 3, line 3, strike the first comma and insert in
22 lieu thereof "or".
23

24 4. On page 3, lines 3 and 4, strike ", a counter-claim or a
25 cross-claim in a civil action".

5. On page 5, line 17, strike "may" and insert in lieu

**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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SJC/HB584

Page 13

thereof "shall",

and thence referred to the WAYS AND MEANS COMMITTEE.

Respectfully submitted,

Jani ce D. Paster, Chair man

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**FORTY-SECOND LEGISLATURE
SECOND SESSION, 1996**

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SJC/HB584

Page 14

Adopted _____ Not

Adopted _____

(Chief Clerk)

(Chief Clerk)

Date _____

The roll call vote was 5 For 2 Against

Yes: 5

No: Scott, Vernon

Excused: None

Absent: Carraro, Sanchez

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6 February 15, 1996
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8 Mr. President:
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10 Your CONFERENCE COMMI TTEE, to whom has been referred
11

12
13 HOUSE BILL 584, as amended
14

15
16 has had it under consideration and reports same with the following
17 recommendations:

18 1. The following Senate Judiciary Committee amendments be
19 DISAPPROVED:
20

21 Nos. 1, 2, 3, 4 and 5.
22

23 and that the bill be amended further as follows:
24

25 2. On page 1, strike lines 19 through 25, strike all of pages
2, 3 and 4 and on page 5, strike lines 1 through 11 and insert in
lieu thereof the following:

1
2 FORTY- SECOND LEGISLATURE
3 SECOND SESSION
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5 CC/HB 584, aa

Page 16

6 "Section 1. [NEW MATERIAL] ANSWER FEE-- DISTRICT COURTS. --
7 District court clerks shall collect an answer fee of twenty-five
8 dollars (\$25.00) from a party that answers a complaint, or a
9 third-party complaint, in a civil action. The district court may
10 waive the answer fee for a party in a civil action upon a proper
11 showing of indigence. The proceeds of the answer fee shall be
12 deposited in the civil legal services fund.

13
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15 . 112269B. 2

16
17 Section 2. [NEW MATERIAL] ANSWER FEE-- MAGISTRATE AND
18 METROPOLITAN COURTS. -- Magistrates, including metropolitan court
19 judges, shall collect an answer fee of twenty-five dollars
20 (\$25.00), to be collected from a party that answers a complaint,
21 or a third-party complaint, in a civil action. The magistrate or
22 metropolitan court may waive the answer fee for a party in a civil
23 action upon proper showing of indigence. The proceeds of the
24 answer fee shall be deposited in the civil legal services fund."
25

Respectfully submitted,

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FORTY- SECOND LEGI SLATURE
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CC/HB 584, aa

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Date _____

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6 February 15, 1996
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8 Mr. Speaker:
9

10 Your CONFERENCE COMMI TTEE, to whom has been referred
11

12
13 HOUSE BILL 584, as amended
14

15
16 has had it under consideration and reports same with the following
17 recommendations:

18 1. The following Senate Judiciary Committee amendments be
19 DISAPPROVED:

20
21 Nos. 1, 2, 3, 4 and 5.
22

23 and that the bill be amended further as follows:

24 2. On page 1, strike lines 19 through 25, strike all of pages
25 2, 3 and 4 and on page 5, strike lines 1 through 11 and insert in
lieu thereof the following:

1
2 FORTY- SECOND LEGI SLATURE
3 SECOND SESSI ON
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5 CC/HB 584, aa

Page 19

6 "Section 1. [NEW MATERIAL] ANSWER FEE-- DISTRICT COURTS. --
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15 . 112269A. 2
16

17 Section 2. [NEW MATERIAL] ANSWER FEE-- MAGISTRATE AND
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19 judges, shall collect an answer fee of twenty-five dollars
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21 or a third-party complaint, in a civil action. The magistrate or
22 metropolitan court may waive the answer fee for a party in a civil
23 action upon proper showing of indigence. The proceeds of the
24 answer fee shall be deposited in the civil legal services fund."
25

Respectfully submitted,

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FORTY- SECOND LEGI SLATURE
SECOND SESSI ON

CC/HB 584, aa

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Adopted _____
(Chi ef Clerk)

Not Adopted _____
(Chi ef Clerk)

Date _____

112269A. 2

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