

AN ACT

RELATING TO COURTS; INCREASING THE COURT AUTOMATION FEE IN CIVIL CASES FILED IN THE DISTRICT AND MAGISTRATE COURTS; PROVIDING FOR A JURY AND WITNESS FEE; INCREASING THE JUDICIAL EDUCATION FEE.

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 by Laws 2001, Chapter 277, Section 1 and by Laws 2001, Chapter 279, Section 1) is amended to read:

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

A. Except as provided in Subsection B of this section, district court clerks shall collect in civil matters docketing any cause, whether original or reopened or by appeal or transfer from any inferior court, a fee of one hundred seventeen dollars (\$117), twenty dollars (\$20.00) of which shall be deposited in the court automation fund and twenty-five dollars (\$25.00) of which shall be deposited in the civil legal services fund.

B. In those matters where the fee provided for in Section 40-12-6 NMSA 1978 is collected, district court clerks shall collect a fee of one hundred seven dollars (\$107), ten dollars (\$10.00) of which shall be deposited in the court automation fund and twenty-five dollars (\$25.00) of which

shall be deposited in the civil legal services fund.

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

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

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

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

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

docket fee, criminal actions under Section 29-5-1 NMSA
1978 \$ 1.00;
docket fee, to be collected prior to docketing any other
criminal action, except as provided in Subsection B
of Section 35-6-3 NMSA 1978 20.00.
Proceeds from this docket fee shall be transferred
to the administrative office of the courts for
deposit in the court facilities fund;
docket fee, 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;

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 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 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 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 conviction from persons convicted of violating any provision of the Motor Vehicle Code involving the operation of a motor

vehicle, convicted of a crime constituting a misdemeanor or a petty misdemeanor or convicted of violating any ordinance that may be enforced by the imposition of a term of imprisonment as follows:

in a county with a metropolitan court 24.00;
in any other county 10.00.

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

Section 3. 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 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, except all costs collected pursuant to Subsections D and 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 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 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 4. Section 35-14-11 NMSA 1978 (being Laws 1983, Chapter 134, Section 6, as amended) is amended to read:

"35-14-11. MUNICIPAL ORDINANCE--COURT COSTS--
COLLECTION--PURPOSE.--

A. Every municipality shall enact an ordinance requiring assessment of corrections fees, judicial education fees and court automation fees to be collected as court costs and used as provided in this section.

B. A municipal judge shall collect the following costs:

(1) a corrections fee of twenty dollars
(\$20.00);

(2) a judicial education fee of three dollars
(\$3.00); and

(3) a court automation fee of six dollars
(\$6.00).

C. The fees are to be collected upon conviction from persons convicted of violating any ordinance relating to the operation of a motor vehicle or any ordinance that may be enforced by the imposition of a term of imprisonment.

D. All money collected pursuant to Paragraph (1) of Subsection B of this section shall be deposited in a special fund in the municipal treasury and shall be used for:

(1) municipal jailer or juvenile detention officer training;

(2) the construction planning, construction, operation and maintenance of a municipal jail or juvenile detention facility;

(3) paying the cost of housing municipal prisoners in a county jail or detention facility or housing juveniles in a detention facility;

(4) complying with match or contribution requirements for the receipt of federal funds relating to jails or juvenile detention facilities;

(5) providing inpatient treatment or other substance abuse programs in conjunction with or as an alternative to jail sentencing;

(6) defraying the cost of transporting prisoners to jails or juveniles to juvenile detention facilities; or

(7) providing electronic monitoring systems.

E. A municipality may credit the interest collected from fees deposited in the special fund pursuant to Subsection D of this section to the municipality's general fund.

F. All money collected pursuant to Paragraph (2) of

Subsection B of this section shall be remitted monthly to the state treasurer for credit to the judicial education fund and shall be used for the education and training, including production of bench books and other written materials, of municipal judges and other municipal court employees.

G. All money collected pursuant to Paragraph (3) of Subsection B of this section shall be remitted monthly to the state treasurer for credit to the municipal court automation fund and shall be used for the purchase, maintenance and operation of court automation systems in the municipal courts. Operation includes staff expenses, temporary or otherwise, and costs as needed to comply with Section 35-14-12 NMSA 1978. The court automation systems shall have the capability of providing, on a timely basis, electronic records in a format specified by the judicial information systems council.

H. As used in this section, "convicted" means the defendant has been found guilty of a criminal charge by a municipal judge, either after trial, a plea of guilty or a plea of nolo contendere."

Section 5. Section 66-8-116.3 NMSA 1978 (being Laws 1989, Chapter 318, Section 35, Laws 1989, Chapter 319, Section 14 and Laws 1989, Chapter 320, Section 5, as amended) is amended to read:

"66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL FEES.--In addition to the penalty assessment established for

each penalty assessment misdemeanor, there shall be assessed:

A. in a county without a metropolitan court, twenty dollars (\$20.00) to help defray the costs of local government corrections;

B. a court automation fee of ten dollars (\$10.00);

C. a traffic safety fee of three dollars (\$3.00), which shall be credited to the traffic safety education and enforcement fund;

D. a judicial education fee of three dollars (\$3.00), which shall be credited to the judicial education fund;

E. a jury and witness fee of five dollars (\$5.00), which shall be credited to the jury and witness fee fund;

F. a brain injury services fee of five dollars (\$5.00), which shall be credited to the brain injury services fund; and

G. a court facilities fee as follows:

in a county with a metropolitan court \$24.00;

in any other county 10.00."

Section 6. 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 G 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 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;

(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 brain injury services fund; and

(7) Subsection G of Section 66-8-116.3 NMSA 1978 to the state treasurer for credit to the court facilities fund."

Section 7. EFFECTIVE DATE.--The effective date of the

provisions of this act is July 1, 2009. _____

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