

HOUSE TAXATION AND REVENUE COMMITTEE SUBSTITUTE FOR
HOUSE BILL 179

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

AN ACT

RELATING TO MISDEMEANOR FEES; RAISING THE TRAFFIC SAFETY FEE TO SIX DOLLARS (\$6.00) FOR THE TRAFFIC SAFETY EDUCATION AND ENFORCEMENT FUND; IMPOSING AN INTERLOCK DEVICE FEE OF TWO DOLLARS (\$2.00) FOR THE INTERLOCK DEVICE FUND; DIRECTING THE DISPOSITION OF CERTAIN PENALTY ASSESSMENT MISDEMEANOR RECEIPTS; RECONCILING MULTIPLE AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2009; MAKING AN APPROPRIATION.

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

Section 1. 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

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1 suspend the following costs:

2 docket fee, criminal actions under Section 29-5-1 NMSA
3 1978 \$ 1.00;

4 docket fee, to be collected prior to docketing any other
5 criminal action, except as provided in Subsection B
6 of Section 35-6-3 NMSA 1978 20.00.

7 Proceeds from this docket fee shall be transferred
8 to the administrative office of the courts for
9 deposit in the court facilities fund;

10 docket fee, twenty dollars (\$20.00) of which shall be
11 deposited in the court automation fund and fifteen
12 dollars (\$15.00) of which shall be deposited in the
13 civil legal services fund, to be collected prior to
14 docketing any civil action,

15 except as provided in Subsection A of Section 35-6-3
16 NMSA 1978 72.00;

17 jury fee, to be collected from the party demanding trial
18 by jury in any civil action at the time the demand
19 is filed or made 25.00;

20 copying fee, for making and certifying copies of any
21 records in the court, for each page copied by
22 photographic process [50] 0.50.

23 Proceeds from this copying fee shall be transferred
24 to the administrative office of the courts for
25 deposit in the court facilities fund; and

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1 copying fee, for computer-generated or electronically
 2 transferred copies, per page 1.00.
 3 Proceeds from this copying fee shall be transferred
 4 to the administrative office of the courts for
 5 deposit in the court automation fund.

6 Except as otherwise specifically provided by law, docket
 7 fees shall be paid into the court facilities fund.

8 B. Except as otherwise provided by law, no other
 9 costs or fees shall be charged or collected in the magistrate
 10 or metropolitan court.

11 C. The magistrate or metropolitan court may grant
 12 free process to any party in any civil proceeding or special
 13 statutory proceeding upon a proper showing of indigency. The
 14 magistrate or metropolitan court may deny free process if it
 15 finds that the complaint on its face does not state a cause of
 16 action.

17 D. As used in this subsection, "convicted" means the
 18 defendant has been found guilty of a criminal charge by the
 19 magistrate or metropolitan judge, either after trial, a plea of
 20 guilty or a plea of nolo contendere. Magistrate judges,
 21 including metropolitan court judges, shall assess and collect
 22 and shall not waive, defer or suspend the following costs:

23 (1) corrections 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 as
4 follows:

5 in a county with a metropolitan court \$10.00;

6 in a county without a metropolitan court 20.00;

7 (2) court automation fee, to be collected upon
8 conviction from persons convicted of violating any provision of
9 the Motor Vehicle Code involving the operation of a motor
10 vehicle, convicted of a crime constituting a misdemeanor or a
11 petty misdemeanor or convicted of violating any ordinance that
12 may be enforced by the imposition of a term of
13 imprisonment 10.00;

14 (3) traffic safety 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 [~~3.00~~] 6.00;

18 (4) judicial education fee, to be collected upon
19 conviction from persons convicted of operating a motor vehicle
20 in violation of the Motor Vehicle Code, convicted of a crime
21 constituting a misdemeanor or a petty misdemeanor or convicted
22 of violating any ordinance punishable by a term of
23 imprisonment 3.00;

24 (5) jury and witness fee, to be collected upon
25 conviction from persons convicted of operating a motor vehicle

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1 in violation of the Motor Vehicle Code, convicted of a crime
2 constituting a misdemeanor or a petty misdemeanor or convicted
3 of violating any ordinance punishable by a term of imprisonment
4 5.00;

5 (6) juvenile adjudication fee, to be collected
6 upon conviction from persons convicted of violating any
7 provision of the Motor Vehicle Code involving the operation of
8 a motor vehicle 1.00;

9 [~~6~~] (7) brain injury services fee, to be
10 collected upon conviction from persons convicted of violating
11 any provision of the Motor Vehicle Code involving the operation
12 of a motor vehicle 5.00;

13 [~~and~~]

14 (8) an interlock device fee, to be collected
15 upon conviction from persons convicted of violating any
16 provision of the Motor Vehicle Code involving the operation of
17 a motor vehicle 2.00;

18 and

19 [~~7~~] (9) court facilities fee, to be collected
20 upon conviction from persons convicted of violating any
21 provision of the Motor Vehicle Code involving the operation of
22 a motor vehicle, convicted of a crime constituting a
23 misdemeanor or a petty misdemeanor or convicted of violating
24 any ordinance that may be enforced by the imposition of a term
25 of imprisonment as follows:

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

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

9 Section 2. Section 35-7-4 NMSA 1978 (being Laws 1968,
 10 Chapter 62, Section 99, as amended) is amended to read:

11 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY
 12 REMITTANCES.--Each magistrate court shall pay to the
 13 administrative office of the courts, not later than the date
 14 each month established by regulation of the director of the
 15 administrative office, the amount of all fines, forfeitures and
 16 costs collected by the court during the previous month, except
 17 for amounts disbursed in accordance with law. The
 18 administrative office shall return to each magistrate court a
 19 written receipt itemizing all money received. The
 20 administrative office shall deposit the amount of all fines and
 21 forfeitures with the state treasurer for credit to the current
 22 school fund. The administrative office shall deposit the
 23 amount of all costs, except all costs collected pursuant to
 24 Subsections D and E of Section 35-6-1 NMSA 1978, for credit to
 25 the general fund. The amount of all costs collected pursuant

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1 to Subsections D and E of Section 35-6-1 NMSA 1978 shall be
2 credited as follows:

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

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

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

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

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

18 F. the amount of all costs collected pursuant to
19 Paragraph (6) of Subsection D of Section 35-6-1 NMSA 1978 for
20 credit to the juvenile adjudication fund;

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

24 H. the amount of all costs collected pursuant to
25 Paragraph (8) of Subsection D of Section 35-6-1 NMSA 1978 for

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1 credit to the interlock device fund;

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

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

8 Section 3. Section 66-8-116.3 NMSA 1978 (being Laws 1989,
9 Chapter 318, Section 35, Laws 1989, Chapter 319, Section 14 and
10 also Laws 1989, Chapter 320, Section 5, as amended by Laws
11 2009, Chapter 244, Section 1 and by Laws 2009, Chapter 245,
12 Section 5) is amended to read:

13 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL
14 FEES.--In addition to the penalty assessment established for
15 each penalty assessment misdemeanor, there shall be assessed:

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

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

20 C. a traffic safety fee of [~~three dollars (\$3.00)~~]
21 six dollars (\$6.00), which shall be credited to the traffic
22 safety education and enforcement fund;

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

25 E. a jury and witness fee of five dollars (\$5.00),

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1 which shall be credited to the jury and witness fee fund;

2 ~~[E-]~~ F. a juvenile adjudication fee of one dollar
3 (\$1.00), which shall be credited to the juvenile adjudication
4 fund;

5 ~~[F-]~~ G. a brain injury services fee of five dollars
6 (\$5.00), which shall be credited to the brain injury services
7 fund; ~~and~~

8 ~~G-]~~ H. a court facilities fee as follows:
9 in a county with a metropolitan court \$24.00;
10 in any other county 10.00;

11 and

12 I. an interlock device fee of two dollars (\$2.00),
13 which shall be credited to the interlock device fund."

14 Section 4. Section 66-8-119 NMSA 1978 (being Laws 1968,
15 Chapter 62, Section 159, as amended) is amended to read:

16 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

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

21 B. The division shall remit all penalty assessment
22 fee receipts collected pursuant to:

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

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

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

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

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

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

15 [~~(6)~~] (7) Subsection [~~F~~] G of Section 66-8-116.3
16 NMSA 1978 to the state treasurer for credit to the brain injury
17 services fund; [~~and~~

18 ~~(7)~~] (8) Subsection [~~G~~] H of Section 66-8-116.3
19 NMSA 1978 to the state treasurer for credit to the court
20 facilities fund; and

21 (9) Subsection I of Section 66-8-116.3 NMSA 1978
22 to the state treasurer for credit to the interlock device
23 fund."