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SENATE BILL 23

50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011

INTRODUCED BY

Gerald Ortiz y Pino

AN ACT

RELATING TO CHILDREN; CREATING THE CORINNE WOLFE CHILDREN'S LAW CENTER AT THE INSTITUTE OF PUBLIC LAW TO PROVIDE EDUCATION ON CHILD WELFARE AND JUVENILE JUSTICE; CREATING THE CHILD PROTECTION EDUCATION FUND; IMPOSING A FEE; MAKING AN APPROPRIATION.

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

SECTION 1. [NEW MATERIAL] CORINNE WOLFE CHILDREN'S LAW CENTER--CREATED--PURPOSE.--

A. The "Corinne Wolfe children's law center" is created at the institute of public law at the university of New Mexico school of law.

B. The Corinne Wolfe children's law center shall work to improve outcomes for children and youth involved in child welfare and juvenile justice by providing education,

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1 training, reference materials and technical assistance on child
2 abuse, child neglect, delinquency and related areas, within the
3 limits of its funding resources, for judges, court personnel,
4 social workers, attorneys, court-appointed special advocates
5 and citizen review board volunteers, guardians ad litem,
6 juvenile probation officers and all other officials, volunteers
7 and professionals who work in or with the child welfare and
8 juvenile justice legal systems in the state of New Mexico.

9 SECTION 2. [NEW MATERIAL] CHILD PROTECTION EDUCATION
10 FUND--CREATED--PURPOSE.--

11 A. The "child protection education fund" is created
12 in the state treasury and is administered by the institute of
13 public law at the university of New Mexico school of law.
14 Money in the fund shall be invested by the state treasurer as
15 provided by law, and earnings of the fund shall be credited to
16 the fund. Unexpended or unencumbered balances remaining in the
17 fund at the end of any fiscal year shall not revert to any
18 other fund.

19 B. The child protection education fund consists of
20 child protection education fees levied and collected pursuant
21 to Sections 35-6-1 and 66-8-116.3 NMSA 1978 and any gifts,
22 appropriations, grants and donations.

23 C. Money in the child protection education fund is
24 subject to appropriation by the legislature to the board of
25 regents of the university of New Mexico to support the work of

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1 the Corinne Wolfe children's law center at the institute of
2 public law as described in Section 1 of this act.

3 D. Payments from the child protection education
4 fund shall be made upon vouchers issued and signed by the
5 director of the institute of public law upon warrants drawn by
6 the secretary of finance and administration.

7 SECTION 3. Section 35-6-1 NMSA 1978 (being Laws 1968,
8 Chapter 62, Section 92, as amended) is amended to read:

9 "35-6-1. MAGISTRATE COSTS--SCHEDULE--DEFINITION OF
10 "CONVICTED".--

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

14 docket fee, criminal actions under Section 29-5-1 NMSA
15 1978 \$ 1.00;

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

19 Proceeds from this docket fee shall be transferred
20 to the administrative office of the courts for
21 deposit in the court facilities fund;

22 docket fee, twenty dollars (\$20.00) of which shall be
23 deposited in the court automation fund and fifteen
24 dollars (\$15.00) of which shall be deposited in the
25 civil legal services fund, to be collected prior to

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1 docketing any civil action, except as provided in
2 Subsection A of Section 35-6-3 NMSA 1978 . . 72.00;
3 jury fee, to be collected from the party demanding trial
4 by jury in any civil action at the time the demand
5 is filed or made 25.00;
6 copying fee, for making and certifying copies of any
7 records in the court, for each page copied by
8 photographic process [50] 0.50.
9 Proceeds from this copying fee shall be transferred
10 to the administrative office of the courts for
11 deposit in the court facilities fund; and
12 copying fee, for computer-generated or electronically
13 transferred copies, per page 1.00.
14 Proceeds from this copying fee shall be transferred
15 to the administrative office of the courts for
16 deposit in the court automation fund.

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

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

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

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1 finds that the complaint on its face does not state a cause of
2 action.

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

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

16 in a county with a metropolitan court \$10.00;
17 in a county without a metropolitan court 20.00;

18 (2) court automation fee, to be collected upon
19 conviction from persons convicted of violating any provision of
20 the Motor Vehicle Code involving the operation of a motor
21 vehicle, convicted of a crime constituting a misdemeanor or a
22 petty misdemeanor or convicted of violating any ordinance that
23 may be enforced by the imposition of a term of
24 imprisonment 10.00;

25 (3) traffic safety fee, to be collected upon

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1 conviction from persons convicted of violating any provision of
2 the Motor Vehicle Code involving the operation of a motor
3 vehicle 3.00;

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

10 (5) jury and witness fee, to be collected upon
11 conviction from persons convicted of operating a motor vehicle
12 in violation of the Motor Vehicle Code, convicted of a crime
13 constituting a misdemeanor or a petty misdemeanor or convicted
14 of violating any ordinance punishable by a term of
15 imprisonment 5.00;

16 (6) brain injury services fee, to be collected
17 upon conviction from persons convicted of violating any
18 provision of the Motor Vehicle Code involving the operation of
19 a motor vehicle 5.00;

20 [~~and~~]

21 (7) court facilities 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, convicted of a crime constituting a misdemeanor or a
25 petty misdemeanor or convicted of violating any ordinance that

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1 may be enforced by the imposition of a term of imprisonment as
2 follows:

3 in a county with a metropolitan court 24.00;
4 in any other county 10.00; and

5 (8) child protection education fee, to be
6 collected upon conviction from persons convicted of operating a
7 motor vehicle in violation of the Motor Vehicle Code, convicted
8 of a crime constituting a misdemeanor or a petty misdemeanor or
9 convicted of violating any ordinance punishable by a term of
10 imprisonment 1.00.

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

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

19 "35-7-4. MAGISTRATE ADMINISTRATION--MONTHLY
20 REMITTANCES.--Each magistrate court shall pay to the
21 administrative office of the courts, not later than the date
22 each month established by regulation of the director of the
23 administrative office, the amount of all fines, forfeitures and
24 costs collected by the court during the previous month, except
25 for amounts disbursed in accordance with law. The

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1 administrative office shall return to each magistrate court a
2 written receipt itemizing all money received. The
3 administrative office shall deposit the amount of all fines and
4 forfeitures with the state treasurer for credit to the current
5 school fund. The administrative office shall deposit the
6 amount of all costs, except all costs collected pursuant to
7 Subsections D and E of Section 35-6-1 NMSA 1978, for credit to
8 the general fund. The amount of all costs collected pursuant
9 to Subsections D and E of Section 35-6-1 NMSA 1978 shall be
10 credited as follows:

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

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

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

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

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

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

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

7 H. the amount of all costs collected pursuant to
8 Paragraph (8) of Subsection D of Section 35-6-1 NMSA 1978 for
9 credit to the child protection education fund; and

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

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

17 "66-8-116.3. PENALTY ASSESSMENT MISDEMEANORS--ADDITIONAL
18 FEES.--In addition to the penalty assessment established for
19 each penalty assessment misdemeanor, there shall be assessed:

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

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

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

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1 enforcement fund;

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

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

6 F. a juvenile adjudication fee of one dollar (\$1.00),
7 which shall be credited to the juvenile adjudication fund;

8 G. a brain injury services fee of five dollars
9 (\$5.00), which shall be credited to the brain injury services
10 fund;

11 H. a court facilities fee as follows:
12 in a county with a metropolitan court \$24.00;
13 in any other county 10.00;

14 [~~and~~]

15 I. a child protection education fee of one dollar
16 (\$1.00), which shall be credited to the child protection
17 education fund; and

18 [~~F.~~] J. until May 31, 2014, a magistrate courts
19 operations fee of four dollars (\$4.00), which shall be credited
20 to the magistrate courts operations fund."

21 SECTION 6. Section 66-8-119 NMSA 1978 (being Laws 1968,
22 Chapter 62, Section 159, as amended) is amended to read:

23 "66-8-119. PENALTY ASSESSMENT REVENUE--DISPOSITION.--

24 A. The division shall remit all penalty assessment
25 receipts, except receipts collected pursuant to Subsections A

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1 through [H] J of Section 66-8-116.3 NMSA 1978, to the state
2 treasurer for credit to the general fund.

3 B. The division shall remit all penalty assessment
4 fee receipts collected pursuant to:

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

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

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

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

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

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

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

25 (8) Subsection H of Section 66-8-116.3 NMSA 1978

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1 to the state treasurer for credit to the court facilities fund;
2 [~~and~~]

3 (9) Subsection I of Section 66-8-116.3 NMSA 1978
4 to the state treasurer for credit to the child protection
5 education fund; and

6 [~~(9)~~] (10) Subsection [~~I~~] J of Section
7 66-8-116.3 NMSA 1978 to the state treasurer for credit to the
8 magistrate courts operations fund."

9 SECTION 7. EFFECTIVE DATE.--The effective date of the
10 provisions of this act is July 1, 2011.