

LFC Requester:

Brendon Gray

# **AGENCY BILL ANALYSIS 2023 REGULAR SESSION**

## **SECTION I: GENERAL INFORMATION**

*{Indicate if analysis is on an original bill, amendment, substitute or a correction of a previous bill}*

Check all that apply:

Original ☐ Amendment ☐  
Correction ☐ Substitute ☒

Date 3/6/23

Bill No: HB 139

Sponsor: Micaela Lara Cadena

Short Title: Eliminating Court Fees

Agency Name  
and Code

305–Office of the Attorney General

Number:

Person Writing

Maris Veidemanis

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## **SECTION II: FISCAL IMPACT**

### **APPROPRIATION (dollars in thousands)**

Appropriation		Recurring or Nonrecurring	Fund Affected
FY23	FY24		

(Parenthesis ( ) Indicate Expenditure Decreases)

### **REVENUE (dollars in thousands)**

Estimated Revenue			Recurring or Nonrecurring	Fund Affected
FY23	FY24	FY25		

(Parenthesis ( ) Indicate Expenditure Decreases)

### **ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)**

	FY23	FY24	FY25	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
Total						

(Parenthesis ( ) Indicate Expenditure Decreases)

Duplicates/Conflicts with/Companion to/Relates to:

Duplicates/Relates to Appropriation in the General Appropriation Act

### **SECTION III: NARRATIVE**

*This analysis is neither a formal Attorney General Opinion nor an Attorney General Advisory Letter. This is a staff analysis in response to a committee or legislator's request. The analysis does not represent any official policy or legal position of the Office of the Attorney General.*

### **BILL SUMMARY**

House Judiciary Committee Substitute Synopsis: This HJC Sub would amend NMSA 1978 § 31-12-3 relating to the payment of fines, fees and costs in criminal proceedings.

Section 1(A) states that a person sentenced to pay a fine, a fee or costs shall be (instead of may be) allowed to pay such fine, fee or costs in installments of such amounts, at such times and upon such conditions as the court may fix.

Section 1(B) expands the activities that may qualify as community service and increases the credit received.

Section 1(D) states that a defendant who is ordered to a period of confinement shall receive credit toward the fine, fee or costs at an increase of 24 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.

Section 2 makes various changes relating to the disposition of funds in the crime laboratory fund which removes the assessment of fines and penalties as a funding source.

Section 3 makes a change relating to the disposition of funds in the domestic violence offender treatment or intervention fund which removes the assessment of fines and penalties as a funding source.

Section 4 states that a court, by its own motion or on defendant's petition, may waive fees or costs assessed prior to July 1, 2024.

Section 5 makes grammatical and stylistic changes and halves the time served in the State pen for fines or costs.

Section 6 makes grammatical and stylistic changes and states that a person who is committed to jail for nonpayment of a fine or costs shall be credited with an increase of 24 times the state hourly minimum wage a day in reduction thereof for each day or portion of a day of incarceration and, if the person states in an affidavit that he cannot pay the fine and costs, he shall not be retained in custody longer than a decrease of 15 days.

Section 7 makes various changes relating to the disposition of funds in the local government corrections fund which removes the assessment of fines and penalties as a funding source.

Section 8 makes various changes relating to the disposition of funds in the metropolitan court warrant enforcement fund which removes the assessment of fines and penalties as a funding source.

Section 9(D), relating to the court facilities fund, provides that, 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 and of a parking facility adjacent to that building have been satisfied, the court facilities fee shall be eliminated.

Section 10 removes the JEC from the IPL to the AOC and makes various changes relating to the disposition of funds in the JEC fund which removes the assessment of fines and penalties as a funding source.

Section 11 makes various changes relating to the disposition of funds in the juvenile adjudication fund which removes the assessment of fines and penalties as a funding source.

Section 12 makes various changes relating to the payment and handling of fees in magistrate and metropolitan courts, removing many fees from being collected from those convicted of crimes.

Section 13 makes a change relating to the advance payment of criminal complaint filing costs in magistrate courts that results in the removal of a waiver for DV victims and law enforcement.

Section 14 removes the collection of fees from those criminally convicted in magistrate courts.

Section 15 makes changes relating to the magistrate court warrant enforcement fund removing a bench warrant fee.

Section 16 makes changes relating to monthly remittances by magistrate courts to the Administrative Office of the Courts which removes the assessment of fines and penalties as a funding source.

Section 17 makes changes relating to monthly remittances by municipal courts and post-adjudication fees assessed by such courts which removes the assessment of fines and penalties as a funding source.

Section 18 makes changes relating to penalty assessment receipts which removes the assessment of fines and penalties as a funding source.

Section 19 repeals several sections of the code which removes the assessment of fines and penalties as a funding source.

Section 20 states 2 different effective dates for different sections of the bill.

## **FISCAL IMPLICATIONS**

Note: major assumptions underlying fiscal impact should be documented.

Note: if additional operating budget impact is estimated, assumptions and calculations should be reported in this section.

## **SIGNIFICANT ISSUES**

None.

**PERFORMANCE IMPLICATIONS**

None to this office.

**ADMINISTRATIVE IMPLICATIONS**

None to this office.

**CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP**

N/A

**TECHNICAL ISSUES**

N/A

**OTHER SUBSTANTIVE ISSUES**

N/A

**ALTERNATIVES**

N/A

**WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL**

Status quo.

**AMENDMENTS**

N/A