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CITY OF SANTA FE, NEW MEXICO

BILL NO. 2024--11

INTRODUCED BY:

Councilor Carol Romero-Wirth

A BILL

**RELATING TO HOUSE BILL 139, ADOPTED DURING THE 2023 REGULAR SESSION;
AMENDING SECTION 1-3.2 SFCC 1987 TO REMOVE TEXT ABOUT THE
CORRECTIONS FEE, JUDICIAL EDUCATION FEE, COURT AUTOMATION FEE,
AND SUBSTANCE ABUSE FEE, CONSISTENT WITH THE REPEAL OF SECTIONS 31-
12-8 AND 34-14-11 NMSA 1978; AND AMENDING SECTION 12-6-12.2 OF THE
UNIFORM TRAFFIC ORDINANCE, TO REMOVE TEXT ABOUT THE DWI
PREVENTION FEE AND THE CRIME LABORATORY FEE, CONSISTENT WITH THE
REPEAL OF SECTION 31-12-7 NMSA 1978.**

BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF SANTA FE:

**Section 1. Section 1-3.2 of SFCC 1987 (being Ord. No. 2011-06, as amended) is
amended to read:**

1-3.2 Imposition of Municipal Court Fees.

A. The city hereby imposes the following fees which shall be collected by the
municipal court upon conviction from persons convicted of violating any ordinance relating to the

1 operation of a motor vehicle, except those related to parking, or any ordinance that may be
2 enforced by the imposition of a term of imprisonment:

3 ~~[(1) — Corrections fee ————— \$30.00~~

4 ~~(2) — Judicial education fee ————— \$3.00~~

5 ~~(3) — Court automation fee ————— \$6.00]~~

6 [(4)](1) Court administrative fee \$10.00

7 [(5)](2) In-house automation fee \$2.00

8 [(6)](3) Public safety fee \$5.00

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

12 ~~[C. — The corrections fee shall be deposited in a special city fund and shall be used for~~
13 ~~the uses set forth in this paragraph. Upon deposit of any corrections fees into the special city~~
14 ~~fund, regardless of the time of imposition of any corrections fees, two thirds (2/3) of the~~
15 ~~corrections fee shall be used for housing municipal prisoners in a county jail or detention facility~~
16 ~~or housing juveniles in a detention facility and one third (1/3) of the corrections fee shall be~~
17 ~~transferred into the city's general fund for the court related purposes set fourth below. (1)~~

18 ~~Municipal jailer or juvenile detention officer training;~~

19 (2) ~~The construction planning, construction, operation and maintenance of a~~
20 ~~municipal jail or juvenile detention facility;~~

21 (3) ~~Complying with match or contribution requirements for the receipt of~~
22 ~~federal funds relating to jails or juvenile detention facilities;~~

23 (4) ~~Providing inpatient treatment or other substance abuse programs in~~
24 ~~conjunction with or as an alternative to jail sentencing;~~

25 (5) ~~Defraying the cost of transporting prisoners to jails or juveniles to~~

1 juvenile detention facilities;

2 (6) Providing electronic monitoring systems.]

3 [D. The judicial education fee and the court automation fee shall be remitted to the
4 state according to the applicable state law.]

5 [E]C. The court administrative fee shall be retained by the city for the municipal court.

6 [F]D. The in-house automation fee shall be retained by the city and used for in-house
7 automation systems in the municipal court.

8 [G]E. The public safety fee shall be retained by the city for use by the police
9 department.

10 [H]E. Five dollars (\$5.00) out of the ten dollars (\$10.00) administrative fee shall be
11 specifically earmarked for alternative sentencing programs at the municipal court. If the amount
12 collected under this paragraph is more than is needed for this program, the funds may be used for
13 other court programs or costs.

14 [I. — A person convicted of a violation of the provisions of the Controlled Substances
15 Act [30-31-1 NMSA 1978] or a person convicted of distribution or possession of a controlled
16 substance pursuant to Article 16-15 SFCC 1987 shall be assessed, in addition to any other fee or
17 fine, a fee of seventy five dollars (\$75.00) to defray the costs of chemical and other analyses of
18 controlled substances. Collection of such fees shall be transmitted to the administrative office of
19 the courts pursuant to §31-12-9 NMSA 1978.]

20 [J]G. A person convicted of driving while under the influence of intoxicating liquor or
21 drugs in violation of Section 12-6-12.2 of the City of Santa Fe Uniform Traffic Code shall be
22 assessed by the court, in addition to any other court fee or fine, the fees as set forth in said
23 section.

24 [K]H. Upon issuance of a bench warrant, the municipal court shall assess an
25 administrative fee of one hundred dollars (\$100.00) against the individual whose arrest is

1 commanded by the bench warrant. Many collected pursuant to the bench warrant fee assessment
2 authorized by this subsection shall be deposited in the general fund of the city of Santa Fe.

3 **Section 2. Section 12-6-12.2 of the Uniform Traffic Ordinance, Exhibit A to**
4 **Section 24-10 SFCC 1987 (being Ord. No. 2021-2) is amended to read:**

5 **12-6-12.2 Operating a Motor Vehicle Under the Influence of Intoxicating Liquor or Drugs;**
6 **Penalties; Sentencing; Fees.**

7 A. If a person is convicted of driving a motor vehicle while under the influence of
8 intoxicating liquor or drug (Section 12-6-12.1A through D) the trial judge shall be required to
9 inquire into the past driving record of the person before sentence is entered in the matter. (Section
10 66-8-110 NMSA 1978)

11 B. When a person is charged with a violation of Section 12-6-12.1A though D, any
12 plea of guilty thereafter entered in satisfaction of the charges shall include at least a plea of guilty
13 to violation Section 12-6-12.1A, B, C or D and no other disposition by plea of guilty to any other
14 charge in satisfaction of such charge shall be authorized if the following conditions are met:

15 (1) the results of a test performed pursuant to the Implied Consent Act disclose
16 that the blood of the person charged contains an alcohol concentration of eight one-
17 hundredths or more[;] (Section 66-8-102 NMSA 1978 as amended);

18 (2) the results of a test performed pursuant to the Implied Consent Act disclose
19 that the blood of the person charged contains an alcohol concentration of four one-
20 hundredths or more if the person is driving a commercial vehicle; (Section 66-8-102
21 NMSA 1978 as amended) or

22 (3) the defendant has refused to submit to a chemical test or tests of their
23 breath or blood. (Section 66-8-102 NMSA 1978)

24 C. A person under first conviction pursuant to this section shall be punished by
25 imprisonment for not more than ninety days or by a fine of not more than nine hundred ninety-nine

1 dollars (\$999.00), or both; provided that if the sentence is suspended in whole or in part or deferred,
2 the period of probation may extend beyond ninety days but shall not exceed one year. Upon a first
3 conviction pursuant to this section, an offender shall be sentenced to not less than twenty-four hours
4 of community service. In addition, the offender may be required to pay a fine of three hundred
5 dollars (\$300.00). The offender shall be ordered by the court to participate in and complete a
6 screening program described in Subsection F of this section and to attend a driver rehabilitation
7 program for alcohol or drugs, also known as a “DWI school,” approved by the traffic safety bureau
8 of the state transportation department and also may be required to participate in other rehabilitative
9 services as the court shall determine to be necessary. In addition to those penalties, when an
10 offender commits aggravated driving while under the influence of intoxicating liquor or drugs, the
11 offender shall be sentenced to not less than forty-eight consecutive hours in jail. If an offender fails
12 to complete, within a time specified by the court, any community service, screening program,
13 treatment program, or DWI school ordered by the court or fails to comply with any other condition
14 of parole, the offender shall be sentenced to not less than an additional forty-eight consecutive
15 hours in jail. Any jail sentence imposed pursuant to this section for failure to complete, within a
16 time specified by the court, any community service, screening program, treatment program or DWI
17 school ordered by the court or for aggravated driving while under the influence of intoxicating
18 liquor or drugs shall not be suspended, deferred or taken under advisement. On a first conviction
19 pursuant to this section, time spent in jail for the offense prior to the conviction for that offense
20 shall be credited to any terms of imprisonment fixed by the court. A deferred sentence pursuant to
21 this subsection shall be considered a first conviction for the purpose of determining subsequent
22 convictions.

23 D. A second or third conviction pursuant to this section shall be punished by
24 imprisonment for not more than one hundred seventy-nine days or by fine of not more than nine
25 hundred ninety-nine dollars (\$999.00), or both; provided that if the sentence is suspended in whole

1 or part, the period or probation may extend beyond one hundred seventy-nine days but shall not
2 exceed one year. Notwithstanding any provision of law to the contrary for suspension or deferment
3 of execution of a sentence that meets the following criteria:

4 (1) upon a second conviction, each offender shall be sentenced to a jail term
5 of not less than ninety-six consecutive hours, not less than forty-eight hours of community
6 service and a fine of five hundred dollars (\$500.00). In addition to those penalties, when
7 an offender commits aggravated driving while under the influence of intoxicating liquor or
8 drugs, the offender shall be sentenced to a jail term of not less than ninety-six consecutive
9 hours. If an offender fails to complete, within a time specified by the court, any community
10 service, screening program or treatment program ordered by the court, the offender shall
11 be sentenced to not less than an additional seven consecutive days in jail. A penalty
12 imposed pursuant to this paragraph shall not be suspended or deferred or taken under
13 advisement; and

14 (2) upon a third conviction, an offender shall be sentenced to a jail term of not
15 less than thirty consecutive days, not less than ninety-six hours of community service and
16 a fine of nine hundred ninety-nine dollars (\$999.00). In addition to those penalties, when
17 an offender commits aggravated driving under the influence of intoxicating liquor or drugs,
18 the offender shall be sentenced to a jail term of not less than sixty consecutive days. If an
19 offender fails to complete, within a time specified by the court, any community service,
20 screening program or treatment program ordered by the court, the offender shall be
21 sentenced to not less than an additional sixty consecutive days in jail. A penalty imposed
22 pursuant to this paragraph shall not be suspended or deferred or taken under advisement.

23 E. Fourth and subsequent offenses shall be prosecuted under state law in magistrate
24 or district court. (Section 66-8-102 NMSA 1978)

25 F Upon any conviction pursuant to this section, an offender shall be required to

1 participate in and complete, with a time specified by the court, an alcohol or drug abuse screening
2 program approved by the Department of Finance and Administration and if necessary, a treatment
3 program approved by the court. The requirement imposed pursuant to this subsection shall not be
4 suspended, deferred or taken under advisement.

5 G. Upon a second or third conviction pursuant to this section, an offender shall be
6 required to participate in and complete, within a time specified by the court, one of the following
7 substance abuse treatment programs:

8 (1) not less than a twenty-eight-day inpatient, residential or in-custody
9 substance abuse program approved by the court;

10 (2) not less than a ninety-day outpatient treatment program approved by the
11 court;

12 (3) a drug court program approved by the court; or

13 (4) any other substance abuse treatment program approved by the court.

14 The requirement imposed pursuant to this section shall not be suspended, deferred or taken under
15 advisement. (Section 66-8-102 NMSA 1978)

16 H. Upon a conviction pursuant to section 12-6-12.1, an offender shall be required to
17 obtain an ignition interlock license and have an ignition interlock device installed and operating on
18 all motor vehicles driven by the offender, pursuant to rules adopted by the Traffic Safety Bureau
19 of the Department of Transportation. Unless determined by the Traffic Safety Bureau to be
20 indigent, the offender shall pay all costs associated with having an ignition interlock device
21 installed on the appropriate motor vehicle. The offender shall operate only those vehicles equipped
22 with ignition interlock devices for the following circumstances and periods of time:

23 (1) a period of one year, for a first offender;

24 (2) a period of two years, for a second conviction pursuant to this section;

25 (3) a period of three years, for a third offender conviction pursuant to this

1 section; or

2 (4) the remainder of the offender's life, for a fourth or subsequent conviction
3 pursuant to this section.

4 I. A person who is issued an ignition interlock license and operates a vehicle that is
5 not equipped with an ignition interlock device is driving with a license that was revoked for driving
6 under the influence of intoxicating liquor or drugs or a violation of the Implied Consent Act and
7 may be subject to the penalties provided in section 12-6-12.6.

8 J. A person who is issued an ignition interlock license and who knowingly and
9 deliberately tampers or interferes or causes another to tamper or interfere with the proper and
10 intended operation of an ignition interlock device may be subject to the penalties for driving with
11 a license that was revoked for driving under the influence of intoxicating liquor or drugs or a
12 violation of the Implied Consent Act as provided in Section 12-6-12.6. (Section 66-5-504 NMSA
13 1978)

14 K. Five years from the date of the conviction and every five years thereafter, a fourth
15 or subsequent offender may apply to district court for removal of the ignition interlock device
16 requirement provided in this section and for restoration of a driver's license. A district court may,
17 for good cause shown, remove the ignition interlock device requirement and order restoration of
18 the license; provided that the offender has not been subsequently convicted of driving a motor
19 vehicle while under the influence of intoxicating liquor or drugs. Good cause may include an
20 alcohol screening and proof from the interlock vendor that the person has not had violations of the
21 interlock device. (Section 66-8-102 NMSA 1978)

22 L. An offender who obtains an ignition interlock license and installs an ignition
23 interlock device prior to conviction shall be given credit at sentencing for the time period the
24 ignition interlock device has been in use. (Section 66-8-102 NMSA 1978)

25 M. Except as otherwise prohibited in this section, a municipal judge may suspend in

1 whole or in part the execution of sentence or place the defendant on probation for a period not
2 exceeding one year on terms and conditions that municipal judge deems best, or both, or defer
3 sentence. If the municipal judge decides to defer the execution of a sentence, such deferral shall be
4 granted only as allowed in Subsection N of this section. A suspension of execution of sentence or
5 probation, or both, as allowed pursuant to this section, shall be granted only when the municipal
6 judge is satisfied it will serve the ends of justice and of the public, and that the defendant's liability
7 for any fine or other punishment imposed is fully discharged upon successful completion of the
8 terms and conditions of probation.

9 N. If a person is convicted of driving a motor vehicle while under the influence of
10 intoxicating liquor or drugs in violation of Section 12-6-12.1A, B, C or D, a first offender, at the
11 discretion of a trial court after a presentence investigation, including an inquiry to the motor vehicle
12 division of the transportation department concerning the driver's driving record, may receive a
13 deferred sentence on the condition that the driver attend a driver rehabilitation program, also known
14 as the "driving-while-intoxicated-school," approved by the court and the division and such other
15 rehabilitation services as the court may determine to be necessary; however, imposition of a
16 deferred sentence shall classify the person as a first offender. The municipal court shall forward to
17 the division that abstract of all proceedings and the report of the disposition of the case. For the
18 purpose of this subsection, marijuana, as defined in the Controlled Substance Act, shall be classified
19 as a drug. [{}*{}]

20 ~~[O. — A person convicted of driving a motor vehicle while under the influence of~~
21 ~~intoxicating liquor or drugs in violation of 12-6-12.1A, B, C or D shall be assessed, in addition to~~
22 ~~any other fee or fine, a fee of eighty five dollars (\$85.00) to defray the cost of chemical and other~~
23 ~~tests used to determine the influence of alcohol or drugs. Additionally, the person shall be assessed~~
24 ~~a fee of seventy five dollars (\$75.00) to fund comprehensive community programs for the~~
25 ~~prevention of driving while under the influence of intoxicating liquor or drugs or for other traffic~~

1 safety purposes. ~~The municipal court shall collect the fees and maintain the fees in separate funds~~
2 ~~and transfer the fees along with other funds collected by the court per 35-14-7 NMSA 1978. The~~
3 ~~municipality shall maintain the fees pursuant to this subsection in sperate funds and transfer the~~
4 ~~fees collected pursuant to this subsection to the administrative office of the courts for credit to the~~
5 ~~crime laboratory fund and the traffic safety fund. (31-12-7 through 31-12-9 NMSA 1978)]~~

6 [P]O. With respect to the section and notwithstanding any provisions of law to the
7 contrary, if an offender's sentence was suspended or deferred in whole or in part and the offender
8 violates any condition or probation, the court may impose any sentence that the court could have
9 originally imposed and credit shall not be given for time served by the offender on probation.

10 (Section 66-8-102 NMSA 1978)

11 [Q]P. As used in this section and in 12-6-12.1:

12 (1) "bodily injury" means an injury to a person not likely to cause death or
13 great bodily harm to the person, but does cause painful temporary disfigurement or
14 temporary loss or impairment of the functions of any member or organ of the person's
15 body; and

16 (2) "conviction" means adjudication of guilt and does not include imposition
17 of a sentence.

18 (3) "commercial motor vehicle" means a motor vehicle or combination of
19 motor vehicles used in commerce to transport passengers or property if the motor vehicle
20 meets the following criteria:

21 (a) has a gross combination weight rating of more than twenty-six
22 thousand pound inclusive of a towed unit with a gross vehicle weight rating of
23 more than ten thousand pounds;

24 (b) has a gross weight rating of more than twenty-six thousand
25 pounds;

1 (c) is designed to transport sixteen or more passengers, including the
2 driver; or

3 (d) is of any size and is used in the transportation of hazardous
4 materials, which requires the motor vehicle to be placarded under applicable law.

5 ~~[R]~~Q. A conviction pursuant to a municipal or county ordinance in New Mexico or a
6 law of any other jurisdiction, territory, or possession of the United States or of a tribe where that
7 ordinance is equivalent to New Mexico Law for driving while under the influence of intoxicating
8 liquor or drugs, prescribing penalties for driving while under the influence of intoxicating liquor or
9 drugs shall be deemed to be a conviction pursuant to this section for purposes of determining
10 whether a conviction is a second or subsequent conviction. (Section 66-8-102 NMSA 1978)

11 ~~[S]~~R. A law enforcement officer making an arrest for a violation of the provisions of 12-
12 6-12.2 or of similar municipal or county ordinances shall use standard arrest reports and procedures
13 developed and approved by the Department of Public Safety in accordance with Section 8 of Laws
14 of 2005, Chapter 269.

15 PASSED, APPROVED, and ADOPTED this _____ day of _____, 2024.

16 APPROVED AS TO FORM:

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18 [Erin McSherry \(Jul 26, 2024 10:32 MDT\)](#)

19 ERIN K. McSHERRY, CITY ATTORNEY

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25 *Legislation/2024/Bills/Eliminating Certain Court Fees*