

# UNANNOTATED

## CHAPTER 34 Court Structure and Administration

### ARTICLE 1 General Provisions

#### **34-1-1. Court sessions to be public.**

Except as provided in the Children's Code [Chapter 32A NMSA 1978] and in other laws making specific provisions for exclusion of the public, all courts of this state shall be held openly and publicly, and all persons whatsoever shall be freely admitted to the courts and permitted to remain so long as they shall observe good order and decorum.

**History:** Laws 1851, p. 142; C.L. 1865, ch. 27, § 1; C.L. 1884, § 663; C.L. 1897, § 1037; Code 1915, § 1356; C.S. 1929, § 34-103; 1941 Comp., § 16-101; 1953 Comp., § 16-1-1; Laws 1972, ch. 97, § 46.

#### **34-1-2. [Courts may preserve order and decorum; contempts.]**

It shall be within the power of each and every presiding officer [officer] of the several courts of this state, whether of record or not of record, to preserve order and decorum, and for that purpose to punish contempts by reprimand, arrest, fine or imprisonment, being circumscribed by the usage of the courts of the United States.

**History:** Laws 1851, p. 142; C.L. 1865, ch. 27, § 2; C.L. 1884, § 664; C.L. 1897, § 1038; Code 1915, § 1358; C.S. 1929, § 34-105; 1941 Comp., § 16-102; 1953 Comp., § 16-1-2.

#### **34-1-3. [Sworn answer in contempt proceedings; evidence.]**

In all proceedings for contempt of court in the state, the common-law rule discharging the contemnor upon the filing of a sworn answer denying the acts of contempt charged, shall hereafter not be in force, but in any such proceeding evidence may be introduced by both parties upon any controverted point, and the court shall decide such point upon the evidence.

**History:** Laws 1915, ch. 44, § 1; C.S. 1929, § 34-330; 1941 Comp., § 16-103; 1953 Comp., § 16-1-3.

#### **34-1-4. [Indirect criminal contempt proceedings; written publication out of court; jury trial; rules of procedure.]**

In all proceedings in the district courts for indirect criminal contempt arising out of written publications made out of court, the contemnor shall have the right to a trial by jury. The rules of procedure applicable to other criminal proceedings shall apply to these proceedings.

**History:** 1953 Comp., § 16-1-3.1, enacted by Laws 1965, ch. 165, § 1.

### **34-1-5. [Judge eligible to hear and determine contempt proceedings.]**

The resident judge when not disqualified in the original proceeding and the judge entering any order, judgment or decree shall have jurisdiction to hear and determine any proceeding for contempt arising out of such order, judgment or decree.

**History:** Laws 1941, ch. 106, § 1; 1941 Comp., § 16-104; 1953 Comp., § 16-1-4.

### **34-1-6. [Clerks to record orders, make indexes, issue process and keep seal.]**

The clerks of the supreme and inferior courts, and of the probate judges, shall seasonably record the judgments, rules, orders and other proceedings of the respective courts and make a complete alphabetical index thereto, issue and attest all processes issuing from their respective offices, and affix the seal of office thereto; they shall preserve the seal and other property belonging to their respective offices.

**History:** Kearny Code, Clerks, § 3; C.L. 1865, ch. 39, § 3; C.L. 1884, § 642; C.L. 1897, § 1005; Code 1915, § 1357; C.S. 1929, § 34-104; 1941 Comp., § 16-105; 1953 Comp., § 16-1-5.

### **34-1-7. [Appointment of interpreters and translators.]**

The courts may, from time to time, appoint interpreters and translators to interpret the testimony of witnesses, and to translate any writing necessary to be translated in such courts or causes therein.

**History:** Kearny Code, Practice of Law in Civil Suits, § 17; C.L. 1865, ch. 29, § 15; C.L. 1884, § 1849; C.L. 1897, § 2898; Code 1915, § 1359; C.S. 1929, § 34-106; 1941 Comp., § 16-106; 1953 Comp., § 16-1-6.

### **34-1-8. [Jurisdiction of courts to enforce federal law restricted.]**

No court of the state of New Mexico shall have jurisdiction of, or enter any order or decree of any character in any action instituted or attempted to be instituted in the courts of this state, seeking to enforce, directly or indirectly, any federal statute, or rule or regulation described in Section 1 hereof [Laws 1947, ch. 43, §1], where the congress

of the United States has curtailed, withdrawn or denied the district courts of the United States the right to enforce such statutes, rules or regulations aforesaid.

**History:** 1941 Comp., § 16-107, enacted by Laws 1947, ch. 43, § 2; 1953 Comp., § 16-1-7.

### **34-1-9. Salaries of justices, judges and magistrates.**

A. Justices of the supreme court shall each receive an annual salary of two hundred thirty-two thousand six hundred dollars (\$232,600) beginning July 1, 2024. The chief justice of the supreme court shall receive an annual salary that is two thousand dollars (\$2,000) more than the annual salary of a justice of the supreme court.

B. The chief judge of:

(1) the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of the chief justice of the supreme court;

(2) a district court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of the court of appeals; and

(3) a metropolitan court shall receive an annual salary that is ninety-five percent of the annual salary of the chief judge of a district court.

C. Notwithstanding any other provision of law or any other provision of this section, the annual salaries of the following judges shall be established as follows:

(1) a judge of the court of appeals shall receive an annual salary that is ninety-five percent of the annual salary of a justice of the supreme court;

(2) a district court judge shall receive an annual salary that is ninety-five percent of the annual salary of a judge of the court of appeals; and

(3) a metropolitan court judge shall receive an annual salary that is ninety-five percent of the annual salary of a district court judge.

D. The annual salary for magistrates shall be provided by the legislature in an appropriations act.

E. No additional salaries shall be paid to justices, judges or magistrates on account of services rendered the state. Justices of the supreme court, judges of the court of appeals, district court judges, metropolitan court judges and magistrates shall receive per diem and mileage for necessary travel on official business of the court as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

**History:** 1978 Comp., § 34-1-9, enacted by Laws 1993, ch. 278, § 1; 2004, ch. 101, § 3; 2007, ch. 170, § 1; 2024, ch. 3, § 1.

### **34-1-10. Judicial compensation commission; creation; membership; duties.**

A. The "judicial compensation commission" is created to recommend salaries for judges of the magistrate courts, metropolitan courts, district courts and courts of appeals and justices of the supreme court.

B. The judicial compensation commission shall be composed of five members and one chairperson as follows:

- (1) the dean of the university of New Mexico school of law, who shall serve as chairperson and vote only in the event of a tie vote;
  - (2) the president of the state bar of New Mexico, or the president's designee;
  - (3) one member appointed by the governor;
  - (4) one member appointed by the president pro tempore of the senate;
  - (5) one member appointed by the speaker of the house of representatives;
- and
- (6) one member appointed by the chief justice of the supreme court.

C. The initial appointee of the governor shall serve for three years, the initial appointees of the president pro tempore and the speaker of the house shall serve for two years and the initial appointee of the chief justice shall serve for one year. All subsequent appointments shall be made for three-year terms.

D. The commission is administratively attached to the administrative office of the courts. Staff and meeting rooms shall be provided by the administrative office of the courts. The commission may employ experts to provide analysis and data upon which to base its recommendations.

E. The commission shall meet at the call of the chairperson not less than annually. The meetings shall be open to the public.

F. Members of the commission shall receive per diem and mileage as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation, perquisite or allowance.

G. On or before December 1 of each year, the commission shall report to the legislative finance committee and the department of finance and administration its findings and recommendations on salaries for judges and justices.

**History:** Laws 2005, ch. 85, § 1.

### **34-1-11. Electronic services fund; created; purpose; electronic services fee established.**

A. The "electronic services fund" is created in the state treasury to be administered by the administrative office of the courts. The fund consists of electronic services fees, appropriations, gifts, grants and donations. Interest earned on money in the fund shall be credited to the fund. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

B. Money in the fund is subject to appropriation by the legislature to the administrative office of the courts for the purpose of defraying the costs of operating and maintaining electronic filing services and providing public access to electronic documents in appellate, district, metropolitan and magistrate courts, consistent with rules promulgated by the supreme court.

C. The supreme court is authorized to establish by rule reasonable electronic services fees to cover the expense of providing electronic services to the public, including electronic document filing, access to electronic documents and ancillary services.

D. The administrative office of the courts is authorized to enter into agreements with electronic filing companies to provide electronic services, collect the electronic services fees and remit those fees to the administrative office of the courts. An agreement approved by the supreme court may further allow an electronic filing company to retain a portion of the electronic services fees collected and to remit the remainder of those fees to the administrative office of the courts for deposit in the electronic services fund.

E. Disbursements from the electronic services fund shall be made by warrants drawn by the secretary of finance and administration upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee.

**History:** Laws 2009, ch. 112, § 1.

## **ARTICLE 2**

### **Supreme Court**

#### **34-2-1. Supreme court justices; number; election by position; election of chief justice.**

A. There shall be five justices of the supreme court.

B. In any election where more than one justice is to be nominated or elected for a term of the same length, the officer issuing the election proclamation shall designate as many positions, numbered consecutively, as there are places to be filled for terms of the same length. Each of these places shall be identified by the position number in all nominations and elections.

C. At their first meeting in April of each even-numbered year, the justices of the supreme court shall, by a majority vote, designate one of their number, not appointed, to serve as chief justice. In the absence of the chief justice, the senior justice present at the seat of government shall exercise the powers of chief justice. Seniority shall be determined by the length of present continuous service on the supreme court. In the event of a vacancy in the office of chief justice, the justices shall, by majority vote, designate one of their eligible number to serve for the remainder of the term.

**History:** Laws 1929, ch. 9, § 1; C.S. 1929, § 34-206; 1941 Comp., § 16-201; 1953 Comp., § 16-2-1; Laws 1969, ch. 115, § 1; 1977, ch. 225, § 1; 2008, ch. 19, § 1.

### **34-2-2. Repealed.**

### **34-2-3. [Seal; power to adopt design.]**

That the justices of the supreme court be and they are hereby authorized and empowered to adopt a design for the seal of said court.

**History:** Laws 1913, ch. 7, § 1; Code 1915, § 1361; C.S. 1929, § 34-201; 1941 Comp., § 16-202; 1953 Comp., § 16-2-2.

### **34-2-4. [Depositing and recording facsimile and description of seal.]**

That upon adopting such design, the said justices shall cause a facsimile and description of said design to be deposited and recorded in the office of the secretary of state.

**History:** Laws 1913, ch. 7, § 2; Code 1915, § 1362; C.S. 1929, § 34-202; 1941 Comp., § 16-203; 1953 Comp., § 16-2-3.

### **34-2-5. Fees; collection by supreme court clerk.**

The clerk of the supreme court shall collect the following fees:

A. in all cases docketed in the court, except those in which statutory exemption exists and those in which the court on showing of poverty may, by order, waive the fee, one hundred twenty-five dollars (\$125), twenty-five dollars (\$25.00) of which shall be

deposited in the court automation fund and ninety-six dollars (\$96.00) of which shall be deposited in the court facilities fund; provided that in cases in which a motion to docket and dismiss an appeal is filed for failure to file a statement of the issues, the fee shall be twenty dollars (\$20.00), ten dollars (\$10.00) of which shall be deposited in the court automation fund and ten dollars (\$10.00) of which shall be deposited in the court facilities fund;

B. for one copy of files or a record, ten cents (\$.10) per folio and for additional copies ordered at the same time five cents (\$.05) per folio;

C. for comparing copies of files or records tendered to him, five cents (\$.05) per folio; and

D. for each certificate, one dollar (\$1.00).

**History:** Laws 1933, ch. 81, § 1; 1941 Comp., § 16-204; 1953 Comp., § 16-2-4; Laws 1992, ch. 111, § 18; 1996, ch. 41, § 1; 1998 (1st S.S.), ch. 6, § 1; 2003, ch. 38, § 1.

### **34-2-6. Disposition of fees.**

The clerk shall pay such fees into the state treasury to be retained as earnings of the state, except the sum of four dollars (\$4.00) in each case docketed, which shall be covered into a suspense fund and which shall be subject to disbursement by the clerk to defray the cost of binding final records in cases.

**History:** Laws 1933, ch. 81, § 2; 1941 Comp., § 16-205; 1953 Comp., § 16-2-5; Laws 1974, ch. 29, § 1.

### **34-2-7. Supreme court law clerks.**

Each justice of the supreme court may employ a law clerk who is a graduate of a law school which meets the standards of accreditation of the American Bar Association. Each law clerk shall serve at the pleasure of the justice who selected him. Supreme court law clerks shall:

A. perform duties as provided by rule of the supreme court;

B. not engage in the private practice of law; and

C. not receive any additional salaries because of the services rendered to the state.

**History:** 1953 Comp., § 16-2-6, enacted by Laws 1961, ch. 122, § 1; 1973, ch. 187, § 1.

### **34-2-8. Repealed.**

### **34-2-9. Applicants for license to practice law; criminal history information.**

A. The supreme court shall require a background investigation of each applicant for admission to the state bar of New Mexico by means of fingerprint checks by the department of public safety and the federal bureau of investigation.

B. The director of the administrative office of the courts shall obtain from the department of public safety and the federal bureau of investigation, at the expense of an applicant for a license to practice law in the state of New Mexico, criminal history information concerning each applicant, using the applicant's fingerprints or other identifying information. The information shall be used only by the supreme court and the board of bar examiners in determining whether to grant the application, and shall not be disseminated to any other person or agency. The information shall be destroyed after the application is granted or denied.

**History:** Laws 1997, ch. 198, § 1.

### **34-2-10. Supreme court; electronic services fee.**

The clerk of the supreme court may charge and collect from persons who use electronic services an electronic services fee in an amount established by supreme court rule. Proceeds from the electronic services fee shall be remitted to the administrative office of the courts for deposit in the electronic services fund.

**History:** Laws 2009, ch. 112, § 2.

### **34-2-11. Supreme court law library.**

The supreme court shall have the management, control and supervision of the supreme court law library and shall:

A. have the right to prescribe rules for the management and control of the supreme court law library, as in their judgment is fit and proper for the safety, care and custody of the library and its shelving, books, documents and archives and for the convenience and accommodation of the patrons of the library;

B. order and purchase all books for the library for which an appropriation is made;

C. have full and complete management of the financial affairs of the library;

D. meet from time to time, select from opinions of the supreme court and designate to the clerk of the supreme court the opinions that shall be officially reported and published;



E. supervise, amend and correct all syllabi or headnotes for published opinions; and

F. trade, barter and exchange books and periodicals in the supreme court law library for other books and periodicals of equal or similar value.

**History:** 1978 Comp., § 34-2-11, enacted by Laws 2018, ch. 39, § 1.

### **34-2-12. Payment of accounts.**

The secretary of finance and administration shall draw warrants on the state treasurer in payment of all accounts of the supreme court law library that have been audited by the chief justice and justices of the supreme court or their designees, to the extent of the appropriations made for such purposes but for no more.

**History:** Laws 1915, ch. 47, § 5; C.S. 1929, § 133-105; 1941 Comp., § 3-706; 1953 Comp., § 4-10-6; Laws 1977, ch. 247, § 16; 1978 Comp., § 18-1-6, recompiled and amended as § 34-2-12 by Laws 2018, ch. 39, § 2.

### **34-2-13. Supreme court law librarian; appointment; duties; bond; prohibitions; fines.**

A. The supreme court law library shall be under the care and custody of a librarian who shall be appointed by the supreme court and shall hold office at its pleasure.

B. The librarian shall have the custody and charge of all books, archives, maps, charts, engravings and all other things properly belonging to the library or directed to be deposited in the library.

C. The librarian, before taking office, shall give bond to the state of New Mexico in the sum of two thousand dollars (\$2,000), with sufficient surety or sureties, for the faithful performance of the librarian's duties, for the preservation and safe delivery of all property committed to the librarian's care to the librarian's successor and for the faithful paying over of all funds coming into the librarian's hands as librarian. The bond shall be approved by the chief justice of the supreme court and be filed with the clerk of the supreme court.

D. If the librarian permits or allows a person not authorized by rules promulgated by the supreme court to remove a book or other property from the library, the librarian shall be deemed guilty of a misdemeanor, and subject to a fine of ten dollars (\$10.00) for every book or other article so removed.

**History:** 1978 Comp., § 34-2-13, enacted by Laws 2018, ch. 39, § 3.

### **34-2-14. Unlawful removal of property; penalty.**

A person not authorized by the rules promulgated by the supreme court who takes from the supreme court law library a book or other property belonging to the library, either with or without the consent of the librarian, shall be deemed guilty of a misdemeanor and subject to a fine of ten dollars (\$10.00) for every book or other property so taken; provided that in case of a felonious taking of such book or property, the person guilty thereof shall be punished in the manner and to the extent provided by law for the punishment of those felonies.

**History:** Laws 1915, ch. 47, § 10; C.S. 1929, § 133-110; 1941 Comp., § 3-711; 1953 Comp., § 4-10-11; 1978 Comp., § 18-1-10, recompiled and amended as § 34-2-14 by Laws 2018, ch. 39, § 4.

### **34-2-15. Liability for injury to books or property.**

A person who injures, defaces or destroys a book or other property that belongs to the supreme court law library shall forfeit twice the value of that book or property to be sued for and recovered by the state. It shall be the duty of the librarian of the supreme court law library to promptly notify the supreme court of any such offense.

**History:** Laws 1915, ch. 47, § 11; C.S. 1929, § 133-111; 1941 Comp., § 3-712; 1953 Comp., § 4-10-12; 1978 Comp., § 18-1-11, recompiled and amended as § 34-2-15 by Laws 2018, ch. 39, § 5.

### **34-2-16. Consolidated appropriation.**

For purposes of the annual appropriation and budgeting process, and notwithstanding any state budget statutes to the contrary, the operations of the supreme court, supreme court building commission and supreme court law library shall be funded and budgeted through a consolidated appropriation to the supreme court.

**History:** 1978 Comp., § 34-2-16 , enacted by Laws 2018, ch. 39, § 6.

### **34-2-17. Working interdisciplinary network of guardianship stakeholders; created.**

A. The supreme court shall establish the "working interdisciplinary network of guardianship stakeholders" to provide ongoing evaluation of New Mexico laws, services and practices related to adult guardianship and conservatorship.

B. The network shall consist of the following members appointed by the chief justice of the supreme court in a manner that reflects a geographic balance:

- (1) one or more members of the judiciary;
- (2) the secretary of aging and long-term services or the secretary's designee;

(3) the executive director of the developmental disabilities planning council or the executive director's designee;

(4) the chief executive officer of the interagency behavioral health purchasing collaborative or the chief executive officer's designee;

(5) the state auditor or the state auditor's designee;

(6) the attorney general or the attorney general's designee;

(7) one or more members of the legislature;

(8) the chief executive officer of disability rights New Mexico or the chief executive officer's designee;

(9) a professional guardian;

(10) a professional conservator;

(11) a family guardian;

(12) a family member, who is not a guardian or conservator, of a protected person;

(13) an attorney;

(14) a health care provider with experience in working with patients in need of guardianship;

(15) one or more members of an Indian nation, tribe or pueblo located wholly or partly in New Mexico;

(16) two protected persons;

(17) a representative of the administrative office of the courts;

(18) a representative of the American association of retired persons; and

(19) any other stakeholder the chief justice deems appropriate.

C. The chief justice shall appoint the network chair and an executive committee from the network membership.

D. After the initial appointments, members shall serve staggered four-year terms and may be reappointed. Initial appointments shall be for terms of at least two years.

E. The network shall meet at least four times each year. Members may be reimbursed for travel expenses in accordance with the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978]. The network shall provide reasonable accommodations to make the meetings accessible to its members.

**History:** Laws 2021, ch. 128, § 11.

### **34-2-18. Working interdisciplinary network of guardianship stakeholders; duties.**

The working interdisciplinary network of guardianship stakeholders shall:

A. identify strengths and weaknesses in New Mexico's system of adult guardianship and conservatorship;

B. identify the least restrictive decision-making options for alleged incapacitated persons and protected persons under guardianship and conservatorship;

C. review national standards on guardianship and conservatorship practices and recommend standards for implementation in New Mexico;

D. propose methods of training guardians and conservators in best practices or adopted standards;

E. recommend outreach, education and training as needed; and

F. serve as an ongoing problem-solving mechanism to enhance the quality of care and quality of life for adults who are or may soon be in the guardianship or conservatorship system.

**History:** Laws 2021, ch. 128, § 12.

## **ARTICLE 3**

### **Supreme Court Building**

#### **34-3-1. Supreme court building commission; creation.**

There is created the "supreme court building commission", which shall consist of the chief justice and justices of the supreme court.

**History:** 1953 Comp., § 6-10-1, enacted by Laws 1967, ch. 214, § 1; 2018, ch. 39, § 7.

#### **34-3-2. Supreme court building commission; organization.**

The chief justice of the supreme court shall act as chair of the supreme court building commission, and the clerk of the supreme court shall act as secretary for the commission. The secretary shall keep complete records of all commission business and shall approve all vouchers submitted to the department of finance and administration for the expenditure of funds appropriated to the supreme court for the operations of the supreme court building commission. Three members of the commission constitute a quorum for the transaction of business, and all actions of the commission shall be by a majority vote of the full commission.

**History:** 1953 Comp., § 6-10-2, enacted by Laws 1967, ch. 214, § 2; 2018, ch. 39, § 8.

### **34-3-3. Supreme court building commission; duties.**

The supreme court building commission has care, custody and control of the supreme court building and its grounds, along with all equipment, furniture and fixtures purchased or used by agencies of the judicial department housed in the building. With respect to this property, the commission shall:

- A. provide for the preservation, repair, care, cleaning, heating and lighting; and
- B. hire necessary employees for this purpose and fix their compensation and terms of employment, but no compensation shall be paid to any person who is paid compensation by any other agency of the state.

**History:** 1953 Comp., § 6-10-3, enacted by Laws 1967, ch. 214, § 3; 2018, ch. 39, § 9.

## **ARTICLE 3A**

### **Court of Appeals Building Commission**

#### **34-3A-1. Court of appeals building commission; creation; membership.**

A. The "court of appeals building commission" is created within the judicial branch. The court of appeals building commission shall be composed of the chief judge of the court of appeals; the chief clerk of the court of appeals; one member of the supreme court appointed by the chief justice of the supreme court; and two public members with architectural or engineering expertise appointed by the chief judge of the court of appeals.

B. Each member of the court of appeals building commission shall qualify by taking the oath prescribed by the constitution of New Mexico for state officers. An appointed member shall hold office until there is a change in the appointing authority and the member's successor is appointed. Vacancies shall be filled in the same manner as the original appointment. Members shall receive reimbursement as provided in the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other

compensation, perquisite or allowance. No member shall be interested, directly or indirectly, in any contract relating to the construction, equipment or maintenance of the court of appeals building, and any contract made in violation of this sentence is void.

**History:** Laws 2007, ch. 147, § 1.

### **34-3A-2. Court of appeals building commission; organization.**

The court of appeals building commission shall elect from its membership a chair, a vice chair and a secretary. The chair shall preside at all meetings of the commission and shall sign on behalf of the commission all contracts and necessary papers authorized by the commission. In the absence of the chair, the vice chair shall exercise the chair's duties. The secretary shall keep complete records of all commission business and shall approve all vouchers submitted to the department of finance and administration for the expenditure of funds available to the commission. Three members of the commission constitute a quorum for the transaction of business, and all actions of the commission shall be by a majority vote of members present.

**History:** Laws 2007, ch. 147, § 2.

### **34-3A-3. Court of appeals building commission; duties.**

A. The court of appeals building commission has care, custody and control of the court of appeals building and its grounds, along with all court of appeals equipment, furniture and fixtures housed in the building. The court of appeals shall report and record all these assets as required by state audit rules.

B. With respect to the property under the care, custody and control of the court of appeals pursuant to Subsection A of this section, the court of appeals building commission shall:

(1) provide for the design, construction, maintenance, repair, cleaning, heating, cooling and lighting of that property; and

(2) subject to legislative appropriation, hire employees as necessary and fix their compensation and terms of employment; provided that no compensation shall be paid to a person who is compensated by another agency of the state.

**History:** Laws 2007, ch. 147, § 3.

## **ARTICLE 4 Court Reports**

### **34-4-1. Recompiled.**

### **34-4-2. Appellate court reports; inclusion in master database.**

A. The New Mexico compilation commission shall maintain and update all opinions and decisions of the appellate courts in the master database of the commission and provide them free of charge on its online website.

B. The courts shall provide the commission with an electronic copy of each opinion and decision as it is issued.

**History:** 1953 Comp., § 10-1-14, enacted by Laws 1966, ch. 28, § 28; 1978, ch. 130, § 3; 1982, ch. 7, § 4; 2019, ch. 74, § 8.

A. On the effective date of this act, May 3, 2019, all state, local and district officers designated by the New Mexico compilation commission to receive distributions of sets of the compilation, replacement volumes or replacement pamphlets may dispose of such sets according to procedures set out for disposal of surplus property. Sets shall not be delivered or returned to the office of the commission in Santa Fe. The commission shall determine how many full sets of the printed statutes and other publications it will maintain for historical, reference and possible replacement purposes, and the remainder of the sets held by the commission may be disposed of according to procedures set out for the disposal of surplus property.

B. All contracts in effect on the effective date of this act, May 3, 2019, shall continue to be effective until the contract has been completed or the commission decides to terminate the contract.

C. On the effective date of this act, May 3, 2019, all references in law and other legal documents to the New Mexico statutes annotated or the NMSA 1978 shall be deemed to be references to the content of the master database.

### **34-4-3. [Copies of reports of state officers, biennial budget and session laws transmitted to congressional library.]**

The officer or employee of this state having charge of the publication of the public documents hereinafter mentioned shall transmit the same to the librarian of congress for the use of members of congress from New Mexico and others interested, if and when printed, as follows: 2 [two] copies each of the biennial budget, of the reports and official opinions of the attorney general of the state, and of all separate compilations of laws issued by state officers; 1 [one] copy each of the legislative journals and other documents published by order of the state legislature or either house thereof and of all reports, bulletins, circulars, pamphlets, maps, charts and other official publications of any executive department, office, commission, bureau, board or state institution now existing or hereafter authorized by law.

**History:** Laws 1937, ch. 171, § 2; 1941 Comp., § 12-115; 1953 Comp., § 10-1-15.

# **ARTICLE 5**

## **Court of Appeals**

### **34-5-1. Court of appeals; judges; election for staggered terms.**

The "court of appeals" of New Mexico consists of ten judges who are nominated and elected in the same manner as justices of the supreme court. No judge of the court of appeals shall be nominated or elected to any other than a judicial office in this state.

**History:** 1953 Comp., § 16-7-1, enacted by Laws 1966, ch. 28, § 1; 1972, ch. 32, § 1; 1978, ch. 25, § 1; 1990, ch. 35, § 1.

### **34-5-2. Court of appeals; chief judge.**

At their first meeting in each odd-numbered year, the judges of the court of appeals shall, by majority vote, designate one of their number to serve as chief judge for a term of two years. In the absence of the chief judge, the senior judge present at the seat of government shall exercise the powers of the chief judge. Seniority shall be determined by the length of present continuous service on the court. In the event of a vacancy in the office of chief judge, the judges shall, by majority vote, designate one of their number to serve for the remainder of the term.

**History:** 1953 Comp., § 16-7-2, enacted by Laws 1966, ch. 28, § 2.

### **34-5-3. Repealed.**

### **34-5-4. Court of appeals; vacancy in membership.**

If a vacancy in the membership of the court of appeals other than by expiration of a term shall occur, the governor shall fill the vacancy by appointment of a qualified person to serve until December 31 following the next general election, or for the remainder of the unexpired term, whichever is the longer period.

**History:** 1953 Comp., § 16-7-4, enacted by Laws 1966, ch. 28, § 4; 1973, ch. 136, § 1.

### **34-5-5. Court of appeals; personnel.**

A. The court of appeals shall employ a clerk and other necessary employees to serve at the pleasure of the court. Employees shall receive compensation established by the court, subject to legislative appropriations.

B. Before entering the duties of his office, the clerk shall take the oath prescribed by the constitution for state officers and file with the secretary of state a corporate surety bond in the amount of five thousand dollars (\$5,000). The bond shall be approved in



writing on its face by the chief judge of the court of appeals and conditioned upon the clerk's faithful performance of the duties of his office and payment of all money received as clerk to the person entitled to receive it.

C. Subject to legislative appropriations, each judge of the court of appeals may select a law clerk who is a graduate of a law school which meets the standards of accreditation of the American Bar Association. Each law clerk shall serve at the pleasure of the judge who selected him.

D. Personnel of the court of appeals, including law clerks and other employees, shall:

- (1) perform duties as provided by rule of the court of appeals;
- (2) not engage in the private practice of law; and
- (3) not receive any additional salaries on account of services rendered the state.

**History:** 1953 Comp., § 16-7-5, enacted by laws 1966, ch. 28, § 5.

### **34-5-6. Court of appeals; fees and costs.**

A. The clerk of the court of appeals shall collect the following fees:

docket fee, twenty-five dollars (\$25.00) of which shall be deposited in the court automation fund and one hundred dollars (\$100) of which shall be deposited in the court facilities fund .....	\$125.00
docket fee for cases in which a motion to docket and dismiss the appeal is filed for failure to file a docketing statement, ten dollars (\$10.00) of which shall be deposited in the court automation fund and ten dollars (\$10.00) of which shall be deposited in the court facilities fund .....	20.00
single copy of records, per typewritten folio .....	.10
each additional copy of records ordered at same time, per typewritten folio .....	.05
copies of records reproduced by photographic process, per page .....	.10
comparing copies of records tendered to him, per folio .....	.05
each certificate .....	1.00.

B. No fees or costs shall be required in proceedings in forma pauperis, from state officers acting in their official capacity or in any other case where a statutory exemption exists.

C. Except as otherwise specifically provided by law, the clerk of the court of appeals shall pay all fees and costs to the state treasurer for credit to the state general fund.

**History:** 1953 Comp., § 16-7-6, enacted by Laws 1966, ch. 28, § 6; 1992, ch. 111, § 19; 1996, ch. 41, § 2; 1998 (1st S.S.), ch. 6, § 2; 2003, ch. 38, § 2.

### **34-5-7. Court of appeals; terms of court; location.**

The court of appeals shall hold one term each year beginning on the second Tuesday of January, and it shall always be in session. The headquarters of the court and the clerk's office shall be located at the seat of government. The court may convene at any location in the state.

**History:** 1953 Comp., § 16-7-7, enacted by Laws 1966, ch. 28, § 7.

### **34-5-8. Court of appeals; appellate jurisdiction.**

A. The appellate jurisdiction of the court of appeals is coextensive with the state, and the court has jurisdiction to review on appeal:

(1) any civil action not specifically reserved to the jurisdiction of the supreme court by the constitution or by law;

(2) all actions under the Workmen's Compensation Act [Workers' Compensation Act], the New Mexico Occupational Disease Disablement Law [52-3-1 NMSA 1978], the Subsequent Injury Act and the federal Employers' Liability Act[s];

(3) criminal actions, except those in which a judgment of the district court imposes a sentence of death or life imprisonment;

(4) post-conviction remedy proceedings, except where the sentence involved is death or life imprisonment;

(5) actions for violation of municipal or county ordinances where a fine or imprisonment is imposed;

(6) decisions of administrative agencies of the state; and

(7) decisions in any other action as may be provided by law.

B. The supreme court may provide for the transfer of any action or decision enumerated in this section from the court of appeals to the supreme court in addition to the transfers provided for in Section 34-5-10 and Subsection C of Section 34-5-14 NMSA 1978.

**History:** 1953 Comp., § 16-7-8, enacted by Laws 1966, ch. 28, § 8; 1967, ch. 24, § 1; 1983, ch. 333, § 1.

### **34-5-9. Court of appeals; procedure for appeals from district court.**

Unless otherwise provided by rule of procedure, appeals to the court of appeals shall be taken from the district court in the manner prescribed for appeals to the supreme court.

**History:** 1953 Comp., § 16-7-9, enacted by Laws 1966, ch. 28, § 9.

### **34-5-10. Transfer of cases on appeal.**

No matter on appeal in the supreme court or the court of appeals shall be dismissed for the reason that it should have been docketed in the other court, but it shall be transferred by the court in which it is filed to the proper court. Any transfer under this section is a final determination of jurisdiction. Whenever either court determines it has jurisdiction in a case filed in that court and proceeds to decide the matter, that determination of jurisdiction is final. No additional fees or costs shall be charged when a case is transferred to another court under this section.

**History:** 1953 Comp., § 16-7-10, enacted by Laws 1966, ch. 28, § 10.

### **34-5-11. Court of appeals; quorum; decisions; rehearings.**

Three judges of the court of appeals constitute a quorum for the transaction of business, but not more than three judges shall sit in any matter on appeal. Decisions of the court shall be in writing with the grounds stated, and the result shall be concurred in by at least two judges. If any judge who participated in a hearing is unable for any reason to participate in a rehearing, or consideration of a motion for rehearing, of any matter, any other judge or acting judge of the court of appeals may participate in consideration of the motion or the case on rehearing.

**History:** 1953 Comp., § 16-7-11, enacted by Laws 1966, ch. 28, § 11.

### **34-5-12. Court of appeals; seal.**

The court of appeals may adopt a design for the seal of the court. Upon adoption, the clerk of the court shall file a facsimile and description of the design in the office of the secretary of state.

**History:** 1953 Comp., § 16-7-12, enacted by Laws 1966, ch. 28, § 12.

### **34-5-13. Court of appeals; publishing opinions.**

The judges of the court of appeals shall meet from time to time, select from opinions of the court of appeals and designate to the clerk of the court of appeals those which should be officially reported and published. The judges shall also supervise, amend and correct all syllabi or headnotes prefixed to the published opinions.

**History:** 1953 Comp., § 16-7-13, enacted by Laws 1966, ch. 28, § 13.

**34-5-14. Supreme court; appellate jurisdiction; review by certiorari to court of appeals; certification of cases to supreme court.**

A. The appellate jurisdiction of the supreme court is coextensive with the state and extends to all cases where appellate jurisdiction is not specifically vested by law in the court of appeals.

B. In addition to its original appellate jurisdiction, the supreme court has jurisdiction to review by writ of certiorari to the court of appeals any civil or criminal matter in which the decision of the court of appeals:

- (1) is in conflict with a decision of the supreme court;
- (2) is in conflict with a decision of the court of appeals;
- (3) involves a significant question of law under the constitution of New Mexico or the United States; or
- (4) involves an issue of substantial public interest that should be determined by the supreme court.

Application to the supreme court for writ of certiorari to the court of appeals shall be filed with the clerk of the supreme court within twenty days after final action by the court of appeals. A copy of the application shall be filed by the clerk of the supreme court with the clerk of the court of appeals and the clerk of the court of appeals shall forthwith transmit the record in the case to the clerk of the supreme court. Upon filing of the application, the judgment and mandate of the court of appeals shall be stayed pending final action of the supreme court. No further briefs or oral argument in support of an application for writ of certiorari shall be filed or had in the supreme court unless so directed by the supreme court. If an application has not been acted upon within thirty days, it shall be deemed denied.

C. The supreme court has appellate jurisdiction in matters appealed to the court of appeals, but undecided by that court, if the court of appeals certifies to the supreme court that the matter involves:

- (1) a significant question of law under the constitution of New Mexico or the United States; or
- (2) an issue of substantial public interest that should be determined by the supreme court.

Any certification by the court of appeals under this subsection is a final determination of appellate jurisdiction.

D. The jurisdiction of the supreme court over the decisions of the court of appeals and over actions certified to it by the court of appeals is in addition to the jurisdiction of the supreme court in the issuance and determination of original writs directed to the court of appeals.

**History:** 1953 Comp., § 16-7-14, enacted by Laws 1966, ch. 28, § 14; 1972, ch. 71, § 1.

### **34-5-15. Court of appeals; electronic services fee.**

The clerk of the court of appeals may charge and collect from persons who use electronic services an electronic services fee in an amount established by supreme court rule. Proceeds from the electronic services fee shall be remitted to the administrative office of the courts for deposit in the electronic services fund.

**History:** Laws 2009, ch. 112, § 3.

## **ARTICLE 6 District Courts**

### **34-6-1. Judicial districts.**

The state shall be divided into judicial districts as follows:

- A. first judicial district, the counties of Santa Fe, Rio Arriba and Los Alamos;
- B. second judicial district, the county of Bernalillo;
- C. third judicial district, the county of Dona Ana;
- D. fourth judicial district, the counties of Guadalupe, San Miguel and Mora;
- E. fifth judicial district, the counties of Eddy, Chaves and Lea;
- F. sixth judicial district, the counties of Grant, Luna and Hidalgo;
- G. seventh judicial district, the counties of Socorro, Torrance, Sierra and Catron;
- H. eighth judicial district, the counties of Taos, Colfax and Union;
- I. ninth judicial district, the counties of Curry and Roosevelt;
- J. tenth judicial district, the counties of Quay, DeBaca and Harding;
- K. eleventh judicial district, the counties of McKinley and San Juan;

L. twelfth judicial district, the counties of Otero and Lincoln; and

M. thirteenth judicial district, the counties of Cibola, Sandoval and Valencia.

**History:** Laws 1941, ch. 75, § 1; 1941 Comp., § 16-301; Laws 1951, ch. 177, § 1 (1); 1953 Comp., § 16-3-1; Laws 1961, ch. 188, § 1; 1971, ch. 52, § 1; 1992, ch. 70, § 1.

### **34-6-2. District court terms.**

The district court shall always be in session. At least two regular terms for each county within a judicial district shall be established by court rule. When for any reason a district judge is prevented from attending a regular term of the district court on the first day, he may, at any time during that term, enter an order fixing another return day for all process, bonds and recognizances returnable at that term. The order fixing the return day shall be filed with the district court clerk, who shall post a copy at the courthouse for at least ten days before the return day. Juries shall be empanelled [empaneled], cases shall be set and tried and all other business of the district court shall be conducted in any county at any time as directed by the district judge.

**History:** 1953 Comp., § 16-3-2, enacted by Laws 1968, ch. 69, § 5.

### **34-6-3. Repealed.**

### **34-6-4. Judges; first judicial district.**

There shall be ten district judges in the first judicial district.

**History:** 1953 Comp., § 16-3-3.1, enacted by Laws 1968, ch. 69, § 7; 1969, ch. 229, § 1; 1976 (S.S.), ch. 39, § 1; 1980, ch. 141, § 1; 1981, ch. 330, § 1; 1987, ch. 148, § 1; 1997, ch. 180, § 1; 2010, ch. 3, § 1; 2014, ch. 73, § 1; 2020, ch. 40, § 1.

### **34-6-5. Judges; second judicial district.**

There shall be thirty district judges in the second judicial district.

**History:** 1953 Comp., § 16-3-3.2, enacted by Laws 1968, ch. 69, § 8; 1969, ch. 228, § 1; 1973, ch. 301, § 1; 1977, ch. 310, § 1; 1978, ch. 23, § 1; 1980, ch. 143, § 1; 1984, ch. 111, § 1; 1993, ch. 256, § 1; 1995, ch. 66, § 1; 1997, ch. 180, § 2; 2005, ch. 284, § 1; 2007, ch. 140, § 1; 2014, ch. 73, § 2; 2020, ch. 40, § 2; 2022, ch. 56, § 33.

### **34-6-6. Judges; third judicial district.**

There shall be nine district judges in the third judicial district.

**History:** 1953 Comp., § 16-3-3.3, enacted by Laws 1968, ch. 69, § 9; 1981, ch. 329, § 1; 1984, ch. 111, § 2; 1992, ch. 72, § 1; 1995, ch. 178, § 1; 2003, ch. 348, § 1; 2006, ch. 99, § 1; 2020, ch. 40, § 3.

### **34-6-7. Judges; fourth judicial district.**

There shall be three district judges in the fourth judicial district.

**History:** 1953 Comp., § 16-3-3.4, enacted by Laws 1968, ch. 69, § 10; 1978, ch. 24, § 1; 2007, ch. 140, § 2.

### **34-6-8. Judges; fifth judicial district.**

There shall be twelve district judges in the fifth judicial district.

**History:** 1953 Comp., § 16-3-3.5, enacted by Laws 1968, ch. 69, § 11; 1973, ch. 301, § 2; 1976, ch. 52, § 1; 1979, ch. 208, § 1; 1984, ch. 111, § 3; 1994, ch. 65, § 1; 1994, ch. 77, § 1; 2006, ch. 99, § 2; 2014, ch. 73, § 3; 2022, ch. 56, § 34.

### **34-6-9. Judges; sixth judicial district.**

There shall be four district judges in the sixth judicial district.

**History:** 1953 Comp., § 16-3-3.6, enacted by Laws 1968, ch. 69, § 12; 1974, ch. 77, § 1; 1983, ch. 129, § 1; 2003, ch. 348, § 2; 2007, ch. 140, § 3; 2020, ch. 40, § 4.

### **34-6-10. Judges; seventh judicial district.**

There shall be three district judges in the seventh judicial district.

**History:** 1953 Comp., § 16-3-3.7, enacted by Laws 1968, ch. 69, § 13; 1977, ch. 132, § 1; 1995, ch. 178, § 2.

### **34-6-11. Judges; eighth judicial district.**

There shall be three district judges in the eighth judicial district.

**History:** 1953 Comp., § 16-3-3.8, enacted by Laws 1968, ch. 69, § 14; 1978, ch. 23, § 2; 1996, ch. 23, § 1; 2011, ch. 41, § 1; 2020, ch. 40, § 5.

### **34-6-12. Judges; ninth judicial district.**

There shall be five district judges in the ninth judicial district.

**History:** 1953 Comp., § 16-3-3.9, enacted by Laws 1968, ch. 69, § 15; 1974, ch. 77, § 2; 1984, ch. 111, § 4; 1985, ch. 138, § 1; 2005, ch. 284, § 2; 2006, ch. 99, § 3; 2011, ch. 20, § 1; 2020, ch. 40, § 6.

### **34-6-13. Judges; tenth judicial district.**

There shall be one district judge in the tenth judicial district.

**History:** 1953 Comp., § 16-3-3.10, enacted by Laws 1968, ch. 69, § 16.

### **34-6-14. Judges; eleventh judicial district.**

There shall be eight district judges in the eleventh judicial district.

**History:** 1953 Comp., § 16-3-3.11, enacted by Laws 1968, ch. 69, § 17; 1974, ch. 77, § 3; 1984, ch. 111, § 5; 1995, ch. 178, § 3; 1995, ch. 179, § 1; 2006, ch. 99, § 4; 2020, ch. 40, § 7.

### **34-6-15. Judges; twelfth judicial district.**

There shall be five district judges in the twelfth judicial district.

**History:** 1953 Comp., § 16-3-3.12, enacted by Laws 1971, ch. 52, § 2; 1974, ch. 77, § 4; 1984, ch. 111, § 6; 1993, ch. 274, § 1; 2020, ch. 40, § 8.

### **34-6-16. Judges; thirteenth judicial district.**

There shall be nine district judges in the thirteenth judicial district.

**History:** 1953 Comp., § 16-3-3.13, enacted by Laws 1971, ch. 52, § 3; 1974, ch. 77, § 5; 1979, ch. 302, § 1; 1985, ch. 212, § 1; 1992, ch. 70, § 2; 2003, ch. 254, § 1; 2006, ch. 99, § 5; 2014, ch. 73, § 4; 2020, ch. 40, § 9; 2022, ch. 56, § 35.

### **34-6-17. Judges; principal offices.**

The principal office of each district judge shall be at the county seat of a county within the judicial district as provided by rule of the district court. When the convenience of the public can be better served by establishment of an additional office within the county, this may be provided by rule of the district court.

**History:** 1953 Comp., § 16-3-4, enacted by Laws 1968, ch. 69, § 18.

### **34-6-18. Judges; multiple-judge districts; divisions; presiding judges.**



In judicial districts having more than one district judge:

A. the separate judicial positions shall be designated by divisions numbered consecutively from one through the total number of judges authorized for the district. Any additional judge authorized within a judicial district shall be designated as judge of the next consecutive division. In all appointments, nominations and elections of district judges, the particular judicial offices shall be identified by the division number;

B. there shall be no separation of the work of the district court clerk's office except for identification of each district judge by division. All judges of a judicial district have equal judicial authority, rank and precedence; and

C. unless otherwise designated by rule of the district court, the judge of division one shall be the presiding judge of the district.

**History:** 1953 Comp., § 16-3-5, enacted by Laws 1968, ch. 69, § 19.

### **34-6-19. Personnel; designation.**

The district court shall appoint a district court clerk for each county of the judicial district. One person may be named as the clerk for more than one county. Deputy clerks and other personnel, including interpreters, bailiffs and secretaries as required, may be employed. The duties and place of employment shall be designated by the court.

**History:** 1953 Comp., § 16-3-6, enacted by Laws 1968, ch. 69, § 20.

### **34-6-20. Personnel; official court reporters; secretaries.**

A. Each district judge shall select an official court reporter to record the proceedings of his court as required. All notes, records and evidence taken by the reporter shall be deposited with the district court clerk of the county in which the proceeding is docketed.

B. Each full-time official court reporter of the district court shall receive a salary fixed by the district court, exclusive of transcript fees, for court reporting, secretarial and other duties performed for the district court. Official court reporters employed on a part-time basis by the district court may be paid at a rate fixed by the district court not to exceed standard rates for such service in the area for all services required of them, exclusive of transcript fees.

C. Official court reporters shall, upon request, furnish typewritten transcripts of testimony and proceedings recorded by them in any cause at a maximum charge of one dollar sixty-five cents (\$1.65) a page for an original with three copies. A page of transcription consists of not less than twenty-five typewritten lines on a good grade of paper, eight and one-half inches by thirteen inches in size, prepared for binding at the top and having margins of not more than one and three-fourths inches at the left and one-half inch at the right. Type shall be pica size with ten letters to the inch. The

supreme court may provide by rule for decreases in the maximum charge when transcripts are not furnished within time limits prescribed by the supreme court. In any matter in which the district court has granted free process to the party requesting a transcript, payment of the charges shall be made from funds appropriated to the district court.

**History:** 1953 Comp., § 16-3-7, enacted by Laws 1968, ch. 69, § 21; 1969, ch. 45, § 1.

### **34-6-21. Personnel; state employees.**

The district courts are agencies of the judicial department of the state government. Personnel of the district court are subject to all laws and regulations applicable to state offices and agencies and state officers and employees except where otherwise specifically provided by law.

**History:** 1953 Comp., § 16-3-8, enacted by Laws 1968, ch. 69, § 22.

### **34-6-22. Personnel; oaths and bonds.**

Before entering upon their duties, all district court personnel who receive or disburse money or have custody of property shall take the oath prescribed by the constitution for state officers and file with the secretary of state a corporate surety bond in an amount fixed by the director of the administrative office of the courts. Each bond shall be approved in writing on its face by the director of the administrative office of the courts and conditioned upon faithful performance of duties and payment of all money received to the person entitled to receive it. In lieu of individual bond coverage, the director of the administrative office of the courts may prescribe schedule or blanket bond coverage in any judicial district. Bond premiums shall be paid from funds appropriated to the district courts.

**History:** 1953 Comp., § 16-3-9, enacted by Laws 1968, ch. 69, § 23.

### **34-6-23. Personnel; travel expenses.**

District judges and district court employees shall be allowed per diem and shall be reimbursed for their necessary travel expenses incurred while absent from their principal offices upon official business, at the same rates and under the same conditions as prescribe by law or regulation of the state board of finance for other employees of the state. These expenses shall be paid from the funds of the district court of the judicial district for which the business is transacted.

**History:** 1953 Comp., § 16-3-10, enacted by Laws 1968, ch. 69, § 24.

### **34-6-24. Operation; location of court; facilities.**

In each county, the district court shall be held at the county seat. Each board of county commissioners shall provide adequate quarters for the operation of the district court, including juvenile probation services, and provide necessary utilities and maintenance service for the operation and upkeep of district court facilities. From the funds of each judicial district, furniture, equipment, books and supplies shall be provided for the operation of each district court within the judicial district.

**History:** 1953 Comp., § 16-3-11, enacted by Laws 1968, ch. 69, § 25; 1988, ch. 101, § 45.

### **34-6-25. Operation; seal.**

The district court of each county shall have a seal with the name of the court on the margin. The seal shall be kept by the district court clerk and used to authenticate documents from his office.

**History:** 1953 Comp., § 16-3-12, enacted by Laws 1968, ch. 69, § 26.

### **34-6-26. Operation; record; authentication.**

The district court of each county shall keep a record containing orders entered by the court. Orders made orally by the court shall be entered upon the record by the district court clerk. The district judge shall review and sign the record following each term of the court, but if, for any cause, the district judge fails to sign the record, the district court clerk may certify the record as authentic.

**History:** 1953 Comp., § 16-3-13, enacted by Laws 1968, ch. 69, § 27.

### **34-6-27. Operation; process.**

A. Process of the district courts in each judicial district shall be under witness of the district judge. Unless otherwise provided by rule of the district court in judicial districts having more than one district judge, process shall be under witness of the presiding judge.

B. The district court may grant free process to any party in any civil or criminal action or special statutory proceeding upon a proper showing of indigency.

**History:** 1953 Comp., § 16-3-14, enacted by Laws 1968, ch. 69, § 28.

### **34-6-28. Operation; rules.**

The district judge of each judicial district may adopt rules governing the administration of each district court. In judicial districts having more than one district judge, the power to adopt rules shall be exercised jointly by all judges of the district, with

the decision of a majority of the judges of the district required for adoption of any rule. Rules adopted under this section shall not conflict with any statute, rule of the supreme court or regulation of the administrative office of the courts.

**History:** 1953 Comp., § 16-3-15, enacted by Laws 1968, ch. 69, § 29.

### **34-6-29. Operation; filing and service.**

The parties are responsible for the filing and service of papers in the district court except in those instances where leave to file is required.

**History:** 1953 Comp., § 16-3-16, enacted by Laws 1968, ch. 69, § 30.

### **34-6-30. Operation; notation of filing.**

When any paper is filed in his office, the district court clerk shall immediately enter on the first page his notation of filing containing the date and time of filing and the court in which filed.

**History:** 1953 Comp., § 16-3-17, enacted by Laws 1968, ch. 69, § 31.

### **34-6-31. Operation; nunc pro tunc entries.**

Whenever determined to be in the interest of justice, the district court may order any matter to be performed nunc pro tunc.

**History:** 1953 Comp., § 16-3-18, enacted by Laws 1968, ch. 69, § 32.

### **34-6-32. Operation; return of filed papers.**

Whenever any original documents are filed with the district court or introduced into evidence, upon application by the party filing or offering the same and upon approval of the court, the original document may be returned and a clearly legible copy substituted therefor. Similarly, objects in evidence of a nondocumentary nature may be withdrawn and photographs adequately illustrating the object or an adequate written description of the object may be substituted.

**History:** 1953 Comp., § 16-3-19, enacted by Laws 1968, ch. 69, § 33.

### **34-6-33. Operation; dockets and records.**

A. The district court clerk shall keep for each county in indexed volumes:

- (1) a civil docket;

- (2) a criminal docket;
- (3) an incapacitated person docket;
- (4) an adoption docket;
- (5) a probate docket;
- (6) a children's docket;
- (7) a judgment docket; and
- (8) a record of the proceedings of the court.

In counties where the amount of business makes it desirable, separate criminal and civil records may be kept.

B. The dockets shall show in convenient form for each case:

- (1) the names of the parties;
- (2) the names of their attorneys;
- (3) the nature of the case;
- (4) the filing of each paper;
- (5) a brief statement of every return, motion, rule, order, judgment or other proceeding, with reference to pages of the record where each entry can be found; and
- (6) the costs taxed and all costs and fees received.

**History:** 1953 Comp., § 16-3-20, enacted by Laws 1968, ch. 69, § 34; 1972, ch. 97, § 47; 1975, ch. 257, § 8-101.

### **34-6-34. Finance; statutory construction.**

Whenever the term "court fund" or "county court fund" may be used in the laws, it shall be construed to refer to the appropriation to the district court of the proper judicial district.

**History:** 1953 Comp., § 16-3-22, enacted by Laws 1968, ch. 69, § 36.

### **34-6-35. Finance; payment of expenses.**

A. All money for the operation and maintenance of the district courts, including the children's and family court divisions, shall be paid by the state treasurer upon warrants of the secretary of finance and administration, supported by vouchers of the district judges and in accordance with budgets approved by the administrative office of the courts and the state budget division of the department of finance and administration. In judicial districts having more than one district judge, vouchers shall be approved by the presiding judge of the district or his authorized representative.

B. The district judge may authorize the establishment of a checking account, designated as the "District court special operations account," in a federally insured bank. In accordance with budgeting requirements, warrants of the secretary of finance and administration may be deposited to the district court special operations account, and checks on the account may be written by the district judge or his authorized representative for payment of:

- (1) jury fees and expenses;
- (2) witness fees and expenses; and
- (3) petty cash expenses.

**History:** 1953 Comp., § 16-3-23, enacted by Laws 1968, ch. 69, § 37; 1972, ch. 97, § 48; 1977, ch. 247, § 146.

### **34-6-36. Finance; disposition of litigant money; court clerk trust account.**

Each district court clerk shall open a trust fund checking account, designated as the "court clerk trust account," in a bank which is a member of the federal deposit insurance corporation. Not later than two working days after receipt, the district court clerk shall deposit to this account all money which belongs to a litigant and all money which might be refunded to a litigant. Whenever the district court, by written order filed with the clerk, authorizes payment of money to a litigant from the court clerk trust account, the district court clerk shall issue his check on the account in accordance with the order. As prescribed by regulation of the director of the administrative office of the courts, money in the court clerk trust account may be invested by the district court clerk in obligations of the United States or in federally insured bank or savings and loan association savings accounts.

**History:** 1953 Comp., § 16-3-24, enacted by Laws 1968, ch. 69, § 38.

### **34-6-37. Finance; disposition of court income; state treasurer account.**

Each district court clerk shall open an account in a bank which is a member of the federal deposit insurance corporation. The account shall be in the name of the state treasurer of New Mexico, and withdrawals may be made only by the state treasurer. All fines, fees, costs and other money received by the clerk, except money designated by law for deposit in the court clerk trust account, shall be deposited to this account not later than two working days after receipt by the clerk. Deposit slips shall be prepared by the clerk to clearly distinguish between fines and forfeitures which the state treasurer will credit to the current school fund of the state, money designated by law for credit to other specific funds in the state treasury, and all other money. Duplicate deposit slips and all bank statements shall be forwarded immediately to the state treasurer by the clerk. No collateral securities shall be required of the bank for this account, but the state treasurer shall make withdrawals from each account at least quarterly, and, in any event, so that the balance remaining in any account never exceeds fifteen thousand dollars (\$15,000). Money withdrawn shall be credited to the proper account in the state treasury, and any money not otherwise designated by law shall be credited to the state general fund.

**History:** 1953 Comp., § 16-3-25, enacted by Laws 1968, ch. 69, § 39.

### **34-6-38. Finance; disposition of unclaimed money.**

When money is held in the court clerk trust account and the person entitled to it does not make claim within six years from the date when it became payable, the money is presumed abandoned and shall be disposed of in the manner provided in the Uniform Disposition of Unclaimed Property Act [Uniform Unclaimed Property Act (1995), Chapter 7, Article 8A NMSA 1978].

**History:** 1953 Comp., § 16-3-26, enacted by Laws 1968, ch. 69, § 40.

### **34-6-39. Finance; improper disposition of money; penalty.**

Any person who violates any provision of Sections 34-6-36 through 34-6-38 NMSA 1978, is guilty of a fourth degree felony.

**History:** 1953 Comp., § 16-3-27, enacted by Laws 1968, ch. 69, § 41.

### **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 [Chapter 21, Article 21A NMSA 1978].

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

**History:** 1953 Comp., § 16-3-28, enacted by Laws 1968, ch. 69, § 42; 1969, ch. 193, § 3; 1980, ch. 137, § 1; 1981, ch. 320, § 1; 1982, ch. 7, § 5; 1984, ch. 120, § 6; 1987, ch. 123, § 1; 1989, ch. 90, § 1; 1992, ch. 111, § 20; 1996, ch. 41, § 3; 2001, ch. 277, § 1; 2001, ch. 279, § 1; 2009, ch. 245, § 1.

### **34-6-40.1. Civil action by state; filing fee assessed as costs.**

In any civil action brought in the district court by the state, its political subdivisions or the nonprofit corporations authorized to be formed under the Educational Assistance Act [Chapter 21, Article 21A NMSA 1978], when judgment or stipulation for payment is rendered in favor of the state, political subdivision or corporation, the filing fee exempt from being paid by the state, political subdivision or corporation pursuant to Section 34-6-40 NMSA 1978 shall be taxed as costs against the nonprevailing party and paid to the district court clerk from the first money paid by the nonprevailing party on the judgement or stipulation for payment.

**History:** Laws 1981, ch. 307, § 1; 1989, ch. 90, § 2.

### **34-6-41. Finance; jury refreshments, meals and rooms.**

A. The district court may provide suitable refreshments for prospective jurors summoned for jury service.

B. When district court juries are engaged in a trial, the court may provide suitable meals and necessary accommodations for them.

**History:** 1953 Comp., § 16-3-29, enacted by Laws 1968, ch. 69, § 43; 1989, ch. 116, § 1.

### **34-6-42. Finance; federal functions.**

District court clerks shall collect fees required by federal law for services in connection with naturalization, passport applications and other matters.

**History:** 1953 Comp., § 16-3-30, enacted by Laws 1968, ch. 69, § 44.



### **34-6-43. Finance; statutory fees exclusive.**

Services required to be performed by district court clerks are without charge when no fee is prescribed by law.

**History:** 1953 Comp., § 16-3-31, enacted by Laws 1968, ch. 69, § 45.

### **34-6-44. District court alternative dispute resolution fund; administration.**

A judicial district that collects an alternative dispute resolution fee pursuant to Section 34-6-45 NMSA 1978 shall create an "alternative dispute resolution fund" of the judicial district. Money in the fund shall be used to defray the cost of operating alternative dispute resolution programs established by judicial district court rule approved by the supreme court, including but not limited to arbitration, mediation and settlement facilitation programs. No part of the fund shall revert at the end of any fiscal year.

**History:** Laws 1986, ch. 26, § 1; 1989, ch. 324, § 27; 1994, ch. 37, § 1.

### **34-6-45. District courts; alternative dispute resolution; fee.**

A. In addition to fees collected pursuant to, and subject to exceptions set forth in, Section 34-6-40 NMSA 1978 for docketing of civil cases in any judicial district that has established an alternative dispute resolution program, the district court clerk shall collect a fee of fifteen dollars (\$15.00) on all new and reopened civil cases except domestic relations cases. The fee shall be deposited for credit to the district court alternative dispute resolution fund pursuant to the provisions of Section 34-6-44 NMSA 1978.

B. A judicial district may establish an alternative dispute resolution program by court rule approved by the supreme court. Parties shall pay the cost of the alternative dispute resolution program pursuant to a sliding fee scale approved by the supreme court. The sliding fee scale shall be based on ability to pay. The fee shall be paid to the district court to be credited to the fund.

**History:** Laws 1986, ch. 26, § 2; 1990, ch. 56, § 1; 1994, ch. 37, § 2; 2017, ch. 39, § 1.

### **34-6-46. District court; indigency standard; fee schedule; reimbursement.**

A. The district court shall use a standard adopted by the public defender department to determine indigency of persons accused of crimes carrying a possible jail sentence.

B. The district court shall use a fee schedule adopted by the public defender department when appointing attorneys to represent defendants who are financially unable to obtain private counsel.

C. The district court shall order reimbursement from each person who has received or desires to receive legal representation or another benefit under the Public Defender Act [Chapter 31, Article 15 NMSA 1978] after a determination is made that he was not indigent according to the standard for indigency adopted by the public defender department.

D. Any amounts recovered pursuant to this section shall be paid to the state treasurer for credit to the general fund.

**History:** 1978 Comp., § 34-6-46, enacted by Laws 1987, ch. 20, § 3.

### **34-6-47. Drug court fees; fund created.**

A. In addition to any other fees collected in the district court, a district court that has established an adult drug court may assess and collect from participants a "drug court fee" of fifty dollars (\$50.00) a month. Program fee requirements may be satisfied by community service at the federal minimum wage.

B. Drug court fees shall be deposited in the "drug court fund" of a specific judicial district in the state treasury. The judicial district shall administer money in the fund to offset client service costs of the drug court program, consistent with standards approved by the supreme court. Money in the fund shall be expended on warrants of the secretary of finance and administration upon vouchers signed by the court administrator or his authorized representative. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

**History:** Laws 2003, ch. 240, § 1.

### **34-6-48. District court; electronic services fee.**

A district court may charge and collect from persons who use electronic services an electronic services fee in an amount established by supreme court rule. Proceeds from the electronic services fee shall be remitted to the administrative office of the courts for deposit in the electronic services fund.

**History:** Laws 2009, ch. 112, § 4.

## **ARTICLE 7 Probate Courts**

### **34-7-1. Probate court; probate judge.**

A. There shall be a probate judge in each county of this state, and each county is a probate court district.

B. The position of probate judge is a part-time position.

**History:** Kearny Code, Courts and Judicial Powers, § 19; C.L. 1865, ch. 21, § 1; C.L. 1884, § 407; C.L. 1897, § 745; Code 1915, § 1423; C.S. 1929, § 34-401; 1941 Comp., § 16-401; 1953 Comp., § 16-4-1; 1978 Comp., § 34-7-1; 1987, ch. 224, § 1; 2023, ch. 44, § 1.

### **34-7-2. Probate judge; election.**

A probate judge shall be elected at each general election at which the governor is elected.

**History:** Laws 1851-1852, p. 198; C.L. 1865, ch. 63, § 4; Code 1915, § 1245; C.S. 1929, § 33-4401; 1941 Comp., § 16-402; 1953 Comp., § 16-4-2; 1978 Comp., § 34-7-2; 2023, ch. 44, § 2.

### **34-7-3. Probate courts; seal.**

The probate courts shall procure and keep a seal with emblems and devices as the supreme court determines.

**History:** Kearny Code, Records and Seals, § 1; C.L. 1865, ch. 93, § 1; C.L. 1884, § 658; C.L. 1897, § 1033; Code 1915, § 1424; C.S. 1929, § 34-402; 1941 Comp., § 16-404; 1953 Comp., § 16-4-4; 1978 Comp., § 34-7-3; 2023, ch. 44, § 3.

### **34-7-4. Place of holding court; quarters; salary.**

A. The probate court shall be located at the county seat unless another location is designated by ordinance of the board of county commissioners.

B. The board of county commissioners shall provide adequate quarters for the probate court, including necessary furnishings, equipment, books, supplies, utilities, upkeep and maintenance.

C. Except as otherwise specifically provided by law, all expenses of the probate court, including salary and benefits of the judge, shall be paid from the county general fund in accordance with the court budget approved by the board of county commissioners.

**History:** Laws 1869-1870, ch. 51, § 1; C.L. 1884, § 415; C.L. 1897, § 749; Code 1915, § 1426; C.S. 1929, § 34-404; 1941 Comp., § 16-405; 1953 Comp., § 16-4-5; 1978 Comp., § 34-7-4, repealed and reenacted by Laws 2023, ch. 44, § 4.

### **34-7-5. Repealed.**

**History:** Laws 1869-1870, ch. 51, § 2; 1882, ch. 82, § 1; C.L. 1884, § 16; C.L. 1897, § 750; Code 1915, § 1427; C.S. 1929, § 34-405; 1941 Comp., § 16-406; 1953 Comp., § 16-4-6; 1978 Comp., § 34-7-5, repealed by Laws 2023, ch. 44, § 16.

### **34-7-6. Repealed.**

**History:** Laws 1887, ch. 66, § 3; C.L. 1897, § 754; Code 1915, § 1437; C.S. 1929, § 34-418; 1941 Comp., § 16-407; 1953 Comp., § 16-4-7; 1978 Comp., § 34-7-3, repealed by Laws 2023, ch. 44, § 16.

### **34-7-7. Custody of records.**

The records, archives, documents and books of the probate court shall be under the charge of the clerk of the probate court in accordance with standards established by the supreme court. The records, archives and documents shall be kept in a separate book maintained for that purpose and may be kept in physical or electronic form.

**History:** Law 1865-1866, ch. 41, § 2; C.L. 1884, § 411; C.L. 1897, § 747; Code 1915, § 1425; C.S. 1929, § 34-403; 1941 Comp., § 16-408; 1953 Comp., § 16-4-8; 1978 Comp., § 34-7-7, repealed and reenacted by Laws 2023, ch. 44, § 5.

### **34-7-8. Probate court; hours of business.**

A. The probate court shall be open at such times as determined by the clerk of the probate court and published on the county's website.

B. The probate judge in each county shall conduct business during those times as necessary for the proper discharge of duties and may set regular hours.

**History:** Laws 1935, ch. 63, § 1; 1941 Comp., § 16-409; 1953 Comp., § 16-4-9; 1978 Comp., § 34-7-8; 1987, ch. 224, § 2; 2023, ch. 44, § 6.

### **34-7-9. Probate judge disqualification; transfer.**

A. Whenever a probate judge shall, for any reason, be interested or disqualified from acting in any proceeding coming within the jurisdiction of the probate court, the judge shall, upon the judge's own motion or that of any interested party, immediately enter an order transferring the proceeding and file the order with the clerk of the probate court.

B. Upon receipt of an order of recusal or disqualification, the clerk of the probate court shall give written notice to the district court of the county in which the probate court is situate, and the district court shall transfer the case to the district court or

designate another probate judge to conduct further proceedings. If designating another probate judge, the district court shall give preference to probate judges serving within the same judicial district. Upon receipt by the clerk of the probate court of a district court designation, the clerk of the probate court shall send a copy of the designation to the parties or their counsel, to the designated district or probate judge and to the recused or disqualified judge.

C. A probate judge who has accepted a designation by the district court has jurisdiction to sit in any action arising in any other probate district when designated for a specific case or for a specific period of time. A probate judge acting in another probate district by designation shall include the cases heard by designation in the probate judge's own reports to the district court, indicating on the reports that the probate court's jurisdiction is by designation.

D. The board of county commissioners of the county of the recused or disqualified probate judge shall reimburse the district judge or probate judge sitting by designation for expenses incurred pursuant to the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

**History:** Laws 1889, ch. 132, § 1; C.L. 1897, § 751; Code 1915, § 1433; C.S. 1929, § 34-414; Laws 1933, ch. 102, § 1; 1941 Comp., § 16-412; 1953 Comp., § 16-4-12; 1978 Comp., § 34-7-9; 2023, ch. 44, § 7.

### **34-7-10. Proceedings in district court.**

A. All proceedings transferred from the probate court to the district court shall be docketed as other causes in that court, which court shall exercise the same authority and take the same steps and proceedings as would have otherwise been taken in the probate court.

B. If a case was properly filed within the jurisdiction of the probate court and later transferred to the district court, no filing fee shall be charged in the district court.

**History:** Laws 1933, ch. 102, § 2; 1941 Comp., § 16-413; 1953 Comp., § 16-4-13; 1978 Comp., § 34-7-10; 2023, ch. 44, § 8.

### **34-7-11. Probate judge absent or unable to attend to duties.**

A. Whenever a probate judge is absent, incapacitated or unable to attend to the probate judge's duties from any cause whatsoever, the probate judge shall enter a notice of unavailability and file the order with the clerk of the probate court; provided that if the judge is unable to prepare the notice due to incapacity, the clerk of the probate court shall prepare and file a notice of incapacitation.

B. Upon receipt of a notice of unavailability or after preparing a notice of incapacitation, the clerk of the probate court shall give written notice to the district court

of the county in which the probate court is situate and the district court shall designate a district judge or another probate judge to hold court in the county and do all things that could otherwise be done by the probate judge of that county, without the necessity of having the matters or proceedings transferred from the docket of the probate court to the docket of the district court or the other probate court. If designating another probate judge, the district court shall give preference to probate judges serving within the same judicial district. Upon receipt by the clerk of the probate court of the designation by the district court, the clerk of the probate court shall send a copy of the designation to the parties or their counsel, to the designated district or probate judge and to the unavailable or incapacitated probate judge.

C. A probate judge acting in another probate district by designation as provided in this section shall include the cases heard by designation in the probate judge's own reports to the district court, indicating on the reports that the probate court's jurisdiction is by designation.

D. The board of county commissioners of the county of the unavailable or incapacitated probate judge shall reimburse the district judge or probate judge sitting by designation for expenses incurred pursuant to the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978].

**History:** Laws 1933, ch. 101, § 1; 1941 Comp., § 16-414; Laws 1943, ch. 65, § 1; 1953 Comp., § 16-4-14; 1978 Comp., § 34-7-11; 2023, ch. 44, § 9.

### **34-7-12. Repealed.**

### **34-7-13. Administration; supreme court rules.**

A. The supreme court shall promulgate rules to regulate pleading, practice and procedure in the probate courts to simplify and promote the speedy determination of probate. The rules shall not abridge, enlarge or modify the substantive rights of any party.

B. The supreme court shall cause all rules to be printed and distributed to all probate judges and to all members of the bar, and no rule shall become effective until thirty days after the rule has been printed and distributed.

**History:** Laws 1887, ch. 66, § 1; C.L. 1897, § 752; Code 1915, § 1435; C.S. 1929, § 34-416; 1941 Comp., § 16-416; 1953 Comp., § 16-4-16; 1978 Comp., § 34-7-13, repealed and reenacted by Laws 2023, ch. 44, § 10.

### **34-7-14. Fees of probate court.**

Clerks of the probate courts shall receive a filing fee of thirty dollars (\$30.00) for each probate case.

**History:** Laws 1923, ch. 29, § 1; C.S. 1929, § 34-406; Laws 1937, ch. 111, § 1; 1941 Comp., § 16-422; 1953 Comp., § 16-4-22; 1961, ch. 16, § 1; 1975, ch. 257, § 8-102; 1993, ch. 132, § 1; 1978 Comp., § 34-7-14, repealed and reenacted by Laws 2023, ch. 44, § 11.

### **34-7-15. Repealed.**

**History:** Laws 1923, ch. 29, § 2; C.S. 1929, § 34-407; 1941 Comp., § 16-423; 1953 Comp., § 16-4-23; 1978 Comp., § 34-7-15, repealed by Laws 2023, ch. 44, § 16.

### **34-7-16. Repealed.**

**History:** Laws 1923, ch. 29, § 4; C.S. 1929, § 34-409; 1941 Comp., § 16-424; 1953 Comp., § 16-4-24; 1978 Comp., § 34-7-16, repealed by Laws 2023, ch. 44, § 16.

### **34-7-17. Probate court to keep accounts.**

The clerk of each probate court shall keep the accounts of the probate court and a record of all warrants issued against the county treasury and for what purpose.

**History:** Laws 1860-1861, p. 80; C.L. 1865, ch. 39, § 20; C.L. 1884, § 417; C.L. 1897, § 755; Code 1915, § 1447; C.S. 1929, § 34-432; 1941 Comp., § 16-425; 1953 Comp., § 16-4-25; 1978 Comp., § 34-7-17; 2023, ch. 44, § 12.

### **34-7-18. Public money; when cases transferred to district court.**

A. All money collected by a probate court in connection with any probate case is public money of the county held in trust until disbursed in accordance with law.

B. If a party informs the probate court that distribution to a decedent's estate is required by federal law or other regulatory provision and there is no other account of the estate established to receive the money, the probate judge shall transfer the case to the district court.

C. If a will requires a bond to be deposited with the court, the probate judge shall transfer the case to the district court.

**History:** Laws 1860-1861, p. 80; C.L. 1865, ch. 39, § 21; C.L. 1884, § 418; C.L. 1897, § 756; Code 1915, § 1448; C.S. 1929, § 34-433; 1941 Comp., § 16-426; 1953 Comp., § 16-4-26; 1978 Comp., § 34-7-18, repealed and reenacted by Laws 2023, ch. 44, § 13.

### **34-7-19. Repealed.**

**History:** Laws 1860-1861, p. 80; C.L. 1865, ch. 39, § 24; C.L. 1884, § 419; C.L. 1897, § 757; Code 1915, § 1449; C.S. 1929, § 34-434; 1941 Comp., § 16-427; 1953 Comp., § 16-4-27; 1978 Comp., § 34-7-19, repealed by Laws 2023, ch. 44, § 16.

### **34-7-20. Repealed.**

**History:** Laws 1889, ch. 90, § 42; C.L. 1897, § 2011; Code 1915, § 2309; C.S. 1929, § 47-902; 1941 Comp., § 16-428; 1953 Comp., § 16-4-28; Laws 1975, ch. 257, § 8-103; 1978 Comp., § 34-7-20, repealed by Laws 2023, ch. 44, § 16.

### **34-7-21. Repealed.**

**History:** Laws 1889, ch. 90, § 43; C.L. 1897, § 2012; Code 1915, § 2310; C.S. 1929, § 47-903; 1941 Comp., § 16-429; 1953 Comp., § 16-4-29; Laws 1975, ch. 257, § 8-104; 1978 Comp., § 34-7-21, repealed by Laws 2023, ch. 44, § 16.

### **34-7-22. Clerk of the probate court; deputy clerks; powers.**

A. Unless otherwise provided by law, the county clerk of each county is designated as the clerk of the probate court in that county and shall have power to appoint deputy clerks of the probate court who shall have full power to perform all the duties of the clerk of the probate court. The fees received by the probate court shall be deposited in the county clerk recording and filing fund.

B. The board of county commissioners of a county may by ordinance provide for a separate clerk of the probate court who shall have the power to appoint deputy clerks, and the fees received by that probate court shall be deposited in the county general fund.

**History:** Laws 1866-1867, ch. 24, § 1; C.L. 1884, § 421; C.L. 1897, § 759; Code 1915, § 1443; C.S. 1929, § 34-427; 1941 Comp., § 16-430; 1953 Comp., § 16-4-30; 1978 Comp., § 34-7-22, repealed and reenacted by Laws 2023, ch. 44, § 14.

### **34-7-23. Repealed.**

**History:** Laws 1866-1867, ch. 24, § 2; C.L. 1884, § 422; C.L. 1897, § 760; Code 1915, § 1444; C.S. 1929, § 34-429; 1941 Comp., § 16-431; 1953 Comp., § 16-4-31; 1978 Comp., § 34-7-23, repealed by Laws 2023, ch. 44, § 16.

### **34-7-24. Repealed.**

**History:** Laws 1866-1867, ch. 24, § 3; C.L. 1884, § 423; C.L. 1897, § 761; Code 1915, § 1445; C.S. 1929, § 34-430; 1941 Comp., § 16-432; 1953 Comp., § 16-4-32; 1978 Comp., § 34-7-24, repealed by Laws 2023, ch. 44, § 16.



## **34-7-25. Repealed.**

**History:** Laws 1866-1867, ch. 24, § 4; C.L. 1884, § 424; C.L. 1897, § 762; Code 1915, § 1446; C.S. 1929, § 34-431; 1941 Comp., § 16-433; 1953 Comp., § 16-4-33; 1978 Comp., § 34-7-25, repealed by Laws 2023, ch. 44, § 16.

## **ARTICLE 8 Small Claims Courts (Repealed.)**

### **34-8-1 to 34-8-13. Repealed.**

## **ARTICLE 8A Metropolitan Courts**

### **34-8A-1. Metropolitan court; established.**

There is established within the boundaries of a class A county with a population of more than two hundred fifty thousand persons in the last federal decennial census the "metropolitan court". The name of the metropolitan district is the same as the name of the county in which it is located.

**History:** Laws 1979, ch. 346, § 1; 2010, ch. 99, § 1.

### **34-8A-2. Metropolitan court; constitution.**

With respect to the provisions of Sections 1 and 26 of Article 6 of the state constitution and all other provisions of law, the metropolitan court shall constitute a state magistrate court which is inferior to the district courts and is established by law pursuant to the provisions of Section 1 of Article 6 of the state constitution.

**History:** Laws 1979, ch. 346, § 2; 1980, ch. 142, § 1.

### **34-8A-3. Metropolitan court; jurisdiction.**

A. In addition to the jurisdiction provided by law for magistrate courts, a metropolitan court shall have jurisdiction within the county boundaries over all:

(1) offenses and complaints pursuant to ordinances of the county and of a municipality located within the county in which the court is located except municipalities with a population of more than two thousand five hundred but less than five thousand persons in the 1980 federal decennial census; provided that the metropolitan court shall not have jurisdiction over uncontested municipal parking violations;

(2) civil actions in which the debt or sum claimed does not exceed ten thousand dollars (\$10,000), exclusive of interest and costs; and

(3) contested violations of parking or operation of vehicle rules promulgated by a board of regents of a state educational institution designated in Article 12, Section 11 of the constitution of New Mexico located within the county in which the court is located.

B. For the purposes of this section, "uncontested violation" is a violation for which a citation has been issued and the person has paid the citation by mail or in person to the appropriate issuing authority; and "contested violation" is a violation for which a citation has been issued and the person has indicated his intent to contest the citation or the person has not paid or answered the citation.

C. The issuing authority shall provide to the metropolitan court on a mutually agreed schedule the unpaid citations and a listing in a manner mutually agreed upon of unpaid citations.

D. The municipality shall retain as reimbursement for its expenses all revenues from uncontested municipal parking violations.

**History:** Laws 1979, ch. 346, § 3; 1980, ch. 142, § 2; 1981, ch. 304, § 2; 1985, ch. 128, § 1; 1987, ch. 111, § 2; 1999, ch. 104, § 1; 2001, ch. 77, § 1.

#### **34-8A-4. Metropolitan court; judges.**

A. Metropolitan judges shall be elected as provided in Section 34-8A-4.1 NMSA 1978. The governor shall fill vacancies in the office of metropolitan judge, by appointment of persons who possess the personal qualifications established by law, until the next general election.

B. No person shall be eligible for election or appointment to the office of metropolitan judge unless he is a member of the bar of and has practiced in this state for a period of three years. There shall be a chief metropolitan judge of a metropolitan court. The chief metropolitan judge shall designate each metropolitan judge position as a separate and consecutively numbered division, and any additional metropolitan judge authorized within a metropolitan court shall be designated as metropolitan judge of the next consecutive division. A district court judge may designate a metropolitan judge as a special master.

**History:** Laws 1979, ch. 346, § 4; 1980, ch. 142, § 3; 1981, ch. 11, § 1; 1981, ch. 318, § 1; 1983, ch. 171, § 1; 1984, ch. 115, § 1; 1986, ch. 49, § 6; 1988, ch. 136, § 4; 1989, ch. 283, § 4; 1990, ch. 115, § 4; 1993, ch. 278, § 2.

#### **34-8A-4.1. Metropolitan court judges; terms of office.**

The term of office for each judge of the metropolitan court is four years. Judges shall be appointed, elected and retained in accordance with Article 6 of the constitution of New Mexico.

**History:** 1978 Comp., § 34-8A-4.1, enacted by Laws 1981, ch. 318, § 2; 1988, ch. 115, § 1; 1990, ch. 114, § 1; 1997, ch. 180, § 3; 1999 (1st S.S.), ch. 4, § 1; 2005, ch. 284, § 4.

### **34-8A-4.2. Appointment as special master, arbitrator or metropolitan court judge pro tempore; compensation.**

A. The chief metropolitan court judge may appoint a retired metropolitan court judge, with the retired judge's consent, to serve as a special master, an arbitrator or a metropolitan court judge pro tempore, subject to money available in the metropolitan court operating budget.

B. A retired metropolitan court judge shall be compensated for his services in an amount equal to ninety percent of the compensation provided to a district court judge pro tempore.

**History:** Laws 2002, ch. 40, § 1.

### **34-8A-5. Metropolitan court; jury trial.**

A. With respect to civil actions, except for contempt of the metropolitan court, the right to trial by jury exists in all actions in the metropolitan court which are within metropolitan court jurisdiction. Either party to an action may demand trial by jury. The demand shall be made in the complaint if made by the plaintiff and in the answer if made by the defendant, and the metropolitan clerk shall collect from the demanding party the jury fee established by law for magistrate juries. If demand is not made pursuant to this subsection, or if the jury fee is not paid at the time demand is made, trial by jury is deemed waived.

B. With respect to criminal actions:

(1) if the penalty does not exceed ninety days' imprisonment or if the penalty is a fine or forfeiture of a license, the action shall be tried by the judge without a jury;

(2) if the penalty exceeds ninety days' but does not exceed six months' imprisonment, either party to the action may demand a trial by jury. The demand shall be made orally or in writing to the court at or before the time of entering a plea or in writing to the court within ten days after the time of entering a plea. If demand is not made pursuant to this subsection, trial by jury is deemed waived; or

(3) if the penalty exceeds six months' imprisonment, the case shall be tried by jury unless the defendant waives a jury trial with the approval of the court and the consent of the state.

C. Juries in the metropolitan court shall hear the evidence in the action which shall be delivered in public in its presence. After hearing the evidence and being duly charged by the judge, the members of the jury shall be kept together until:

- (1) in civil actions, five members shall agree upon a verdict;
- (2) in criminal actions, the members unanimously agree upon a verdict; or
- (3) the members are discharged by the judge.

The judge shall give judgment upon any verdict.

D. A jury in the metropolitan court consists of six jurors with the same qualifications as jurors in the district court.

E. The presiding judge of the metropolitan court shall direct the clerk of the district court to draw and assign to that court the number of qualified jurors the judge deems necessary for one or more jury panels. Upon the receipt of the direction and in the manner prescribed for the selection of district court jurors, the clerk of the district court shall draw at random from the master jury wheel the number of qualified jurors specified. The names of jurors drawn for metropolitan jury service shall be forwarded to the metropolitan court clerk who shall maintain a record of the names and addresses of the prospective jurors.

F. Whenever a jury is required, the presiding judge of the metropolitan court shall order the sheriff or a responsible person to summon the persons named on the jury list to appear at the time and place set for trial of the action. If a jury is left incomplete because of failure of jurors to appear, excused absences or disqualification of jurors, a metropolitan judge shall direct the sheriff to summon others to complete the jury.

G. No person may be required to remain as a member of a metropolitan court jury panel for longer than six months following qualification as a juror in any year unless the panel is engaged in a trial.

**History:** Laws 1979, ch. 346, § 5; 1981, ch. 304, § 3.

### **34-8A-6. Metropolitan court; rules; appeal.**

A. The supreme court shall adopt separate rules of procedure for the metropolitan courts. The rules shall provide simple procedures for the just, speedy and inexpensive determination of any metropolitan court action.

B. Other than for actions brought pursuant to the Uniform Owner-Resident Relations Act [47-8-1 to 47-8-52 NMSA 1978], the metropolitan court is a court of record for civil actions. Any party aggrieved by a judgment rendered by the metropolitan court in a civil action may appeal to the court of appeals. The manner and method for the appeal shall be set forth by supreme court rule.

C. The metropolitan court is not a court of record for civil actions brought pursuant to the Uniform Owner-Resident Relations Act. Any party aggrieved by a judgment rendered by the metropolitan court in a civil action brought pursuant to the Uniform Owner-Resident Relations Act may appeal to the district court of the county in which the metropolitan court is located within fifteen days after the judgment was rendered. The appeal shall be de novo.

D. The metropolitan court is a court of record for criminal actions involving driving while under the influence of intoxicating liquor or drugs or involving domestic violence. A criminal action involving domestic violence means an assault or battery under any state law or municipal or county ordinance in which the alleged victim is a household member as defined in the Family Violence Protection Act [Chapter 40, Article 13 NMSA 1978]. Any party aggrieved by a judgment rendered by the metropolitan court in a criminal action involving driving while under the influence of intoxicating liquor or drugs or involving domestic violence may appeal to the court of appeals. The manner and method of appeal shall be set forth by supreme court rule.

E. The metropolitan court is not a court of record for criminal actions other than driving while under the influence of intoxicating liquor or drugs or domestic violence actions. Any party aggrieved by a judgment rendered by the metropolitan court in a criminal action, other than driving while under the influence of intoxicating liquor or drugs or domestic violence action, may appeal to the district court of the county in which the metropolitan court is located within fifteen days after the judgment was rendered. The appeal shall be de novo.

F. All judgments rendered in civil actions in the metropolitan court shall be subject to the same provisions of law as those rendered in district court.

**History:** Laws 1979, ch. 346, § 6; 1980, ch. 142, § 4; 1981, ch. 304, § 4; 1993, ch. 67, § 1; 2019, ch. 281, § 1.

### **34-8A-7. Metropolitan court; administration.**

A. The metropolitan judges of a metropolitan court shall select and appoint a court administrator who shall supervise all matters relating to the administration of the metropolitan court. The court administrator shall, after his appointment, be directly responsible to and work at the direction of the presiding judge of the metropolitan court.

B. The metropolitan court administrator shall annually prepare and submit a proposed budget approved by the presiding judge of the metropolitan court to the

administrative office of the courts. The metropolitan court shall make monthly written reports to the administrative office of the courts as is currently required of all magistrates and shall otherwise comply with the rules and statutes regarding administration except as provided by this act.

C. All money for the operation and maintenance of the metropolitan court shall be paid by the state treasurer upon warrants of the secretary of finance and administration, supported by vouchers of the presiding judge of the metropolitan court and in accordance with budgets approved by the administrative office of the courts and the state budget division of the department of finance and administration.

**History:** Laws 1979, ch. 346, § 7; 1980, ch. 142, § 5.

### **34-8A-8. Metropolitan court; Bernalillo district.**

A. The name of the metropolitan court in the Bernalillo metropolitan district shall be the "Bernalillo county metropolitan court".

B. The metropolitan court is an agency of the judicial department of state government. Personnel of the metropolitan court are subject to all laws and regulations applicable to state officers and agencies and state officers and employees, except where otherwise specifically provided by law.

C. There shall be nineteen judges of the Bernalillo county metropolitan court.

**History:** Laws 1979, ch. 346, § 8; 1980, ch. 142, § 6; 1981, ch. 308, § 1; 1983, ch. 70, § 1; 1988, ch. 115, § 2; 1990, ch. 114, § 2; 1997, ch. 180, § 4; 2005, ch. 284, § 5; 2006, ch. 99, § 6.

### **34-8A-9. Repealed.**

### **34-8A-10. Metropolitan court mediation fund created; administration; distribution.**

A. There is created in the state treasury the "metropolitan court mediation fund" to be administered by the Bernalillo county metropolitan court.

B. All balances in the metropolitan court mediation fund are appropriated to the Bernalillo county metropolitan court for payment to metropolitan courts for the purpose of funding and administering voluntary mediation programs established by court rule for the efficient disposition of small claims and specified criminal complaints. Payments shall be made upon certification by the metropolitan courts of eligible amounts as provided in Subsection C of this section.

C. Each metropolitan court shall be eligible for a payment in an amount equal to the mediation fees collected by that court and deposited in the metropolitan court mediation fund.

D. Payments from the metropolitan court mediation fund shall be made upon vouchers issued and signed by the Bernalillo county metropolitan court administrator upon warrants drawn by the secretary of finance and administration.

**History:** Laws 1986, ch. 16, § 1; 1989, ch. 245, § 1.

### **34-8A-11. Metropolitan court; indigency standard; fee schedule; reimbursement.**

A. The metropolitan court shall use a standard adopted by the public defender department to determine indigency of persons accused of crimes carrying a possible jail sentence.

B. The metropolitan court shall use a fee schedule adopted by the public defender department when appointing attorneys to represent defendants who are financially unable to obtain private counsel.

C. The metropolitan court shall order reimbursement from each person who has received or desires to receive legal representation or another benefit under the Public Defender Act [Chapter 31, Article 15 NMSA 1978] after a determination is made that he was not indigent according to the standard for indigency adopted by the public defender department.

D. Any amounts recovered pursuant to this section shall be paid to the state treasurer for credit to the general fund.

**History:** 1978 Comp., § 34-8A-11, enacted by Laws 1987, ch. 20, § 4.

### **34-8A-12. Metropolitan court warrant enforcement fund; administration; use of money in fund.**

A. There is created in the state treasury the "metropolitan court warrant enforcement fund" to be administered by the Bernalillo county metropolitan court. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act [Chapter 7, Article 1 NMSA 1978].

B. All balances in the metropolitan court warrant enforcement fund are appropriated to the Bernalillo county metropolitan court for the primary purpose of employing personnel and promoting compliance with court orders. After satisfaction of the primary purpose, any money remaining in the fund may, to the extent deemed necessary by the court, be used for the secondary purpose of partially reimbursing law enforcement

agencies for the expense of serving bench warrants issued by the court, pursuant to an intergovernmental agreement entered into between the law enforcement agency and the court.

C. Payments from the metropolitan court warrant enforcement fund shall be made upon warrants drawn by the secretary of finance and administration pursuant to vouchers issued and signed by the Bernalillo county metropolitan court administrator.

D. Any balance remaining in the metropolitan court warrant enforcement fund at the end of a fiscal year shall not revert to the state general fund.

**History:** 1978 Comp., § 34-8A-12, enacted by Laws 1993, ch. 261, § 5; 2023, ch. 184, § 8.

### **34-8A-13. Collection of fines, fees or costs.**

A judgment and sentence issued by the Bernalillo county metropolitan court that includes an assessment of fines, fees or costs shall constitute a money judgment that may be enforced in the same manner as a civil judgment in the district court. The money judgment may be assigned by the court to a public or private agency or business for collection purposes, pursuant to the terms and conditions of a written agreement entered into by the court and the agency or business.

**History:** 1978 Comp., § 34-8A-13, enacted by Laws 1993, ch. 261, § 6.

### **34-8A-14. Use of parking facility near Bernalillo county metropolitan court.**

The Bernalillo county metropolitan court shall administer and manage a parking facility adjacent to the Bernalillo county metropolitan court in Albuquerque in accordance with the following provisions:

A. parking fees or the rents charged by the Bernalillo county metropolitan court to any public or private tenant or user of the parking facility shall be at rates comparable to parking fees charged in the downtown Albuquerque area for similar parking privileges or rents charged in the downtown Albuquerque area for similar space;

B. after payment of all fixed costs related to the parking facility and all costs of operating and maintaining the parking facility, all rents, parking fees and charges collected by the Bernalillo county metropolitan court for the parking facility shall be deposited in the court facilities fund;

C. the Bernalillo county metropolitan court shall provide a certified long-term user list and parking fee or rent schedule for the parking facility to the New Mexico finance authority at the end of each fiscal year;



D. with the prior written consent of the New Mexico finance authority, the Bernalillo county metropolitan court may sell or otherwise dispose of the parking facility; provided that no sale or disposition of the parking facility shall be for less than the fair market value of the parking facility as determined by an independent real estate appraiser; and

E. any money received from the sale or other disposition of the parking facility shall be deposited in the court facilities fund and used for the early redemption of any outstanding bonds issued by the New Mexico finance authority for financing the parking facility adjacent to the Bernalillo county metropolitan court building in Albuquerque.

**History:** Laws 2000, ch. 5, § 1.

### **34-8A-15. Metropolitan court; electronic services fee.**

A metropolitan court may charge and collect from persons who use electronic services an electronic services fee in an amount established by supreme court rule. Proceeds from the electronic services fee shall be remitted to the administrative office of the courts for deposit in the electronic services fund.

**History:** Laws 2009, ch. 112, § 5.

## **ARTICLE 9**

### **Administrative Office of the Courts**

#### **34-9-1. [Maintenance at seat of government; supervision; appointment and removal of director by supreme court.]**

The administrative office of the courts of New Mexico shall be maintained at the seat of the government. It shall be supervised by a director who shall be appointed and subject to removal by the supreme court of New Mexico.

**History:** 1953 Comp., § 16-6-1, enacted by Laws 1959, ch. 162, § 1.

#### **34-9-2. [Appointment and removal of employees by director; approval of supreme court.]**

The director may appoint necessary employees, subject to the approval of the supreme court, who shall be subject to removal by him with the approval of the supreme court.

**History:** 1953 Comp., § 16-6-2, enacted by Laws 1959, ch. 162, § 2.

#### **34-9-3. Director; duties.**

The director of the administrative office of the courts shall, under the supervision and direction of the supreme court:

A. supervise all matters relating to administration of the courts;

B. examine fiscal matters and the state of the dockets of the courts, secure information as to the courts' need of assistance and prepare and transmit to the supreme court statistical data and reports as to the business of the courts;

C. submit to the supreme court and to the legislature by January 30 of each year a report of the activities of the administrative office of the courts and of the state of business of the courts, including the statistical data submitted to the supreme court pursuant to Subsection B of this section, and the director's recommendations. This report is a public document;

D. deal with the problems of finance of those courts supported by legislative appropriation and be concerned with adequate but economical financing of each of these courts and the equitable distribution of available funds among them. For this purpose, the director shall receive, adjust and approve proposed budgets submitted by these courts prior to submission of the budgets to the state budget division of the department of finance and administration for inclusion in the executive budget. The district courts of all counties within a judicial district shall be included within a single budget. Budget proposals shall be submitted by the courts at the time and in the form prescribed by the director;

E. perform other duties in aid of the administration of justice and the administration and dispatch of the business of the courts as directed by the supreme court. The courts shall comply with all requests of the director for information;

F. encourage that any behavioral health services, including mental health and substance abuse services, funded, provided, contracted for or approved by the administrative office of the courts be in compliance with the requirements of Section 9-7-6.4 NMSA 1978; and

G. apply for and receive, in the name of the administrative office of the courts, any public or private funds, including United States government funds, available to carry out its programs, duties or services.

**History:** 1953 Comp., § 16-6-3, enacted by Laws 1959, ch. 162, § 3; 1963, ch. 66, § 2; 1968, ch. 69, § 46; 2004, ch. 46, § 12; 2019, ch. 38, § 1.

#### **34-9-4. [Officer or employee prohibited from practicing law.]**

No officer or employee of the administrative office shall engage directly or indirectly in the practice of law.

**History:** 1953 Comp., § 16-6-4, enacted by Laws 1959, ch. 162, § 4.

### **34-9-5. [Seal of director; approval by supreme court; judicial notice.]**

The director may use a seal approved by the supreme court. Judicial notice shall be given of such seal.

**History:** 1953 Comp., § 16-6-5, enacted by Laws 1959, ch. 162, § 5.

### **34-9-6. [Authority of courts to appoint personnel unaffected by Sections 34-9-1 to 34-9-7 NMSA 1978.]**

The authority of the courts to appoint administrative or clerical personnel shall not be limited by any provisions of this act [34-9-1 to 34-9-7 NMSA 1978].

**History:** 1953 Comp., § 16-6-6, enacted by Laws 1959, ch. 162, § 6.

### **34-9-7. Courts defined.**

As used with reference to the duties of the director of the administrative office of the courts the word "courts" includes the supreme court, the court of appeals, the district courts, the children's and family court divisions of the district courts, the probate courts and the magistrate courts.

**History:** 1953 Comp., § 16-6-7, enacted by Laws 1959, ch. 162, § 7; 1963, ch. 66, § 3; 1966, ch. 28, § 29; 1968, ch. 62, § 2; 1972, ch. 97, § 50.

### **34-9-8. Courts; records; manuals.**

A. The director of the administrative office of the courts shall compile manuals prescribing detailed requirements for uniform systems of records and forms for use by courts. Following approval by the supreme court, the manuals shall be reproduced by the administrative office of the courts and a copy filed with the supreme court law librarian. Upon the filing, any manual then constitutes a set of rules of the supreme court having the effect of law.

B. Sections of any manual may be revised or amended from time to time by the director, and the revisions or amendments become effective following approval by the supreme court, reproduction by the administrative office of the courts and filing with the supreme court law librarian.

C. The director of the administrative office of the courts shall distribute copies of each manual to each court concerned and, upon request, to other courts and to interested members of the public.

D. Each court shall comply with all the requirements contained in the applicable manual, submit reports to the director as requested and furnish additional information the director may consider expedient.

**History:** 1953 Comp., § 16-6-8, enacted by Laws 1963, ch. 66, § 1; 1968, ch. 69, § 47.

### **34-9-9. Repealed.**

### **34-9-10. Court automation fund created; administration; distribution.**

A. There is created in the state treasury a "court automation fund" to be administered by the administrative office of the courts.

B. All balances in the court automation fund are appropriated and may be expended for service contracts related to court automation systems or for the purchase, lease-purchase, financing, refinancing and maintenance of court automation systems in the judiciary. The New Mexico finance authority may pledge irrevocably all distributions to the authority from the court automation fund for the payment of the principal, interest and any other expenses or obligations related to the bonds issued by the authority for financing court automation systems. Any balance remaining, after all principal, interest and any other expenses or obligations related to the bonds in each fiscal year are fully paid, may be appropriated by the legislature to the administrative office of the courts.

C. Payments from the court automation fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the secretary of finance and administration. Any purchase or lease-purchase agreement entered into pursuant to this section shall be entered into in accordance with the Procurement Code [13-1-28 to 13-1-199 NMSA 1978].

**History:** 1978 Comp., § 33-3-25.1, enacted by Laws 1987, ch. 32, § 2; 1988, ch. 121, § 1; 1991, ch. 70, § 1; 1996, ch. 41, § 4.

### **34-9-11. Jury and witness fee fund created; administration; distribution.**

A. There is created in the state treasury the "jury and witness fee fund" to be administered by the administrative office of the courts.

B. All balances in the jury and witness fee fund may be expended only upon appropriation by the legislature to the administrative office of the courts for the purpose of paying the costs of:

- (1) jurors and prospective jurors;

(2) witnesses of fact or character subpoenaed by the court, the prosecution or the defense;

(3) expert witnesses for grand juries and magistrate courts; and

(4) defending persons whom the court has ordered a public defender to represent, when those persons do not meet the public defender department's indigency standards.

C. All jury fees that the courts collect from parties requesting civil juries, except for jury demand fees as set forth in Section 35-6-1 NMSA 1978, and interest earned on money in the jury and witness fee fund shall be credited to the fund. Payments shall be made upon certification by judicial agencies of eligible amounts. No part of the fund shall revert at the end of any fiscal year.

D. Payments from the jury and witness fee fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration.

**History:** Laws 1993, ch. 106, § 1; 1994, ch. 36, § 1; 2017, ch. 74, § 2.

### **34-9-11.1. Language access fund; created.**

A. There is created in the state treasury the "language access fund" to be administered by the administrative office of the courts.

B. All balances in the language access fund may be expended only upon appropriation by the legislature to the administrative office of the courts for the purpose of paying the costs of:

(1) court interpreters;

(2) operating and staffing the New Mexico center for language access to accomplish its mission to provide and support programs that will help the courts obtain, improve or increase the availability of language access services;

(3) operating and staffing language access services for the administrative office of the courts;

(4) training for the purpose of enhancing language access services in the courts; and

(5) additional activities deemed necessary by the director of the administrative office of the courts to meet constitutional and statutory requirements for language access services in the courts and for court-related activities.

C. All fees and other revenue collected by the New Mexico center for language access and interest earned on money in the language access fund shall be credited to the fund. Payments shall be made upon certification by judicial agencies of eligible amounts. No part of the fund shall revert at the end of any fiscal year.

D. Payments from the language access fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration.

**History:** Laws 2017, ch. 74, § 1.

### **34-9-12. Municipal court automation fund created; administration; distribution.**

A. There is created in the state treasury the "municipal court automation fund" to be administered by the administrative office of the courts.

B. All balances in the municipal court automation fund may be expended only upon application by a municipality to the administrative office of the courts for the purpose of purchasing, maintaining and operating a court automation system in that municipality's courts. Operation includes staff expenses, temporary or otherwise, and costs as needed to comply with Section 35-14-12 NMSA 1978.

C. Payments from the municipal court automation fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts. Any purchase or lease purchase agreement entered into by a municipality for a court automation system shall be in accordance with the provisions of the Procurement Code [13-1-28 to 13-1-199 NMSA 1978].

**History:** Laws 1994, ch. 69, § 3; 2006, ch. 28, § 1.

### **34-9-13. Magistrate and metropolitan court capital fund created; purpose.**

The "magistrate and metropolitan court capital fund" is created in the state treasury and shall be administered by the administrative office of the courts. The fund shall consist of money transferred to the fund by the New Mexico finance authority or from the court facilities fund. Money in the fund shall be available for appropriation by the legislature for leasing or purchasing, renovating, maintaining, securing, furnishing or equipping magistrate or metropolitan court facilities.

**History:** Laws 1998 (1st S.S.), ch. 6, § 6.

### **34-9-14. Court facilities fund created; administration; distribution.**

A. The "court facilities fund" is created in the state treasury and shall be administered by the administrative office of the courts. The fund shall consist of court fees and lease and rental revenues transferred to or deposited in the fund, gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax Administration Act.

B. All court facilities fees and other revenues deposited in the fund shall be distributed monthly to the New Mexico finance authority for deposit in a special bond fund or account of the authority. The New Mexico finance authority may pledge irrevocably all of these distributions to the authority for the payment 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 in Albuquerque and of a parking facility adjacent to the court building.

C. Distributions from the court facilities fund to the New Mexico finance authority shall be made upon vouchers issued and signed by the director of the administrative office of the courts upon warrants drawn by the secretary of finance and administration.

D. 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 in Albuquerque and of a parking facility adjacent to the court building have been satisfied, the court facilities fee shall be eliminated.

**History:** Laws 1998 (1st S.S.), ch. 6, § 7; 2000, ch. 5, § 5; 2023, ch. 184, § 9.

### **34-9-14.1. Magistrate drug court fund; created.**

The "magistrate drug court fund" is created in the state treasury. The administrative office of the courts shall administer money in the fund to offset client service costs of drug court programs in magistrate courts, consistent with standards approved by the supreme court. Money in the fund shall be expended on warrants of the secretary of finance and administration upon vouchers signed by the court administrator or his authorized representative. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

**History:** Laws 2003, ch. 240, § 2.

### **34-9-14.2. Drug court fund; created.**

The "drug court fund" is created in the state treasury. The fund consists of appropriations, distributions, gifts, grants, donations and bequests made to the fund and income from investment of the fund. The administrative office of the courts shall administer money in the fund to offset client service costs of drug court programs,

consistent with standards approved by the supreme court. Money in the fund shall be expended on warrants of the secretary of finance and administration pursuant to vouchers signed by the director of the administrative office of the courts. Balances in the fund shall not revert to the general fund at the end of a fiscal year.

**History:** Laws 2018, ch. 48, § 2.

### **34-9-15. Use of Bernalillo county metropolitan court facilities.**

The administrative office of the courts, as holder of record title to the existing Bernalillo county metropolitan court building located on the northwest corner of Fourth street and Roma avenue northwest in Albuquerque, shall administer and manage the building in accordance with the following provisions:

A. after completion of a new Bernalillo county metropolitan court facility with proceeds of bonds issued by the New Mexico finance authority, the entire operations, judges, staff and personnel associated with the Bernalillo county metropolitan court shall be relocated to the new facility and the existing facility shall be vacated; and

B. after completion of a new Bernalillo county metropolitan court facility, the administrative office of the courts shall then transfer the record title of the vacated facility to the general services department for the express purpose of housing the district public defender or other state agencies.

**History:** Laws 1998 (1st S.S.), ch. 6, § 8; 2001, ch. 95, § 1.

### **34-9-16. New Mexico finance authority revenue bonds; purpose; appropriation.**

A. The New Mexico finance authority may issue and sell revenue bonds in compliance with the New Mexico Finance Authority Act [Chapter 6, Article 21 NMSA 1978] in installments or at one time in an amount not exceeding forty-six million five hundred thousand dollars (\$46,500,000), and an additional three million nine hundred thousand dollars (\$3,900,000) after January 1, 2003, for the purpose of financing the acquisition of real property for and the design, construction, furnishing and equipping of a new court building for the Bernalillo county metropolitan court in Albuquerque.

B. The New Mexico finance authority may issue and sell revenue bonds authorized by this section when the chief judge of the Bernalillo county metropolitan court and the court administrator of the Bernalillo county metropolitan court certify the need for issuance of the bonds. The net proceeds from the sale of the bonds are appropriated to the Bernalillo county metropolitan court for the purpose described in Subsection A of this section.



C. The money distributed from the court facilities fund to the New Mexico finance authority shall be pledged irrevocably for the payment of the principal, interest and other expenses or obligations related to the bonds.

D. Until all bonds authorized by this section and Laws 2000, Chapter 5, Section 2 are issued, any money remaining in the special bond fund or account, after all principal, interest and other expenses or obligations related to the bonds in that fiscal year are fully met, shall be transferred to the magistrate and metropolitan court capital fund. After all bonds authorized by this section and Laws 2000, Chapter 5, Section 2 are issued, up to one million five hundred thousand dollars (\$1,500,000) of any money on deposit in the special bond fund or account in excess of the combined total of the principal, interest and other expenses or obligations related to the bonds coming due in that fiscal year shall be transferred annually to the magistrate and metropolitan court capital fund. After all bonds authorized by this section and Laws 2000, Chapter 5, Section 2 are issued, any amount in the special bond fund or account at the end of each fiscal year not transferred to the magistrate and metropolitan court capital fund shall be used during the succeeding fiscal year for early redemption, defeasance or retirement of bonds selected at the discretion of the New Mexico finance authority. Upon payment of all principal, interest and other expenses or obligations related to the bonds, the authority shall certify to the administrative office of the courts that all obligations for the bonds issued pursuant to this section have been fully discharged and direct the administrative office of the courts and the state treasurer to cease distributing money from the court facilities fund to the authority and to transfer the money from the court facilities fund to the magistrate and metropolitan court capital fund.

E. Any law imposing court facilities fees, authorizing the collection of court facilities fees or directing deposits into the court facilities fund or distribution of the money in the court facilities fund to the New Mexico finance authority shall not be amended, repealed or otherwise directly or indirectly modified so as to impair outstanding revenue bonds that may be secured by a pledge of the distributions from the court facilities fund to the New Mexico finance authority, unless the revenue bonds have been discharged in full or provisions have been made for a full discharge.

F. The New Mexico finance authority may additionally secure the revenue bonds issued pursuant to this section by a pledge of money in the public project revolving fund with a lien priority on the money in the public project revolving fund as determined by the authority.

**History:** Laws 1998 (1st S.S.), ch. 6, § 9; 2001, ch. 95, § 2; 2003, ch. 45, § 1.

### **34-9-17. Consolidation study committee; composition; duties.**

A. With the approval and direction of the supreme court, the administrative office of the courts shall create a "consolidation study committee" to study the potential consolidation of the magistrate and municipal courts in Dona Ana county. The committee shall consist of fifteen members as follows:

- (1) a district judge from the third judicial district, appointed by the chief judge of the district;
- (2) a Dona Ana county magistrate judge, appointed by the director of the administrative office of the courts;
- (3) a municipal judge from the city of Las Cruces, appointed by the director of the administrative office of the courts;
- (4) three attorneys who commonly practice in the Dona Ana county magistrate court or the city of Las Cruces municipal court, appointed by the third judicial district bar association;
- (5) one public member appointed by the mayor of the city of Las Cruces;
- (6) one public member appointed by the board of county commissioners for Dona Ana county;
- (7) one administrative employee from the Dona Ana county magistrate court, appointed by the magistrates;
- (8) one administrative employee from the city of Las Cruces municipal court, appointed by the municipal judges;
- (9) one administrative employee from the third judicial district court, appointed by the district court judges;
- (10) a designee of the director of the administrative office of the courts;
- (11) the district attorney for the third judicial district;
- (12) the district public defender for the third judicial district; and
- (13) a member of the city council of the city of Las Cruces, appointed by the city council.

B. The committee shall elect a chair and such other officers as it deems necessary. The committee shall meet at the call of the chair but no less than once per month. The committee may contract with a part-time individual to assist the committee with its administrative functions.

C. The committee shall investigate and evaluate the effectiveness and judicial efficiency of community-based judicial systems in other areas and determine the feasibility of creating a consolidated system in the Dona Ana county court system. The committee shall report its findings and recommendation to the city council, the board of county commissioners and the legislature by December 1, 2005.

**History:** Laws 2005, ch. 297, § 1.

### **34-9-17.1. Bernalillo county criminal justice review commission.**

A. The "Bernalillo county criminal justice review commission" is created to exist from July 1, 2013 through June 30, 2015.

B. The commission shall be composed of the following members or their designees:

- (1) the chief judge of the second judicial district;
- (2) the chief judge of the Bernalillo county metropolitan court;
- (3) the second judicial district attorney;
- (4) the Bernalillo county sheriff;
- (5) the chair of the board of county commissioners of Bernalillo county;
- (6) the chief of the Albuquerque police department;
- (7) the district public defender of the second judicial district;
- (8) the director of the administrative office of the courts, under the supervision and direction of the supreme court;
- (9) the region manager of region 2 of the adult probation and parole division of the corrections department; and
- (10) the executive director of the New Mexico association of counties.

C. The director of the administrative office of the courts, or the director's designee, shall chair the Bernalillo county criminal justice review commission. The chair shall call the first meeting of the commission to take place within thirty days of the effective date of this section, and the commission shall subsequently meet at the call of the chair. The commission shall organize itself in a manner appropriate to accomplish its duties pursuant to this section. The commission may call upon any of its members' agencies or organizations to support the work of the commission.

D. The Bernalillo county criminal justice review commission is charged with reviewing the criminal justice system in Bernalillo county, including the judicial process, sentencing, community corrections alternatives and jail overcrowding, for the purposes of identifying changes that will improve each members' agency or organization's ability to carry out its duties in the criminal justice system and ensuring that criminal justice is indeed just. State agencies shall provide prompt and pertinent responses to reasonable commission requests for information or support.

E. Following its review of the Bernalillo county criminal justice system, the Bernalillo county criminal justice review commission shall make written recommendations for revisions or alternatives to local and state laws that in the determination of the commission will serve to improve the delivery of criminal justice in Bernalillo county. A copy of the report shall be provided to each member of the board of county commissioners of Bernalillo county, to the administrative office of the courts, to the New Mexico association of counties, to the legislative finance committee and to the appropriate interim legislative committee.

**History:** Laws 2013, ch. 199, § 1.

### **34-9-18. Judicial performance evaluation fund; created.**

A. The "judicial performance evaluation fund" is created in the state treasury to be administered by the administrative office of the courts. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund. Balances in the fund shall not revert to the general fund at the end of any fiscal year.

B. Money in the judicial performance evaluation fund is subject to appropriation by the legislature to the administrative office of the courts for the operation and costs of the judicial performance evaluation commission to perform the duties required by the supreme court to evaluate appellate, district and metropolitan court judges.

C. Payments from the judicial performance evaluation fund shall be made upon vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration.

**History:** Laws 2008, ch. 36, § 1.

### **34-9-19. Reporting to the national instant criminal background check system.**

A. In any circumstance other than that described in Subsection B of this section, the administrative office of the courts shall obtain and electronically transmit information from court proceedings relating to a person's eligibility to receive or possess a firearm or ammunition pursuant to state or federal law to the federal bureau of investigation's national instant criminal background check system. The administrative office of the courts shall also be responsible for notifying, as soon as practicable within ten days of receipt of the information, the federal bureau of investigation to update, correct, modify or remove information affecting a person's eligibility to receive or possess a firearm or ammunition pursuant to state or federal law in the national instant criminal background check system.

B. The administrative office of the courts shall electronically transmit information about a court order, judgment or verdict to the federal bureau of investigation for entry into the national instant criminal background check system regarding each person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, disabled from receiving or possessing a firearm or ammunition.

C. Upon entry of a court order, judgment or verdict referred to in Subsection B of this section, the administrative office of the courts shall transmit to the federal bureau of investigation only that information necessary to identify the person for the sole purpose of inclusion in the national instant criminal background check system. The administrative office of the courts, consistent with rules promulgated pursuant to Subsection L of this section, shall also notify the person that, as an adjudicated mental defective or as a person committed to a mental institution, the person is disabled pursuant to federal law from receiving or possessing a firearm or ammunition.

D. A person who has been adjudicated as a mental defective or committed to a mental institution and is therefore, pursuant to federal law, disabled from receiving or possessing a firearm or ammunition or, pursuant to state law, is ineligible for a concealed handgun license may petition the court that originated the order, judgment or verdict or another court of competent jurisdiction to remove that person's firearm-related disabilities and restore the person's right to receive and possess a firearm and ammunition and the right to be eligible for a concealed handgun license. A copy of the petition seeking relief from disabilities shall be served upon the office of the attorney general and upon all parties to the proceeding resulting in a court order, judgment or verdict described in Subsection B of this section.

E. The court shall conduct a hearing and receive and consider evidence on a petition for relief described in Subsection D of this section, including evidence offered by the petitioner, concerning:

- (1) the circumstances regarding the firearm disabilities from which relief is sought;
- (2) the petitioner's mental health and criminal history records, if any;
- (3) the petitioner's reputation, developed, at a minimum, through character witness statements, testimony or other character evidence; and
- (4) changes in the petitioner's condition or circumstances since the original court order, judgment or verdict that are relevant to the relief sought.

F. After conducting a hearing on the petition, the court shall grant the petition for relief from the disability reported pursuant to Subsection B of this section if the court finds by a preponderance of the evidence that the petitioner will not be likely to act in a

manner dangerous to public safety and that granting the relief will not be contrary to the public interest.

G. A record shall be kept of the proceedings held pursuant to Subsection E of this section. The decision of the court may be appealed.

H. Regardless of whether an earlier decision has been appealed, a person may petition for relief pursuant to Subsection D of this section not more than once every two years and, in the case of a person who was committed to a mental institution, not before the person has been discharged from that commitment.

I. Upon the entry of a court order granting relief from disabilities pursuant to Subsection F of this section, and as soon as practicable within ten days of receipt of the court order granting relief, the administrative office of the courts and any other state agency as applicable shall each be separately responsible for updating, correcting, modifying or removing the petitioner's record from their own databases that they make available to the national instant criminal background check system and each shall promptly notify the United States attorney general for the purpose of reporting to the national instant criminal background check system that the basis for the petitioner being disabled pursuant to federal law from receiving or possessing a firearm or ammunition no longer applies.

J. The administrative office of the courts is prohibited from disclosing information regarding a court order, judgment or verdict referred to in Subsection B of this section or regarding a petitioner or proceedings under this section, except as otherwise provided by law. Information compiled and transmitted under this section is not a public record and is not subject to disclosure pursuant to the Inspection of Public Records Act [Chapter 14, Article 2 NMSA 1978].

K. A person who is the subject of information compiled or transmitted by the administrative office of the courts pursuant to this section, or the person's authorized representative, has a right to obtain, inspect and correct information compiled or transmitted.

L. The administrative office of the courts shall promulgate rules relating to the inspection and correction of information contained in its records and relating to the transmission of corrected information by the office for inclusion in the national instant criminal background check system database and other rules as necessary to implement the provisions of this section.

M. As used in this section, the terms "adjudicated as a mental defective" and "committed to a mental institution" have the same meaning as those terms are defined in federal regulations at 27 C.F.R. Section 478.11, as amended or renumbered.

**History:** Laws 2016, ch. 10, § 2.

### **34-9-20. Judge pro tempore fund; created.**

The "judge pro tempore fund" is created in the state treasury, to be administered by the administrative office of the courts. The fund shall be used to pay the costs of judges pro tempore. The fund shall consist of appropriations, gifts, grants, donations and bequests made to the fund. Income from the fund shall be credited to the fund. Payments from the judge pro tempore fund shall be made pursuant to vouchers issued and signed by the director of the administrative office of the courts or the director's designee upon warrants drawn by the secretary of finance and administration.

**History:** Laws 2019, ch. 37, § 1.

### **34-9-21. Criteria for distribution of grants.**

The administrative office of the courts shall establish criteria for the distribution of grants supporting pretrial services statewide and develop a framework for the standardization of pretrial services and supervision, including performance measurement and reporting. The framework and criteria for grant distribution shall incorporate national best practices and modify them as needed and shall explore the use of electronic location monitoring or other modes of pretrial services to enhance the certainty and celerity of punishment of low-level offenses with minimal impact on correctional institutions.

**History:** Laws 2022, ch. 56, § 37.

## **ARTICLE 10**

### **Judicial Standards Commission**

#### **34-10-1. Judicial standards commission; selection; terms.**

The judicial standards commission consists of thirteen positions:

A. positions 1 through 5, position 10 and position 12, each of which shall be filled by a person who is a qualified elector of this state, who is not a justice, judge or magistrate of any court and who is not licensed to practice law in this state. The governor shall fill each of these positions by appointment of qualified persons. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for five years or less, in such manner that at least one term expires on June 30 each year, and so that not more than three of the seven positions are occupied by persons from the same political party. The initial terms for positions 1 through 5 begin on July 1, 1968. The initial term for position 10 begins on July 1, 1999, and the initial term for position 12 begins on July 1, 2013. The terms expire as follows:

(1) position 1 on June 30, 1969;

- (2) position 2 on June 30, 1970;
- (3) position 3 on June 30, 1971;
- (4) position 4 on June 30, 1972;
- (5) position 5 on June 30, 1973;
- (6) position 10 on June 30, 2004; and
- (7) position 12 on June 30, 2018;

B. positions 6 and 7, each of which shall be filled by a person who is licensed to practice law in this state. These positions shall be filled by appointment of qualified persons by majority vote of all members of the board of commissioners of the state bar of New Mexico, but no member of the board of commissioners shall be appointed. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for four years or less, in such manner that one of the terms expires on June 30 of each even-numbered year. Initial terms begin on July 1, 1968 and expire as follows:

- (1) position 6 on June 30, 1970; and
- (2) position 7 on June 30, 1972; and

C. positions 8 and 9, each of which shall be filled by a person who is a justice of the supreme court or a judge of the court of appeals or district court; position 11, which shall be filled by a person who is a magistrate court judge; and position 13, which shall be filled by a person who is a municipal judge. These positions shall be filled by appointment of qualified persons by the supreme court. Following initial terms specified in this subsection, these positions shall be filled in the same manner by qualified persons who serve for four years or less, in such manner that at least one of the terms expires on June 30 of each odd-numbered year. The initial terms for positions 8 and 9 begin on July 1, 1968. The initial term for position 11 begins on July 1, 1999. The initial term for position 13 begins on July 1, 2013. The terms expire as follows:

- (1) position 8 on June 30, 1971;
- (2) position 9 on June 30, 1973;
- (3) position 11 on June 30, 2003; and
- (4) position 13 on June 30, 2017.

**History:** 1953 Comp., § 16-8-1, enacted by Laws 1968, ch. 48, § 1; 1999, ch. 109, § 1; 2013, ch. 154, § 1.



## **34-10-2. Judicial standards commission; vacancies.**

Whenever any member of the judicial standards commission dies, resigns or no longer has the qualifications required for his original selection, his position on the commission becomes vacant. The remaining members of the commission shall certify the existence of the vacancy to the original appointing authority for the vacant position, which authority shall select a successor in the same manner as the original selection was made.

**History:** 1953 Comp., § 16-8-2, enacted by Laws 1968, ch. 48, § 2.

### **34-10-2.1. Judicial standards commission; duties; subpoena power.**

A. Pursuant to the judicial standards commission's authority granted by Article 6, Section 32 of the constitution of New Mexico, any justice, judge or magistrate of any court may be disciplined or removed for willful misconduct in office, persistent failure or inability to perform the judge's duties or habitual intemperance, or may be retired for a disability that seriously interferes with the performance of the justice's, judge's or magistrate's duties and that is, or is likely to become, of a permanent character.

B. The judicial standards commission shall:

(1) investigate all charges, complaints and allegations as to a justice's, judge's or magistrate's willful misconduct in office, persistent failure or inability to perform official duties or habitual intemperance, if the commission deems necessary, and hold a hearing on the charges, complaints or allegations concerning the discipline or removal of that judicial officer;

(2) investigate and, if the commission deems necessary, hold hearings on any charge, complaint or allegation that a justice, judge or magistrate has suffered a disability that is seriously interfering with the performance of that judicial officer's duties and that is, or is likely to become, of a permanent character;

(3) if the commission deems it necessary or convenient, appoint three masters, who are justices or judges of courts of record, to hear and take evidence in any matter arising under Paragraph (1) or (2) of this subsection who shall report their findings to the commission; and

(4) after a hearing deemed necessary pursuant to Paragraph (2) of this subsection or after considering the record and the findings and report of the masters, if the commission finds good cause, recommend to the supreme court the discipline, removal or retirement of the justice, judge or magistrate.

C. In any investigation or hearing held under the provisions of this section, the commission may administer oaths and, with the concurrence of a majority of the members of the commission, petition a district court to subpoena witnesses, compel

their attendance and examine them under oath or affirmation and require the production of any books, records, documents or other evidence it may deem relevant or material to an investigation upon a showing of probable cause.

**History:** 1953 Comp., § 16-8-2.1, enacted by Laws 1977, ch. 289, § 1; 2019, ch. 86, § 36; 2023, ch. 116, § 1.

### **34-10-3. Judicial standards commission; executive director.**

The judicial standards commission shall employ an executive director.

**History:** 1953 Comp., § 16-8-3, enacted by Laws 1974, ch. 4, § 1.

### **34-10-4. Judicial standards commission; director's duties.**

The executive director of the judicial standards commission shall:

A. perform, or cause to be performed, all investigations as may be deemed necessary or desirable by the commission or masters appointed by the commission;

B. enter into such contracts as may be necessary to carry out the responsibilities of the commission;

C. hire such other personnel as may be necessary to carry out the responsibilities of the commission; and

D. perform such other duties as may be delegated to him by the commission.

**History:** 1953 Comp., § 16-8-4, enacted by Laws 1974, ch. 4, § 2.

## **ARTICLE 11 Judicial Conference (Repealed.)**

**34-11-1. Repealed.**

## **ARTICLE 12 Judicial Council (Repealed.)**

**34-12-1 to 34-12-6. Repealed.**

**34-12-7 to 34-12-12. Repealed.**

## **ARTICLE 13**

### **Judicial Education Fund**

#### **34-13-1. Judicial education fund created; administration; income to the fund.**

A. The "judicial education fund" is created in the state treasury and shall be administered by the administrative office of the courts. Money in the fund shall be invested by the state treasurer as provided by law and earnings of the fund shall be credited to the fund. Unexpended or unencumbered balances remaining in the fund at the end of any fiscal year shall not revert.

B. Money from the fund may only be expended upon appropriation by the legislature.

C. The judicial education fund consists of general appropriations, as well as gifts, grants, donations and other appropriations to the fund and distributions to the fund made pursuant to the Tax Administration Act [Chapter 7, Article 1 NMSA 1978].

**History:** Laws 1993, ch. 273, § 1; 2023, ch. 139, § 1; 2023, ch. 184, § 10.

#### **34-13-2. Court education services division; purpose.**

The court education services division of the administrative office of the courts shall provide judicial education, training and instruction for the justices, judges, magistrates and court personnel of the state, municipalities and counties and may provide such education for tribal judges.

**History:** Laws 1993, ch. 273, § 2; 2019, ch. 183, § 1; 2023, ch. 139, § 2.

## **ARTICLE 14**

### **Civil Legal Services Commission**

#### **34-14-1. Civil legal services; commission; fund; disbursement.**

A. The "civil legal services commission" is created. The commission shall be composed of five members, all of whom have experience with the civil legal matters affecting low-income persons. The members shall be appointed as follows:

- (1) two members appointed by the governor;
- (2) two members, both of whom shall be attorneys, appointed by the supreme court; and

(3) one member, who shall be an attorney, appointed by the state bar of New Mexico.

B. The initial appointee of the state bar shall serve for three years. One of the initial members appointed by the governor and one of the initial members appointed by the supreme court shall serve for one year and the other initial members appointed by the governor and by the supreme court shall serve for two years. Thereafter, the terms of all members shall be for three years.

C. Staff and meeting space for the commission shall be provided by the local government division of the department of finance and administration. The commission shall elect a chair and such other officers as it deems appropriate and shall meet at the call of the chair. Members of the commission shall receive per diem and mileage pursuant to the Per Diem and Mileage Act [10-8-1 to 10-8-8 NMSA 1978] and shall receive no other compensation.

D. The commission shall:

(1) pursuant to the Procurement Code [13-1-28 to 13-1-199 NMSA 1978], solicit proposals for disbursements from the civil legal services fund;

(2) enter into contracts for the expenditure of the civil legal services fund, less administrative costs as provided in Subsection E of this section, for the purpose of improving civil legal services for low-income persons. The contracts shall be entered into with nonprofit organizations:

(a) whose mission is to provide a range of free legal services to New Mexicans living in poverty and who demonstrate the capacity to cooperate with state and local bar associations, pro bono programs and private attorneys to increase the availability of free legal services to impoverished New Mexicans; or

(b) whose programs increase and coordinate statewide access to and provisions of civil legal services for persons living in poverty through the use of technology; provided that no more than fifty percent of the annual expenditures from the civil legal services fund shall be used for purposes of this subparagraph; and

(3) adopt such rules as are necessary to carry out the provisions of this section.

E. The local government division of the department of finance and administration, pursuant to rules of the commission, shall administer the contracts and programs provided for in this section; provided that no more than five percent of the annual expenditures from the civil legal services fund shall be for administrative costs. The division shall require an annual accounting from each organization receiving funds pursuant to this section.

F. Money disbursed pursuant to this section shall not be used by a recipient to:

- (1) support lobbying, as defined in the Lobbyist Regulation Act [Chapter 2, Article 11 NMSA 1978]; or
- (2) bring suit against the state.

G. The "civil legal services fund" is created in the state treasury. All earnings of the fund shall be credited to the fund, and any unexpended or unencumbered balance in the fund shall not revert to another fund at the end of a fiscal year. Disbursements from the fund shall be by warrant drawn by the secretary of finance and administration pursuant to vouchers signed by the director of the local government division of the department of finance and administration. Money in the fund is appropriated to the local government division and the civil legal services commission for the purposes of carrying out the provisions of this section.

H. As used in this section, "civil legal services" means a full range of free legal services provided by attorneys or attorney-supervised staff in noncriminal matters to low-income persons living in New Mexico.

**History:** Laws 2001, ch. 277, § 3 and Laws 2001, ch. 279, § 3.

## **ARTICLE 15**

### **Domestic Violence Offender Treatment Fund (Repealed.)**

#### **34-15-1. Repealed.**

**History:** Laws 2003, ch. 94, § 1; repealed by Laws 2008, ch. 7, § 4.

#### **34-15-2. Repealed.**

**History:** Laws 2003, ch. 94, § 2; repealed by Laws 2008, ch. 33, § 4.

## **ARTICLE 16**

### **Juvenile Adjudication Fund**

#### **34-16-1. Juvenile adjudication fund created.**

The "juvenile adjudication fund" is created in the state treasury to provide an alternative procedure of adjudication for juveniles charged with misdemeanor offenses to help alleviate the docket of the juvenile judicial system. The fund consists of gifts, grants, donations, appropriations and distributions to the fund made pursuant to the Tax

Administration Act [Chapter 7, Article 1 NMSA 1978]. Money in the fund at the end of a fiscal year shall not revert to any other fund. The department of finance and administration shall administer the fund, and money in the fund is appropriated to the department of finance and administration to administer the fund and to provide an alternative adjudication process for juveniles charged with traffic offenses and other misdemeanors. Money expended to administer the fund shall not exceed five percent of the money credited to the fund in each fiscal year. Disbursements from the fund shall be made by warrant of the secretary of finance and administration pursuant to vouchers signed by the secretary or the secretary's authorized representative.

**History:** Laws 2009, ch. 244, § 2; 2023, ch. 184, § 11.