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HOUSE COMMITTEE REPORT

(11)
 Date Referred: April 5, 1989
 (Judiciary referral waived)

FURTHER REFERRALS:

Date of Committee Action: 4/17/89

The FINANCE Committee considered:

SB 133

SENATE BILL NO. 133 [REPEAL PROBATION FEE AUTHORIZATION]
 "An Act repealing the authority of the Alaska Court System to impose and of state agencies to collect a probation fee; and providing for an effective date."

- RECOMMENDATIONS:
- be replaced with _____ the same title a new title
 - have attached amendment(s)
 - do pass
 - do not pass
 - no recommendation
 - individual recommendations
 - additional referral to the _____ Committee

ADOPTS: _____ letter of intent

ATTACHES NEW FISCAL NOTE(s):
 (Dept)

APPROVES PREVIOUS:

(Date/Dept)

- fiscal impact _____
- zero fiscal note _____
- zero with analysis _____

- fiscal note(s) Corrections 1/27/89
- zero fiscal note(s) Alk. Court System 2/3/89
- zero fn/analysis _____

SIGNING DO PASS:

SIGNING:

(Check approp. column)

Do Not
Pass No Rec Amend

 _____ Larson
 _____ Hoffman
 _____ Swackhammer
 _____ Ulmer
 _____ Barnes
 _____ Rieger
 _____ Wallis

_____ Brown		X	
_____ Koponen		X	
_____ Phillips		✓	

Co- _____
 Chairman's Signature
 Co- _____

740 HFC 4-17-89

STATE OF ALASKA 1989 LEGISLATIVE SESSION
FISCAL NOTE

Bill Version: SB 133
 Publish Date: 2/3/89

REQUEST:

Revision Date: Agency Affected: Alaska Court System
 Title: An act repealing authority ... BRU: Trial Courts
 to impose ... and collect probation fees
 Sponsor: Adams Components:
 Requestor: Senate Judiciary

EXPENDITURES/REVENUES:	(Thousands of Dollars)					
OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
Personal Services
Travel
Contractual
Supplies
Equipment
Land & Structures
Grants & Claims
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL

REVENUE

FUNDING:	(Thousands of Dollars)					
General Funds	0.0	0.0	0.0	0.0	0.0	0.0
Federal Funds	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Other	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

POSITIONS:						
Full-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Part-time	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .
Temporary	. . . .	. . . .	. . . .	. . . .	. . . .	. . . .

ANALYSIS: (Attach a separate page if necessary)

No fiscal impact.

Prepared by: *Jan Strandberg* General Counsel Phone: 264-8228
 Division: Alaska Court System Date: 01/25/89

Approved by: *Arthur H. Snowden, II* Administrative Director Date: 01/25/89
 Agency: Alaska Court System

- Distribution (by preparer):
- Legislative Finance
 - Legislative Sponsor
 - Requestor
 - Office of Management & Budget
 - Impacted Agency(ies)
 - Senate Secretary

STATE OF ALASKA
1989 LEGISLATIVE SESSION

R/0 HFC 4-17-89

BILL VERSION: SB 133
PUBLISH DATE: _____

FISCAL NOTE

REQUEST:

Revision Date: _____
Title: "An Act repealing the authority of
the Alaska Court System to impose."
Sponsor: Senator Adams
Requestor: _____

Agency Affected: Department of Corrections
BRU: Statewide Operations
Components: Northern Region Probation
Southcentral Region Probation
Southeast Region Probation

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING	FY 89	FY 90	FY 91	FY 92	FY 93	FY 94
PERSONAL SERVICES						
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	0	0	0	0	0	0
CAPITAL	0	0	0	0	0	0
REVENUE	-126.2	-126.2	0	0	0	0

FUNDING: (Thousands of Dollars)

GENERAL FUND	62.0	62.0				
FEDERAL FUNDS						
OTHER	-62.0	-62.0				
TOTAL	0	0	0	0	0	0

POSITIONS:

FULL-TIME	0	0	0	0	0	0
PART-TIME						
TEMPORARY						

ANALYSIS : (Attach a separate page if necessary)

This legislation will not result in additional operating costs, but the funding sources for FY89 and FY90 must be changed from program receipts to general fund.

Prepared by: Susan E. Knighton, Director Phone: 465-3376
Division: Administrative Services Date: 1-27-89

Approved by Commissioner: S. Humphrey-Barnett Date: 1-27-89
Agency: Department of Corrections

Distribution (by preparer):

- Legislative Finance
- Legislative Sponsor
- Requestor
- Office of Management and Budget
- Impacted Agency(ies)

1 IN THE SENATE

BY ADAMS

2

SENATE BILL NO. 133

3

IN THE LEGISLATURE OF THE STATE OF ALASKA

4

SIXTEENTH LEGISLATURE - FIRST SESSION

5

A BILL

6 For an Act entitled: "An Act repealing the authority of the Alaska Court
7 System to impose and of state agencies to collect a
8 probation fee; and providing for an effective date."

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

10 * Section 1. AS 12.55.100(a) is amended to read:

11 (a) While on probation and among the conditions of probation,
12 the defendant may be required

13 (1) to pay a fine in one or several sums;

14 (2) to make restitution or reparation to aggrieved parties
15 for actual damages or loss caused by the crime for which conviction
16 was had;

17 (3) to provide for the support of any persons for whose
18 support the defendant is legally responsible; and

19 (4) to perform community work in accordance with AS 12.-
20 55.055 [; AND

21 (5) TO PAY A PERIODIC PROBATION FEE AS PROVIDED IN AS 12.-
22 55.105].

23 * Sec. 2. AS 14.43.120(i) is amended to read:

24 (i) If a loan is in default, the commission shall notify the
25 borrower that repayment of the remaining balance is accelerated and
26 due by sending the borrower a notice by registered or certified mail.
27 The permanent fund dividend of a borrower may be taken under AS 43.-
28 23.065(b)(3) [AS 43.23.065(b)(4)] to satisfy the balance due on the
29 defaulted loan.

98-11-14 1984 01/27

1 * Sec. 3. AS 43.23.065(b) is amended to read:

2 (b) An exemption is not available under this section for perma-
3 nent fund dividends taken to satisfy

4 (1) child support obligations required by court order or
5 decision of the child support enforcement agency under AS 47.23.140 -
6 47.23.220;

7 (2) court ordered restitution under AS 12.55.045 - 12.55.-
8 051 or 12.55.100; or


9 (3) [A COURT ORDERED PROBATION FEE UNDER AS 12.55.105; OR

10 (4)] a debt owed by an eligible individual to an agency of
11 the state, unless the debt is contested and an appeal is pending, or
12 the time limit for filing an appeal has not expired.

13 * Sec. 4. AS 12.55.105 is repealed.

14 * Sec. 5. APPLICABILITY. The provisions of this Act do not affect the
15 collection of probation fee payments ordered by a court under AS 12.55.105,
16 repealed by sec. 4 of this Act, after June 30, 1986, and before the effec-
17 tive date of this Act.

18 * Sec. 6. This Act takes effect immediately under AS 01.10.070(c).

State of Alaska Department of Corrections Policies and Procedures		Index: 902.09	Page 1 of 6
		Effective Date: 87-1-0	
Approved by: William W. Ladwig		Related ACA Standards: 2-3081	
Supersedes: 902.09 (Eff. 86-10-15)		Subject: PROBATION SUPERVISION FEE	
Chapter: INTAKE, CLASSIFICATION AND SUPERVISION			

I. AUTHORITY:

In accordance with AS 44.28.030, AS 33.05.010, AS 33.16.180, and AS 33.30.021, the Department of Corrections shall develop and adopt policies and procedures that are consistent with laws for the guidance, government and administration of correctional facilities, programs and field services.

II. PURPOSE:

To establish procedures for the collection, recording and disbursement of a court ordered probation fee in accordance with AS 12.55.105.

III. APPLICATION:

To all employees and probationers.

IV. DEFINITIONS:

As used in this document, the following definition shall apply:

Probation Fee:

The sum of money to be paid by each supervised probationer each month he or she is under the supervision of the Department ; fee for services ordered by the sentencing court as a condition of probation; the sum of \$1.50 per day for portions of a month to a maximum of \$45.00 per month for each calendar month under supervision.

V. POLICY:

This Department will, through the probation officers and staff of Community Corrections, establish an equitable and orderly system to collect probation fees from individuals placed on supervised probation and who have had said fee made a condition of probation by the sentencing court.

VI. PROCEDURES:

- A. During the Initial intake and orientation meeting between the probationer and supervising probation officer in accordance with 902.05, Community Corrections Intake, the probation officer shall:

Subject: PROBATION SUPERVISION FEE

1. Explain to the probationer his or her responsibility to pay the monthly probation fee as a condition of probation. The Notice of Obligation to Pay Probation Fee (form 20-902.09A) will be reviewed with the probationer for understanding and compliance which will be indicated by the probationer's and the probation officer's signatures on the document. The original Notice will be retained in the probationer's case record and a copy provided to the probationer following signature;
 2. Review the method and schedule of payment including the information that payments are non-refundable and that failure to make payments will result in sanctions as outlined under C. below; and
 3. Clarify that the probation fee is obligatory; although there are circumstances which may justify a deferment of payment(s) for 30 to 90 days and/or allow for alternate forms of payment as outlined under E. below.
- R. Probation fee compliance is the responsibility of the supervising Probation Officer whereas the responsibility for payment rests with the probationer. The Probation Officer shall arrange and monitor the probationer's payments which will be made to the clerk designated for this purpose by the Regional Administrator for each district office in accordance with 203.04, Probation Fee Accounting. The collection/ payment procedures are as follows:
1. The acceptable forms of payment are cash (U.S. Currency), cashiers check or money order payable to the State of Alaska for the exact payment amount except when an alternate form of payment has been authorized in accordance with E. below or the supervising probation officer authorized a personal check as an acceptable form of payment on a case-by-case basis;
 2. Payment may be made either in person or by mail-in and must be received on or before the 10th of the month for which the probation fee is being paid. Mail-in probation fees must be in the form of check or money order only;
 3. The Department or the designated clerk will not accept partial payment of the probation fee due for any given month or period of time except for the authorized alternate methods of payment per E. below. Cash, personal check, cashiers check or money order for less than the full monthly amount due is not acceptable. If a payment less than the monthly fee obligation is submitted, the designated clerk shall return the payment by certified mail and the supervising probation officer shall record the return in the probationer's case chronological records;

Subject: PROBATION SUPERVISION FEE

NOTE: Partial payments in the form of cash received by mail will be converted to a warrant and returned by certified mail.

4. When a probation fee is received and accepted, a Probation Fee Receipt (form 20-902.09B) will be completed and distributed, as follows:
 - a. The original receipt will be given to the probationer;
 - b. The second copy will be routed and processed for inclusion in the probationer's Probation Fee Payment Record (form 20-303.04A) which may be a computer record;
 - c. The third copy will be routed to the probationer's supervising officer for recording in the chronological record of the case record; and
 - d. The fourth copy will remain in the bound receipt book.
 5. Probation fee payments will be recorded and transmitted to the fiscal unit at the Juneau Central Office in accordance with 303.04, Probation Fee Accounting. The designated clerk shall record, process and transmit all probation fee payments in conformance with 303.04.
- C. All probationers placed on supervised probation after January 9, 1987 are required by Statute to pay the probation fee; however, the sentencing court must specifically order the fee as a condition of probation. Presentence investigations prepared in accordance with Chapter 901., Presentence, will contain a reminder to the court of the obligation until such time as the Court Judgment has been reprinted to include the probation fee obligation as a standard condition of probation. The Probation Officer supervising a probationer placed on probation on or after January 9, 1987, who does not have the condition of conduct to pay the probation fee, shall prepare and file a Petition for Modification of Conditions of Conduct (form 20-902.08A) in accordance with 902.08, Conditions of Probation, Parole and Conditional Commutation, in an effort to have the obligation established.
- D. Interstate probationers accepted for supervision in Alaska on or after January 9, 1987, and Alaska probationers placed for supervision in another state under the Interstate Compact and in accordance with 902.21, Interstate Transfer/Supervision, are required to pay the probation fee, as follows:
1. A probationer transferred to Alaska from another state must acknowledge and agree to pay the probation fee as a condition of conduct while under supervision in order to be accepted for

Subject: PROBATION SUPERVISION FEE

- interstate transfer of probation supervision. The investigating/supervising officer shall enter the probation fee obligation into the interstate documentation and ensure that it is accepted by the sending state and the probationer as a condition of probation prior to accepting the case for supervision in Alaska; and
2. A probationer transferred out of Alaska for interstate transfer of supervision will pay the probation fee of the receiving state, if there is one, as a condition of the transfer of supervision. If the receiving state does not have a probation fee, the probationer will not be required to pay the probation fee obligation while supervised outside of Alaska and/or in a state that does not have a probation fee.
- E. An alternate form of probation fee payment may be authorized, as follows:
1. A probationer may choose to assign his or her permanent fund dividend received under AS 43.23.005 to the Department as credit toward or payment of the probation fee. This option may be exercised in coordination with the supervising probation officer in accordance with procedures established for this purpose. A permanent fund dividend received per this section will be received, recorded and transmitted as outlined under B.4. above;
 2. A probationer's permanent fund dividend may be attached for non-payment of probation fees in accordance with AS 12.55.105(c). The Probation Officer shall prepare the paperwork in conformance with procedures established in coordination with the Department of Revenue. The dividend must be considered as a source of payment ahead of any alternate form or excused payment authorization. A dividend received under these circumstances will be received, recorded and transmitted as outlined under B.4. above;
 3. For a probationer who is unemployed, the probation fee may be excused for up to 30 days. A probationer who remains unemployed for more than 30 days shall be assigned to a community work service project by or through his or her probation officer. The probationer shall perform unpaid community service and will be credited with \$5.00 for each hour of community service work toward his or her probation fee. Community service performed in lieu of payment of probation fees must be worked during the month for which the probation fee is due. This alternate form of probation fee payment is an exception and may not be routinely applied to any probation case for longer than three months during the term of probation. However, upon the recommendation of the District or Unit Supervisor, the Regional Administrator may, at his or her discretion, extend this alternative form of payment on a month-to-month basis beyond the three month limit on a case-by-case basis;

Subject: PROBATION SUPERVISION FEE

4. A probationer who has an obligation to pay child support and/or restitution in addition to the probation fee and is unable to meet all of the obligations due to low income or a decreased ability to pay, may have an alternate form of payment authorized by his or her supervising officer in accordance with 1., 2. or 3. above. The obligation priority for the application of what funds the probationer has at his or her disposal must be applied to child support first, restitution second, and the probation fee third. The probation fee obligation may be paid via an alternate means whereas support and restitution cannot; therefore, what money the probationer has should be applied toward support and/or restitution ahead of the probation fee; and
 5. All excused and/or alternate forms of probation fee payment arrangements made will be immediately documented and recorded in the probationer's case record.
- F. A probationer who fails or refuses to pay the probation fee and who does not have an alternative payment arrangement made under E. above, will have the following action initiated by his or her supervising Probation Officer:
1. Within 10 calendar days following the due date, the probationer shall be notified by certified letter that fee payment is in arrears;
 2. The letter per 1. above will schedule an appointment and/or contact to discuss the non-payment, which may be in addition to contacts required by the probationer's supervision level;
 3. If the probationer fails to keep the appointment scheduled per 2. above and/or fails to make up the missed and/or currently due payment(s), a probation violation sequence will be initiated by the supervising officer;
 4. The non-payment of the probation fee, following completion of the steps outlined under 1. -- 3. above, will be processed as a minor violation in accordance with 902.14, Violations, Initial Processing, and will normally be resolved through counseling, reprimand, behavior contracts, or identifying and arranging a deferrment or alternate form of payment per E. above;
 5. Non-payment may result in formal action appropriate to a violation of probation conditions if the steps applied pursuant to 4. above fail to produce positive results; and
 6. If and when the failure to pay probation fee reaches the point of formal violation action, the petition and/or supporting documentation will be prepared and routed in accordance with 910.06, Revocation of Probation; however:

Subject: PRORATION SUPERVISION FEE

- a. In the event the probationer makes up back payments or makes one or more full monthly payments prior to or during the formal violation process, the Probation Officer shall apply the payment(s) to the past due months and/or document the probationer's being current in payments. The officer shall take steps to cancel or modify the violation action; or, he or she may continue the violation action if the back-payment(s) made constitute less than a good faith effort to bring current the probation fee or another violation(s) is included in the action;
 - b. If the probationer is making payment on past due fees, and the Probation Officer determines a good faith effort is being made to reduce the amount owed, and the only violation alleged is non-payment, a follow-up report may be filed requesting that the violation action underway be quashed; and
 - c. If a Petition has been filed and a hearing scheduled or a warrant issued for the sole reason of fee non-payment, the Probation Officer shall inform the District Attorney and the Court of the probationer's payment of the past due fee and request that the formal action be discontinued.
- G. The Field Action Notice (form 20-502.01A) prepared and submitted by the Regional Administrator each month in accordance with 101.02, Facility Programming, Reporting and Review, will contain the dollar amount of probation fees collected and the number of hours of community service work completed in lieu of probation fee payment for the report month at each district office in the region.

VII. IMPLEMENTATION:

This policy and procedure is effective as of the date signed by the Commissioner. Each Manager shall incorporate the contents of this document into local policy and procedure within 14 days. All local policies and procedures must conform to the contents of this document and any deviation from the contents of this document must be approved in writing by the Commissioner or designee.

DATE

1/9/87

William W. Ladwig
William W. Ladwig, Acting Commissioner
Department of Corrections

Forms Applicable to this Policy.

INDEX #: 303.04A and 902.09A & B

FORMS/.04A - Fee Payment Record

.09A - Notice of Obligation to Pay Probation Fee

.09B - Probation Fee Receipt

P.O. Box 1402
Nome, AK 99762
January 24, 1989

Senator Al Adams
P.O. Box V
Juneau, AK 99811

Dear Senator Adams:

I support your efforts to repeal A.S. 12.55.105 which requires probationers to pay a probationary fee to the Department of Corrections. My experience in Northwest Alaska indicates that the probationary fee requirement creates an undue hardship on persons engaged in the predominately subsistence lifestyle of this region.

The major problem with the present statute is that imposition of the probationary fee is mandatory, that is, the sentencing court has no discretion to consider the probationer's ability to pay and determine whether the fee should be required. Thus, even if a probationer has no income except for the permanent fund dividend, the fee is still ordered. This approach is distinct from the procedures set out for determining the amount, if any, of restitution or a fine.

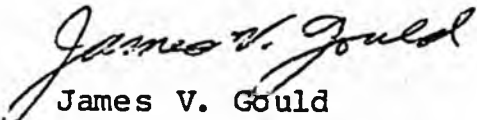
The second major problem is that the Department of Corrections, without statutory authorization, requires a probationer who cannot pay the fee to perform community work service in lieu thereof. Probation officers are collecting supervision fees and enforcing unlawful community work service requirements instead of providing necessary services to probationers.

It may be that probationers who are able to pay should pay a reasonable probationary fee. However, under the present statute, the judge is not allowed to consider ability to pay. The result is that probationers who truly need their permanent fund dividends to provide family necessities in Northwest Alaska are required to assign their dividends to the Department of Corrections. This is unfair. In the preceding 16 months I am unaware of even one probationer who was excused by the Department of Corrections from either paying the fee or doing community work service in lieu thereof.

Senator Al Adams
Page 2
January 24, 1989

I am enclosing a copy of the legal memoranda filed by the parties in a case in which the probationary fee was challenged. The issue became moot after the probationer committed a subsequent burglary, so was never fully litigated.

Sincerely,


James V. Gould
Attorney at Law

First Session of the Ninth Annual
NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE
Barrow, Alaska
October 13-14, 1988

Resolution No. 88 - 43

A RESOLUTION OF THE NORTH AND NORTHWEST ALASKA MAYORS'
CONFERENCE REGARDING THE COLLECTION OF MONTHLY PAYMENTS FROM
THOSE STATE RESIDENTS ON PROBATION.

WHEREAS, by statute the State Department of Corrections has
implemented a requirement for the payment of 45 dollars per
month for those on probation, and,

WHEREAS, this 45 dollars per month payment is not relevant to
the purposes of probation, and,

WHEREAS, monthly collection of fees is not easily accomplished
by rural residents who are living in areas with high
unemployment and seasonal employment;

NOW THEREFORE BE IT RESOLVED BY THE NORTH AND NORTHWEST ALASKA
MAYORS' CONFERENCE THAT the State Administration and
legislature support legislation which would revoke the
statutory requirement that fees be collected from those on
probation.

Passed and approved by the FIRST SESSION OF THE NINTH ANNUAL
NORTH AND NORTHWEST ALASKA MAYORS' CONFERENCE this 14th day of
October, 1988.

Abigail A. Washburn
President

Robert R. Fote
Secretary

INTRODUCED BY: Kotche

VOTE: YES X

SECONDED BY: Wales

NO _____

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

P.O. BOX 7
JUNEAU, ALASKA 99811-2000
PHONE (907) 465-3376

March 6, 1989

The Honorable John Binkley
The Honorable Steve Frank
Alaska State Legislature
P.O. Box V
Juneau, Alaska 99811

Dear Senators:

You have requested a fiscal note on SB 133 showing personnel cost savings associated with limiting the requirement that probationers pay a monthly fee for service.

I regret that my letter of October 10 was not more clear. There is not a four-officer, two-clerk unit in the Department to collect these fees. Every Field Probation Officer is a part-time fee collector and part-time community work service supervisor.

Alaska's 62 supervising Field Probation Officers are now supervising 2513 probationers and 481 parolees. Statewide, a 31% increase over the last 4 years.

This rapid growth in caseload for Probation Officers is one of the most serious problems the Department of Corrections now faces. To address it, we requested 17 new officers and 5 new clerk typists in our FY90 Agency Budget Request and, as you know, the Governor's Approved Budget includes 6 officers and 2 clerk typists.

Because we are requesting new officers and clerks in the budget bill, it doesn't make sense to show a reduction in personnel in SB 133.

When the bill establishing probation fee collection passed in 1986, no new staff were funded for it. I regret that I cannot show staff reduction by its repeal now.

The Department of Corrections remains in strong support of SB 133. It is part of the answer to increasing supervision of Alaska's probationers and parolees.

The Honorable Johne Binkley
The Honorable Steve Frank
Page 2
March 6, 1989

Please do not hesitate to contact me on this important bill.

Sincerely,

Susan Humphrey-Barnett

Susan Humphrey Barnett
Commissioner

SHB:cc

STATE OF ALASKA

DEPARTMENT OF CORRECTIONS

STEVE COWPER, GOVERNOR

REPLY TO:

P.O. BOX T
JUNEAU, ALASKA 99811-2000
PHONE (907) 465-3378

October 10, 1988

The Honorable Al Adams
Alaska State Legislature
P.O. Box 333
Kotzebue, Alaska 99752

Dear Representative Adams:

This letter is in support of your proposed legislation to repeal the statute requiring Alaska probationers to pay a monthly fee-for-service.

When the program was started two years ago, the Department of Corrections saw it as an opportunity to instill responsibility in the probationers and to raise revenues to offset the cost of their supervision. However, our experience in this endeavor has proved otherwise.

In FY 88, we collected \$126,200 under the program statewide: \$26,900 in the Northern Region; \$72,900 in the Southcentral Region; and \$26,100 in the Southeast Region. The work required by our Probation Officers to enforce this program has been considerable.

The Probation Officers enforce the court orders that include this \$45.00 monthly fee-for-service. Probationers in extreme financial hardship can substitute community work service in lieu of payment at the rate of \$5.00 per hour or nine hours per month. This, too, must be scheduled and then supervised by the Probation Officer.

When probationers fail to pay or perform community work service, they are in technical violation of their court order and the Probation Officer can then return the probationer to court. The Probation Officer must prove to the court that the probationer is able to pay or perform work but refuses to do so. The Probation Officer is then subject to cross-examination by the probationer's attorney. In fact, no Alaska judge has revoked probation for failure to pay or perform work because the dollar amount is so low (returning a probationer to an \$86.00 per day cell for failing to pay a \$45.00 per month fee).

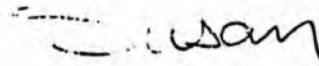
It is estimated that the three to four workdays per month required of each supervising field Probation Officer statewide is the equivalent of four fulltime officers per year. Add to that the equivalent of two fulltime clerks to handle correspondence, accounting and depositing of the fees balanced against the amount of \$126,200 raised statewide, the program is not cost effective.

The Honorable Al Adams
October 10, 1988
Page Two

Finally, as you know from your own region, requiring regular monthly payments discriminates against those on subsistence or seasonal employment. In the villages, where there is no supervised community work service option, the program makes no sense at all.

The current law applies to those probationers placed on probation after January 1987. Because the number grows each year, these problems will continue to grow. The Department of Corrections supports your efforts to repeal the fee-for-service for probationers' statute.

Sincerely



Susan Humphrey-Barnett
Commissioner

SHB:BP:dlh

Alaska State Legislature

Al Adams
District L

WHILE IN SESSION
P.O. Box V
State Capitol
Juneau, Alaska 99811
(907) 465-3707

OUT OF SESSION
P.O. Box 333
Kotzebue, Alaska 99752
(907) 442-3245

3111 C Street
Anchorage, Alaska 99503
(907) 561-7622

Official Business

TO: Representatives Larson and Hoffman
Co-chairs House Finance

FROM: Senator Al Adams, Chair
Community and Regional Affairs Committee

DATE: April 12, 1989

RE: SB 133 "An Act repealing the authority of the Alaska Court System to impose and of state agencies to collect a probation fee; and providing for an effective date."

Thank you for scheduling a hearing in the House Finance Committee of the aforementioned legislation. This bill will correct a problem that was first brought to my attention by a probation officer in Kotzebue. Current law requires that those on probation pay a \$45 per month fee to their probation officers. This bill would remove that requirement from state law.

Probation officers, particularly those in rural areas, have been encumbered in their attempts to enforce a statute that neither pays for itself or results in any positive change in behavior by those subject to paying the fees. In addition, the time spent by probation officers as fee agents is a useless expenditure when their efforts could be better spent at other tasks.

The situation of highly seasonal employment in rural areas creates a situation where those on probation often have no regular income, and frequently a meager amount when they do. The desire to enforce this statute is often met with frustration by both those on probation and those responsible for fee collection in areas on the edge of a cash economy. The option of community work service in lieu of cash is also unsuitable in that the probation officer is then required to supervise that work service has been completed.

This bill is supported by the Department of Corrections and received verbal endorsement from the Criminal Justice Working group during their meeting in Kotzebue this summer. In your packet is a letter of support

Page 2
SB 133
April 12, 1989

from the Department of Corrections and another letter of support from a public defender in Nome. It also passed the Senate unanimously.

Also enclosed is a listing of those on probation (first name only) and a summary of individual probation fee payment status. Referenced statutes are also enclosed.

Section 1 repeals the authority to require the defendant to pay a probation fee. Accomplishes this by removal from A.S. 12.55.100 (a) under the "Conditions of Probation" a subsection (5) referencing AS 12.55.105 that dictates the probation fee requirements.

Section 2 accomplishes a technical change referencing defaulted loans and the authority to revoke permanent fund dividends.

Section 3 removes court ordered probation fees from AS 43.23.065, section (b) (3) regarding exemptions of permanent fund dividends.

Section 4 is the meat of the bill in removing the probation fee requirement.

Section 5 an applicability section that pertains to how the bill would affect court ordered fees or outstanding debts since June 30, 1986 and before the effective date of this act.

Section 6 makes the bill effective immediately.

My aide Martha Stewart would present to testify on this bill and perform initial bill introduction. Representatives from the Department of Corrections may also be present to answer member questions.

Thank you for your consideration of this legislation.