

SB

274

FISCAL NOT No. 2

STATE OF ALASKA
1998 LEGISLATIVE SESSION

Bill Version: CSSB 274(FIN.)
(S) Publish Date: 4-22-98

Revision Date (Note if correction) 4/20/98 Dept. Affected Corrections
Title An Act relating to fees for probation and parole BRU Administration and Operations
Component ALL
Sponsor Senator Ward
Requester Senate Finance Component Serial No. #0694

Expenditures/Revenues (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
Personal Services	158.9	94.4	94.4	94.4	94.4	94.4
Travel						
Contractual	151.0	150.5	150.5	150.5	150.5	150.5
Supplies	5.0					
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	246.7	246.7	246.7	246.7	246.7	246.7
TOTAL OPERATING	561.6	491.6	491.6	491.6	491.6	491.6

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	305.9	305.9	305.9	305.9	305.9	305.9
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	561.6	491.6	491.6	491.6	491.6	491.6
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	561.6	491.6	491.6	491.6	491.6	491.6

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time	1	1	1	1	1	1
Part-time						
Temporary	1					

ANALYSIS: (Attach a separate page if necessary)

Please see attached analysis.

Prepared by Bruce Richards Phone 465-3307
Division Commissioner's Office Date 4/20/98
Approved by Commissioner Margaret M. Pugh Margaret M. Pugh Date 4/20/98
Agency Department of Corrections

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FISCAL NOTE

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1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

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DATE 4/20/98

Assumptions

Section one and two of this legislation adds probation fees to AS 12.55.051 **Enforcement of fines and restitution**. This statute allows for the incarceration of people who do not pay their fines or restitution. If the probationer is found by the court to be in violation, the court may order the defendant imprisoned until the court order is satisfied. This could result in incarceration of one day for every \$50 owed. The Dept. of Corrections assumes that few if any of the over 4000 probationers/parolees will pay this fee. Under a previous law, the fee was only half of that proposed in SB 274 and approximately \$260.4 was collected over a two and a half year period; projected receipts were \$5,500,000 during the same period. The result was a collection rate of less than five percent. Research of the previous law indicates few probationers if any were put in jail for failure to pay. The Dept. assumes that approximately 146 probationers will be brought before the court for non-payment, and ten will be incarcerated.

Cost for Section 1= \$14,544 for CRC time (10 people 24dys), \$26,280 for PO time = \$40,854
Revenue for Section 1= \$0

Section 3 amends AS 12.55.100 **Conditions of probation**. The proposed language adds the probation fee that is required in AS 12.55.144.

Cost for Section 3= \$0
Revenue for Section 3= \$0

Section 4 adds a new section, AS 12.55.104 **Probation fee**. This section establishes a mandatory probation fee of \$3.30 per day. In addition, this section requires the probationer to assign his or her permanent fund dividend check to make probation fee payments. It further requires the Dept. of Corrections to attach the dividend check of a probationer who is in arrears. If the dividend check exceeds the total of the probation fee payments the DOC is required to refund the difference to the probationer. The DOC does not anticipate much if any revenue from PFD checks, since they are not eligible for at least one year after incarceration, and because probationers have many other requirements that are higher in priority to the probation fee, such as: victim restitution, child support, and court-ordered fines.

Cost for Section 4= \$0
Revenue for Section 4= \$269,808 (7% of population paying 224 people) PFD Revenue=\$0

Section 5 amends AS 33.16.150 **Conditions of Parole**. The proposed language adds a mandatory parole fee as a condition of parole, as provided in AS 33.16.155.

Cost for Section 5= \$0
Revenue for Section 5= \$0

Section 6 amends AS 33.16.155 **Parole fee**. This section adds a new subsection that requires the Board of Parole to assess a fee of \$3.30 per day. In addition, this section requires the parolee to assign his or her permanent fund dividend check to make fee payments. It further requires the Dept. of Corrections to attach the dividend check of a parolee who is in arrears. If the dividend check exceeds the total of the fee payments the DOC is required to refund the difference. The DOC does not anticipate much if any revenue from PFD checks for the reasons cited in section 4 above.

Cost for Section 6= \$0
Revenue for Section 6= \$36,135 (2% of population paying = 30 people)
(continued on page 3)

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Section 7 amends AS 33.16.220, **Revocation of Parole**. This new subsection will require the Board of Parole to revoke parole if a parolee defaults in the payment of the fee, unless the parolee shows by a preponderance of evidence that he or she is unable to pay despite having made continuing good faith efforts. The requirement will have a significant cost since the Board will have no choice but to revoke parole for those who refuse to pay the fee. A hearing will be required to determine the parolee's ability and effort to pay. It is anticipated this will require 11 days of additional hearings per year at a cost of \$28,600. It is estimated that 140 parolees will be found in violation of AS 33.16.150(a)(12), resulting in a revocation of parole. It is estimated the amount of parole revoked will be one day in a CRC for each \$50 owed in fees.

Cost for Section 7= \$203,616 (140 parolees revoked for 24 days each at \$60.60 per, \$28,600 for Board Costs (11 hearing days @ \$2600 per), \$25,200 for PO Time. Total = \$257,416
Revenue for Section 7= \$0

Section 9 amends AS 43.23.005(d) which makes all inmates who have been convicted of a felony or a three time misdemeanor ineligible for a PFD the first year they are released. The Dept. of Corrections will now have to program our computer system to generate a third list to send to the PFD division and deal with an increased number of appeals. The Dept. of Corrections has only received a fraction of the funding requested when the felony and third time misdemeanor provisions were passed. The workload for our data processing programmers is increasingly being taken up by the provisions under AS 43.23.005(d). Without additional support, our Data Processing section will be unable to carry out its day to day functions. The Department of Corrections is requesting one temporary Analyst Programmer IV to reprogram the DOC database for the amendment in section 9. In addition, a statistical technician will be needed to respond to and research appeals. The Dept. of Corrections has asked for this position each time AS 43.23.005(d) was amended and has been continually denied.

Cost for Section 9= Analyst Programmer IV 64.5; Statistical Technician I 43.0; Contractual 1.0, Supplies 1.0, Equipment (one time) 5.0 Total = \$114,500

Section 10 amends AS 43.23.065(b) **Exemption of an levy on PFD's**. The proposed language adds to the order of debts that are not available for an exemption and places the proposed probation and parole fees last in line for collection.

Cost for Section 10= \$0
Revenue for Section 8= \$0

Section 11 amends AS 44.28 by adding a new section requiring the Dept. of Corrections to contract with a collection agency or other entity for administration and collection of probation and parole fees. The Dept. has contacted collection agencies and was told that they would not bid on such a contract. They made it clear that they are only in the business of collecting on bad debt and would not be interested in administration and accounting functions that would be required under SB 274. The Dept. would be required to put out an RFP for the services required under this legislation and has estimated the cost.

Cost for Section 11= \$150,000
Revenue for Section 9= \$0

The Dept. of Corrections is unable to estimate the revenues collected from attached permanent fund dividend checks.

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

No. 1
Bill Version: CSB 274 (JUD)
(S) Publish Date: 2-19-98

Revision Date: _____
Title: "An Act relating to fees for probation and parole"
Sponsor: Senator Ward
Requestor: (S) JUD

Department Affected: Administration
BRU: Legal and Advocacy Services
Component: Public Defender Agency

COMPONENT SERIAL NO. 1631

EXPENDITURES/REVENUES: (Thousands of Dollars)

OPERATING EXPENDITURES	FY 99	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	**	**	**	**	**	**
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	**	**	**	**	**	**
CAPITAL EXPENDITURES	**	**	**	**	**	**
CHANGE IN REVENUES ()	**	**	**	**	**	**

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts	**	**	**	**	**	**
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	**	**	**	**	**	**

Estimate of any current year (FY 98) cost: \$ 0

POSITIONS:

FULL-TIME	**	**	**	**	**	**
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

This bill would require a court or the parole board to impose a fee on probationers and parolees. Payment of the fees could be a condition of probation or parole. There would undoubtedly be a fiscal impact on the Public Defender Agency (PDA) as a result of this bill. Probationers and parolees would have to pay a minimum of \$3.30 per day, or about \$100 per month. Probationers and parolees facing revocation for non-payment would have a right to court-appointed counsel. It is expected that a lot of probationers and parolees, especially those newly released from jail, would have difficulty making these payments. However, it is difficult to determine the fiscal impact without an estimate of the number of new probation or parole revocation cases anticipated.

Prepared by: Barbara K. Brink, Director
Division: Public Defender Agency

Phone: (907) 264-4414
Date: _____

Approved by Commissioner: Mark Bover
Agency: Department of Administration

Date: 2/17/98

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ANALYSIS: (continued)

There may also be an additional impact resulting from litigation on this bill. In State v. Albert, 899 P.2d 103 (Alaska Supreme Ct. 1995), the court said that fees to recoup the cost of court-appointed attorneys were constitutional. One of the main factors that persuaded the court was that payment of attorneys' fees could not be a condition of probation. Thus, jail was not an enforcement mechanism for non-payment. It may be that probationers or parolees jailed for non-payment would challenge the bill based on the Albert case, and the Public Defender Agency would have the expense of representing them.

Another aspect of the bill that may cause difficulties is that it is not restricted to felony probation. Probation is routinely imposed in misdemeanor cases, but misdemeanor probation is unsupervised in the vast majority of cases. There are few, if any, costs associated with unsupervised misdemeanor probation. Therefore, a fee of about \$100 per month would be difficult to justify.

SB 274

HOUSE JUDICIARY STANDING COMMITTEE

Amend. # 4 (Croft)

DATE: 5-7-98

ISSUE: Sec. 8. Lines 5-15
deleted.

	YEA	NAY	PRESENT
Representative James	✓		
Vice Chair Bunde		✓	
Representative Berkowitz	✓		
Representative Croft	✓		
Representative Rokeberg		✓	
Representative Porter	✓		
Chairman Green	✓		
TOTALS:	5	2	

PASSED ✓ FAILED _____

HOUSE JUDICIARY STANDING COMMITTEE

SB 274

DATE: 5-7-98

ISSUE: amend # 3 ~~to~~ Croft
pg. 6, line 23 shall "may"
Replace with

	YEA	NAY	PRESENT
Vice Chair Bunde		✓	
Representative Berkowitz			not
Representative Croft	✓		
Representative Rokeberg			not
Representative Porter		✓	
Representative James		✓	
Chairman Green		✓	
TOTALS:	12	4	

PASSED _____ FAILED ✓

HOUSE JUDICIARY STANDING COMMITTEE

DATE: ⁷
5-8-98

ISSUE: move CS SB 319 (Rules)
out of JUD.

	YEA	NAY	PRESENT
Representative James	✓		
Vice Chair Bunde			—
Representative Berkowitz		✓	
Representative Croft			—
Representative Rokeberg	✓		
Representative Porter			—
Chairman Green			
TOTALS:			

PASSED _____

FAILED ✓

* no quorum