

SB

274

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 2/19/98

FURTHER: SFC 4/17/98

DATE TURNED
IN TO OFFICE: 21 April 98

Finance Committee considered

SENATE BILL NO. 274

"An Act relating to fees for probation and parole."

and recommends:

- be replaced with _____ CS SB 274 (FIN)
- adopt previous _____ CS _____ (_____)
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to the _____ Committee

- Senate Bill:**
- same title
 - new title
- House Bill:**
- same title
 - technical title
 - new: SCR* _____

SIGNING DO PASS	DP	OTHER RECOMMENDATIONS	NR	DNP	AM
<i>Paul E. Hill</i>	→	<i>Sean Parnell</i>	x		
<i>4 attorneys</i>	✓	<i>Al Adams</i>		X	
Co-Chair: <i>Deanna</i>	✓	Co-Chair:			
Co-Chair: <i>Bob May</i>	✓	Co-Chair:			

NEW FISCAL NOTE(S):

Department Date Zero Fiscal

Fiscal note			
forth coming			
Dept. of			
Corrections			

PREVIOUS FISCAL NOTE(S):*

Department Date Zero Fiscal

Admin Public Defender's Office	2/17/98		*

APPROPRIATION -- no fiscal note

*include fiscal notes accompanying Governor's bill

FISCAL NOTE

REPORTED OUT OF
SFC 4/17/98

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CS SB 274 (FIN)

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

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 274 (FIN)
PAGE 2 of 3
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)

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 274 (FIN)
PAGE 3 of 3
DATE 4/20/98

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

BILL NO. CS SB 274 (JUD)

Revision Date (Note if correction) 3/23/98 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	51.4	51.4	51.4	51.4	51.4	51.4
Travel						
Contractual	150.0	150.0	150.0	150.0	150.0	150.0
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous	246.7	246.7	246.7	246.7	246.7	246.7
TOTAL OPERATING	448.1	448.1	448.1	448.1	448.1	448.1

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	419.5	419.5	419.5	419.5	419.5	419.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type)						
TOTAL	448.1	448.1	448.1	448.1	448.1	448.1

Estimate of any current year (FY98) cost: 0.0

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Please see attached analysis.

Prepared by Bruce Richards
 Division Commissioner's Office
 Approved by Commissioner Margaret M. Pugh BY BILL PARKER
 Agency Department of Corrections

Phone 465-3307
 Date 3/23/98
 Date 3/23/98

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FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 274 (JUD)
PAGE 2 of 3
DATE 3/23/98

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.

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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)

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION
DEPARTMENT OF CORRECTIONS

BILL NO. CS SB 274 (JUD)
PAGE 3 of 3
DATE 3/23/98

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 8 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 8= \$0
Revenue for Section 8= \$0**

Section nine 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 9= \$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

BILL NO. CSSB 274 (JUD)

Revision Date: _____
Title: Probation & Parole Fees

Dept. Affected: Alaska Court System
BRU: Trial Courts

Sponsor: Sen. Werd
Requestor: Senate Finance

Component: _____
COMPONENT SERIAL NO. 788

Expenditures/Revenues		(Thousands of Dollars)				
OPERATING EXPENDITURES	FY 98	FY 00	FY 01	FY 02	FY 03	FY 04
PERSONAL SERVICES	10.2	10.2	10.2	10.2	10.2	10.2
TRAVEL						
CONTRACTUAL						
SUPPLIES						
EQUIPMENT						
LAND & STRUCTURES						
GRANTS & CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	10.2	10.2	10.2	10.2	10.2	10.2

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

Fund Source		(Thousands of Dollars)				
1002 Federal Receipts						
1003 GF Match						
1007 GF	10.2	10.2	10.2	10.2	10.2	10.2
1008 GF/Program Receipts						
1037 GF/Mental Health						
Other						
TOTAL	10.2	10.2	10.2	10.2	10.2	10.2

Estimate of any current year (FY 00) cost: None

Positions						
Full-Time						
Part-Time	2.0	2.0	2.0	2.0	2.0	2.0
Temporary						

ANALYSIS: (Attach a separate page if necessary)

See attached fiscal analysis.

Prepared by: Doug Wooliver, Administrative Attorney
Agency: Alaska Court System

Phone: 264-8265
Date: 03/23/98

Approved by: Stephanie J. Cole, Administrative Director
Agency: Alaska Court System

Date: 03/23/98

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Alaska Court System
Fiscal Analysis
CSSB 274 (JUD)

The Department of Corrections estimates that CSSB 274 (JUD) will result in an additional 148 probation revocation hearings a year. Because of the limited scope of these hearings, judicial time spent per case is estimated to be only one hour, including time spent in court.

Personal Services

	<u>Salary</u>	<u>Benefits</u>	<u>Total</u>
Pro Tem District Court Judge, Anchorage, PPT, 1 month	\$ 4,875	\$ 2,376	\$ 7,251
In-Court Clerk, range 12A, Anchorage, PPT, 1 month	2,411	523	<u>2,934</u>
Total Personal Services			<u>\$ 10,185</u>

FISCAL NOTE

STATE OF ALASKA
1998 LEGISLATIVE SESSION

BILL NO. CSSB 274 (JUD)

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

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	104.0	104.0	104.0	104.0	104.0	104.0
TRAVEL	5.5	5.5	5.5	5.5	5.5	5.5
CONTRACTUAL	23.2	23.2	23.2	23.2	23.2	23.2
SUPPLIES	2.9	2.9	2.9	2.9	2.9	2.9
EQUIPMENT	13.0	1.3	1.3	1.3	1.3	1.3
LAND & STRUCTURES						
GRANTS, CLAIMS						
MISCELLANEOUS						
TOTAL OPERATING	148.6	136.9	136.9	136.9	136.9	136.9

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
------------------------	--	--	--	--	--	--

FUND SOURCE: (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	148.6	136.9	136.9	136.9	136.9	136.9
1005 GF/Program Receipts						
1037 GF/Mental Health						
OTHER						
TOTAL	148.6	136.9	136.9	136.9	136.9	136.9

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

POSITIONS:

FULL-TIME	2	2	2	2	2	2
PART-TIME						
TEMPORARY						

ANALYSIS: (Attach a separate page if necessary.)

See attached.

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

Phone: (907) 264-4400
 Date: _____

Approved by Commissioner: Mark Boyer
 Agency: Department of Administration

Date: 3/23/98

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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 274

1998 LEGISLATIVE SESSION

ANALYSIS: (continued)

Sec. 4 of this bill requires courts to impose a probation fee of not less than \$3.30 per day when it sets probation in a criminal case. This fee must be made a condition of probation. Sec. 6 of the bill requires that the parole board impose the \$3.30 fee as a condition of parole. These fees must be imposed whether or not the parole board or court believes the probationer or parolee is capable of paying the fee. The purpose of the fees is to offset some of the costs of supervising probationers and parolees. (It is not clear whether misdemeanants who are unsupervised would have to pay a fee.)

If probationers do not pay the fee, the court can, but is not required to, revoke probation. The statute provides that probationers have an affirmative defense if they are not able to pay. Apparently, the parole board must actually start a revocation proceeding, but the board does not have to revoke parole if the parolee can establish inability to pay by a preponderance of the evidence. Both sections also require a showing of continuing good faith efforts to pay.

The Public Defender Agency (PDA) anticipates a significant fiscal impact as a result of this bill. PDA is requesting an additional Attorney II and a Paralegal I to be based in Anchorage to handle the increased appointments that will result from this bill.

PDA is appointed to represent both parolees and probationers in revocation hearings if the parolees or probationers are unable to hire their own attorney. In FY97 PDA was appointed in 1267 felony probation revocation cases, 2386 misdemeanor probation revocations, and 103 parole revocations. Our parole revocation caseload is increasing rapidly. In the first half of FY98 we had 110 appointments. Dept. of Corrections (DOC) figures show that, on average, 3202 people are on probation and 434 people are on parole in the state. DOC estimates that it is likely that revocations based on failure to pay a fee will result in 10 % of the probation cases (320) and half of the parole cases (217), for an additional 537 cases. (PDA estimates it will be appointed in all these cases.) After PDA is appointed, the attorney will have to investigate and try to prove the affirmative defense of inability to pay despite continuing good faith efforts. An attorney and a paralegal will be needed to handle the additional 537 cases per year.

FISCAL NOTE

4/17/98

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	**	**	**	**	**	**
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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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FISCAL NOTE

STATE OF ALASKA

BILL NO. SB 274

1998 LEGISLATIVE SESSION

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.

SENATE FINANCE
COMMITTEE

SENATE AMENDMENT

Amendmer Number: #5
Bill Numb: EB 274
Sponsor: JMS Date: 4/17/88
Logged In By: Mindy

By Adams

To: 274 SENATE BILL No. _____

To: _____ HOUSE BILL No. _____

PAGE: 4 LINE: 24, 31

CHANGE SHALL to "MAY"

SENATE FINANCE
COMMITTEE

Amendment Number: 4

Bill Number: SS 274

Sponsor: Donley Date: 4/17/98

Logged In By: J. Mindy

0-LS1252\F.3
Luckhaupt
4/16/98

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 274(JUD)

1 Page 1, line 1, following "parole":

2 Insert ": and relating to eligibility for a permanent fund dividend for persons
3 convicted of and incarcerated for certain offenses"

4 Page 4, following line 31:

5 Insert a new bill section to read:

6 "*** Sec. 8.** AS 43.23.(X)5(d) is amended to read:

7 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual
8 is not eligible for a permanent fund dividend for a dividend year when

9 (1) during the calendar year immediately preceding that dividend year,
10 the individual was sentenced as a result of conviction in this state of a felony;

11 (2) during all or part of either of the two calendar years [YEAR]
12 immediately preceding that dividend year, the individual was incarcerated as a result
13 of the conviction in this state of a

14 (A) felony; or

15 (B) misdemeanor if the individual has been convicted of two
16 or more prior crimes as defined in AS 11.81.900."

17 Renumber the following bill sections accordingly.

SENATE FINANCE
COMMITTEE

Amendment Number: 3
Bill Number: CSSB 274 (JUD) (0-1.S1252\F.4
Sponsor: Donley Date: 4/16/98 Luckhaupt
Logged In By: J. Luckhaupt 4/16/98

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR DONLEY

TO: CSSB 274(JUD)

1 Page 1, line 1, following "parole":
2 Insert "; and relating to notice requirements relating to appropriations from the
3 permanent fund dividend fund to the office of crime victims' rights"

4 Page 4, following line 31:

5 Insert a new bill section to read:

6 **** Sec. 8. AS 43.23.028(b) is amended to read:**

7 (b) To the extent that amounts appropriated for a fiscal year do not exceed
8 the total amount that would have been paid during the previous fiscal year to
9 individuals who were ineligible to receive dividends under AS 43.23.005(d) if they
10 had been eligible, the notice requirements of (a)(3) of this section do not apply to
11 appropriations from the dividend fund to the

12 (1) crime victim compensation fund established under AS 18.67.162
13 for payments to crime victims;

14 (2) council on domestic violence and sexual assault established under
15 AS 18.66.010 for grants for the operation of domestic violence and sexual assault
16 programs; [OR]

17 (3) Department of Corrections for incarceration and probation
18 programs; or

19 **(4) office of crime victims' rights.**

20 Renumber the following bill sections accordingly.

21 Page 5, following line 27:

22 Insert a new bill section to read:

0-LS1252\F.4

- 1 *** Sec. 11.** Section 8 of this Act takes effect only if a version of SB 219 passes the
- 2 Twentieth Alaska State Legislature and becomes law."

REQUESTED BY SPONSOR, Sen. Ward

SENATE FINANCE COMMITTEE
0-LS1252VF.1
Luckhaupt

Amendment Number: 2 2/23/98

Bill Number: CSSB 274 (JUD)

Sponsor: _____ Date: 3/24/98

Logged In By: jseltane

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR

TO: CSSB 274(JUD)

1 Page 1, line 1, following "parole":

2 Insert "; and relating to the ineligibility to receive a permanent fund dividend of
3 persons convicted of or incarcerated for a misdemeanor"

4 Page 4, following line 31:

5 Insert new bill sections to read:

6 "* Sec. 8. AS 43.23.005(d) is amended to read:

7 (d) Notwithstanding the provisions of (a) - (c) of this section, an individual
8 is not eligible for a permanent fund dividend for a dividend year when

9 (1) during the calendar year immediately preceding that dividend year,
10 the individual was sentenced as a result of conviction in this state of a felony or a
11 misdemeanor;

12 (2) during all or part of the calendar year immediately preceding that
13 dividend year, the individual was incarcerated as a result of the conviction in this state
14 of a

15 [(A)] felony [;] or a

16 [(B)] misdemeanor [IF THE INDIVIDUAL HAS BEEN
17 CONVICTED OF TWO OR MORE PRIOR CRIMES AS DEFINED IN
18 AS 11.81.900.]

19 * Sec. 9. AS 43.23.005(g) is amended to read:

20 (g) For purposes of applying (d)(1) of this section, the date the court imposes
21 a sentence or suspends the imposition of sentence shall be treated as the date of
22 conviction. [FOR PURPOSES OF APPLYING (d)(2)(B) OF THIS SECTION,
23 MULTIPLE CONVICTIONS ARISING OUT OF A SINGLE CRIMINAL EPISODE
24 SHALL BE TREATED AS A SINGLE CONVICTION.]

1 * Sec. 10. AS 43.23.028(a) is amended to read:

2 (a) By October 1 of each year, the commissioner shall give public notice of
3 the value of each permanent fund dividend for that year and notice of the information
4 required to be disclosed under (3) of this subsection. In addition, the stub attached
5 to each individual dividend check and direct deposit advice must

6 (1) disclose the amount of each dividend attributable to income earned
7 by the permanent fund from deposits to that fund required under art. IX, sec. 15,
8 Constitution of the State of Alaska;

9 (2) disclose the amount of each dividend attributable to income earned
10 by the permanent fund from appropriations to that fund and from amounts added to
11 that fund to offset the effects of inflation;

12 (3) disclose the amount by which each dividend has been reduced due
13 to each appropriation from the dividend fund, including amounts to pay the costs of
14 administering the dividend program and the hold harmless provisions of
15 AS 43.23.075;

16 (4) include a statement that an individual is not eligible for a dividend
17 when

18 (A) during the calendar year immediately preceding that
19 dividend year the individual was convicted of a felony or a misdemeanor;

20 (B) during all or part of the calendar year immediately
21 preceding that dividend year, the individual was incarcerated as a result of the
22 conviction of a

23 [(i)] felony [;] or a

24 [(ii)] misdemeanor [IF THE INDIVIDUAL HAS BEEN
25 CONVICTED OF TWO OR MORE PRIOR CRIMES];

26 (5) include a statement that the legislative purpose for making
27 individuals listed under (4) of this subsection ineligible is to

28 (A) obtain reimbursement for some of the costs imposed on the
29 state criminal justice system related to incarceration or probation of those
30 individuals;

31 (B) provide funds for payments to crime victims and for grants
32 for the operation of domestic violence and sexual assault programs;

1 (6) disclose the total amount that would have been paid during the
2 previous fiscal year to individuals who were ineligible to receive dividends under
3 AS 43.23.005(d) if they had been eligible;

4 (7) disclose the total amount appropriated for the current fiscal year
5 under (b) of this section for each of the funds and agencies listed in (b) of this
6 section."

7 Renumber the following bill sections accordingly.

8 Page 5, following line 27:

9 Insert new bill sections to read:

10 "* Sec. 13. The amendments made by secs. 8 and 9 of this Act apply only to individuals
11 convicted of crimes committed after December 31, 1998.

12 * Sec. 14. The amendments made by sec. 10 of this Act apply after December 31, 1998.
13 Before January 1, 1999, AS 43.23.028 shall apply as it read before the effective date of this
14 Act."

REQUESTED BY SPONSOR, Sen. Ward

SENATE FINANCE COMMITTEE
Amendment Number: 2/22/98
Bill Number: CSSB 274(JUD)
Sponsor: _____ Date: 3/24/98
Logged In By: Boltane

A M E N D M E N T

OFFERED IN THE SENATE

BY SENATOR

TC. CSSB 274(JUD)

- 1 Page 5, line 15, following "debt":
- 2 Insert "other than for a fee under (8) of this subsection."

- 3 Page 5, line 17, following "expired":
- 4 Delete all material.
- 5 Insert ";