

SB

97

SFIN

FILE

SENATE FINANCE COMMITTEE REPORT

DATE: 3/13/01

REPORTED OUT

APR 02 2002

SENATE FINANCE
COMMITTEE

FURTHER:

DATE TURNED IN TO OFFICE: 04/03/02

Finance Committee considered **SENATE BILL NO. 97**

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

and recommends:

- be replaced with CS SB 97 (FIN)
- adopt previous CS 125 FORTHCOMING
- attached amendment(s)
- adopt Letter of Intent by _____ Committee
- further referral to _____ Committee

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

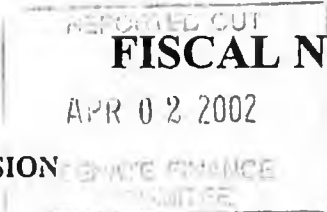
Department	Date	Fiscal	Zero	FN#
DHSS	2/22/02	\$214.4		3
Corrections	3/1/02	\$16.6		3
Admin	4/2/02	0		

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	* NO REC	AMEND
<i>[Signature]</i>	✓			
<i>[Signature]</i>			✓	
<i>[Signature]</i>		x		
<i>[Signature]</i>		✓		
<i>[Signature]</i>	✓			
<i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>	✓			
COCHAIR: <i>[Signature]</i>			✓	



STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB 97
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title: "An Act relating to fees for
probation and parole." BRU: Legal and Advocacy Services
Component: Public Defender Agency
Sponsor: Senator Ward
Requester: (S) Finance Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	50.0	50.0	50.0	50.0	75.0
Travel	0.0	2.4	2.4	2.4	2.4	3.6
Contractual	0.0	18.0	18.0	18.0	18.0	26.9
Supplies	0.0	1.3	1.3	1.3	1.3	2.0
Equipment	0.0	6.7	0.7	0.7	0.7	0.7
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	78.4	72.4	72.4	72.4	108.2

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

1002 Federal Receipts						
1003 GF Match						
1004 GF	0.0	78.4	72.4	72.4	72.4	108.2
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	78.4	72.4	72.4	72.4	108.2

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time						
Part-time	0	1	1	1	1	1
Temporary						

ANALYSIS: (Attach a separate page if necessary)
See attached.

Prepared by: Barbara Brink, Director Phone (907) 334-4416
Division: Public Defender Agency Date/Time 4/1/02 4:30 PM
Approved by: Jim Duncan, Commissioner Date 4/1/2002
Agency: Department of Administration

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 97

ANALYSIS CONTINUATION

This bill would require supervision fees of at least \$1.50 per day, for criminal defendants supervised by Department of Corrections probation offices. Delinquent minors on probation (or their parents) would also be required to pay the fee.

Based on information provided by the Department of Corrections and Youth Corrections, the Public Defender Agency will need a half-time Attorney in Anchorage starting in FY 2004 to represent defendants and delinquent minors in probation and parole revocation hearings provided for in this bill.

Collection of surcharges and fees in criminal and delinquency cases can be done in a number of different ways. One common, cost-effective way is to convert unpaid fees to civil judgments and collect them by attaching Permanent Fund Dividends (PFD's), garnishing wages, etc. The Public Defender Agency would not have a fiscal impact if fees were collected in this way. However, the collections system set up in this bill, in addition to the civil judgment-type collection process mentioned above, allows courts and the parole board to revoke probation or parole in cases of non-payment. The court or parole board can imprison a defendant or delinquent minor for non-payment of the fees. Because imprisonment is possible, criminal due-process rights apply. These include the right to a hearing in court and a court-appointed lawyer for those unable to hire one. Because these due process rights need to be provided, collecting fees through revocation hearings is time-consuming and expensive. (The Public Defender Agency believes that it would be appointed in all but a few of these cases.)

The bill states that, when fees are not paid, the defendant or delinquent minor bears the burden of proving that the defendant or minor "was unable to pay despite having made continuing good faith efforts." Public Defender attorneys would have to gather and present evidence to support these claims.

This bill would not start having an impact right away. It would not apply to people placed on probation or parole before the effective date. The Department of Corrections and Youth Corrections would also have to adopt regulations setting the fee before it is imposed. These agencies would also have to set up a collection process using private contractors or the Department of Law.

The Public Defender Agency believes that it would have to cover over 100 adult probation and parole and Youth Corrections hearings per year starting in FY2004. Non-payment of fees would be a substantial factor in these hearings. The number of these hearings would increase to over 200 hearings in FY2008.

The Public Defender Agency will need to hire a half-time Attorney in Anchorage starting in FY2004. This position would be raised to three-quarter's time in FY2008.



**STATE OF ALASKA
2002 LEGISLATIVE SESSION**

Fiscal Note Number: _____
Bill Version: SB 97
() Publish Date: _____

Revision Date/Time (Note if correction): _____ Dept. Affected: Health & Social Services
Title: FEES FOR PROBATION AND PAROLE BRU: Juvenile Justice
Component: Probation Services
Sponsor: WARD Component Number: 2134
Requestor: SENATE (FIN)

Expenditures/Revenues (Thousands of Dollars)
Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	115.5	115.5	115.5	115.5	115.5	115.5
Travel						
Contractual	83.9	33.9	33.9	33.9	33.9	33.9
Supplies						
Equipment	15.0					
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	214.4	149.4	149.4	149.4	149.4	149.4

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES (0)	298.9	298.9	298.9	298.9	298.9	298.9
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match.						
1004 GF						
1005 GF/Program Receipts	214.4	149.4	149.4	149.4	149.4	149.4
1037 GF/Mental Health						
Other (Specify Type--do not abbreviate)						
TOTAL						

Estimate of any current year (FY2002) cost: _____
Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	3	3	3	3	3	3
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)
The fiscal impact is based on Juvenile Probation Officer knowledge and experience. See next page for further information.

Prepared by: Susan M. Taylor Phone 465-1385
Division: Juvenile Justice Date/Time 02/22/2002
Approved by: Elmer A. Lindstrom, Deputy Commissioner Date 02/25/2002
Agency: Department of Health & Social Services

For distribution information, call the Governor's Legislative Office

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB 97

ANALYSIS CONTINUATION

Fees for Probation and Parole
Expenses

Personal Services Total \$115.5

3 Admin Clerks located in each regional location, Fairbanks, Juneau, Anchorage

Administrative support is required to get the fee orders entered into a data base, prepare the "transmittal data" (client name, parent name, address, employer info, etc) for the collections contractor, receive payment reports from the contractor, distribute those to the appropriate JPO who can then decide to file a revocation petition.

Contractual

Department of Law attorney fees (250 hrs @ 97.57 per attorney hour) \$24.4

Collections contract of 136 cases, \$30 set-up per account, \$40 annual fee) \$9.5

Draft fee and collection regulations \$50.0

\$83.9

Equipment

Computers, desks, etc \$15.0

Total \$214.4

Revenue

Probation Cases Open On December 31, 2001 682

Estimate of those unable to pay 20% or 136

Estimate of those able to pay 80% or 546

*Estimated Annual Revenue (Juveniles (546), # days on probation (365), @ \$1.50/day)

\$298.9

*Although the average number of days that these youth were on probation was 471, the total number of days for the youth to pay restitution costs each year are limited by 365 calendar days.



FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
 Bill Version: SB97
 () Publish Date: _____

Revision Date/Time (Note if correction): 2/28/02 5:00PM 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 No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	60.0	62.3	64.6	67.0	69.5
Travel	0.0	10.0	10.0	10.0	10.0	10.0
Contractual	16.6	83.9	84.2	93.0	98.7	104.7
Supplies	0.0	1.5	1.5	1.5	1.5	1.5
Equipment	0.0	3.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous	0.0	2.2	11.7	40.4	44.0	57.8
TOTAL OPERATING	16.6	160.6	169.7	209.5	221.2	243.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	8.2	53.7	61.3	70.1	75.6	81.8
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	16.6	160.6	169.7	209.5	221.2	243.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	16.6	160.6	169.7	209.5	221.2	243.5

Estimate of any current year (FY2002) cost: 0.0
 Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	0	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

1. This fiscal note is based on a probation and parole fee of \$1.50 per day.
2. The collection rate of 10% is based on previous experience with probation and parole fees.
3. The Department of Corrections does not anticipate revoking probation and parole solely based on non-payment of daily fees. Doing so would be cost prohibitive.
4. This fiscal note is based on a prospective basis and would not apply to those who are currently on probation/parole or those who are sentenced prior to the effective date of SB 97.

Section 4. This section requires the Alaska Court System when granting probation, to require a periodic fee to be paid to the Department of Corrections (DOC). (Continued on Page 2).

Prepared by: Joseph Reeves Phone 465-3315
 Division: Administrative Services Date/Time 3/1/02 3:12 PM
 Approved by: Margaret M. Pugh, Commissioner Date 3/1/02
 Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB97

ANALYSIS CONTINUATION

The DOC is required to set the fee in regulation and may not be less than \$1.50 per day. Probationer/Parole new cases by fiscal year and estimated cases impacted by this legislation will be as follows:

<u>FY</u>	<u>New Cases</u>	<u>Probation/Parole Cases Impacted</u>	<u>Number Paying (10%)</u>	<u># Days</u>	<u>Revenue @ \$1.50/Day</u>
FY03	1,015	301/0=301	.0	182	\$ 8.2
FY04	1,096	976/0=976	98	366	\$53.7
FY05	1,184	1,054/65=1,119	112	365	\$61.3
FY06	1,279	1,138/141=1,279	128	365	\$70.1
FY07	1,381	1229/152 =1,381	138	365	\$75.6
FY08	1,491	1327/164 =1,491	149	366	\$81.8

The DOC does not anticipate any revocations until FY04. Incarceration costs (@CRC) for probation revocations are as follows: (Shown in miscellaneous line of FN).

FY03 = 0

FY04 = 49 court hearings, 3 probationers revoked for 11 days @ \$67 per day= \$2.2

FY05 = 53 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY06 = 57 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY07 = 61 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY08 = 66 court hearings, 5 probationers revoked for 11 days @ \$67 per day= \$3.7

1 PFT Adult Probation Officer, Range 16, will be needed starting in FY04 to deal with increased caseload management and revocation hearings. First Year Personal Services will be \$60.0, future fiscal years assumes that a 3.75% performance adjustment will be added per the terms of labor agreements. Support for new probation position will include: \$10.0 for Travel (monitoring, internal hearings, court hearings), \$4.0 for Contractual Services (Communication, etc), \$1.5 for Commodities (consumable supplies, etc.), and \$3.0 for equipment (one-time; PC, Printer).

Section 6. This section requires the Alaska Board of Parole to assess a periodic parole fee to be paid to the DOC. The DOC is required to set the fee in regulation and may not be less than \$1.50 per day. The DOC does not anticipate any collections or revocations until mid FY03 since the legislation is prospective and people on mandatory parole are sentenced to two years or more. Parole fees revenue estimate is included in Section 4 analysis above.

Section 7. This section requires the Alaska Board of Parole to revoke parole for failure to pay the daily fee. The estimated costs for board hearings and incarceration costs are as follows: (Shown in miscellaneous line of FN)

FY03 = 0

FY04 = 0

FY05 = 1 hearing day X \$2,600 per day = \$2.6, Incarceration Costs = \$6.8 Total = \$8.8

FY06 = 3 hearing days X \$2,600 per day = \$7.8, Incarceration Costs = \$29.7 Total = \$37.5

FY07 = 3.5 hearing days X \$2,600 per day = \$9.1, Incarceration Costs = \$32.0 Total = \$41.1

FY08 = 3.7 hearing days X \$2,600 per day = \$9.6, Incarceration Costs = \$44.5 Total = \$54.1

Section 8. This section allows for the attachment of an offender's PFD to satisfy parole and probation fees that are delinquent. The DOC is unable to estimate the amount of revenue that will be generated by this section. The DOC believes that the Department of Law Collections Unit will provide this service as they do for most other state agencies. It is estimated that the cost via Reimbursable Services Agreement would be \$26.2 in FY04 and \$18.7 each year thereafter (shown in contractual line of FN). The DOC believes that little of the fees, if any at all, will be recovered through this attachment since these type of fees will be #8 in-line for PFD attachment. We believe there will be no PFD funds left to attach.

Section 9. This section requires the DOC to contract with a collection agency or other person for the administration and collection of probation and parole fees imposed by this legislation. The DOC estimates it will cost \$55.00 per case to set up accounts and make collection efforts. \$16.6 the first year, \$53.7 FY2004, \$61.5 FY2005, \$70.3 FY2006, \$76.0 FY2007, and \$82.0 FY2008. (shown in contractual line of FN).

SENATE FINANCE COMMITTEE
4/21/2002 COMMITTEE ACTION

Bill Number	97		
Amendment			
Motion	Move from Committee		
<u>Motion by</u>	Ward		
<u>Objection by</u>	Hoffman		
Removed			
<u>Second Objection by</u>			
<u>Committee Member</u>	Y	Vote	N
Senator Leman	✓		
Senator Olson			✓
Senator Ward	✓		
Senator Wilken	✓		
Senator Austerman	✓		
Senator Green	✓		
Senator Hoffman			✓
Co-Chair Donley	✓		
Co-Chair Kelly	✓		
<u>Tally</u>			
Yea	7		
Nay	2		
Absent			
<u>MOTION</u>	PASSED		

ADOPTED 4/2/02

WORK DRAFT

WORK DRAFT

WORK DRAFT

22-LS0338\C
Luckhaupt
2/13/02

CS FOR SENATE BILL NO. 97()
IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-SECOND LEGISLATURE - SECOND SESSION

BY

Offered:
Referred:

Sponsor(s): SENATOR WARD

A BILL

FOR AN ACT ENTITLED

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

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

3 * Section 1. AS 12.55.051(a) is amended to read:

4 (a) If the defendant defaults in the payment of a fine or any installment, of a
5 probation fee or any installment, or of restitution or any installment, the court may
6 order the defendant to show cause why the defendant should not be sentenced to
7 imprisonment for nonpayment and, if the payment was made a condition of the
8 defendant's probation, may revoke the probation of the defendant. In a contempt or
9 probation revocation proceeding brought as a result of failure to pay a fine, fee, or
10 restitution, it is an affirmative defense that the defendant was unable to pay despite
11 having made continuing good faith efforts to pay the fine, fee, or restitution. If the
12 court finds that the defendant was unable to pay despite having made continuing good
13 faith efforts, the defendant may not be imprisoned solely because of the inability to
14 pay. If the court does not find that the default was attributable to the defendant's
15 inability to pay despite having made continuing good faith efforts to pay the fine, fee,

1 or restitution, the court may order the defendant imprisoned until the order of the court
2 is satisfied. A term of imprisonment imposed under this section may not exceed one
3 day for each \$50 of the unpaid portion of the fine, fee, or restitution or one year,
4 whichever is shorter. Credit shall be given toward satisfaction of the order of the court
5 for every day a person is incarcerated for nonpayment of a fine, fee, or restitution.

6 * Sec. 2. AS 12.55.051(d) is amended to read:

7 (d) The state may enforce payment of a fine or fee against a defendant under
8 AS 09.35 as if the order were a civil judgment enforceable by execution. This
9 subsection does not limit the authority of the court to enforce fines or fees.

10 * Sec. 3. AS 12.55.100(a) is amended to read:

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

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

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

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

18 (4) to perform community work in accordance with AS 12.55.055;

19 (5) to participate in or comply with the treatment plan of an inpatient
20 or outpatient rehabilitation program specified by either the court or the defendant's
21 probation officer that is related to the defendant's offense or to the defendant's
22 rehabilitation; [AND]

23 (6) to satisfy the screening, evaluation, referral, and program
24 requirements of an agency authorized by the court to make referrals for rehabilitative
25 treatment or to provide rehabilitative treatment; and

26 (7) to pay a periodic probation fee as provided in AS 12.55.104.

27 * Sec. 4. AS 12.55 is amended by adding a new section to read:

28 **Sec. 12.55.104. Probation fee.** (a) A court granting probation, as defined in
29 AS 33.05.080, shall require a periodic probation fee to be paid to the Department of
30 Corrections as a condition of probation based on ability to pay. The fee amount shall
31 be established by regulation by the Department of Corrections but may not be less

1 than \$1.50 a day.

2 (b) A probationer shall assign the probationer's permanent fund dividend to
3 make probation fee payments under this section. The Department of Corrections shall
4 provide an assignment form to the probationer. The Department of Corrections shall
5 attach the permanent fund dividend of a probationer who is in arrears on the probation
6 fee and who has failed or refused to execute the assignment. If the permanent fund
7 dividend exceeds the total of the probation fee payments owed by the probationer, the
8 Department of Corrections shall refund the difference to the probationer.

9 * Sec. 5. AS 33.16.150(a) is amended to read:

10 (a) As a condition of parole, a prisoner released on special medical,
11 discretionary, or mandatory parole

12 (1) shall obey all state, federal, or local laws or ordinances, and any
13 court orders applicable to the parolee;

14 (2) shall make diligent efforts to maintain steady employment or meet
15 family obligations;

16 (3) shall, if involved in education, counseling, training, or treatment,
17 continue in the program unless granted permission from the parole officer assigned to
18 the parolee to discontinue the program;

19 (4) shall report

20 (A) upon release to the parole officer assigned to the parolee;

21 (B) at other times, and in the manner, prescribed by the board
22 or the parole officer assigned to the parolee;

23 (5) shall reside at a stated place and not change that residence without
24 notifying, and receiving permission from, the parole officer assigned to the parolee;

25 (6) shall remain within stated geographic limits unless written
26 permission to depart from the stated limits is granted the parolee;

27 (7) may not use, possess, handle, purchase, give, distribute, or
28 administer a controlled substance as defined in AS 11.71.900 or under federal law or a
29 drug for which a prescription is required under state or federal law without a
30 prescription from a licensed medical professional to the parolee;

31 (8) may not possess or control a firearm; in this paragraph, "firearm"

1 has the meaning given in AS 11.81.900;

2 (9) may not enter into an agreement or other arrangement with a law
3 enforcement agency or officer that will place the parolee in the position of violating a
4 law or parole condition without the prior approval of the board;

5 (10) may not contact or correspond with anyone confined in a
6 correctional facility of any type serving any term of imprisonment or a felon without
7 the permission of the parole officer assigned to the [A] parolee;

8 (11) shall agree to waive extradition from any state or territory of the
9 United States and to not contest efforts to return the parolee to the state;

10 (12) shall provide a blood sample, an oral sample, or both, when
11 requested by a health care professional acting on behalf of the state to provide the
12 sample or samples, or an oral sample when requested by a juvenile or adult
13 correctional, probation, or parole officer, or a peace officer, if the prisoner is being
14 released after a conviction of an offense requiring the state to collect the sample or
15 samples for the deoxyribonucleic acid identification system under AS 44.41.035;

16 (13) shall pay a periodic parole fee as provided in AS 33.16.155.

17 * Sec. 6. AS 33.16 is amended by adding a new section to read:

18 **Sec. 33.16.155. Parole fee.** (a) The board shall require a periodic parole fee
19 to be paid to the department as a condition of special medical, discretionary, or
20 mandatory parole based on ability to pay. The fee amount shall be established by
21 regulation by the department but may not be less than \$1.50 a day.

22 (b) A parolee shall assign the parolee's permanent fund dividend to make
23 parole fee payments under this section. The department shall provide an assignment
24 form to the parolee. The department shall attach the permanent fund dividend of a
25 parolee who is in arrears on the parole fee and who has failed or refused to make the
26 assignment. If the permanent fund dividend exceeds the total of the parole fee
27 payments owed by a parolee, the department shall refund the difference to the parolee.

28 * Sec. 7. AS 33.16.220 is amended by adding a new subsection to read:

29 (j) The board shall revoke the parole of a parolee who defaults in the payment
30 of the parole fee imposed under AS 33.16.155 or any installment unless the parolee
31 shows by a preponderance of the evidence that the parolee was unable to pay despite

1 having made continuing good faith efforts to pay the fee. If the board finds that the
2 parolee was unable to pay despite having made continuing good faith efforts, the
3 parole may not be revoked solely because of the inability to pay. If the board does not
4 find that the default was attributable to the parolee's inability to pay despite having
5 made continuing good faith efforts to pay the fee, the board shall revoke the parole.

6 * Sec. 8. AS 43.23.065(b) is amended to read:

7 (b) An exemption is not available under this section for permanent fund
8 dividends taken to satisfy

9 (1) child support obligations required by court order or decision of the
10 child support enforcement agency under AS 25.27.140 - 25.27.220;

11 (2) court ordered restitution under AS 12.55.045 - 12.55.051,
12 12.55.100, or AS 47.12.120(b)(4);

13 (3) claims on defaulted education loans under AS 43.23.067;

14 (4) court ordered fines;

15 (5) writs of execution under AS 09.35 of a judgment that is entered

16 (A) against a minor in a civil action to recover damages and
17 court costs;

18 (B) under AS 34.50.020 against the parent, parents, or legal
19 guardian of an unemancipated minor;

20 (6) a debt, other than for a fee under (8) of this subsection, owed by
21 an eligible individual to an agency of the state, unless the debt is contested and an
22 appeal is pending, or the time limit for filing an appeal has not expired;

23 (7) a debt owed to a person for a program for the rehabilitation of
24 perpetrators of domestic violence required under AS 12.55.101, AS 18.66.100(c)(15),
25 AS 25.20.061(3), or AS 33.16.150(f)(2);

26 (8) probation fee ordered by a court under AS 12.55.104 or
27 AS 47.12.120 or a parole fee required by the Board of Parole under AS 33.16.155.

28 * Sec. 9. AS 44.28 is amended by adding a new section to read:

29 Sec. 44.28.040. **Contract for collection of probation and parole fees.** The
30 Department of Corrections shall contract with a collection agency or other person for
31 the administration and collection of probation fees imposed under AS 12.55.104 and

1 parole fees imposed under AS 33.16.155.

2 * Sec. 10. AS 44.29 is amended by adding a new section to read:

3 **Sec. 44.29.026. Contract for collection of probation fees.** The Department
4 of Health and Social Services shall contract with a collection agency or other person
5 for the administration and collection of juvenile probation fees under AS 47.12.120.

6 * Sec. 11. AS 47.12.120 is amended by adding a new subsection to read:

7 (l) A court granting probation under this section shall require a periodic
8 probation fee to be paid by the minor or the minor's parents to the department as a
9 condition of probation based on ability to pay. The fee amount shall be established by
10 regulation by the department but may not be less than \$1.50 a day. The minor and the
11 minor's parents or guardian shall assign the minor's permanent fund dividend to make
12 probation fee payments under this section. The department shall provide an
13 assignment form to the minor and the minor's parents or guardian. The department
14 shall attach the permanent fund dividend of a minor who is in arrears on the probation
15 fee and who has failed or refused to execute the assignment. If the permanent fund
16 dividend exceeds the total of the probation fee payments owed by the probationer, the
17 department shall refund the difference to the minor or the minor's parents or guardian.

18 * Sec. 12. AS 47.12.170(a) is amended to read:

19 (a) The state may enforce payment of a probation fee, and the [A
20 PERSON WHO IS A] recipient of a restitution order involving a minor found
21 delinquent under AS 47.12.120, or the state on behalf of the restitution recipient, may
22 enforce an order for restitution under AS 47.12.120 against the minor and the minor's
23 parent under AS 09.35 as if the fee or order were a civil judgment enforceable by
24 execution. If the restitution recipient enforces or collects restitution through civil
25 process, collection costs and full reasonable attorney fees shall be awarded. If the
26 state, on the restitution recipient's behalf, enforces or collects restitution through civil
27 process, collection costs and full reasonable attorney fees shall be awarded, up to a
28 maximum of twice the amount of restitution owing at the time the civil process was
29 initiated. This section does not limit the authority of the court to otherwise enforce
30 orders of payment for probation fees or for restitution. An order of restitution
31 enforced under this section does not limit under other law the civil liability of the

1 minor or the minor's parent as a result of the delinquent conduct.

2 * Sec. 13. AS 47.12.170 is amended by adding a new subsection to read:

3 (h) If the minor defaults in the payment of a probation fee or any installment
4 of the probation fee, the court may order the minor and the minor's parents to show
5 cause why the minor's probation should not be revoked and why the parents should not
6 be held in contempt of court. In a contempt or probation revocation proceeding
7 brought as a result of failure to pay a probation fee, it is an affirmative defense that the
8 minor and the minor's parents were unable to pay despite having made continuing
9 good faith efforts to pay the fee. If the court finds that the minor and the minor's
10 parents were unable to pay despite having made continuing good faith efforts, the
11 minor may not be imprisoned and the parents may not be held in contempt solely
12 because of the inability to pay. If the court does not find that the default was
13 attributable to the minor's or parents' inability to pay despite having made continuing
14 good faith efforts to pay the fee, the court may order the minor's probation revoked
15 and the parents held in contempt until the order of the court is satisfied.

LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES
LEGISLATIVE AFFAIRS AGENCY
STATE OF ALASKA

(907) 465-3867 or 465-2450
FAX (907) 465-2029
Mail Stop 3101


State Capitol
Juneau, Alaska 99801-1182
Deliveries to: 129 6th St., Rm. 329

MEMORANDUM

February 21, 2002

SUBJECT: Sectional Summary - CSSB 97(), "C" Version, Draft,
Dated 2/13/02 (Work Order No. 22-LS0338\C)

TO: Senator Jerry Ward

FROM: Gerald P. Luckhaupt 
Legal Counsel

You have requested a sectional summary of the above-described bill. As a preliminary matter, please note that a sectional summary of a bill should not be considered an authoritative interpretation of the bill - the bill itself is the best statement of its contents.

Section 1. Provides a conforming amendment to bill sec. 4.

Section 2. Provides a conforming amendment to bill sec. 4.

Section 3. Authorizes a court to require a probationer to pay the probation fee created in bill sec. 4 as a condition of probation.

Section 4. Requires a court to impose a probation fee when placing a person on probation; requires probationers to assign their permanent fund dividend to make the probation fee payments.

Section 5. Requires parolees to pay the parole fee created in bill sec. 6 as a condition of parole.

Section 6. Requires the board of parole to impose a parole fee as a condition of parole; requires parolees to assign their permanent fund dividend to make the parole fee payments.

Section 7. Specifies when the board of parole may revoke the parole of a person who does not pay their parole fee.

Section 8. Provides that the partial exemption against levy, execution, garnishment, or attachment of permanent fund dividends does not apply to probation and parole fees.

Section 9. Requires the Department of Corrections to contract for the administration and collection of probation and parole fees.

Senator Jerry Ward
February 21, 2002
Page 2

Section 10. Requires the Department of Health and Social Services to contract for the administration and collection of probation fees.

Section 11. Requires a court granting juvenile probation to require the payment of a probation fee.

Section 12. Provides a conforming amendment to bill sec. 11.

Section 13. Provides procedures for when a juvenile fails to pay the probation fee required under bill sec. 11.

GPL:med
02-187.med

DEPARTMENT OF CORRECTIONS

February 22, 2002

REPLY TO:

PO BOX 112000
JUNEAU, ALASKA 99811-2000
PHONE (907) 465-3376

The Honorable Jerry Ward
Alaska State Senate
Alaska Court House-Room 423
Juneau, Alaska 99801-1182

Dear Senator Ward:

RE: Probation/Parole Information

Per your request for information on the Agency's Probation/Parole operations, the following is provided:

1. Number of convicted felons on Probation/Parole?

Response: As of January 1, 2002 there are 4,678 active probation/parole people under supervision of the Agency.

2. What percentage of the convicted felons on felony Probation/Parole are in their first year of supervision?

Response: 1,403 of the 4,678 active probation/parole people are in their first year of supervision or 30.0%.

3. What is the average length of time for the individuals on felony Probation/Parole?

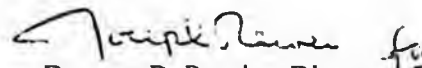
Response: The average length of time for those on felony Probation/Parole is 4.5 Years.

4. What is the annual operating costs for all Probation and Parole functions?

Response: The annual operating budget for all Probation/Parole components is \$9,424.0 and 136 PFT staff.

We hope this answers your questions. If you require more information on this, please contact us.

Sincerely,


Dwayne B. Peeples, Director

CC: Margaret M. Pugh, Commissioner
Lynda Zaugg, Director/Division of Community Corrections
Tuula Marquardt, Budget Analyst/OMB-Division of Budget Review
Representative Eldon Mulder, Co-Chair/House Finance

STATE OF ALASKA

DEPT. OF HEALTH AND SOCIAL SERVICES

DIVISION OF ADMINISTRATIVE SERVICES

TONY KNOWLES, GOVERNOR

P.O. BOX 110650
 JUNEAU, ALASKA 99811-0650
 PHONE: (907) 465-3082
 FAX: (907) 465-2499

February 22, 2002

The Honorable Jerry Ward
 Senate Finance Committee
 State Capitol, Room 423
 Juneau, AK 99801-1182

Dear Senator Ward:

The following information is provided in response to Loretta Brown's request of February 2, 2002.

cc Provide total costs of probation project for FY 01.

The Probation Services Component of the Juvenile Justice BRU supports a wide range of activities and juvenile justice programming. Juvenile Probation Officers provide 24 hour detention screening, juvenile intake assessment, implement non-court diversion response sanctions, initiate formal court adjudication's by filing petitions for adjudication of delinquency, complete pre-disposition investigations for the Superior Court, and supervise youth in the community under formal court ordered probation dispositions. Additionally, JPOs provide information and support services to victims of juvenile crime and work with communities to establish and operate a variety of community based delinquency prevention and intervention services. Costs associated with these services are indicated by region in the chart below.

**Division of Juvenile Justice
 Regional Probation Expenditures
 FY2001 Actuals**

Region	Southcentral	Northern	Southeast	Total
Personal Services	2,825,661	1,748,942	817,269	5,391,872
Travel	20,158	43,799	15,195	79,152
Contractual	203,841	136,750	91,028	431,619
Supplies	47,342	24,297	22,900	94,539
Equipment	30,366	16,650	3,702	50,718
Total	3,127,368	1,970,438	950,094	6,047,900

Senator Ward

Page 2

February 22, 2002

Provide the total number of youth on probation now.

The following table shows the total number of juvenile probation cases handled by region and office during FY 2001.

<i>Total DJJ Probation Caseload FY 2001 *</i>							
Region	Office	Number of Cases			Number of Youth		
		Formal Probation	Informal Probation	Totals	Formal Probation	Informal Probation	Totals
NRO	Bethel	122	2	124	113	2	115
	Fairbanks	128	61	189	128	58	186
	Barrow	24	6	30	24	5	29
	Nome	46	29	75	46	29	75
	Kotzebue	19	11	30	18	11	29
	Total	339	109	448	329	105	434
SCRO	Anchorage	398	309	707	391	286	677
	Kodiak	47	8	55	47	8	55
	Kenai	71	42	113	71	38	109
	Mat-Su	100	22	122	100	21	121
	Dillingham	46	1	47	46	1	47
	Homer	24	65	89	22	62	84
	Valdez	41	15	56	39	14	53
	Total	727	462	1,189	716	430	1,146
SERO	JunEAU	134	31	165	121	26	147
	Sitka	14	3	17	14	2	16
	Ketchikan	78	22	100	76	17	93
	Petersburg	22	3	25	22	2	24
	POW	11	0	11	11	0	11
	Total	259	59	318	244	47	291
Statewide Total		1,325	630	1,955	1,289	582	1,871

Formal Probation includes minimum, medium, maximum, residential care and interstate out cases.

Informal Probation is non-court, voluntary community diversion supervision.

* This table does not include residents with an institutional order.

Percentage of youth in their first year of probation.

**Probation Supervision Cases Open on December 31, 2001,
By the Number of Months the Youth Has Been On Probation ***

	0-3 Months		4-6 Months		7-9 Months		9-11 Months		12 + Months	
	Number of Cases	Percent of Total	Number of Cases	Percent of Total	Number of Cases	Percent of Total	Number of Cases	Percent of Total	Number of Cases	Percent of Total
Informal	74	47.40%	38	24.40%	14	9.00%	9	5.80%	21	13.50%
Formal	135	19.70%	115	16.70%	104	15.10%	119	17.30%	214	31.10%
Total	209	24.80%	153	18.10%	118	14.00%	128	15.20%	235	27.90%

* This table does not include residents with an institutional order.

Average length of time youth are on probation.

<i>Probation Supervision Cases Closed During FY2001, By the Average Number of Days On Probation</i>		
	Total Cases	Mean Days on Probation
Informal	443	151.7
Formal	682	471.1
Total	1,125	345.3

PFD information for youth on probation.

The Department submits a PFD application for juvenile offenders in custody on December 31, when those juveniles are in out of home care and are expected to continue in out of home care through September of the following year. In calendar year 2000, the Department submitted 294 PFD applications for juveniles meeting this criteria on December 31, 1999. PFD payments for these youth are deposited and held in a special interest bearing trust account until the juvenile is released from custody or reaches the age of majority. If a juvenile is released from the custody of the Department before reaching their 18th birthday, their PFD payment is released to the juvenile's parent or guardian.

Applications for a PFD for all other juvenile's on probation are submitted by the juvenile's parent or guardian on behalf of the child.

Young people who are 18 years of age or older and in the custody of the Department in an out of home placement apply for their PFD on their own behalf.

Senator Ward

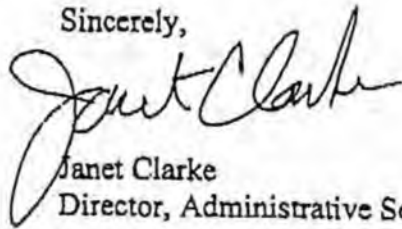
Page 4

February 22, 2002

For any juvenile subject to a formal court order to pay restitution or who enters into a voluntary agreement to pay restitution as part of an informal probation agreement may assign their rights to a PFD to the Department. When the Department receives a payment through an assignment of rights, the payment is disbursed to the juvenile's victim as specified in the restitution order or voluntary agreement. In calendar year 2000, the Department disbursed approximately \$138,000 to victims of juvenile crime through this assignment of rights process.

Please contact me if you have any questions.

Sincerely,



Janet Clarke
Director, Administrative Services

cc: Jay Livey, Commissioner
Elmer Lindstrom, Deputy Commissioner
Russ Webb, Deputy Commissioner
George Buhite/Susan Taylor, Juvenile Justice
Laura Baker/Fred Fisher, Budget Section

provided by:
Senator Ward

POSSIBLE RECOMMENDATIONS FOR IMPLEMENTATION OF SB 97

PROBATION FEES: YOUTH

- Impose a flat fee for probation services. Whether the offender is on probation for six months or two years . . . everyone pays the same probation service fee. No exception or exemptions. This negates the need for tracking, counting days, financial determinations, etc. and minimizes administrative expenses related to fees.
- Any time a new sentence or disposition order is entered for probation, it triggers another probation fee requirement.
- The Court orders the amount and sets a deadline for payment. The Court forwards a court order, the name of the offender and the name of the parents to the collection agency.
- The collection agency establishes an account, sends a bill to the offender. If the deadline passes without payment, the agency sends a non-payment order to the court. When the court gets a non-payment notice, the court must issue an order and schedule a hearing for the offender, and offender's parent to show cause why they should not be held in contempt. This separates the fee from probation and avoids litigation or contested probation violation hearings.
- The court has a hearing and extends the deadline, waives the fee, or enters a writ of execution under AS 09.35 and sends the matter to the Dpt. Of Law, collections section. They go after assets, bank accounts, claim the PFD under 43.23.063(b)(5) whatever it is they do so well. Execution judgements have an additional amount tacked on the fee to cover Dpt. of Law's collection costs.
- Structure the fee so that reasonable collection agency fees are provided for and revenue is earned for the state. Dpt of Law will have a fiscal note which is offset by the execution judgement fee.

- Keep the fee somewhere around \$200-300, so that even in the worst of circumstances, every offender would be expected to pay. Rather than revenues from only 10-50% of the cases, the individual fee might be less than a daily or monthly amount, but the total collections would be much higher because the amount is more certainly attainable.
- If it works, raise the fee in a year or two.

Youth are on probation from 5 months to a maximum of 2 years. Table represents a one time fee.

YOUTH

# OF PROBATIONERS	FEE	REVENUE	PROBATION DEPT EXPENSE	% OF COST RECOVERED
1968*	\$200	\$393,600	\$5,877,294*	7%
1968*	\$300	\$590,400	\$5,877,294*	10%

*Numbers supplied by Dept. of Health and Social Services for FY00

PROBATION FEES: ADULTS

Same methods could be used to collect supervision fees from adult probationers. Because adults are better able to work and are expected to do so as part of the probationary requirements, they would be required to pay a fee each year or part of year they are supervised. Average time of probation for adults is 5.3 years.

ADULT - based on \$45 a month (\$1.50 a day)

# OF PROBATIONERS	FEE	REVENUE	PROBATION DEPT EXPENSE	% OF COST RECOVERED
2116*	540	\$1,142,640	\$9,382,700	12%
4760**	540	\$2,570,400	\$9,382,700	27%

*Total probationers in first year of probation - 1/01/01

**Total probationers - 1/01/01

provided by:
Senghar Ward

MISCELLANEOUS FACTS AND INFORMATION

PROBATION - The action of suspending the sentence of one convicted of a minor offense and granting the offender provisional freedom on the promise of good behavior.

PAROLE - The conditional release of a prisoner before his or her term has expired.

National Institute of Justice study of fines

- - despite a common perception of the criminal as penniless and unemployable, most offenders on probation can afford modest monthly supervision fees.
- By 1992, more than half of the states allowed probation departments to charge fees to probationers, ranging from \$10 to \$40 per month, usually with a sliding scale. In Texas probation departments are encouraged to collect enough revenue from fees to cover and/or exceed the staffing cost necessary to collect the money.
- The courts have ruled that probation cannot be revoked when an **indigent** offender has not paid his fees or restitution (Bearden vs. Georgia 1983)
- Revocation of probation for non-payment - offenders who were willfully behind in fee payment also had violated other conditions of probation. In 1989 and 1992 studies found that "probationers who refuse to pay fees despite their ability to do so are most often the same individuals who are unable or unwilling to abide by other conditions of probation. Therefore, it is argued that probation fee programs are not likely to increase probation failure rates."
- Texas - Harris County (Houston) the probation department uses post sentence financial screening. Probation officers routinely recommend fees for every probationer regardless of ability to pay. At the end of 3 months, offenders who are in arrears on their payments are examined to determine whether their fee

should be waived. They have found that financial assessments greatly reduces the amount staff time required for screening probationers by targeting only those probationers who have shown they have a problem paying the fee.

- Community service for willful nonpayment rather than jail time.

A study conduct by the National Council on Crime and Delinquance in 1989

- Found that probation fee collection rarely occupies more than 2% of probation officers' time.
- Montei Morgan – Many probation officers hated fee collections when first introduced. From the beginning, probation administrators made it clear to employees that fee collection is part of the job. Line staff today generally accept fee collection responsibilities as a matter of course. Rather than detracting from casework, fee collection actually furthers the goal of helping probationers avoid relapsing into criminal behavior.

(Finn and Parent 1992, p. 12)

- May also teach offenders personal responsibility.
- The regularity of fee payments is a good barometer of a probationer's overall adjustment while on supervision. According to Morgan, "There is a direct correlation between probation compliance and fee payment." **Montie Morgan**, Director of Adult Probation for Jefferson County
- *Opportunity to help teach offenders how to budget and meet ongoing financial obligation on time.
- *"The key issue," says Lewis Bramblett, Chief Probation Office for Dallas County, "is getting offenders to accept responsibility for making the payment and for taking charge of their lives."

Alaska July 1, 1987 repealed May 12, 1989

States that have some form of probation/parole fee program

- Arizona
- New Mexico
- Texas
- Montana
- Florida
- Minnesota
- Michigan
- New York
- Pennsylvania



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Senator
Ward

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Publication of the John Howard Society of Alberta - 1995

Correctional User Fees: An Examination

Table of Contents

- Introduction
- User Fees Defined
- The American Experience
 - Probation Fee Programs
 - Texas
 - Oregon
 - Massachusetts
 - Electric Monitoring Fee Programs
- User Fees in Alberta
- Issues
 - Revenue Generated
 - Ethical Concerns
 - Impact on Probationers
- Discussion

● References

Introduction

In this era of fiscal restraint and cost cutting, finding innovative ways to reduce correctional costs is pressing. Given increasingly punitive attitudes towards offenders, probation user fees are gaining popularity amongst correctional policy makers and practitioners alike. As Ring (1989) points out:

It was probably inevitable that at a time when many jurisdictions are struggling to maintain basic services, educate their children, and care for their elderly, proposals to shift the cost of probation programs from the taxpayer to the offender would generate increasing support.
(p.43)

Probation fee programs are heralded by proponents as an important source of revenue and a way of promoting responsibility in offenders. However, probation and electronic monitoring fee programs have been subject to considerable criticism. This paper will examine the evolution of correctional user fees. In addition, the issues surrounding probation and electronic monitoring program fees will be explored.



User Fees Defined

Correctional user fees are "any payment a convicted offender is compelled to make that generates revenue for correctional purposes or that recovers all or a portion of the costs of services provided" (Parent, 1990, p. 4). Correctional fees include program fees, such as supervision or room and board fees, and service fees. Program fees are typically imposed universally and are the largest revenue generators (Parent, 1990). Service fees are only imposed if a specific service is used, such as drug use testing or pre-sentence report preparation; they do not generate significant revenue.



The American Experience

The first American experience with correctional user fees took place in Michigan in 1846, when a law was passed to allow counties to charge incarcerated offenders for medical services (Parent, 1990). In the 125 years that followed, correctional fees were most commonly imposed on incarcerated offenders. However, collection problems were prevalent given that most incarcerated individuals do not have the means to pay fees.

Correctional user fees are rapidly gaining popularity in the United States. While early

correctional user fees were primarily imposed on incarcerated offenders, probation user fees are now becoming more common. Probation fee programs were first adopted in Michigan and Colorado in the 1930s and 1940s (Ring, 1989). Today, it is estimated that at least 26 states are imposing user fees on probationers (*Criminal Justice Newsletter, 1988; Ring, 1989*). While the most common user fee programs involve a monthly fee for supervision, user fees are also charged for a variety of probation services in some states (Ring, 1989). For example, fees are sometimes imposed for electronic monitoring programs, ignition interlock equipment, work release programs and for preparing pre-sentence reports. The usual range of supervision fees is between 10 and 40 dollars per month (Wheeler et al., 1989).

The following section details probation fee programs in three states. The case studies indicate the kinds of probation fee programs in operation in the United States, from well-established programs such as the probation fee program in Texas, to more recent programs such as Massachusetts' new probation fee program.

Probation Fee Programs

Texas

Texas operates the most successful probation fee programs in the United States; in 1990, Texas' probation departments raised over 57 million dollars through probation fees (Finn & Parent, 1992). Further, almost 75 percent of the probation departments in Texas raised fees totalling at least half of their total expenses. While probation departments in Texas are funded jointly by state aid and offender fees, the Texas legislature has passed numerous pieces of legislation aimed at encouraging probation departments to increase revenue generated through probation fees. Finn and Parent (1992) note that:

The most important incentive passed by the Texas Legislature was to allow departments to carry forward into the next fiscal year supervision fees they collect even when their revenue from probation fees and State aid combined is greater than their expenses - that is, they take in more money than they spend. (p.3)

Another legislative incentive enacted by the Texas legislature was to give local probation departments broad discretion in the allocation of revenue generated through probation fees (Finn & Parent, 1992). In addition, legislation encouraging probation departments to generate fee revenue in excess of the costs of fee collection was enacted; fee maximums were increased to ensure that probation departments could recover the costs of fee collection. Texas has also given priority to supervision fees over other financial obligations ordered by the court (Finn & Parent, 1992). Further, the law in Texas requires judges to impose probation fees on all offenders with some exceptions (Finn & Parent, 1992). Indeed, in 1987, the Texas Legislature passed a requirement that all probationers be required to pay at least 25 dollars a month in probation service fees, except those who could prove that they were too poor to pay (Finn & Parent, 1992). However, fee waivers at the time of sentencing are very rare. Rather, offenders are often sentenced to a probation fee program on a 3 month trial basis after which time delinquent probationers are examined to determine whether a waiver should be granted (Finn & Parent, 1992).

Texas also introduced computerized tracking in the 1980s to assist probation officers in keeping track of payments. This allowed probation departments to issue monthly statements on payment status to both offenders and probation officers, and to automatically issue letters to probationers who were delinquent by over 90 days to remind them to pay their fees. Many

Texas probation departments have built in their own incentives to increase revenue generated from fees (Finn & Parent, 1992). One such incentive is building fee collection success into staff performance evaluations. Another incentive used is to post each probation officer's collection rate on a bulletin board, thereby stimulating competition among officers.

Oregon

The Oregon legislature passed enabling legislation in 1979 allowing judges to impose supervision fees on probationers (Parent, 1990). While no upper limit for probation supervision fees has been set, a minimum fee of 10 dollars per month is required where fees are imposed. Further, the Parole Board in Oregon has been granted the authority to impose supervision fees on parolees; parole supervision fees are set at 20 dollars per month.

The revenue generated through supervision fees differs considerably among counties (Parent, 1990). Some of this variation may be due to differences in the financial incentives to collect fees. For example, some counties operate their own probation and parole agencies; in these counties the revenue generated through supervision fees remains in the respective agencies. However, probation and parole in other counties is administered by the state's Department of Corrections and, consequently, fee revenue is not channelled directly into the local agency that collects it. Rather, the state allocates fee revenue, and some agencies are in effect subsidizing others. Thus, "benefits from fee receipts are indirect and often intangible to branch office staff" (Parent, 1990, p. 39). Further, fee revenue replaces general funds from the state legislature on a dollar for dollar basis. Thus, in those counties where the Department of Corrections administers probation and parole services, the incentive to collect fees is considerably lower than in counties which operate their own probation and parole agencies. Not surprisingly, independently operated probation and parole agencies have experienced greater success in collecting supervision fees than their government operated counterparts.

However, variations in the revenue generated by different counties is not entirely due to differences in financial incentives to collect fees (Parent, 1990). Some of the variation may be due to caseload differences between agencies. In Oregon, felons tend to be supervised by the Department of Corrections, while misdemeanants are more likely to be supervised by locally administered probation departments. Literature indicates that misdemeanants are more likely to pay their fees than felons; therefore, it would be expected that the independently operated probation and parole departments in Oregon would be more successful at fee collection.

Other possible sources of variation in fee collection rates between counties in Oregon include differences in the priority judges place on fee collection compared with other financial sanctions imposed simultaneously, and the emphasis local departments place on fee collection (Parent, 1990). For example, some local agencies provide incentives to probation officers to increase their fee collection rates.

Thus, there is considerable variation in the revenue generated by different counties in the state of Oregon. This variation can be attributed, in part, to differences in the financial incentives given to agencies run by the Department of Corrections and those operated at the local level. Other factors contributing to the variations in program success include the degree of emphasis local agencies place on fee collection, the priority given to supervision fees over other financial sanctions imposed simultaneously and clientele differences.

Massachusetts

In 1988, the Massachusetts legislature decided to begin imposing user fees on state probationers (*Criminal Justice Newsletter, 1988*). The user fee requirement was a hasty addition to a tax reform bill designed to prevent a deficit in the state's 1989 budget.

According to the *Criminal Justice Newsletter*:

The action followed the release of a report by the state Legislative Research Bureau stating that probation fees have proved workable in other states and could raise as much as \$10 million per year in Massachusetts, assuming a fee of \$20 per probationer per month and a collection rate of 80 percent. (1988, p. 5)

While most states impose a flat rate fee on probationers, Massachusetts uses a graded fee system based on the probationer's ability to pay. At the time that user fees were introduced in Massachusetts, it was estimated that user fee rates in that state would be among the highest in the country (Ring, cited in *Criminal Justice Newsletter, 1988*).

Electronic Monitoring Fee Programs

Electronic monitoring technology first emerged in Britain in 1964; however, electronic monitoring programs did not gain popularity in the United States until the 1980s (Nellis, 1991). Electronic monitoring involves the use of technology to monitor offenders in the community. The primary selling point of electronic monitoring is its potential cost savings compared to the cost of constructing and operating institutions (Vaughn, 1987). While institutions have construction costs between \$25,000 and \$75,000 per bed (Vaughn, 1987), "the initial cost of a tele-monitoring system for twenty to thirty parolees might be roughly estimated to range from \$80,000 to \$200,000, depending upon the security and complexity of the system" (Gable, 1986, p. 173).

However, one of the chief reasons American intermediate punishment programs are deemed to be cost effective is because, in most cases, offenders themselves are contributing significantly in fees (Mainprize, 1992). Nellis (1991) reports that fees are charged in 75 percent of electronic monitoring programs. The Florida program charges participants \$9 per day, and within the first 14 months of the program the user fees paid for the initial investment in electronic monitoring equipment for the program (Garda, 1986, cited in Schmidt, 1986; Schmidt & Curtis, 1987). However, it must be recognized that the pay-back period will be affected by the amount initially invested in equipment and the fees charged participants (Schmidt, 1986; Schmidt & Curtis, 1987).



User Fees in Alberta

Presently, the ignition interlock program is the only correctional program in Alberta which imposes user fees on offenders (Personal communication with Alberta Justice Communications staff member, January 12, 1995). The ignition interlock device forces the driver of the car to pass a breath alcohol test before starting the car (Alberta Solicitor General, 1991). Currently, ignition interlock equipment is rented to convicted impaired drivers through registry branches privately operated by Accu-Search. The offender is charged an application

fee of approximately \$61; the application fee varies from branch to branch because each registry branch is free to set its own application fee rate (Personal Communication with Accu-Search staff member, January 12, 1995). The installation fee for ignition interlock equipment is approximately \$100. Further, a maintenance fee of \$90 per month is imposed.



Issues

Despite the growing popularity of probation fee programs, such programs are the subject of considerable controversy and debate. The issues surrounding probation fee programs generally concern the ethics of imposing probation fees, the impact of probation fees on offenders and cost benefit analyses.

Revenue Generated

Given that probation fee programs aim to generate revenue, much of the debate surrounding user fees focuses on the financial impact of such programs. Some argue that the costs of collecting probation user fees may actually exceed the fees collected (Massachusetts Probation Commissioner Donald Cochran, cited in Criminal Justice Newsletter, 1988). Finn and Parent (1992) point out that this is more likely to occur if probation departments are limited to collecting only a small monthly fee. However, Parent (1990) points out that "experience has shown that, with efficient policies and administrative practices, fees can be a substantial cost-effective revenue source" (p. 2). Indeed, in the U.S., it is reported that probation service fees constitute about one-fifth of probation budgets at the county level, and close to 10 percent of state probation program budgets (Baird, Holien & Bakke, 1986, cited in Wheeler et al., 1989). However, the amount of fee revenue generated differs dramatically by state. Parent (1990) reports that the state of Texas recovers half of its probation costs through offender fees while some other states only generate about 5% of their operating costs through probation fees. Parent (1990) asserts that "efficient collection policies are essential to program success" (p. 1). Hillsman and Mahoney (1988) identify two characteristics common to successful fee collection programs. Such programs have understandable collection procedures that assist prompt payment and use enforcement tactics involving progressively increasing pressure to pay (cited in Parent, 1990).

Another issue is the amount of fees to collect. It is often expected that an increase in fees will result in diminished returns due to defaults (Wheeler et al., 1989; Parent, 1990). It is also speculated that probation fees may be so "politically attractive" that they will increase to the point where probation success rates begin to decline due to inability to pay (Baird, Holien & Bakke, 1986, cited in Wheeler et al., 1989). However, in a study of the impact of increased fees on revenue generated, Wheeler et al. (1989) found "moderate evidence of diminishing returns" (p. 20). Collection rates decreased as fees increased, but revenue generated increased along with higher fees.

The major dilemma faced by fee collection programs is that in order to generate revenue, fee enforcement costs must be kept to a minimum (Parent, 1990). There is considerable variability in the likelihood of fee payment for different offender types (Parent, 1990). Offenders convicted of misdemeanors such as impaired driving have been found to be good payment

risks (Parent, 1990). However, for many offenders, there must be a strong incentive to pay probation fees (Parent, 1990). For many, this incentive will likely be the threat of further sanctions if they fail to make their payments. Ring (1989) reports that most states respond to a failure to pay probation fees in the same manner as a breach of a condition of probation. Therefore, it is argued that probation fee programs may increase the rate of breach of probation (Baird, Holien & Bakke, 1986, cited in Wheeler et al., 1989). If incarceration is imposed as a sanction for probation fee defaulters, then the original goal of decreased costs is not realized since incarceration is a more expensive sanction. However, several studies have found that incarceration is an unlikely penalty for probation fee defaulters (Baird et al., 1986, cited in Wheeler et al., 1989; Finn & Parent, 1992; Wheeler et al., 1989). Further, Ring (1989) points out that "probationers who refuse to pay fees despite their ability to do so are most often the same individuals who are unable or unwilling to abide by other conditions of probation" (p. 47). Therefore, it is argued that probation fee programs are not likely to increase probation failure rates.

Similarly, the cost-effectiveness of electronic monitoring fee programs is also questioned. For example, "Florida reported collecting \$9.2 million in fees from its home detainees, though this was inadequate to recoup the entire expense of supervising them" (Fox, 1987:139). Opponents have also noted that increases in personnel costs, administrative costs and in the actual failure rate may serve to counteract any reduction in initial costs (Vaughn, 1987). In addition, it cannot be assumed that a small reduction in the prison population will lead to savings. For one thing, it has been found that a large number of electronically monitored offenders are low risk and therefore incarceration costs would have been less than average anyway (Berry & Matthews, 1989). It has also been pointed out that most correctional costs result from staff and that without decreases in the number of staff, electronic monitoring merely achieves reductions of marginal costs such as food.

In addition, it is argued that while intermediate sanctions programs have lower per capita costs than imprisonment, it is unclear whether this comparison is the most appropriate one as it may be the case that offenders who would normally be granted probation or parole are being routed into electronic monitoring programs ("Alternatives ...", 1991). Given that electronic monitoring is more costly per capita than probation or parole, electronic monitoring may provide no cost savings at all. Indeed, Fox (1987) comments that "if, as many suspect on the basis of experiences with other diversionary schemes, the measure will be used for many defendants who would not normally be at risk of imprisonment, the alleged savings in prison costs will be illusory" (p.139).

There is yet another consideration in cost assessments. Fox (1987) points out that "the cost of re-arresting, re-trying and re-sentencing offenders who decamp must also be added to the calculations" (p. 139). Berry and Matthews (1989) and Muncie (1990) report that the failure rate in electronic monitoring programs is estimated to be 10 to 20 percent.

It is further argued that electronic monitoring contributes to both offender net-widening and correctional personnel net-widening (Mainprize, 1992). It has been cautioned that electronic monitoring programs may have been absorbing offenders other than those bound for prison, thus producing some incidence of offender net-widening and increasing correctional costs as a consequence (Berry, 1985). Frost and Stephenson (1989) conclude from their study of electronic monitoring as a sentencing option in Britain that "it is likely that if tagging were to be introduced and used to any great extent, it would substitute for both custodial and non-custodial sentences" (p. 99). Schmidt and Curtis (1987) and Vaughn (1987) argue that electronic monitoring may contribute to net-widening by employing more restrictive options

where they are unnecessary for public safety. Others warn that probationers are seen by the public as prisoners for whom there was no room in jail (Walker, 1990). Thus, there will be public pressure to overuse electronic monitoring which will in fact counteract its original purpose.

However, it is unclear that net-widening is inherent in all electronic monitoring programs. A distinction must be drawn between programs where electronic monitoring is a sentencing option and those where it is a corrections classification option. As a sentencing option, electronic monitoring causes a greater risk of offender net-widening. As a classification option, however, the offenders who will be subject to electronic monitoring would be drawn from a prison-bound population. Mainprize (1992) notes that even as a classification option, electronic monitoring may still influence judges' decisions. In addition, electronic monitoring may fail for some "true" prison diversions, resulting in lengthy prison sentences (Mainprize, 1992). Recall the 10 to 20 percent failure rate mentioned earlier.

Correctional personnel net-widening is vitally important given that the largest per diem costs are staff salaries. It has already been mentioned that until the number of released inmates is high enough to affect institutional staffing, savings will be negligible. Another consideration is that additional corrections personnel will be needed to operate electronic monitoring programs. On the British Columbia electronic monitoring program, Mainprize (1990) reports that:

In a recent interview with one agency official, it was disclosed that startup of the EMS program actually entailed the provision of new positions rather than redeployment of correctional officers from other areas of this local correctional system. (pp. 173-174)

Electronic monitoring may well lead to increased workload demands. For example, while probation caseloads are often in excess of 100, electronic monitoring caseloads average about 25 (Papy and Nimer, 1991; Schmidt, 1991). In addition, a 24-hour service will be needed if violations are to be responded to promptly (Schmidt, 1991). Similarly, electronic monitoring technology will provide staff with new information which may need a response (Schmidt, 1991).

It has been demonstrated that both types of net-widening (offender and correctional personnel) will result in increased correctional costs. Thus, it is ironic that electronic monitoring programs are being promoted under the banner of "cost-effectiveness."

Ethical Concerns

The ethics of fee programs are a subject of considerable debate. Some opponents of probation fee programs argue that it is unethical, if not illegal, to force offenders to pay for the services imposed on them (Finn & Parent, 1992). Indeed, as Parent (1990) points out, offenders are 'involuntary consumers;' "when the state compels its citizens to partake of a particular service, it is argued, the state should foot the bill" (p. 1). Further, Ring (1989) likens the imposition of user fees on offenders to the jailer fees and debtors' prison system of the past. These are the very conditions which were criticized by John Howard in his work *The State of the Prisons*, which was first published in 1777 (Carlson, 1990). According to Carlson (1990), jail keepers "were unpaid by the Crown and consequently exacted fees from prisoners. The profit margin, unrestrained by accountability and limited in reality, meant indiscriminate committal to these insecure and unruly dwellings of physical and moral corruption" (p. 9). Arguably, user fees appear to be a regression to the historical maltreatment of offenders.

The impact of probation fees on the philosophical orientation of probation is also a concern. Parent (1990) notes that the helping role of probation officers may be undermined by fee collection. A glaring example of this is noted by Parent (1990):

The Washington County (Hillsboro, Oregon) Community Corrections Department has a performance based compensation plan for supervisors that links their take-home pay to how well their units achieve a number of job performance objectives, including levels of fee collection. (p.19)

It is argued that the collection of probation user fees places an added burden on probation officers (Massachusetts Deputy Commissioner Bill Hanrahan, cited in Criminal Justice Newsletter, 1988). Probation officers are given the additional responsibility of keeping track of payments, taking time away from more traditional probation duties such as supervision and counselling (Ring, 1989). Indeed, in Texas, some probation officers report that fee collection duties often interfere with their other probation duties (Finn & Parent, 1992). As Finn and Parent (1992) point out:

Because fees are always the first topic of discussion during an office visit, casework can be addressed only in the remaining time. Probation officers report that if an offender is having difficulty meeting payments, the office visit can be consumed entirely by this one issue. (p. 10)

However, a study conducted by the National Council on Crime and Delinquency (1986) found that probation fee collection rarely occupies more than 2% of probation officers' time (cited in Ring, 1989). Further, a study of the effects of probation service fees on probation services in Arizona found that after probation service fees were introduced, probation officer caseloads were reduced (Wilcox, 1985, cited in Wheeler et al., 1989). Wheeler et al. (1989) interpret this finding as an indication that probation service fees do not compromise probation service delivery; probation officers have the additional responsibility of fee collection, but their caseloads are reduced. Further, Wheeler et al. (1989) assert that the hiring of additional probation officers to reduce caseloads represents an expansion of probation services. Similarly, Jefferson County reports that probation fees have enabled probation departments to provide additional services to probationers such as substance abuse and sex offender programs (Finn & Parent, 1992).

Similarly, the ethics of electronic monitoring programs are questioned. Opponents of electronic monitoring programs often argue that the practice is dehumanizing and managerial (Esteves, 1990; Fox, 1987; Graham, 1988; Mainprize, 1992). Electronic monitoring suggests that offenders are merely numbers, cases, computer files and/or blips on a screen or printout (Graham, 1988). Furthermore, the lack of human interaction places clients at risk of not having their concerns heard. As Graham (1988) notes:

I fear the potential of a nighttime electronic call when the computer cannot recognize the suicidal threats of a client, while human interaction could conceivably prevent a potential human tragedy. (p. 96)

Opponents of electronic monitoring programs also argue that the programs discriminate against the poor and homeless. Indeed, the offender needs to have a home and a telephone to qualify for the program, which excludes the homeless from consideration (Burtch, 1989; Fox, 1987; Vaughn, 1987). In addition, given that many programs require the offender to pay user fees, many poor offenders are disqualified (Berry, 1985; Fox, 1987; Mainprize, 1992; Walker,

1990). Although many programs have introduced a sliding fee scale to accommodate less financially able clients, fear remains that current systems foster a two-tiered system of justice based on wealth (Mainprize, 1992). Finally, the requirement of some programs that the offender has a job further discriminates against indigents.

It is also argued that since revenue generated would be linked directly to the number of probationers and the length of probation supervision, net-widening is a tangible risk (Ring, 1989; Harlow & Nelson, 1982, cited in Wheeler et al., 1989). However, a study of the Harris County Adult Probation Department conducted by Wheeler et al. (1989) found that "there was no evidence that the presence of higher fees acted as a stimulus for placing more offenders on probation" (p. 18). Further, Ring (1989) speculates that it would be far more likely that probation fee programs would be regarded as a viable alternative to incarceration; therefore, any net-widening effect would be a positive one in that it would lead to the diversion of some offenders from prison. Net-widening is also a commonly cited concern with electronic monitoring programs.

Impact on Probationers

Another point of contention is the impact probation fee programs have on probationers. Some argue that probation fees have a negative impact on probationers; Texas has experienced problems with probationers failing to report to their probation officer if they are behind in their payments (Finn & Parent, 1992). However, probation administrators in Texas assert that "the regularity of fee payments is a good barometer of a probationer's overall adjustment while on supervision" (Finn & Parent, 1992, p. 11). It is also believed by some probation officials that fee collection programs help teach probationers the essentials of budgeting and financial responsibility (Finn & Parent, 1992).

It is also argued that probation fees may conflict with probationers' other financial obligations (Ring, 1989; Baird, Holien & Bakke, 1986, cited in Wheeler, 1989). Indeed, many probationers have other financial sanctions such as victim/witness fees, restitution payments and fines. However, Wheeler et al. (1989) report that Harris County did not experience a significant change in restitution fee collection rates following the introduction of supervision fees. There is also concern that, as with any financial sanction, probationers may resort to criminal activities to pay their probation fees. However, Edmond Peterson, Interim Director of the Texas Community Justice Assistance Division reports that this has not been the experience in Texas (cited in Finn & Parent, 1992).

Rather, Peterson asserts that:

After 13 years, I've seen that many offenders are gainfully employed and that making them pay fees creates a sense of responsibility. Many probationers keep their jobs so they can make their payments. (quoted in Finn & Parent, 1992, p. 4)

Parent (1990) reports that "there is no empirical evidence either to confirm or refute a therapeutic effect from fee payment" (p. 2).

However, Ring (1989) asserts that the real issue is ensuring that individual circumstances and needs are considered. Two common approaches to the problem are, first, to use a means test to determine whether an offender has the ability to pay probation fees. Second, if an offender is unable to pay, community service could be imposed as an alternative. Thus, the option to waive correctional fees must be in place in order to avoid commonly cited problems with

correctional fees such as higher probation failure rates, extreme corrections related financial obligations for offenders and increased collection costs due to efforts to collect payments from offenders who are truly unable to pay (Parent, 1990). However, Parent (1990) points out that "while fees should be waived for those who are truly indigent, or for whom fee payment would constitute an extreme hardship, overuse of waivers can undermine generation of fee revenues" (p. 10).



Discussion

Probation user fees are the subject of considerable controversy. However, the available literature on probation fees seems to indicate that:

On balance, it appears that most of the objections raised against probation fees can be addressed either in the enabling legislation or the actual administration of the fee program. Concerns that individuals might be incarcerated solely for their inability to pay their fees can be resolved with provisions for indigency exclusions and community service alternatives. Fears that probation fees will compete with and sometimes displace restitution payments can be allayed by establishing a formal procedure for determining the order in which various financial obligations shall be satisfied. (Ring, 1989, p. 48)

While this may hold true in the United States, the Canadian experience with probation fees needs to be explored. For example, the use of incarceration for fee defaulters seems quite probable in Canada given the proposed provisions in Bill C-41 to increase the penalty for breach of probation.

Wheeler et al. (1989) also identify some elements of a probation fee program which are necessary to avoid the problems often associated with probation fee programs. First, the probation department must be committed to service and professionalism. For example, the application of a validated offender classification system ensures that probationers will receive the services and rehabilitative programming they need. Second, there must be judicial flexibility in fee enforcement; rigid enforcement of fees will contribute to higher probation failure rates and greater use of more costly criminal sanctions for offenders who fail to pay. Third, the use of technological advances such as the use of computers for case management and report generation facilitate supervisory and fee collection tasks and enable probation officers to concentrate more on counselling. Finally, there are several additional measures which should be taken to guard against abuses of fee collection programs. Probation agencies should impose fees in order to improve probation services, rather than to increase salaries or rely less on government funding. This will help to ensure that the mandate of human service will be maintained by probation agencies. Similarly, revenue should not be fed into the county's general funds. This practice may lead to decreased revenue for probation services. In order to maintain current service levels, probation departments should be funded jointly by general revenue and probation fees. However, the current political climate in Alberta does not lend confidence that this will in fact be the practice.

In conclusion, the literature on probation user fees is not generally based on well-researched studies. Rather, the literature tends to reflect claims made by probation departments which

have experienced financial success following the imposition of probation fees. It is safe to say that considerable research into probation fee programs by impartial researchers is needed. However, at first glance, probation fee programs appear to be a regression to abusive correctional practices of the past. Further, Canadian law, in combination with the current political climate in Canada, and the province of Alberta in particular, do not support the introduction of a successful probation fee program.



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**Table of
Contents**

[Subjects](#) | [Directories](#) | [Events](#) | [Forums](#) | [Information Services](#) | [Learning Resources](#) |
[Legislative Materials](#) | [Library Catalogues](#) | [Mailing Lists](#) |
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General

Arizona H 2332 (1998): Allows court to impose "indigent administrative assessment" of up to \$25 on defendant represented by public defender or court-appointed counsel. Holds parent or guardian of juvenile responsible for that fee. Sets as a condition of probation that defendants reimburse the county a reasonable amount toward costs of their defense; and provides that monies collected offset costs of public defenders and court-appointed counsel.

Ariz. Rev. Stat. Ann. § 114-31-239 (1995): Requires director of corrections to charge a "utility fee," not to exceed \$2 per month, to prisoners who possess a "major electrical appliance." Fee is to be deducted from his spendable account. Exempts certain prisoners from the fee. Fees collected are to be used to offset DOC's utility expenses.

Hawaii H 2714 (1998): Addresses delinquent, uncollectable fines and restitution, allowing the judiciary to write off those more than two years old.

Hawaii S 2249 (1998): Authorizes the Department of Public Safety to charge inmates fees for intentional injuries and non-emergency medical, dental, and mental health services or treatment.

HI H 3542 (1996): Allows garnishment, levy, or any like process of attachment for purposes including, but not limited to, child support, victim compensation, legal supplies or facility damages.

Iowa H 210 (1996): Authorizes a court to require a criminal offender as part of restitution to make financial contributions to a local anticrime organization which provided assistance to law enforcement in an offender's case.

Ill. S 1268 (1996): Requires a gainfully employed offender, sentenced to jail, to pay room and board (previously only board) at a rate set by the county board with the concurrence of the chief judge of the circuit.

Kansas S 408 (1996): Concerns garnishment payments from inmate trust accounts. States that no payment shall be made from the inmate trust account for any amount less than \$5.

N.Y. Law § 3: Sentencing Reform Act creates incarceration fee, allows corrections commissioner to collect from the compensation paid to a prisoner for work performed a fee not to exceed one dollar per week, to help defray cost of incarceration. Can be waived if commissioner determines would pose unreasonable hardship on prisoner or his immediate family (1995).

Oklahoma H 2454 (1998): Allows the municipal attorney or the district attorney to ask the court to require the offender to pay the jail facility the costs of incarceration, both before and after conviction, either upon conviction or a deferred sentence. Allocates 10 percent of amount collected to the municipal or district attorney's office, 5 percent to the court clerk's revolving fund, and the remainder to the sheriff's jail fund.

Pennsylvania S 640 (1998): Requires the county probation department or other designated agent to collect penalties owed by the offender; and authorizes private-agency contracting for that purpose.

South Dakota Ch 11 Title 24 Sec. 45-46: Provides for the liability of certain prisoners confined to jail for the costs of certain services, confinement, fines, and restitution.

Tenn. H 2380 (1998): "Inmate Financial Responsibility Act of 1998" authorizes the department of corrections to recover assets from inmates for the cost of their care during incarceration.

Tenn. Ch 11 Title 41 (Sec. 101-112): Relates to jails and local lock-ups; enacts the Inmate Reimbursement to the County Act of 1995.

Tenn. H 2010 (1996): Gives community corrections program which receives grant funding from dept. of corrections exclusive right to provide services within its jurisdiction. A supervision fee in the amount of \$15 is imposed on every offender serving a sentence under the supervision of a community corrections grantee. Allows the grantee to require a person under its supervision to pay \$30 each month the person remains under supervision. Payment must not exceed 10% of the offender's income.

Kentucky H 455 (1998): Allows sentencing court to order a person sentenced to incarceration to reimburse the state or local government for the costs of incarceration; and allows for medical co-payments by inmates in regional jail facilities. Also provides for criminal garnishment to collect fines, court costs, restitution, and other required reimbursements.

Maryland H 467 (1996): Authorizes the Kent County Detention Center to establish and administer pretrial release, work release, community service, and home detention programs. Authorizes a court in Kent County to sentence individuals to participate in pretrial release, work release community service, or home detention programs. Requires prisoners to reimburse the Detention Center for specified expenses.

Maine H 1263 (1996): Requires prisoners able to generate money to pay 25 percent of that money as victim restitution. Requires the correctional facility in which the offender is incarcerated collect and disburse to the victims the money collected.

Wash. S 6315 (1996): Directs the Department of Corrections to recoup incurred debt when the inmates' institutional account exceeds the indigence standard and to pursue other remedies to recoup the debt after the period of incarceration.

West Va. S 19: Creates the "Crime Victims Compensation Fund" supported by a \$10 fee for each case convicted in West Virginia courts, not including traffic offenses. Requires convicted felons to pay an additional \$50; proceeds to go to the fund.

Wyo. H 6 (1996): Requires inmates to pay room and board costs while incarcerated in a county facility. Allows the county sheriff to charge the inmate the actual cost of the services provided. Allows the clerk of the sentencing court to issue execution against any assets of the defendant, including wages subject to attachment. Makes exceptions for indigent offenders.

Health Care

Alaska Stat. § 70-33.30.028: Payment of medical costs provided or made available to a prisoner committed to the custody of the commissioner is the responsibility of the prisoner, the insurer and any other department, if the inmate is eligible for assistance. Prisoners without resources must pay medical costs provided by the department. At a minimum, he or she shall be required to pay a portion of the costs based upon ability to pay.

Ariz. Rev. Stat. Ann. § 72-31-161 (1995): The sheriff may charge each inmate who is committed to jail a reasonable fee or copayment of not more than \$3.00 for each inmate initiated health service that is provided or for prescription drugs that a county jail health services agency dispenses to an inmate. An inmate will not be refused health services for financial reasons. The sheriff has the authority to maintain a negative balance on an inmate's personal account against which future collections may be made.

Ariz. Rev. Stat. Ann. § 114-31-201.01 (1995): Authorizes the director to establish reasonable medical and health service fees for such services that are provided. Every inmate will be charged a reasonable medical and health services fee for each medical visit an inmate makes pursuant to a health needs request form or for emergency treatment.

Cal. Penal Code § 5007.5 (1995): Authorizes the Director of Corrections to charge \$5.00 for each inmate-initiated medical visit by a state prison inmate. The fee shall be charged to the inmate's prison account and, if the inmate has no money in his/her personal account, s/he will not be

Colo. Rev. Stat. § 17-1-113 (1995): The department shall charge \$3.00 against an inmate's account for each visit by such inmate to an institutional or noninstitutional physician, dentist, or optometrist; the fee will not be assessed for a visit required by the department during the intake process, an annual physical exam, a visit initiated by a medical or mental health staff member, a physician visit resulting from referral by a nurse or physician assistant, an emergency treatment, or a follow-up visit by a medical professional.

Del. S 376 (1996): Establishes the State Medical Cost Recovery Fund to defray costs of medical services provided to inmates. Requires inmates to pay a reasonable fee for inmate initiated medical visits. Requires inmates to purchase all non-prescriptive medications. Makes a reasonable co-payment for prescription drugs.

Fla. Stat. Ann. § 945-6037: for each nonemergency visit initiated by an inmate to a health care provider, the inmate must make a copayment of not less than \$1.00 or more than \$5.00. A copayment may not be charged for the required initial medical history and physical exam. Copayment for an inmate's health care must be deducted from his/her bank account. If the account balance cannot cover the copayment, 50% of each deposit to the account must be withheld until the total amount owed has been paid. The department may waive all or part of the copayment for an inmate's visit under certain circumstances.

Ga. S 587 (1996): Authorizes certain county correctional facilities to obtain information from inmates relating to medical

denied medical care because of a lack of funds. The medical provider may waive the fee for treatment and shall waive the fee in any life-threatening or emergency situation.

Ga. Code § 29-42-4-71 (1993): (a) Allows a detention facility officer to establish a reasonable deduction from money credited to an inmate's account to (1) repay costs of (B) medical treatment for injuries inflicted by the inmate upon himself or others (2) defray costs paid by a municipality or county for medical treatment for an inmate which was requested by the inmate, provided that the account deduction doesn't exceed \$5.00 for each treatment occurrence. If the balance in an inmate's account is \$10.00 or less, such fee shall not be charged. (b) The provisions of (2) shall not apply if a detention facility officer or a medical practitioner determines that an inmate is in need of medical treatment.

Ill. H 3451(1996): Prisoners who obtain college degrees through DOC programs must repay the costs. A financially able prisoner must make \$2 co-payment per non-emergency medical or dental trip out of the prison. Prisoners may no longer have three weekly postage stamps.

Ill. S 1604 (1996): Provides that when medical or hospital services are required by an arrestee, the arresting authority shall be entitled to obtain reimbursement from the county for these expenses. Jail inmates must reimburse the county for medical care out of any private insurance or other source they may have. The warden may set criteria for deducting costs of a prisoner's medical care from the prisoner's jail account. A county also may charge \$10 per conviction or order of supervision for a criminal violation, for deposit into an Arrestee's Medical Costs Fund to help pay costs of jail medical care.

Ind. Code § 1 IC 11-10-3-5 (1995): (a) This section does not apply to a person who has insurance from a private company which covers any health related service or is willing to pay for the person's own medical care. (b) A person committed to the department may be required to make a copayment of not more than \$10.00 for each provision of medical, dental, or eye care, or any other health care related service. A person is not required to make the copayment if: (1) s/he has insufficient account funds at the time of service or (2) within 30 days after the service is provided (3) it is an emergency (4) service is a result of an injury received in the correctional facility or

insurance. Allows payment of medical treatment for inmates; allows certain state and county correctional facilities to deduct medical costs or damages from inmate accounts.

Ky. H 144 (1996): Establishes exemptions to determination of indigency regarding inmates in jails. Allows imposition of a reasonable fee for the use of jail medical facilities by prisoners who have the ability to pay. Disallows any denial of treatment because of lack of ability to pay from inmate account.

Ky. H 455 (1998): Courts may order inmates to reimburse the state or local government for the costs of incarceration. Permits charging inmates a co-payment for medical costs.

La. Rev. Stat. Ann. § 15:831: A. The secretary of public safety and corrections shall establish and prescribe standards for health, medical, and dental services for each institution. An inmate may be taken to a medical facility outside the institution when deemed necessary by the director. In situations which are not life-threatening, the medical facility selected to treat the inmate shall be a part of the state's charity hospital system. Prohibits state general or dedicated funds for cosmetic medical treatment except under certain circumstances. B. The secretary shall promulgate rules regarding reimbursement by a state inmate for incurred medical expenses.

Mich. Stat. Ann. § 801.5a: (1) The county board of commissioners may seek reimbursement for expenses incurred in providing medical care and treatment. The reimbursement shall be sought only in the following order: (a) from the prisoner or person charged. (b) from insurance companies, health care corporations, or other sources. (2) A prisoner in a county jail shall cooperate with the county for medical expenses incurred by the county for that prisoner. (3) A prisoner who willfully refuses to cooperate shall not receive a reduction in his or her term under section 7 of Act No. 60 (1962).

Mich. H 4947 (1996): Makes prisoners responsible for copayment of costs incurred for medical, dental or optometric services.

Mich. H 4955 (1996): Allows State to recover from prisoners the cost of care, not limited to transportation, room, board, clothing, security and medical. Provides procedures for securing the reimbursement of expenses through liquidation of inmates assets.

Minn. Stat. § 226-3-243.211: Any inmate of an adult correctional facility shall incur copayment and coinsurance obligations for health care services received, to the extent the inmate has available funds.

Minn. H 3242/ S 2856 (1996): Omnibus Crime Bill includes provisions requiring inmates to make a co-payment for health care services they receive in jail or prison. For state prisoners, \$3 will be deducted from their state earning accounts. For those in local jails, the county board will determine the co-pay amount.

Okla. H 2901(1996): Relates to county officers and volunteers

(5) the service is provided at the request of the facility's administrator (1995).

Nev. Rev. Stat. § 209.246: Allows the director to establish criteria for a reasonable deduction from an offender's account to: 1. Repay the cost of: (b) Medical treatment for injuries for inflicted by the offender upon himself or others. 2. Defray the costs paid the by the department for medical care for the offender.

N.J. ACS for A2283: 2.a. An inmate shall be liable for the cost or, and be charged a nominal fee for, any medical care, surgery, dental care, hospitalization, or treatment provided to the inmate during his or her incarceration term. If the inmate is incarcerated in a State correctional facility or State contracted halfway house, the amount due and payable shall be determined by the State Treasurer. If the inmate is incarcerated in county jail, the amount due shall be determined by the county treasurer. 2.b. An inmate may be charged either the full cost of or a nominal fee for any prescription or nonprescription drug or medicine. 4.a. If an inmate is not covered under a health insurance plan, does not reimburse the state, or the plan does not fully cover the medical costs, the State or county may have a lien for any unpaid amounts.

N.Y. Law § 500-h: 1. Care and treatment by a hospital or by a physician or by a dentist to inmates of a local correctional facility which are provided by a county or the city of New York shall be available without cost to the inmates receiving such services. 2. Any county or the city of New York may provide that such entity may be reimbursed for costs paid from any third party coverage or indemnification carried by an inmate. Such third party coverage or indemnification shall first be applied against the total cost to the hospital or other provider.

Ohio H 480 (1996): Clarifies authority of a court to require a felon it sentences to a local correctional facility to pay the costs of confinement. Permits local and community correctional facilities to adopt prisoner reimbursement programs, and to charge a fee for medical treatments and services requested by an inmate.

Ohio S 163 (1996): Relates to the filing and payment of health insurance claims of inmates in local jails, workhouse, and correctional facilities and of persons otherwise under the custody of a law enforcement officer.

Okla. Stat. tit. 311 § 1 (1995): The sentencing court may require a person sentenced to confinement in a city or county jail to pay the jail facility for the costs of food and maintenance, medical care, dental care, and psychiatric services. The costs shall not be assessed if the court believes such costs would impose hardship on the inmate or that the property of the inmate is needed to maintain and

and offender fees. Provides for reimbursement by county of certain volunteer training expenses. Authorizes charging a fee of \$5 per card for fingerprinting individuals; \$8 per month for inmate copayment of medical services if inmate receives medical services while incarcerated; \$.10 per page for copies made at the request of an inmate.

Okla. S 1304 (1998): Courts may order an inmate to pay the county sheriff for pre-existing medical conditions. Inmates injured during the commission of a crime may be ordered to reimburse the county sheriff for the costs of medical care.

Penn. S 856 (1995): Establishes the Prison Medical Services Program which includes a copay program requiring inmates to pay a fee to cover part of the actual costs of medical services provided. Requires inmates of state correctional institutions with medical insurance to pay for their own medical needs.

Tenn. S 2058 (1996): Authorizes county or municipality to adopt a plan to require inmates in local jail or workhouse to pay a co-pay for any medical care or pharmacy services provided to inmate. Allows jail administrator to deduct copay costs from inmates commissary account or any other benefit of such inmate. Allows county or municipality to seek reimbursement from insurance companies for medical expenses provided on behalf of inmate.

Utah H 223 (1998): Allows county jails to require inmates make reasonable co-payment for medical services. Also provides that an inmate may not be denied medical treatment if he is unable to pay.

Utah Code Ann. § 64-13-30: (3) The Department of Corrections may require an inmate to make a reasonable copayment for medical services provided by the department. An inmate may not be denied medical treatment if he or she is unable to pay the copayment because of inadequate financial resources.

Va. Code § 53.1-133: Any sheriff or superintendent may establish a medical treatment program for prisoners participate in and pay towards a portion of the costs. The Board of Corrections shall develop a model plan and provide requested assistance to the sheriff or superintendent in the implementation of a program.

W. Va. Code § 7-8-2: Authorizes the county commission to seek reimbursement from every jail incarcerated person who received medical, dental, hospital, or eye care, as long as the reimbursement is consistent with the agency's benefit program provisions, or from persons who are liable. No reimbursement for shall be required when such care has been rendered for injuries or illnesses sustained due to another inmate's act, injuries or illnesses sustained where an act or omission by the jailer or deputy sheriff was a contributing factor, or injuries or illnesses resulted from fire or other catastrophe. No reimbursement shall be required if the person is unable to pay without undue financial hardship. Determination of such

support the inmate's family.

hardship does not preclude the commission from subsequently ordering reimbursement if the person's financial circumstances change.

West Virginia H 4221 (1998): Authorizes the corrections division to make reasonable assessments of state inmates for health and treatment services provided to them. Allows deductions from inmate accounts and opportunity for inmates to quarterly review deposits, withdrawals and remaining balance of one's account.

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Crime and Justice
1997

22 Crime & Just. 149

LENGTH: 20260 words

ARTICLE: Probation in the United States

Joan Petersilia

EXERPT

c. **Fines and Fees.** As conditions of probation, many jurisdictions are including various offender-imposed fees which, when collected, are used to support the probation department. Fees are levied for a variety of services, including the preparation of presentence reports, electronic monitoring, work release programs, drug counseling, and regular probation supervision. By 1992, more than half of the states allowed probation departments to charge fees to probationers, ranging from \$ 10 to \$ 40 per month, usually with a sliding scale for those unable to pay (Finn and Parent 1992). Finn and Parent (1992) in an NIJ study of fines found that despite a common perception of the criminal as penniless and unemployable, most offenders on probation who have committed misdemeanors--and even many who have committed felonies--can afford modest monthly supervision fees. Texas, for example, has been highly successful in generating probation fees. Probationers there are required to pay a standard monthly fee of \$ 10 plus \$ 5 for the victims' fund. In 1990, Texas probation agencies spent about \$ 106 million to supervise probationers but collected more than \$ 57 million in fees--about one-half the cost of basic probation supervision (Finn and Parent 1992, p. 12). Taxpayers applaud such efforts, and they may also teach offenders personal responsibility, but the practice causes dilemmas concerning whether to revoke probation for nonpayment. The courts have ruled that probation cannot be revoked when an indigent offender has not paid his fees or restitution (Bearden v. Georgia 1983).

Note – The Finn and Parent article referred to above is included as an attachment to Legislative Research Report 93.090, “Collection of Offender Supervision Fees.”

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SENATOR JERRY WARD

ALASKA STATE LEGISLATURE

MEMORANDUM

TO: Senator Pete Kelly, Co-chair
Senate Finance Committee

FROM: Senator Jerry Ward 

DATE: March 22, 2002

SUBJECT: SB 97

Following is additional information concerning SB 97, "An Act relating to fees for probation and parole." I would request that this information be add to the Senate Committee members' SB 97 files.

Thank you for your consideration of this request. If you or your staff should have any questions, please contact me at 465-4940.



SENATOR JERRY WARD
ALASKA STATE LEGISLATURE

SB 97

"An Act relating to fees for probation and parole"

What the bill does:

- Authorizes a court to require a probationer to pay a probation fee as a condition of probation. Adds probation fees to the list fines and fees already required by the courts with the same guidelines and penalties. (Sec. 1 and 3)
- Periodic probation fee is levied as a condition of probation based on ability to pay and requires probationers to assign their permanent fund dividend. (Sec. 4)
- Sets a minimum payment of \$1.50 a day. (Sec. 6)
- Parole/probation may not be revoked solely because of the inability to pay. (Sec. 7)
- Requires Department of Corrections to contract with a collection agency or other person for the administration and collection of probation fees. (Sec. 9)
- Requires Department of Health and Social Services to contract with a collection agency or other person for the administration and collection of probation fees. (Sec. 10)
- Adds probation fees to restitution fee guidelines and conditions of probation involving a minor found delinquent. Same minimum payment and assignment of permanent fund divided. (Sec. 11 and 12)
- Probation may not be revoked solely because of the inability to pay. (Sec.13)

All states, including Alaska, have separate costs and or fees associated with incarceration, i.e. restitution, child support, and court costs. **The State of Alaska is currently the only state that does not impose offender fees to individuals on parole or probation.**¹ The probation fees in other states range from \$10 to \$85 dollars a month. Connecticut, Hawaii, and Iowa charge a one-time fee. Alaska is the only state with a Permanent Fund Dividend program.

¹ American Probation and Parole Association (APPA) report entitled "Supervision Fees by State (1999),"page 4.

Individuals on parole or probation in the state of Alaska must, as a condition of their parole/probation, make a diligent effort to maintain steady employment and support their dependents.² The Department of Correction does not anticipate revoking probation and parole solely based on non-payment of daily fees³.

Vermont and Pennsylvania have the ability to allow a 3rd party to collect the probation fees. Vermont is the only state to utilize it.⁴ They obtained the services of Gragil Associations, Inc. out of Massachusetts.⁵ Gragil Associations have also received the okay to attach the tax refunds of any parolee that is behind. According to the Alaska Division of Occupational Licensing web page there are 124 licensed collection agencies in the state of Alaska.

² Appendix II "Standard Conditions of Discretionary Parole" found under the Department of Corrections website. <http://www.correct.state.ak.us/corrections/parole/handbook.pdf>

³ Department of Corrections, Administration and Operations Fiscal Note dated 3/1/02

⁴ American Probation and Parole Association (APPA) report entitled "Supervision Fees by State (1999)," page 3.

⁵ Gragil Associates, Inc. web page - <http://www.gragil.com/aboutus.html>

LEGISLATIVE RESEARCH REPORT

MARCH 14, 2002



REPORT NUMBER 02.158

PROBATION SUPERVISION FEES

PREPARED FOR SENATOR JERRY WARD

BY DONALD M. BULLOCK JR., LEGISLATIVE ANALYST

You wanted to know how many states have laws authorizing the collection of fees from persons on probation or parole to defray the cost of supervision. You also wanted to know what states, if any, use a non-state entity to collect probation supervision fees. To answer your questions, we surveyed state probation laws and reviewed a report on supervision fees published by the American Probation and Parole Association (APPA).¹

Community correction programs provide supervision for persons on probation, parole, or in diversion programs. According to our survey of state statutes and the APPA report, nearly every state imposes some form of supervision fee. Supervision fees are frequently referred to as "user fees." Supervision fees may be categorized as program fees or service fees; the payment of a fee for being under the general supervision of a parole officer is an example of a program fee.² An example of a service fee is a payment for the costs, including equipment rental, for the electronic monitoring of a person under house arrest.

Our search of state statutes on Lexis found that Alaska and the District of Columbia are the only U.S. jurisdictions that do not have a requirement for the payment of some type of supervision fee.

¹ The report by the American Probation and Parole Association (APPA), entitled "Supervision Fees," discusses the benefits as well as the problems associated with the imposition of service fees on probationers and parolees. The report is available on the Internet at <http://www.appa-net.org/about%20appa/supervis.htm>. We include a copy of the report as Attachment A.

² APPA, "Supervision Fees," p. 2.

as a condition of probation of parole. Alaska lawmakers had authorized the collection of probation fees in 1986, but repealed the authority in 1989.³

We list the states with supervision fees in Table 1. As noted, some provisions are limited, applying only to juvenile probation, intensive supervision, or other special programs. We identified two states, Pennsylvania and Vermont, that authorize private collection agencies to collect the fees on behalf of the state.⁴ In the case of Pennsylvania, collection by collection agencies supplements state-collected fees.

Table 2 provides additional details of the supervision fees charged by the states during 1999, including the monthly charge and whether the fee was collected from a probationer or parolee. The monthly charge was the maximum amount and may have been less, depending on the ability to pay of the person on parole or probation. During 1999, the monthly average charge for a person on probation was \$35. The monthly average charge for a person on parole was \$25. The average charge in the states with a fee applicable to both probation parole was \$27.

I hope you find this information useful. Please do not hesitate to contact us if you have questions or need additional information.

³ The collection of a probation supervision fee was authorized by §§ 13-14, ch. 138 SLA 1986. The fee was repealed by §§ 1, 4, ch. 26 SLA 1989. According to the findings in Legislative Research Report 93.166 (March 3, 1993), the fee of \$45 per month was generally considered overly burdensome when added to the probationer's other financial obligations such as restitution, child support, and court-ordered fines. We include a copy of the 1993 report as Attachment B. According to testimony on the bill repealing the fee, in addition to concerns about unequal enforcement, collection of the fee was a burden on the resources of the Department of Corrections, requiring the equivalent of four full-time probation officers. Minutes of the Senate Judiciary Committee (Feb. 2, 1989).

⁴ Vermont authorizes the collection of fees by private collection agencies in Vt. Stat. Ann. 28, § 102. Pennsylvania authorizes private collection agencies to collect supervision fees in addition to fines, restitution, reparation, and penalties in 42 Pa Cons. Stat. §§ 9728 and 9730.1.

Table 1: State Laws Authorizing Supervision Fees

State	Citation	State	Citation
Alabama	Ala. Code §15-18-180	Nebraska	Neb. Rev. Stat. § 29-2262.04 ^(e)
Arizona	Ariz. Rev. Stat. § 31-406	Nevada	Nev. Rev. Stat. Ann. § 213.1076
Arkansas	Ark. Code Ann. § 12-27-105	New Hampshire	N.H. Rev. Stat. Ann. § 504-A-13
California	Cal. Penal Code § 1203.1b	New Jersey	N.J. Stat. Ann. § 2C:45-1
Colorado	Colo. Rev. Stat. § 16-11-204	New Mexico	N.M. Stat. Ann. § 31-20-5.1 ^(f)
Connecticut	Conn. Gen. Stat. § 46b-141c ^(a) Conn. Gen. Stat. § 53a-29 ^(b)		N.M. Stat. Ann. § 31-20-6 ^(k) N.M. Stat. Ann. § 31-21-10
Delaware	Del. Code Ann. 11, § 6504	New York	N.Y. Exec. Law § 259-a
Florida	Fla. Stat. ch. 948.09	North Carolina	N.C. Gen. Stat. § 15A-1343 ^(l) N.C. Gen. Stat. § 15A-1374 ^(l)
Georgia	Ga. Code Ann. § 17-10-1	North Dakota	N.D. Cent. Code § 12.1-32-07
Hawaii	Haw. Rev. Stat. § 706-648 ^(h)	Ohio	Ohio Rev. Code Ann. § 2152.20 ^(a) Ohio Rev. Code Ann. § 2951.021
Idaho	Idaho Code § 20-225		
Illinois	730 Ill. Comp. Stat. 5/5-6-3	Oklahoma	Okla. Stat. 22 § 991a
Indiana	Burns Ind. Code Ann. § 31-40-2-1 ^(a) Burns Ind. Code Ann. § 35-38-2.5-8 ^(c)	Oregon	Or. Rev. Stat. § 423.570
Iowa	Iowa Code § 905.14 ^(b)	Pennsylvania ^(h)	18 Pa. Cons. Stat. § 11.1102
Kansas	Kan. Stat. Ann. § 21-4610a Kan. Stat. Ann. § 20-167 ^(a)	Rhode Island	R.I. Gen. Laws § 42-56-20.2
Kentucky	Ky. Rev. Stat. Ann. § 439.315	South Carolina	S.C. Code Ann. § 24-21-80
Louisiana	La. Code Crim. Proc. Ann. art. 895.1	South Dakota	S.D. Codified Laws § 24-15-11
Maine	Me. Rev. Stat. Ann. 17-A, § 1204	Tennessee	Tenn. Code Ann. § 40-35-303
Maryland	Md. Ann. Code art. 27, § 641B Md. Corr. Svcs. Code § 7-702 Md. Crim. Proc. Code § 6-226	Texas	Tex. Gov't Code Ann. § 508.182 Tex. Gov't Code Ann. § 508.189
Massachusetts	Mass. Ann. Laws ch. 276, § 87A	Utah	Utah Code Ann. § 64-13-21
Michigan	Mich. Comp. Laws § 771.3c	Vermont ^(h)	Vt. Stat. Ann. 28, § 102
Minnesota	Minn. Stat. § 241.272	Virginia	Va. Code Ann. § 53.1-150
Mississippi	Miss. Code Ann. § 47-5-1007 ^(d)	Washington	Wash. Rev. Code § 72.04A.120
Missouri	Mo. Rev. Stat. § 217.831 ^(g)	West Virginia	W. Va. Code § 62-12-9 ^(l) W. Va. Code § 62-12-17 ^(l)
Montana	Mont. Code Ann. § 46-23-1031	Wisconsin	Wis. Stat. § 301.03
		Wyoming	Wyo. Stat. § 7-13-1102 ^(d)

Notes: ^(a) Juvenile probation; ^(b) One-time fee; ^(c) Home detention fee; ^(d) Intensive supervision program.
^(e) Intensive supervision program-cost of monitoring; ^(f) Misdemeanants; ^(g) Reimbursement for cost of care;
^(h) Fees may be collected by private collection agencies; ^(l) Probation; ^(l) Parole; ^(k) Supervision during deferral or suspended sentence.
Source: Lexis search of all state statutes for the following terms: *probation, parole, supervision, fee, costs.*

Table 2. Supervision Fees by State (1999)

State	Monthly Probation Fee	Monthly Parole Fee	Monthly Probation and Parole Fee	State	Monthly Probation Fee	Monthly Parole Fee	Monthly Probation and Parole Fee
Alabama			\$30	Nebraska ^(a)			
Alaska				Nevada			\$30
Arizona	\$40	\$30		New Hampshire			\$40
Arkansas	\$25	\$20		New Jersey	\$25		
California				New Mexico	\$85	\$15	
Colorado	\$35			New York ^(f)		\$30	
Connecticut ^(a)				North Carolina			\$20
Delaware			\$18	North Dakota			\$30
District of Columbia				Ohio	\$50		
Florida			\$50	Oklahoma			\$40
Georgia	\$23	\$10		Oregon			\$30
Hawaii ^(b)				Pennsylvania		\$25	
Idaho			\$30	Rhode Island			\$15
Illinois	\$25			South Carolina			\$20
Indiana ^(c)				South Dakota		\$10	
Iowa ^(b)				Tennessee		\$35	
Kansas	\$50	\$25		Texas ^(f)		\$10	
Kentucky			\$10	Utah			\$30
Louisiana	\$30	\$53		Vermont	\$30	\$30	
Maine	\$30			Virginia			\$50
Maryland			\$25	Washington			\$15
Massachusetts	\$50			West Virginia	\$20	\$20	
Michigan			\$30	Wisconsin	\$10	\$30	
Minnesota			\$10	Wyoming	\$25		
Mississippi			\$25				
Missouri ^(d)				Total States	16	14	21
Montana			\$15	Average Monthly Fee	\$35	\$25	\$27

Notes: ^(a) Connecticut has a one-time fee for adults and a juvenile supervision fee.

^(b) Hawaii and Iowa have a one-time fee.

^(c) Indiana has a home supervision fee and a juvenile supervision fee.

^(d) Missouri defendants are liable to reimburse the state for the cost of care.

^(e) Nebraska has an "intensive supervision fee" and defendants must pay cost of monitoring.

^(f) Some counties in New York and Texas impose supervision fees.

Sources: Table 1; Camille Graham Camp and George M. Camp, *The Corrections Yearbook 2000, Adult Corrections* (Criminal Justice Inst., Inc., Middletown, CT), p. 192.

Attachment A

American Probation and Parole Association, "Supervision Fees,"
http://www.appa-net.org/about_appa/supervis_1.htm

Supervision Fees



This report on "Supervision Fees" raises questions about the current policies and procedures associated with the collection of supervision fees. Following is the report submitted by the APPA Issues and Development Committee.

Do probation and parole fees enhance or decrease the effectiveness of community correction? Is there an inherent role conflict in collecting fees from offenders: What do we know about fee collections?

Even if one chooses to ignore these questions, several things are certain:

- The number of probation and parole agencies collecting one or more types of correctional fees has increased dramatically.
- There has been an explosion in the sheer number and total dollar amount of fees the typical offender is required to pay.
- Policy makers outside the criminal justice system are generally responsible for the fee explosion.

Keeping up with the Joneses

Correctional fees are not innovative. Michigan authorized the collection of fees from persons in jail in the 1850s and for probationers in 1929. Until 1980, however, only ten states had passed enabling legislation authorizing the collection of probation or parole supervision fees.¹ By 1990, at least 28 states were collecting probation supervision fees, a 180% increase. And in 1991, 21 states were collecting parole supervision fees.² A few states, on the other hand, "stopped their collection programs because they did not generate enough money to make them worthwhile."³ If some is good, is more better?

Not only are more agencies collecting fees, most of these agencies are collecting multiple fees from each offender. One author identified more than 26 kinds of fees!¹ Thus, the total bill for any given offender can be substantial. Policymakers who add new fees do so in a black box; each additional fee is viewed as totally unconnected to existing fees. As a result, probation and parole agencies, as well as offenders, are constantly juggling how to collect and how to pay.

Correctional fees can be big business, but is it the business we're supposed to be in?

A growing body of literature and research examined and debated the merit of and problems associated with the collection of supervision fees. Conceptually, the issues in the debate may be divided into those involving the philosophy and mission of community corrections, the administration of fee collections, and speculation that fee collection increases or decreases case failure rates.

Describing fees: What is our concept?

Supervision fees are frequently called user fees. This comparison to other public sector user charges raises the question about the appropriateness of fees for "involuntary" users who may or may not have received a particular service. One report distinguished between "program fees" which are largely applied to all parolees and probationers and "service fees" which are charged to relatively small numbers of offenders who receive special additional services, such as electronic monitoring.⁴ Service fees imply that a specific service was delivered, while program fees are similar to a "general admission" in that they imply access to common basic services (home visits, for example), or a range of potential services which may or may not be employed. The distinction is important conceptually because it contributes clarity to the language of fees. Our confused concepts appear to be a reflection of the poor fit between purpose, policy, methods and objectives of fees.

What APPA believes

a fee-addicted organization, collections can easily become the measure of officer and offender performance.

What APPA knows

How much will be collected? How much will be collected? It is possible to predict, with remarkable accuracy, the total revenues an agency can expect to collect.¹³ Generally, internal factors such as an agency's fee collection policies have a greater impact on how much or how little is collected than do external factors such as local economic conditions. Factors which are statistically associated with increased or decreased fee collections include:

"High fees per offender result in lower collections per offender (except for investigation fees); the optimal fee level appears to be between \$15-17 per month.²

The unemployment rate and the percentage of families living below the poverty level have a measurable impact on revenues.

There is no relation between caseload (workload) size and collections.

Of all factors affecting collections, the degree of access to fee payments is the most significant. Organizations which are able to keep part or all of the supervision fees collected, collect more.

Fee collection methods, sending out regular payment notices, keeping the supervising officer at least peripherally involved in the collections process (where payments are mailed in or collected by someone other than the officer, for example), increases collection rates.

The ability to impose strong sanctions (e.g. jail, work release) is moderately associated with increased collections.

The higher priority given to fee collections (over other types of collections), the more money is collected.¹⁴

The larger the proportion of offenders (e.g., felony and misdemeanor cases) who are required to pay fees, the more revenue is collected.

Truly indigent offenders should be screened as soon as possible whether by temporary waivers or some other mechanism to reduce unnecessary costs such as officer and court time.

Non-professional staff should be responsible for the administrative portion of collections.

Regular, accurate computerized reports monitoring fee payments result in increased revenues and better planning.

Fee revenues must exceed the cost of collection. While the actual costs associated with the collection of fees, from talking to the offender to additional court costs to process fee-related violations, is unknown. The consensus is that collection costs are less than 18 percent of revenues collected."¹⁵

What APPA needs to know

Fee collections can, in most instances, generate substantial amounts of revenue. Most long-range economic forecasts point to a continued increased competition for declining public revenues. In this economic environment, it is reasonable to conclude that the trend towards charging supervision fees will continue.

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12. "Fees for Supervision, Debating the Issues for Probation and Parole." Duffie, Hank and Hughes, Gail. *Perspectives*, Winter 1989.
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14. "Projecting Probation Fee Revenues." Baird, S. Christopher, et al. Madison, Wisconsin. 1986.
15. "Recovering Correctional Costs Through Offender Fees." Parent, Dale. National Institute of Justice, Washington, D.C. 1990. p. 17.

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APPENDIX II

STANDARD CONDITIONS OF DISCRETIONARY PAROLE

The following standard conditions of parole apply to all prisoners released on mandatory or discretionary parole.

1. REPORT UPON RELEASE: I will report in person no later than the next working day after my release to the Parole Officer (P.O.) located at _____, and receive further reporting instructions. I will reside at: _____.
2. MAINTAIN EMPLOYMENT/TRAINING/TREATMENT: I will make a diligent effort to maintain steady employment and support my legal dependents. I will not voluntarily change or terminate employment without receiving permission from my P.O. to do so. If discharged or if employment is terminated (temporarily or permanently) for any reason, I will notify my P.O. the next working day. If I am involved in an education, training or treatment program, I will continue active participation in the program unless I receive permission from my P.O. to quit. If I am released, removed or terminated from the program for any reason, I will notify my P.O. the next working day.
3. REPORT MONTHLY: I will report to my P.O. at least monthly in the manner prescribed by my P.O. I will follow any other reporting instructions established by my P.O.
4. OBEY LAWS/ORDERS: I will obey all state, federal and local laws, ordinances, orders, and court orders.
5. PERMISSION BEFORE CHANGING RESIDENCE: I will obtain permission from my P.O. before changing my residence. Remaining away from my approved residence for 24 hours or more constitutes a change in residence for the purpose of this condition.
6. TRAVEL PERMIT BEFORE TRAVEL OUTSIDE ALASKA: I will obtain the prior written permission of my P.O. in the form of an interstate travel agreement before leaving the State of Alaska. Failure to abide by the conditions of the travel agreement is a violation of my order of parole.
7. NO FIREARMS/WEAPONS: I will not own, possess, have in my custody, handle, purchase or transport any firearm, ammunition or explosives. I may not carry any deadly weapon on my person except a pocket knife with a 3" or shorter blade. Carrying any other weapon on my person such as a hunting knife, axe, club, etc. is a violation of my order of parole. I will contact the Alaska Board of Parole if I have any questions about the use of firearms, ammunition or weapons.
8. NO DRUGS: I will not use, possess, handle, purchase, give or administer any narcotic, hallucinogenic (including marijuana/THC), stimulant, depressant, amphetamine, barbiturate or prescription drug not specifically prescribed by a licensed medical professional.
9. REPORT POLICE CONTACT: I will report to my P.O., not later than the next working day, any contact with a law enforcement officer.
10. DO NOT WORK AS AN INFORMANT: I will not enter into any agreement or other arrangement with any law enforcement agency which will place me in the position of violating any law or any condition of my parole. I understand the Department of Corrections' and Parole Board's policy prohibit me from working as an informant.
11. NO CONTACT WITH PRISONERS OR FELONS: I may not telephone, correspond with or visit any person confined in a prison, penitentiary, correctional institution or camp, jail, halfway house, work release center, community residential center, juvenile correctional center, etc. Contact with a felon during the course of employment or during Corrections-related treatment is not prohibited if approved by my P.O. Any other knowing contact with a felon is prohibited unless approved by my P.O. I will notify my P.O. the next working day if I have contact with a prisoner or felon.
12. CANNOT LEAVE AREA: I will receive permission from my P.O. before leaving the area of the state to which my case is assigned. My P.O. will advise me in writing of limits to the area to which I have been assigned.
13. OBEY ALL ORDERS / SPECIAL CONDITIONS: I will obey any special instructions, rules or orders given to me by the Board of Parole or by my P.O. and I will follow any special conditions imposed by the Board of Parole or my P.O.
14. WAIVE EXTRADITION: I will waive extradition to the State of Alaska from any state or territory of the United States, and I will not contest efforts to return me to Alaska by the Board of Parole or my P.O.
15. PROVIDE DNA SAMPLE: I will provide a blood and/or oral sample when requested by a health care professional acting on behalf of the State. If I am being released after a conviction of an offense requiring the State to collect the sample(s) for the DNA identification system under AS 44.41.035.

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

Fiscal Note Number: _____
Bill Version: SB97
() Publish Date: _____

Revision Date/Time (Note if correction): 2/28/02 5:00PM Dept. Affected: Corrections
Title An Act relating to fees for probation BRU Administration and Operations
and parole. Component All
Sponsor Senator Ward
Requester Senate Finance Component No. #0694

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007	FY 2008
Personal Services	0.0	60.0	62.3	64.6	67.0	69.5
Travel	0.0	10.0	10.0	10.0	10.0	10.0
Contractual	16.6	83.9	84.2	93.0	98.7	104.7
Supplies	0.0	1.5	1.5	1.5	1.5	1.5
Equipment	0.0	3.0	0.0	0.0	0.0	0.0
Land & Structures						
Grants & Claims						
Miscellaneous	0.0	2.2	11.7	40.4	44.0	57.8
TOTAL OPERATING	16.6	160.6	169.7	209.5	221.2	243.5

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()	8.2	53.7	61.3	70.1	75.6	81.8
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	16.6	160.6	169.7	209.5	221.2	243.5
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type-Do not abbreviate)						
TOTAL	16.6	160.6	169.7	209.5	221.2	243.5

Estimate of any current year (FY2002) cost: 0.0

Check this box (X) if funding for this bill is included in the Governor's FY 2003 budget proposal:

POSITIONS

Full-time	0	1	1	1	1	1
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

1. This fiscal note is based on a probation and parole fee of \$1.50 per day.
2. The collection rate of 10% is based on previous experience with probation and parole fees.
3. The Department of Corrections does not anticipate revoking probation and parole solely based on non-payment of daily fees. Doing so would be cost prohibitive.
4. This fiscal note is based on a prospective basis and would not apply to those who are currently on probation/parole or those who are sentenced prior to the effective date of SB 97.

Section 4. This section requires the Alaska Court System when granting probation, to require a periodic fee to be paid to the Department of Corrections (DOC). (Continued on Page 2).

Prepared by: Joseph Reeves Phone 465-3315
Division: Administrative Services Date/Time 3/1/02 3:12 PM
Approved by: Margaret M. Pugh, Commissioner Date 3/1/02
Agency: Department of Corrections

FISCAL NOTE

STATE OF ALASKA
2002 LEGISLATIVE SESSION

BILL NO. SB97

ANALYSIS CONTINUATION

The DOC is required to set the fee in regulation and may not be less than \$1.50 per day. Probationer/Parole new cases by fiscal year and estimated cases impacted by this legislation will be as follows:

FY	New Cases	Probation/Parole Cases Impacted	Number Paying (10%)	# Days	Revenue @ \$1.50/Day
FY03	1,015	301/0=301	30	182	\$ 8.2
FY04	1,096	976/0=976	98	366	\$53.7
FY05	1,184	1,054/65=1,119	112	365	\$61.3
FY06	1,279	1,138/141=1,279	128	365	\$70.1
FY07	1,381	1229/152 =1,381	138	365	\$75.6
FY08	1,491	1327/164 =1,491	149	366	\$81.8

The DOC does not anticipate any revocations until FY04. Incarceration costs (@CRC) for probation revocations are as follows: (Shown in miscellaneous line of FN).

FY03 = 0

FY04 = 49 court hearings, 3 probationers revoked for 11 days @ \$67 per day= \$2.2

FY05 = 53 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY06 = 57 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY07 = 61 court hearings, 4 probationers revoked for 11 days @ \$67 per day= \$2.9

FY08 = 66 court hearings, 5 probationers revoked for 11 days @ \$67 per day= \$3.7

1 PFT Adult Probation Officer, Range 16, will be needed starting in FY04 to deal with increased caseload management and revocation hearings. First Year Personal Services will be \$60.0, future fiscal years assumes that a 3.75% performance adjustment will be added per the terms of labor agreements. Support for new probation position will include: \$10.0 for Travel (monitoring, internal hearings, court hearings), \$4.0 for Contractual Services (Communication, etc), \$1.5 for Commodities (consumable supplies, etc.), and \$3.0 for equipment (one-time; PC, Printer).

Section 6. This section requires the Alaska Board of Parole to assess a periodic parole fee to be paid to the DOC. The DOC is required to set the fee in regulation and may not be less than \$1.50 per day. The DOC does not anticipate any collections or revocations until mid FY03 since the legislation is prospective and people on mandatory parole are sentenced to two years or more. Parole fees revenue estimate is included in Section 4 analysis above.

Section 7. This section requires the Alaska Board of Parole to revoke parole for failure to pay the daily fee. The estimated costs for board hearings and incarceration costs are as follows: (Shown in miscellaneous line of FN)

FY03 = 0

FY04 = 0

FY05 = 1 hearing day X \$2,600 per day = \$2.6, Incarceration Costs = \$6.8 Total = \$8.8

FY06 = 3 hearing days X \$2,600 per day = \$7.8, Incarceration Costs = \$29.7 Total = \$37.5

FY07 = 3.5 hearing days X \$2,600 per day = \$9.1, Incarceration Costs = \$32.0 Total = \$41.1

FY08 = 3.7 hearing days X \$2,600 per day = \$9.6, Incarceration Costs = \$44.5 Total = \$54.1

Section 8. This section allows for the attachment of an offender's PFD to satisfy parole and probation fees that are delinquent. The DOC is unable to estimate the amount of revenue that will be generated by this section. The DOC believes that the Department of Law Collections Unit will provide this service as they do for most other state agencies. It is estimated that the cost via Reimbursable Services Agreement would be \$26.2 in FY04 and \$18.7 each year thereafter (shown in contractual line of FN). The DOC believes that little of the fees, if any at all, will be recovered through this attachment since these type of fees will be #8 in-line for PFD attachment. We believe there will be no PFD funds left to attach.

Section 9. This section requires the DOC to contract with a collection agency or other person for the administration and collection of probation and parole fees imposed by this legislation. The DOC estimates it will cost \$55.00 per case to set up accounts and make collection efforts. \$16.6 the first year, \$53.7 FY2004, \$61.5 FY2005, \$70.3 FY2006, \$76.0 FY2007, and \$82.0 FY2008. (shown in contractual line of FN).

SENATE COMMITTEE REPORT First Committee of Referral

DATE: 2/16/01

FURTHER: Finance

Date of 5-Day Notice: 2/22
(in accordance with Uniform Rule 23)

DATE TURNED
IN TO OFFICE: 3/12/01

Judiciary Committee considered SENATE BILL NO.97

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

and recommends:

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

Senate Bill:

- same title
- new title

House Bill:

- same title
- technical title
- new: SCR # _____

NEW FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#
DOA	2/24/01	\$		1
DOC	2/22/01	\$		2
DHSS	3/1/01	\$		3

PREVIOUS FISCAL NOTE(S):

Department	Date	Fiscal	Zero	FN#

APPROPRIATION - no fiscal note

SIGNATURES AND RECOMMENDATIONS:	DO PASS	DO NOT PASS	NO REC	AMEND
<i>John Courderoy</i>	✓			
<i>John E. ...</i>		X		
<i>Ken ...</i>			X	
CHAIR: <i>John L. Taylor</i>	✓			

SB 97-PROBATION AND PAROLE FEES
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: ROBERT BUTTANE Subject/Bill No: SB 97
Co./Dept./Title: DHSS DIV. OF JUV. JUSTICE Phone: 465-3228
Address: Box 110635 JUNEAU Zip: 99811
Do you wish to testify? Yes No Respond To Questions

NAME: JOSEPH ROSSO Subject/Bill No: SB 97
Co./Dept./Title: DOC - Administrative Svcs
ADMIN SERVICE MGR Phone: 465-3315
Address: 502 3rd Street, Douglas Zip: 99824
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____
Do you wish to testify? Yes No Respond To Questions

SITE: ANCHORAGE LIO

COMMITTEE: Senate Finance

DATE: 2-26-2002

SUBJECT OF MEETING:

SB 97

UPDATE #:



P R I N T YOUR NAME DO YOU WANT ADDRESS (MAILING & ZIP) REPRESENTING TO TESTIFY?
Y or N

Lynda Zaugg		Dept Corrections	Y-SB 97
Email address:			
Bruce Richards		Dept Corrections	Y-SB 97
Email address:			
Robert Buttane		DHSS/Div Juv. Just.	Y-SB 97
Email address:			
Email address:			
Email address:			
Email address:			

SB 97-PROBATION AND PAROLE FEES
SENATE FINANCE COMMITTEE

SIGN-IN

NAME: JOSEPH REEVES Subject/Bill No: SB 97
Co./Dept./Title: CORRECTIONS - ^{Administrative} SERVICE MGR Phone: 465-3315
Address: 802 Third Street Zip: 99F24

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

NAME: _____ Subject/Bill No: _____
Co./Dept./Title: _____ Phone: _____
Address: _____ Zip: _____

Do you wish to testify? Yes No Respond To Questions

SITE: ANCHORAGE LIO

COMMITTEE: Senate Finance

DATE: 2-26-2002

SUBJECT OF MEETING:

SB 97

UPDATE #:



P R I N T YOUR NAME DO YOU WANT ADDRESS (MAILING & ZIF) REPRESENTING TO TESTIFY?
Y or N

Lynda Zaugg		Dept Corrections	Y-SB 97
Email address:			
Bruce Richards		Dept Corrections	Y-SB 97
Email address:			
Robert Buttane		DHSS/Div Juv. Just.	Y-SB 97
Email address:			
Email address:			
Email address:			
Email address:			
Email address:			