



**House
Legislative
Analysis
Section**

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REQUIRE FEES FROM PAROLEES & PROBATIONERS

Senate Bills 189 and 192 (Substitutes H-2)
First Analysis (7-25-89)

RECEIVED
SEP 06 1989

Sponsor: Sen. Lana Pollack Mich. State Law Library
Senate Committee: Criminal Justice and Urban Affairs
House Committee: Corrections

THE APPARENT PROBLEM:

In his fiscal year 1989-90 budget message, Governor Blanchard noted that since 1983 the Department of Correction's share of the general fund had increased from 4.9 percent to 10.7 percent, stretching the resources of the general fund budget. In addition to proposals that the department had made to cut costs, the governor recommended that offenders pay a monthly fee of \$30 toward the cost of supervision while on probation or parole. The fee, he estimated, would offset nearly 25 percent of the cost of probation and parole programs. Similar programs have been implemented successfully in more than 15 other states. Florida, for example, collected \$14 million in 1988 under its monthly oversight fee program.

THE CONTENT OF THE BILLS:

Senate Bills 189 and 192 would amend the Code of Criminal Procedure and the Department of Corrections act, respectively, to require that offenders pay a monthly oversight fee while on probation or parole. The fees would be collected by the Department of Corrections and amounts collected in excess of the amount needed to support the operation of the probation and parole supervision program, as provided in the annual appropriations act, would be deposited in the general fund. The bills would become effective October 1, 1989.

Senate Bill 189 would amend the Code of Criminal Procedure to require that an adult probationer, if convicted of a felony, be required by the court to pay a probation oversight fee of \$30 per month. The court could order a probationer to perform not more than ten hours of community service instead of the fee if — at the time the probation order was entered — either of the following circumstances applied:

- The imposition of the fee would cause the probationer's combined court ordered payments to exceed 50 percent of his or her net income.
- It appeared to the court that the probationer would not be able to pay the fee, even if the 50 percent limit were not exceeded. The court would be required to take into account the probationer's financial resources and the nature of the burden that payment of the fee would impose, with due regard for the probationer's other obligations.

Under the bill, the Department of Corrections or the probationer could also motion the court to reduce or suspend the fee at any time during the probation period. If the court agreed that the above circumstances applied and reduced or suspended the fee, then it would require instead that the probationer perform community service for not more than 10 hours for each month the fee was reduced or suspended. The department could also motion the court to reinstate a probation oversight fee that had been decreased or suspended if the above circumstances no longer applied to the probationer. The bill would also

require that the probation oversight fee be paid in the following order of priority in relation to other court-ordered payments, if any, to which the probationer was subject:

- 1) Any family support order.
- 2) Any order of restitution or compensation for crime victims.
- 3) The probation oversight fee.
- 4) Any other court-ordered payments.

The bill would allow the Department of Treasury to recover unpaid probation oversight fees if the probationer were found by the court to have willfully defaulted, or the attorney general, on behalf of the state, could bring an action for the reimbursement, and could use any remedy, interim order, or enforcement procedure allowed by law or court rule to enforce a judgment in favor of the state for that purpose.

The provisions of the bill would not apply to a juvenile placed on probation and committed to a state institution or agency under the Youth Rehabilitation Services Act.

MCL 771.3c

Senate Bill 192 would amend the Department of Corrections act to require that parolees pay a parole oversight fee. The bill would require the same provisions for parolees that Senate Bill 189 requires for probationers, except that the Parole Board, and not the court, would include the parole oversight fee in its order of parole.

MCL 791.236a

HOUSE COMMITTEE ACTION:

Senate Bills 189 and 192, as reported out of the Senate Criminal Justice and Urban Affairs Committee, would have transferred Department of Corrections' duties from the Corrections Commission to the department director. The House Corrections Committee adopted two substitutes to each bill that, instead, would provide for probation and parole oversight fees.

FISCAL IMPLICATIONS:

According to the Department of Management and Budget, the bill would result in revenues of \$10.8 million to the Department of Corrections. This total is based on the following calculations, using Florida's success ratios of 70 percent for probationers and 60 percent for parolees:

\$30 x 36,588 probationers x	\$ 9.22 million
12 months x .70 =	
\$30 x 7,322 parolees x	1.58
12 months x .60 =	
TOTAL	\$10.80 million

OVER

(Note: the total cost of the Department of Corrections' probation and parolee programs is \$42 million.) (7-21-89)

ARGUMENTS:

For:

The number of criminals behind bars has doubled since 1984, and more prison cells will be constructed during fiscal year 1990. With the Department of Corrections' budget expected to approach \$1 billion annually within five years, something has to be done to reduce the cost of corrections. The bill would put some of the cost on those who commit crime.

Against:

While it might seem fair that offenders who are placed on probation as an alternative to serving time should pay for some of the costs that probation incurs, in practice probationers are normally assessed court costs or fines at sentencing. The bills would also be unfair to parolees: while \$30 per month may seem like a small amount to the average wage earner, the majority of parolees are young, and with little education are fortunate if they can find jobs that pay a minimum wage when they leave prison. In addition, many have debts, incurred before they were incarcerated, which must be paid off. For those who are walking a fine line in financial survival, the addition of one more obligation could be the final stress factor that would force them to return to crime. Also, since it is unlikely that probation officers or parole officers would be able to collect the fees proposed in the bills without harassing their clients, the result would be that recalcitrant probationers and parolees would avoid contact with officers, thus violating their probation or parole, and would be sent back to prison. Since it is unlikely that the proposed revenues would be collected, then, the bills would serve no social purpose and would only result in a futile attempt to obtain money from those who have very few resources.

POSITIONS:

The Department of Corrections supports the bills. (7-24-89)

The Department of Management and Budget supports the bills. (7-21-89)

The Legislative Corrections Ombudsman opposes the bills. (7-21-89)

The Michigan Council on Crime and Delinquency opposes the bills. (7-24-89)

The American Friends Service Committee's Justice Program opposes the bills. (7-21-89)