

SFA

BILL ANALYSIS

Senate Fiscal Agency

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Senate Bill 189 (as enrolled)

Senate Bill 192 (as enrolled)

Sponsor: Senator Lana Pollack (Senate Bill 189)

Senator Jack Welborn (Senate Bill 192)

Senate Committee: Criminal Justice and Urban Affairs

House Committee: Corrections

Date Completed: 9-6-89

PUBLIC ACT 184 of 1989**PUBLIC ACT 185 of 1989****RATIONALE**

In his budget message for FY 1989-90, the Governor noted that, since 1983, the Department of Corrections' share of the General Fund had increased from 4.9% to 10.7%. 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 Governor estimated that the fee would offset nearly 25% of the cost of probation and parole programs. Similar programs have been implemented successfully in more than 15 other states. Florida, for example, reportedly collected \$14 million in 1988 under its monthly oversight fee program.

CONTENT

Senate Bills 189 and 192 would amend the Code of Criminal Procedure and the Department of Corrections law, respectively, to require that offenders pay a monthly oversight fee while serving time on probation or parole. The fees would have to 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 programs, as provided in the annual appropriations act, would have to be deposited into the State's General Fund. The bills would

take effect on October 1, 1989.

Senate Bill 189 would 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 up to 10 hours of community service monthly instead of paying 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% 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% 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 his or her other obligations.)

Under the bill, the Department of Corrections or the probationer could file a motion with 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 have to require, instead, that the

S.B. 189 & 192 (9-6-89)

probationer perform community service for not more than 10 hours for each month that the fee was reduced or suspended. The Department also could move that the court reinstate a probation oversight fee that had been decreased or suspended if the financial constraint circumstances no longer applied to the probationer. The bill would require that court-ordered payments to which the probationer was subject be paid in the following order of priority:

- 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. 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 bill would not apply to a juvenile placed on probation and committed to a State institution or agency under the Youth Rehabilitation Services Act.

Senate Bill 192 would require that parolees pay a parole oversight fee. The bill would require the same provisions for parolees that Senate Bill 189 would require for probationers, except that the Parole Board, rather than the court, would have to order the parole oversight fee.

MCL 771.3 (S.B. 189)
791.236 (S.B. 192)

FISCAL IMPACT

The bills would generate \$2,400,000 to \$4,800,000 in restricted revenue for the State in FY 1989-90 based on the assumptions set forth in this analysis. In addition, as a result of the Department of Corrections' increased administrative oversight required by the legislation, the bills would result in an expenditure increase of \$350,000 to \$700,000

for the State in FY 1989-90. While the bills would have no explicit fiscal impact on local government, local communities would benefit from the community service work component of the legislation.

This fiscal analysis is based on the following assumptions:

- An estimated 18,700 offenders will be sentenced to probation and 8,100 will be paroled during FY 1989-90. Based on these estimates, there will be an average of 9,350 new probationers and 4,050 new parolees during FY 1989-90.
- Each probationer and parolee would be required to pay the \$30 oversight fee per month.
- Offenders unable to pay the oversight fee in whole or in part for one of the reasons provided for in the legislation would have to perform up to 10 hours of community service per month.
- The Department of Corrections would be responsible for both the administration of the collection process and the coordination of the community service component.
- Imposition of the oversight fee would take effect on a case-by-case basis when the fee was included in the sentencing order for probation or the parole board's order of parole. The \$30 monthly fee could not be imposed on offenders retroactively.
- The effective date for the bills is October 1, 1989.
- A 100% and a more realistic 50% collection percentage are analyzed below. Based on these assumptions, the following table presents the potential restricted revenue collection from the \$30 fee for the State in FY 1989-90.

**ANALYSIS OF RESTRICTED REVENUE
FROM S.B. 189 And S.B. 192**

<u>Bill</u>	<u>Category</u>	<u>Average Number of Offenders</u>	<u>50% Collection</u>	<u>100% Collection</u>
S.B. 198	Probation	9,350	\$ 1,683,000	\$ 3,366,000
S.B. 192	Parole	<u>4,050</u>	<u>729,000</u>	<u>1,458,000</u>
	TOTAL .	13,400	\$ 2,412,000	\$ 4,824,000

In the best case for FY 1989-90 with 100% collection, the State could collect \$4,824,000, while with a 50% rate of collection the State would receive \$2,412,000.

According to the Department of Corrections, the legislation's collection and community service components could increase the workload of parole/probation officers significantly. Preliminary analysis by the Department of Corrections indicates that staffing and support expenditures could increase \$350,000 to \$700,000 during FY 1989-90.

are assessed court costs or fines at the time of sentencing. The bills also would be unfair to parolees; while \$30 per month may seem like a small amount to the average wage earner, parolees are fortunate if they can find jobs that pay even a minimum wage when they leave prison. In addition, many have debts, often incurred before incarceration, that must be paid off. For those who are struggling financially, additional obligations could induce them to return to crime.

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ARGUMENTS

Supporting Argument

In recent years, both the number of prisoners incarcerated in State correctional facilities and the number of persons paroled and sentenced to probationary terms have increased significantly. As a result, dramatic increases in the State's budget for corrections programs have been necessary. One way to attempt to curtail this continuing upward spiral of spending is to provide for new sources of revenue. By requiring probationers and parolees to pay an oversight fee, the bills would relieve the State of a portion of the burgeoning corrections costs.

Opposing Argument

While it might seem fair that offenders who are placed on probation as an alternative to incarceration should pay for some of the costs that probation incurs, such an assessment would be unfair because probationers generally

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.

SFA BILL ANALYSIS

Senate Bill 190

Analysis First

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Senate Bill 191

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Senate Bill 192

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HOUSE LEGISLATIVE ANALYSIS SECTION

Senate Bill 192

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Senate Bill 193

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Senate Bill 197

Analysis Summary

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Senate Bill 197

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