



Legislative Fiscal Bureau

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Joint Committee on Finance

Paper #246

Community Corrections Supervision Fees (Corrections -- Community Corrections)

[LFB 2015-17 Budget Summary: Page 125, #2]

CURRENT LAW

Under s. 304.074, the Department of Corrections may charge a supervision fee to probationers, parolees, and persons on extended supervision to partially reimburse the Department for costs of providing supervision and services. Corrections sets varying rates based on an offender's ability to pay and with the goal of receiving at least \$1 per day. The Department is prohibited from charging a fee if the offender meets any of the following exemptions: (a) is unemployed; (b) is pursuing a full-time course of instruction approved by the Department; (c) is undergoing treatment approved by the Department and unable to work; or (d) has a statement from a physician that the offender should be excused from working for medical reasons. Revenue from the collected fee is credited to the program revenue probation, parole, and extended supervision appropriation.

GOVERNOR

Delete the statutory language authorizing the Department to set supervision fees at varying rates and the specified exemptions. Instead, authorize the Department to charge a reasonable supervision fee as determined by Corrections. Corrections may decide to waive the fee for a period, for reasons established under Department policy, including if the person is unemployed, has a health issue or is disabled, or is participating in education or treatment-related programming.

DISCUSSION POINTS

1. Under current law, the Department charges a supervision fee to probationers, parolees,

and persons on extended supervision to partially reimburse the Department for costs of providing supervision and services. Corrections sets varying rates based on an offender's ability to pay and with the goal of receiving at least \$1 per day. Revenue from the fee is credited to the program revenue probation, parole, and extended supervision appropriation. Funding from supervision fees supports a variety of supplies and services, such as rent, fleet vehicle charges, travel, postage, equipment maintenance, and procurement card purchases.

2. Concurrent with the creation of the supervision fee in 1995 Act 27, funding of \$6 million GPR was removed from the Department's budget. Subsequent increases in PR expenditure authority were also offset by GPR reductions. In total, approximately \$14 million GPR has been removed over the years, offset by fee revenues.

3. Corrections may not charge a supervision fee to any probationer, parolee, or person on extended supervision while he or she meets any of the following conditions: (a) is unemployed; (b) is pursuing a full-time course of instruction approved by the Department; (c) is undergoing treatment approved by the Department and unable to work; or (d) has a statement from a physician that the offender should be excused from working for medical reasons.

4. The bill would delete these provisions, and instead authorize Corrections to charge a reasonable fee as determined by the Department. Instead of the above exemptions, the bill would specify that the Department may decide to waive the supervision fee for a period for reasons established under department policy, including if the person is unemployed, has a health issue or is disabled, or is participating in education or treatment-related programming.

5. According to Corrections, the modification would increase the Department's ability to collect supervision fees. Currently, the Department charges supervision fees at a rate of either \$20, \$40, or \$60 per month, depending on the offender's ability to pay. The table below identifies the past three years of revenue and expenditures from the probation, parole, and extended supervision appropriation. Corrections has generated between \$8.6 million and \$9.2 million in supervision fee revenue for the past three years.

	<u>2011-12</u>	<u>2012-13</u>	<u>2013-14</u>
Expenditures	\$9,861,900	\$6,469,800	\$8,239,100
Revenue	<u>8,596,800</u>	<u>9,154,500</u>	<u>8,597,700</u>
Difference	-\$1,265,100	\$2,684,700	\$358,600

6. In considering what a "reasonable fee" would be, the Department indicates:

"To determine which fee structure would accomplish the goals of the statute, DOC would take into account (but not limited to): the fees impact on restitution, industry best practices, evidence based practices, and the collections process's level of efficacy...DOC is seeking flexibility to best meet the goal of the statute. The current statute is explicit regarding the fee structure and its exemptions. The statutory language change will afford DOC the flexibility to try new approaches over time. It is important to note that DOC's legal counsel has advised that the Department cannot operate pilot programs for just certain areas or segments

of the offender population. Any fee change must be applied to all offenders or none at all."

7. Corrections does not yet know how it would implement the changes in the bill. Scenarios that are being considered include charging a flat rate, providing a prepayment discount, providing a case plan goal and achievement discount, or community service in lieu of payments.

8. As indicated by the Department's statements, restitution is implicated by the collection of supervision fees. Under s. 973.20 of the statutes, a court may order restitution from a defendant to make full or partial restitution to any victim of a crime. Restitution orders are a condition of probation, extended supervision, or parole. The priority of payments is specified under statute as follows: (a) restitution paid in full; (b) any fines or surcharges specified under s. 973.05; (c) costs, fees, or surcharges under Chapter 814 of the statutes other than attorney fees; and (d) reimbursement of county or state costs of legal representation. Payments for each category must be paid in full before subsequent obligations are paid.

9. However, on January 2, 2015, the Attorney General issued a formal opinion [OAG-02-15] finding that Corrections may collect supervision fees before an offender has paid restitution in full, since the priority scheme does not include supervision fees. Thus, to the extent that statutes are modified to allow the Department to increase supervision fee revenue, payments for offenders' other obligations, including restitution, would be impacted.

10. Reviewing recent years' revenue and expenditures of the probation, parole and extended supervision appropriation, it appears that the Department's current collection of supervision fee revenue is sufficient to cover costs. In addition, since it is unknown how the change would be implemented and what the potential impact on restitution would be, the Committee may wish to delete the provision and maintain current law.

11. If, however, the Attorney General's recent opinion leads to statutory modifications to prioritize payment of restitution before supervision fees, supervision fees would likely decrease significantly. In those circumstances, it might be beneficial to provide the Department with more flexibility to charge and collect supervision fees as proposed in the bill.

ALTERNATIVES

1. Approve the Governor's recommendation to delete statutory language authorizing the Department to set supervision fees at varying rates and the specified exemptions and instead authorize the Department to charge a reasonable supervision fee as determined by Corrections. Corrections may decide to waive the fee for a period, for reasons established under department policy, including if the person is unemployed, has a health issue or is disabled, or is participating in education or treatment-related programming.

2. Delete provision.

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