

Legislative Analysis



CORRECTIONS SUPERVISION FEES

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House Bill 4031 (proposed substitute H-1)

House Bill 4032 (proposed substitute H-1)

Sponsor: Rep. Tommy Brann

Committee: Judiciary

Complete to 3-18-19

Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4031 would amend the Code of Criminal Procedure to revise probation supervision fees, while House Bill 4032 would amend the Corrections Code of 1953 to mirror those fee changes and to revise DOC procedures regarding unpaid supervision fees.

Currently under the Code of Criminal Procedure, courts can place certain defendants on probation in certain circumstances. If a defendant is placed on probation, the Department of Corrections (DOC) collects a probation supervision fee of up to \$135, multiplied by the number of months of probation ordered, up to 36 months. The amount collected is calculated on a scale based on the probationer's projected monthly income.

House Bill 4031 would set a new probation supervision fee, as follows:

- \$30, multiplied by the number of months of probation ordered, for an individual placed on probation supervision without an *electronic monitoring device*.
- \$60, multiplied by the number of months of probation ordered, for an individual placed on probation supervision with an *electronic monitoring device*.

The court could waive these fees if it determined the supervised individual to be indigent.

Electronic monitoring device would mean any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol in an individual's body.

Beginning October 1, 2019, and each October 1 after that, DOC would have to determine the fee amount collected to ensure that the total funds collected are not less than those collected in the fiscal year immediately preceding the year of the effective date of the bill.

MCL 762.13 et seq.

House Bill 4032 would amend the Corrections Code of 1953 to similarly revise the supervision fees collected by DOC for inmates, parolees, and individuals under the Lifetime Electronic Monitoring Program and to revise procedures regarding unpaid fees.

Currently, DOC and the parole board can collect a supervision fee of up to \$135 per month, calculated on a scale based on the individual's projected monthly income. A fee higher than \$135 per month can be collected only if DOC or the parole board determines that the offender or parolee has sufficient assets or other financial resources to warrant the higher

amount and the reasons for collecting a higher amount are stated in the DOC records or parole order.

House Bill 4032 would amend the fee schedule to set the set the supervision fees as follows:

- \$30 per month for offenders or parolees being supervised without an *electronic monitoring device*.
- \$60 per month for offenders, parolees, and individuals under the Lifetime Electronic Monitoring Program being supervised with an *electronic monitoring device*.

Electronic monitoring device would be generally defined as any electronic device or instrument that is used to track the location of an individual, enforce a curfew, or detect the presence of alcohol, but only for offenders and parolees.

However, the current definition of *electronic monitoring device* would remain applicable to individuals under the Lifetime Electronic Monitoring Program, namely a device by which, through global positioning system (GPS) satellite or other means, an individual's movement and location are tracked and recorded.

If DOC determined the offender or parolee to be indigent, DOC would have to waive the above supervision fees. Additionally, DOC could not collect any fees for offenders or parolees other than as described above.

Beginning October 1, 2019, and each October 1 after that, DOC would have to determine the supervision fee amount collected to ensure that the total funds collected by DOC are not less than those collected in the fiscal year immediately preceding the year of the effective date of the bill.

Unpaid supervision fees

Currently, if a person has not paid the full amount of a supervision fee when he or she is discharged from parole or probation or the period of a delayed sentence ends, DOC reviews and compares the person's actual income during the period of parole or probation or delayed sentence with the income that was projected at the time the fee was ordered. If the person's actual income fell short of projected income, DOC must waive any unpaid amount that exceeds the total amount the person would have paid if his or her income had been accurately projected.

House Bill 4032 would instead require that if a person has not paid the full amount of a supervision fee when he or she is discharged from parole or probation or the period of a delayed sentence ends (including a person under supervision on the effective date of the bill), DOC must waive any amount over the aggregate sum of \$30 per month for each month the person was supervised without an electronic monitoring device and \$60 per month for each month the person was monitored with one.

MCL 791.225a et seq.

Each bill would take effect 90 days after it is enacted. The bills are tie-barred to one another, which means that neither could take effect unless both were enacted.

FISCAL IMPACT:

The bills would have an indeterminate fiscal impact on the state and on local units of government. Under the bills, fees assessed to offenders for parole and probation supervision would be reduced. However, it is anticipated that the amount of fees collected would remain steady and potentially could increase over time.

Currently, according to the Department of Corrections, the department collects between 6% and 10% of the fees that are assessed while offenders are under supervision. Annually, the department collects an average of \$5.8 million in fee revenue. In order to maintain this level of revenue collection, the department estimates it would need a compliance rate of between 20% and 25%. Though this compliance rate range is much higher than the current compliance rate range, the department believes it can enforce the collection of fees more easily with the simplified fee structure in place and that the majority of offenders could better afford to pay the reduced amount of fees. Reducing parole and probation supervision fees would result in more disposable income for offenders, enabling them to pay other fees collected by the courts and/or victim restitution.

Under the bills, the Department of Corrections would be required to determine annually the fee amounts collected to ensure that total fee revenue collected is not less than the amount collected in the prior year. The bills would allow fees to be increased in future years, if fee revenue collected was less than in the prior year. This, effectively, holds the department harmless.

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■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.