

AMEND PROBATION SUPERVISION FEES

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House Bills 4031 and 4032 as introduced
Sponsor: Rep. Tommy Brann
Committee: Judiciary
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Analysis available at
<http://www.legislature.mi.gov>

SUMMARY:

House Bill 4031 would amend Chapters II (Courts) and XI (Probation) of the Code of Criminal Procedure to revise probation supervision fees, while House Bill 4032 would amend the Corrections Code of 1953 to mirror those changes.

Currently under the Code of Criminal Procedure, courts have the discretion to 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, if the individual is placed on probation supervision without an *electronic monitoring device*.
- \$60, multiplied by the number of months of probation ordered, if the individual is 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 curfew, or detect the presence of alcohol in an individual's body.

Beginning October 1, 2019, and each October 1 after that, the State Court Administrative Office (SCAO) would be required to determine the 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 this bill.

MCL 762.13 et seq.

House Bill 4032 would mirror the above fee changes in the Corrections Code of 1953 and apply similar fees to the supervision fees collected by DOC for inmates, parolees, and individuals under the Lifetime Electronic Monitoring Program.

Currently, DOC and the parole board can collect a supervision fee of up to \$135 per month, based on a sliding scale dependent upon 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 defined as any electronic device or instrument that is used to track the location of an individual, enforce curfew, or detect the presence of alcohol, but only for offenders and parolees.

The current definition of *electronic monitoring device* would remain for 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 would not be able to collect any fees for offenders or parolees other than as described above.

Beginning on October 1, 2019, and each October 1 after that, SCAO (for fees collected for offenders) and DOC (for fees collected for parolees and individuals under the Lifetime Electronic Monitoring Program) would have to determine the 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 this bill.

Finally, the bill would eliminate any language referencing the current sliding scale fee determination throughout the Corrections Code.

MCL 791.225a et seq.

The bills are tie-barred, 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 State Court Administrative Office and 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.