

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 0662-02
Bill No.: SCS for SB 177
Subject: Courts; Crimes and Punishment; Probation and Parole
Type: Original
Date: February 17, 2017

Bill Summary: This proposal makes offenders who owe court costs or restitution, or have not fulfilled certain other conditions, ineligible for early release for earned compliance credits.

FISCAL SUMMARY

ESTIMATED NET EFFECT ON GENERAL REVENUE FUND			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
General Revenue	(\$1,180,785)	(\$2,421,764)	(\$2,470,199)
Total Estimated Net Effect on General Revenue	(\$1,180,785)	(\$2,421,764)	(\$2,470,199)

ESTIMATED NET EFFECT ON OTHER STATE FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Various	Unknown	Unknown	Unknown
Total Estimated Net Effect on Other State Funds	Unknown	Unknown	Unknown

Numbers within parentheses: () indicate costs or losses.

This fiscal note contains 9 pages.

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

ESTIMATED NET EFFECT ON FULL TIME EQUIVALENT (FTE)			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Total Estimated Net Effect on FTE	0	0	0

Estimated Net Effect (expenditures or reduced revenues) expected to exceed \$100,000 in any of the three fiscal years after implementation of the act.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2018	FY 2019	FY 2020
Local Government	Unknown	Unknown	Unknown

FISCAL ANALYSIS

ASSUMPTION

Officials from the **Department of Corrections (DOC)** state the legislation will require offenders owing court costs or restitution to pay the full amount before being discharged from probation or parole after earning compliance credits. If an offender fails to pay the outstanding amount then the offender will remain on supervision until the sentence is discharged. In FY16 the average earned compliance credits of offenders owing court costs or restitution at the time of early discharge was 23 months.

It would be expected that many offenders with outstanding court costs and restitution would make an effort to pay if it meant that the supervision would be shortened by nearly two years. The DOC estimates using the FY16 payment records of offenders discharged after earning compliance credits that the percent offenders who will pay all their obligations will increase from an average of 60% to 89%. In FY16 there were 8,925 offenders discharged early after earning compliance credits, if offenders had been required to pay all court and restitution before the early discharge then the DOC expects that 944 offenders would not have been discharged early.

Payment of Court Costs and Restitution in FY '16 by offenders discharged after earning compliance credits:

Court Costs and Restitution	ECC Charges	Average Costs	Average Paid	Average Unpaid	Percent paid	Percent expected will be paid	Expected unpaid
\$5,000 +	697	10,038	5,326	4,712	53%	70%	209
\$2,000 +	1,238	3,119	1,864	1,254	60%	75%	310
\$1,000 +	1,351	1,421	977	443	69%	90%	135
\$750 +	615	867	637	230	73%	90%	62
\$500 +	1,270	611	463	148	76%	95%	64
\$250 +	3,302	362	279	83	77%	95%	165
<\$250	452	83	49	33	60%	100%	-
TOTAL	8,925	1,716	1,038	678	60%	89%	944

If these offenders were not discharged early and served another 23 months then the field population would increase by 1,848 in two years.

ASSUMPTION (continued)

Increase in supervision from unpaid court costs and restitution:

FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
944	1,848	1,848	1,848	1,848	1,848	1,848	1,848	1,848	1,848

Offenders who are discharged early are generally on minimum supervision and the cost of supervision is less for the typical offender. Of the offenders discharged in FY'16, 42% of the earned compliance discharges were on level I supervision (the lowest) compared to 28% of ordinary discharges.

Supervision level of offenders discharged after earning compliance credits in FY '16

Supervision Level	Earned Compliance	Percent	Ordinary Discharge	Percent
I	3,700	42%	1,762	28%
II	4,335	49%	2,769	44%
III	<u>829</u>	<u>9%</u>	<u>1,796</u>	<u>28%</u>
TOTAL	8,864	100%	6,327	100%

The FY16 average yearly cost of supervision was \$1,059 (for mostly minimum supervision level) per offender. The DOC yearly cost of incarceration is \$6,085 per offender.

Section 13 requires that earned compliance credits be suspended upon entry into a drug court, DWI court, veteran's court, or other treatment court, and shall remain suspended until the offender is discharged from such drug court, DWI court, veteran's court, or other treatment court. The impact of the section will be to reduce the credits that could be earned by offenders on probation. There were 481 probationers who were discharged early after earning compliance credits and who had been placed in a court program.

Probationers completing a court program and discharged after earning compliance credits in FY16

Supervision Level	Offenders Completing Court Programs	Percent	Time in Court Programs (years)	Discharge Credits eamed 50% of time
I	298	62%	1.6	234
II	152	32%	1.8	137
III	31	6%	0.8	12
TOTAL	481	100%	1.6	394

ASSUMPTION (continued)

The average stay in the court programs was 1.6 years of which 50% could be earned as a compliance credit. This means that the probationers would be on supervision for another 9.6 months and the total impact would be an increase of 394. Because the average increase is less than a year all of the increase in the supervised population would be in the first year.

TOTAL IMPACT

Increase in supervision from unpaid court costs and restitution and time in court programs

	FY18	FY19	FY20	FY21	FY22	FY23	FY24	FY25	FY26	FY27
Unpaid court costs and restitution	944	1,848	1,848	1,848	1,848	1,848	1,848	1,848	1,848	1,848
Time in court programs	394	394	394	394	394	394	394	394	394	394
Increase in the supervised population	1,338	2,242	2,242	2,242	2,242	2,242	2,242	2,242	2,242	2,242

The increase in the field population in year 1 (FY18) is estimated at 1,338 and the total increase is estimated to be 2,242 in year 2 (FY19).

Because many of the offenders are on level I supervision (minimum) the cost per year of supervision in FY16 is \$1,059 and the additional cost is estimated to be \$1,180,785 in FY18 and \$2,421,764 in FY19 and after.

The department has considerable concerns about penalizing offenders who are enrolled in drug court and other court programs. The programs are designed to assist probationers in overcoming problems, such as drug addiction, and are highly successful in reducing recidivism. The department calculates that the recidivism of probationers who complete a court program is 4% after two years from completing a court program, such as a drug court. The average recidivism for all probationers after two years is 21%.

Percent Incarcerated after two years

Court Programs	All Probation
4.0%	22.20%

If offenders are penalized for enrolling in a court program then fewer offenders will be willing to enroll.

ASSUMPTION (continued)

	# to prison	Cost per year	Total Costs for prison		# to probation	Cost per year (reduced due to most needing minimum supervision level)	Total cost - probation and parole	Grand Total - Prison and Probation (includes partial year in year 1 and 2% inflation starting in year 2
Year 1	0	(\$6,085)	\$0		1,338	(\$1,059)	(\$1,416,942)	(\$1,180,785)
Year 2	0	(\$6,085)	\$0		2,242	(\$1,059)	(\$2,374,278)	(\$2,421,764)
Year 3	0	(\$6,085)	\$0		2,242	(\$1,059)	(\$2,374,278)	(\$2,470,199)

Oversight assumes this proposal would provide offenders incentive to pay outstanding court costs and restitution. Numerous state and local funds could, therefore, see an increase in payments from additional court costs being collected as a result of this proposal. For example, State Funds and typical court cost amounts include:

1. Court Automation Fund \$7.00
2. Crime Victim's Compensation Fund \$7.50
3. Brain Injury Fund \$2.00
4. Independent Living Center Fund \$1.00
5. Motorcycle Safety Trust Fund \$1.00
6. POST Commission \$1.00
7. Spinal Cord Injury Fund \$2.00

Local Funds and typical court cost amounts include:

1. Clerk fee \$12.00
2. County fee \$10.00
3. PACARs surcharge \$4.00
4. Prosecuting Attorney Training Fund \$1.00
5. Sheriff's Retirement Fund \$3.00
6. Domestic Violence Shelter surcharge \$4.00
7. Law Enforcement Training \$2.00

ASSUMPTION (continued)

Oversight is unable to estimate the amount of outstanding court costs that may be collected because of this proposal; therefore, Oversight will simply assume an “unknown” amount will be collected into “various” state and local funds.

Officials from the **Office of the State Courts Administrator** state there may be some impact, but there is no way to quantify that currently. Any significant changes will be reflected in future budget requests.

Officials from the **Office of the State Public Defender** and the **Office of Prosecution Services** each assume the proposal would not fiscally impact their respective agencies.

<u>FISCAL IMPACT - State Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
GENERAL REVENUE			
<u>Costs - DOC - increased supervision</u>	<u>(\$1,180,785)</u>	<u>(\$2,421,764)</u>	<u>(\$2,470,199)</u>
ESTIMATED NET EFFECT TO THE GENERAL REVENUE FUND	<u>(\$1,180,785)</u>	<u>(\$2,421,764)</u>	<u>(\$2,470,199)</u>

VARIOUS STATE FUNDS

<u>Revenue - additional collections of court costs that will occur because of this proposal</u>	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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ESTIMATED NET EFFECT TO VARIOUS STATE FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
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<u>FISCAL IMPACT - Local Government</u>	FY 2018 (10 Mo.)	FY 2019	FY 2020
VARIOUS LOCAL FUNDS			
<u>Revenue</u> - additional collections of court costs that will occur because of this proposal	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>
ESTIMATED NET EFFECT TO VARIOUS LOCAL FUNDS	<u>Unknown</u>	<u>Unknown</u>	<u>Unknown</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

FISCAL DESCRIPTION

Under current law, the Division of Probation and Parole may issue earned compliance credits to qualifying offenders. These offenders are eligible for reduced terms of probation, parole, or conditional release. The offenders are eligible for early release regardless of the status of unpaid court costs and certain other conditions of probation, parole, and conditional release.

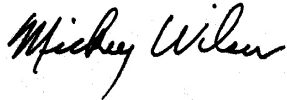
This act specifies that no offender who owes unpaid court costs or restitution shall be eligible for early release under the earned compliance credit program. Additionally, no offender with any other unfulfilled condition of their probation, parole, or conditional release shall be eligible for early release under the earned compliance credit program unless specifically authorized by the court, and the application of credits shall be suspended while the offender is entered into a drug court, DWI court, veteran's court, or other treatment court.

This legislation is not federally mandated, would not duplicate any other program and would not require additional capital improvements or rental space.

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SOURCES OF INFORMATION

Department of Corrections
Office of the State Courts Administrator
Office of Prosecution Services
Office of the State Public Defender



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Director
February 17, 2017

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Assistant Director
February 17, 2017