

# **Supervision Fees**

2007 Report to the Legislature



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## **Introduction**

The 1999 Legislature authorized the Department of Corrections (DOC) to collect supervision fees from offenders on probation and supervised release pursuant to M.S. § 241.272. According to this statute, the purpose of this fee is to help offset costs related to correctional services. The 2001 Legislature amended M.S. § 241.272 per DOC request to allow supervision fees collected by DOC contract agents to be kept by the county and the fees collected by state agents deposited to the General Fund. This only has an impact on misdemeanor cases supervised by contract agents. This is the sixth report that contains a 12-month cycle of imposing and collecting the fees. Background information is provided as to the development process culminating in the implementation of collecting supervision fees from offenders. This report also provides the following information requested in the statute:

- Types of correctional services for which fees were charged
- Aggregate amount of fees imposed
- Aggregate amount of fees collected

## **Policy and Procedure**

Shortly after the end of the 1999 legislative session, the DOC Director of Field Services appointed a committee to develop and recommend policies and procedures for the implementation of supervision fees. The committee was made up of Field Services supervisors and agents, all of whom had extensive experience in the probation field. The committee met with county probation officers and Community Corrections Act (CCA) staff to draw on their experience. These meetings were extremely helpful and, after extensive discussion, a policy on supervision fees was developed. The following is a summary of this policy.

- ❑ The purpose of the policy is to guide the collection of fees from adult offenders under the community supervision of the DOC.
- ❑ M.S. § 241.272 authorizes the DOC to collect supervision fees from offenders.
- ❑ All offenders covered by this policy shall be required to pay an annual fee of \$120. This fee will be assessed per offender and not by separate court case.
- ❑ Probationers will be assessed upon the first visit to their supervising agent and annually on each subsequent sentencing anniversary date.
- ❑ Offenders released from Minnesota correctional facilities will be assessed upon their release and annually thereafter.
- ❑ Interstate cases will be assessed upon arrival to Minnesota and annually thereafter.
- ❑ Fees will not be prorated with the exception of offenders in their last year of supervision with less than one year to serve until expiration.
- ❑ The offender will have one year to pay the fee but will be strongly encouraged to pay it as soon as possible.
- ❑ Fees will not be collected from offenders with large restitution obligations unless adequate progress has been made toward the payment of restitution.
- ❑ Waivers will only be granted under extreme circumstances.

- ❑ Offenders will not be recommended for early discharge from their probation sentence if they are not current with the payment of supervision fees.
- ❑ Offenders on Intensive Supervised Release and the Challenge Incarceration Program Phase II and Phase III will not be allowed to move to a less restrictive phase if they are not current with the payment of supervision fees.

### **Waivers and Community Work Service**

The collection of supervision fees by the DOC has been in effect for seven years, and a lot has been learned. This is especially true in the areas of waivers and community work service. Initially it was believed that very few full waivers would be approved, and that the only reason for a full waiver would be if an offender were physically unable to perform community work service. The possibility of imposing community work service was seen as an encouragement to pay the fee. Imposing and supervising community work service are resource intensive. If an agent doesn't have a program to refer the offender to, the time it takes to set the service up detracts greatly from other duties and becomes a cost-benefit issue. The DOC allows agents to make the decision on whether to impose community work service.

Experience has shown that a significant number of offenders have large amounts of restitution to pay and that the imposition of community work service would take hours away that could be spent working. In addition, there were a number of offenders who were mentally and/or physically unable to work and were receiving some form of public support. Placing this group on community work service was deemed to be inappropriate as their disabilities prohibited them from meaningfully contributing to the program.

Another situation that the fees committee had not anticipated was the under-employed offender earning a low income with family obligations to meet. In these cases, the agent waives both the fee and community work service to avoid undue hardship on the family. The agent is in the best position to determine whether an offender is able to pay a fee or perform community work service. Even with waivers being granted for the reasons stated above, the waiver rate is less than 14 percent.

A waiver is only considered after the fee has been due for at least nine months without any significant progress toward completion of payment. The goal of the fee is not to impose more community work service on offenders, but rather to collect the funds. Fees are commuted to community work service only under extreme or unique circumstances. A rate of \$6 per hour for each hour worked at community work service is applied toward the fee. Therefore, 20 hours of work are required to pay the \$120 fee. The Sentencing to Service (STS) program is considered first when possible, followed by an independent community work service site.

Table 1, on the following page, illustrates the reasons for waiver along with the percentages each waiver reason is to the number of fees imposed. During this past year, 14,072 fees were imposed with 2,090 waived. This is a waiver rate of less than 15 percent.

**Table 1: Supervision Fee Waivers by Release Type**

<b>Waiver Type</b>	<b>CIP</b>	<b>ISR</b>	<b>Probation</b>	<b>Parole/ Supervised Released</b>	<b>Total Number of Waivers</b>	<b>Waiver Rates</b>
<b>Disability / Unemployable</b>	1	9	191	21	222	1.6%
<b>Extenuating Circumstances</b>	2	20	480	49	551	3.9%
<b>Revoked and Committed</b>	10	125	383	336	854	6.0%
<b>Significant Restitution</b>	0	0	87	1	88	.6%
<b>Treatment Costs</b>	0	2	20	2	24	.2%
<b>Under \$25 – No Revenue Recapture</b>	4	4	27	5	40	.3%
<b>Work Service</b>	0	0	62	4	66	.5%
<b>Total Waivers</b>	<b>17</b>	<b>160</b>	<b>1250</b>	<b>418</b>	<b>1845</b>	<b>13.1%</b>

**Revenue Recapture**

Field Services actively uses Revenue Recapture. If an offender has not paid within one year of fee imposition, there has been no waiver approval, and STS or community work service has not been assigned in lieu of the fee, the agents have been instructed to file Revenue Recapture. The Department of Revenue has automated their revenue recapture system allowing DOC offices to register the offender fee on-line. This has helped to expedite the payments received process.

An offender may contest the use of Revenue Recapture and initiate a hearing. At this time, very few hearings have been held and the DOC's right to impose Revenue Recapture for this purpose has been upheld in each instance. A significant number of hearings is not anticipated.

Since July 1, 2005, Revenue Recapture submitted for collection has been \$434,542; a total of \$241,800 has been received through this process.

**Outcomes**

The types of correctional services for which the fee is charged are:

- Probation
- Parole
- Supervised Release
- Challenge Incarceration Program Phases II and III (CIP)
- Intensive Supervised Release (ISR)

Table 2 illustrates the amount of supervision fees imposed and payments made during Fiscal Years 2005 and 2006. It is important to note that the fees imposed during any given year could be paid in a subsequent year due to the fact that offenders are allowed up to a year to pay the fee.

A significant amount of the fees imposed during one calendar year will be collected during the next calendar year.

When legislation was passed allowing the DOC to collect supervision fees, it was projected that \$720,000 would be collected each fiscal year after the first year of implementation. The initial projections assumed a 50 percent compliance rate with 12,000 adult offenders under active DOC supervision. This past fiscal year's fees were imposed on 14,702 offenders. The 50 percent compliance rate has been exceeded, but the original projection of 12,000 adult offenders did not take into consideration waivers or offenders not under active supervision. It remains difficult to project the compliance rate and number of offenders. If the DOC experiences continue, the compliance rate and overall dollars collected can be expected to increase over time.

**Table 2: Supervision Fees Imposed and Collected for Fiscal Years 2005 and 2006**

RELEASE TYPE	2005 FEES IMPOSED	2006 FEES IMPOSED
CIP	\$ 26,150	\$ 27,720
ISR	\$ 35,055	\$ 36,490
Parole	\$ 3,850	\$ 4,050
Probation	\$ 1,430,223	\$1,483,931
Sup. Release	\$ 81,750	\$ 136,480
Total	\$ 1,577,028	\$1,688,671
RELEASE TYPE	2005 FEES COLLECTED	2006 FEES COLLECTED
CIP	\$ 16,935	\$ 18,005
ISR	\$ 9,553	\$ 10,432
Parole	\$ 1,850	\$ 2,280
Probation	\$ 719,574	\$ 794,437
Sup. Release	\$ 34,731	\$ 47,100
Total	\$ 782,643	\$ 872,254
Disbursement 2006		
General Fund \$ 628,023 County \$ 244,231		

**Issues**

Initially there were a number of issues to overcome regarding the collection of supervision fees. Individual DOC field offices were not equipped to handle funds coming from offenders. The use of money orders to avoid the issues with handling cash became the method of collection. Even though this process is labor-intensive, the offices have integrated the process into their business practice.

Another initial concern was the amount of time the probation officer spent as a collection agent. This issue was twofold: time spent by agents managing the process, and the philosophical issues related to supervision fees. There is no question that the collection of supervision fees continues to take away from time that could be spent supervising offenders, but this is most likely unavoidable. The DOC will continue to explore ways to limit the probation officer's time spent in the pursuit and collection of supervision fees.