

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION

SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

2135

2001 SENATE JUDICIARY

SB 2135

2001 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2135

Senate Judiciary Committee

Conference Committee

Hearing Date January 17th, 2001

Tape Number	Side A	Side B	Meter #
1	X		27.1-end
		X	0..0-6.7
Committee Clerk Signature			

Minutes: SENATOR TRAYNOR opened the hearing on SB 2135: A BILL FOR AN ACT TO AMEND AND REENACT SECTION 12.1-32-07 AND SUBSECTION 15 OF SECTION 54-23.3-04 OF THE NORTH DAKOTA CENTURY CODE, RELATING TO PROBATION SUPERVISION COSTS AND FEES, POWERS AND DUTIES OF THE DIRECTOR OF THE DEPARTMENT OF CORRECTIONS AND REHABILITATION, AND CIVIL COLLECTION OF SUPERVISION COSTS AND FEES.

CHARLES PALECK, Program Manager Department of Corrections and Rehabilitation Field Services Division, presented testimony in favor of SB 2135. (testimony attached)

SENATOR WATNE bill won't change anything we already have?

KEN SORENSON , explains bill to the committee. (Meter # 27.7-34.4)

SENATOR LYSON is criminal judgement what we're looking at?

KEN SORENSON yes.

Page 2
Senate Judiciary Committee
Bill/Resolution Number SB 2135
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SENATOR TRENBEATH tell us the difference between supervision fees and correctional program fees.

CHARLES PLACEK supervision fees are found in criminal 12.1-32-07 and program fees are found in chapter 54-23 a authority of director of corrections.

SENATOR TRAYNOR what type of activity is correctional program?

CHARLES PLACEK presentence fees, testing, etc...

SENATOR TRENBEATH if passed would this give the department the authority and levie on property, sell property.

KEN SORENSON yes.

SENATOR TRAYNOR how does that differ from criminal process? Has it been effective in collecting?

CHARLES PLACEK yes. Allowed offenders to work off dept through community service.

SENATOR LYSON how many people commit to pay. What percentage of fee.

SENATOR BERCIER MOTIONED TO DO PASS, SECONDED BY SENATOR WATNE.

VOTE INDICATED 7 YEAS, 0 NAYS, AND 0 ABSENT AND NOT VOTING.

SENATOR BERCIER VOLUNTEERED TO CARRY THE BILL.

FISCAL NOTE
 Requested by Legislative Council
 12/26/2000

Bill/Resolution No.: SB 2135

Amendment to:

1A. **State fiscal effect:** *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	1999-2001 Biennium		2001-2003 Biennium		2003-2005 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues				\$13,826		\$15,208
Expenditures						
Appropriations						

1B. **County, city, and school district fiscal effect:** *Identify the fiscal effect on the appropriate political subdivision.*

1999-2001 Biennium			2001-2003 Biennium			2003-2005 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts

2. **Narrative:** *Identify the aspects of the measure which cause fiscal impact and include any comments relevant to your analysis.*

Enacting this legislation would allow the DOCR to civilly recover supervision and other correctional programming fees from criminal offenders who failed to pay in full these fees during the course of their supervision. Over the last two calendar years, 1999 - 2000, the Division referred to collection \$276,526. The Division's collection agency estimates a 10% recovery on these types of accounts. The collection agency fee for collecting second hand recovery accounts is 50%. I estimated a 10% increase in collections in the 2003 - 2005 biennium.

3. **State fiscal effect detail:** *For information shown under state fiscal effect in 1A, please:*

A. **Revenues:** *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

Since this legislation would not become law until the start of the 2001 - 2003 biennium, the Division would not see an increase in revenue during the current biennium. The "Other" revenue amounts are projected using the assumption stated in the narrative above.

B. **Expenditures:** *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

N/A

C. **Appropriations:** *Explain the appropriation amounts. Provide detail, when appropriate, of the effect on*

the biennial appropriation for each agency and fund affected and any amounts included in the executive budget. Indicate the relationship between the amounts shown for expenditures and appropriations.

These additional projected revenues would not affect the projected appropriation. All "Other" funds are included within the executive budget.

Name:	Elaine Little	Agency:	DOCR
Phone Number:	701-328-6390	Date Prepared:	01/05/2001

Date: 1/17/01
Roll Call Vote #: 1

2001 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2135

Senate Judiciary Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By S. Bercier Seconded By Watne

Senators	Yes	No	Senators	Yes	No
Traynor, J. Chairman	X		Bercier, D.	X	
Watne, D. Vice Chairman	X		Nelson, C.	X	
Dever, D.	X				
Lyson, S.	X				
Trenbeath, T.	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Bercier

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
January 17, 2001 1:06 p.m.

Module No: SR-07-1123
Carrier: Bercler
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

SB 2135: Judiciary Committee (Sen. Traynor, Chairman) recommends DO PASS
(7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2135 was placed on the
Eleventh order on the calendar.

2001 HOUSE JUDICIARY

SB 2135

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2135

House Judiciary Committee

Conference Committee

Hearing Date 03-05-01

Tape Number	Side A	Side B	Meter #
TAPE II	x		4705 to 5801
Committee Clerk Signature <i>Juan Diers</i>			

Minutes: Chairman DeKrey opened the hearing on SB 2135. Relating to probation supervision costs and fees, powers and duties of the director of the department of corrections and rehabilitation and civil collection of supervision costs and fees.

Patrick Bohn: Intensive Programs Coordinator for the North Dakota Parole, here in place of Charles Placek, who was unable to be here, (see attached testimony).

Rep Klemin: these fees, are we talking about ones where the court orders to pay certain fees.

Patrick Bohn: We are talking about supervision fees for probation. It used to be \$30.00 it is now \$36.00.

Rep Klemin: Is that the only kind of fee that it would apply to.

Patrick Bohn: Only supervision fees.

Rep Klemin: I am looking at section two, referring to unpaid supervision costs and fees imposed on the condition of parole. It seems broader than just supervision.

Patrick Bohn: Section 2 page 9.

Rep Klemin: It says supervision services, licenses and programs.

Patrick Bohn: That would be for other fees that we charge and gives an explanation.

Chairman DeKrey: Would that be like a violation of their probation. You could put them back in jail for this. Rather than doing this, just go to a civil action.

Patrick Bohn: That is correct.

Chairman DeKrey: This would have a possible fiscal note on it.

Patrick Bohn: Yes, the collections that we are talking about is about \$13,000.00 for this biennium and another \$15,000.00 in the next. Right now our current collection rate is sitting around 40%. Where as now we would have the ability to garnish wages, property those type of things. It puts more bite into the law.

Rep Delmore: Will this bill increase court cases.

Patrick Bohn: This is a small population for collections, it is more a course of action, more teeth.

Chairman DeKrey: Any questions, if not thank you for appearing before the committee, is there any other testimony either in support, against or neutral? If not we will close the hearing on SB 2135.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2135a

House Judiciary Committee

Conference Committee

Hearing Date 03-14-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		1613 to 1743
			5274 to 6233
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2135.

DISCUSSION

Chairman DeKrey: The people we need to talk are down in Appropriations so we will have to table this one and take it up later this afternoon.

Charles Placek: was called to the committee to clarify some points of the bill.

DISCUSSION

Chairman DeKrey: can you get together with Ken and get some amendments done for this bill.

We will take this bill up on Monday.

2001 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2135b

House Judiciary Committee

Conference Committee

Hearing Date 03-19-01

Tape Number	Side A	Side B	Meter #
TAPE I	x		01 to 395
Committee Clerk Signature <i>Joan Diers</i>			

Minutes: Chairman DeKrey called the committee to order on SB 2135.

Charles Placek: Department of Corrections, was at the meeting to explain Ken Sorenson's amendment to SB 2135.

Chairman DeKrey: Any questions for Mr Placek, if not thank you for appearing.

COMMITTEE ACTION

Rep Klemin moved the Sorenson amendments, seconded by rep Delmore.

DISCUSSION

A voice vote was taken on the amendments. Motion carries.

Chairman DeKrey: what are the wishes of the committee. Rep Delmore moved a DO PASS as amend, seconded by Rep Brekke. The clerk will call the roll on a DO PASS as amend motion on SB 2135. The motion passes with 14 YES, 0 NO and 1 ABSENT. Carrier Rep Brekke.

Date: 03-19-01
Roll Call Vote #: 1

2001 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB-2135

House JUDICIARY Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number 1823 2.0101 .0200

Action Taken Do Pass as amend

Motion Made By Rep Delmore Seconded By Rep Brekke

Representatives	Yes	No	Representatives	Yes	No
CHR - Duane DeKrey	✓				
VICE CHR -- Wm E Kretschmar	✓				
Rep Curtis E Brekke	✓				
Rep Lois Delmore	✓				
Rep Rachael Disrud	✓				
Rep Bruce Eckre	✓				
Rep April Fairfield					
Rep Bette Grande	✓				
Rep G. Jane Gunter	✓				
Rep Joyce Kingsbury	✓				
Rep Lawrence R. Klemin	✓				
Rep John Mahoney	✓				
Rep Andrew G Maragos	✓				
Rep Kenton Onstad	✓				
Rep Dwight Wrangham	✓				

Total (Yes) 14 No 0

Absent 1

Floor Assignment Rep Brekke

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE (410)
March 20, 2001 8:28 a.m.

Module No: HR-48-6084
Carrier: Brekke
Insert LC: 18232.0101 Title: .0200

REPORT OF STANDING COMMITTEE

SB 2135: Judiciary Committee (Rep. DeKrey, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends **DO PASS** (14 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). SB 2135 was placed on the Sixth order on the calendar.

Page 2, line 11, after the period insert "If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state."

Renumber accordingly

2001 TESTIMONY

SB 2135

SENATE JUDICIARY COMMITTEE
SENATOR JOHN T. TRAYNOR, CHAIRMAN
JANUARY 17, 2001

CHARLES R. PLACEK, PROGRAM MANAGER
DEPARTMENT OF CORRECTIONS AND REHABILITATION
FIELD SERVICES DIVISION
PRESENTING TESTIMONY RE: SB 2135

The 1993 Legislative session enacted legislation requiring the ordering and collection of supervision fees. It also provided authority to the Director of Corrections and Rehabilitation to order and collect correctional programming fees. Initially the Division felt it had the authority to collect both the supervision and correctional programming fees as any other civil obligation. Later through a civil Court action it was determined that supervision fees could only be collected through a criminal action, as it was a criminal fiscal liability. Correctional programming fees could be collected civilly. The Division's accounting system has not allowed us to determine the ending balance of each type of fee. Therefore the Division has attempted to collect these outstanding fees using a collection agency using only persuasion verses fully civilly executing on these accounts.

I would refer you to the attachment; NDPP Charge Credit Composite dated January 15, 2001. You will note that during the period January 1, 1993 through December 31, 2000 the Division referred \$884,245 to collection. Our collection agency estimates a 10% recovery rate on "second hand" referred accounts. The collection agency's collection rate to date has been between 2% and 3%.

In the fall of 2000, the collection agency utilized by the Division declined to accept any new accounts as they felt without the authority to civilly collect on our accounts the cost of attempting to persuade the offender to pay exceeded their agency fee. Therefore, the Division has been without an agency since the fall of 2000.

The Division does not feel it appropriate to return offenders who fail to completely pay their Court ordered supervision fees to Court under a criminal action for violation of a probation conditions only to increase possible commitments to the State Penitentiary for what would normally be a civil collection manner. The Division feels that providing for civil collection of assessed fees would allow the Courts of North Dakota to determine civilly the ability to pay and allow for normal collection of the civil judgment.

NORTH DAKOTA DEPARTMENT OF CORRECTIONS AND REHABILITATION

NDPP CHARGE CREDIT COMPOSITE

01/01/1993 THRU 12/31/2000

GENERATED FOR OFFICER: CHARLES PLACEK

GENERATION DATE: 01/15/2001

NDPP CHARGE CREDIT COMPOSITE

COMPILED DEBITS SECTION

DESCRIPTION	AMOUNT	OCCURANCE
11 Supervision Fee	\$5,684,694.34	2E+05
12 PSI Fee	\$129,307.50	2564
13 Electronic Monitoring Fee	\$211,451.55	906
14 Refund Overpayment	\$11,746.60	151
15 NSF Check	\$17,934.10	360
	\$6,055,194.09	SUBTOTAL: 194889

COMPILED CASH CREDITS SECTION

DESCRIPTION	AMOUNT	OCCURANCE
21 Cash Payment	\$3,239,789.41	73423
	TOTAL CASH CREDITS: \$3,239,789.41	SUBTOTAL: 73423

COMPILED NON-CASH CREDITS SECTION

DESCRIPTION	AMOUNT	OCCURANCE
31 Waiver of Total Payment	\$156,548.17	1969
32 Monthly Payment Reduced	\$42,843.20	654
33 Cr Com Ser in Lieu of Pmt	\$469,860.76	5747
34 Cr Incarc in Lieu of Pmt	\$275,741.00	2738
35 Cr Trtmnt in Lieu of Pmt	\$24,944.00	532
36 Cr Not in System when rec	\$25,473.00	474
37 Referred to Collection	\$884,246.99	3403
38 Non-Collectable Absconded	\$203,969.47	983
39 Out of State Waiver	\$146,740.50	1712
	TOTAL NON-CASH CREDITS: \$2,229,366.09	SUBTOTAL: 18212

TOTAL DEBITS MINUS CREDITS: \$586,038.59

TOTAL: 103254

MEMORANDUM

TO: Chairman DeKrey, Members of the House Judiciary Committee

FROM: Ken Sorenson, Assistant Attorney General

DATE: March 15, 2001

SUBJECT: Proposed Amendments to Senate Bill No. 2135

The purpose of Senate Bill No. 2135 is to provide the Department of Corrections and Rehabilitation civil enforcement authority over collection of supervision fees. In 1999, the Legislative Assembly amended N.D.C.C. § 12.1-32-07 to increase supervision fees from \$30.00 per month to \$36.00 per month. The legislation was structured to avoid an *ex post facto* claim (increasing the punishment for a crime after the crime was committed) by providing that for offenses committed before July 1, 1999, the supervision fee would remain at \$30.00 per month, and for offenses committed after June 30, 1999, the supervision fee would be \$36.00 per month. As a consequence, N.D.C.C. § 12.1-32-07 appears twice in the North Dakota Century Code, once for offenses committed prior to July 1, 1999, and then a second time for offenses committed after June 30, 1999.

Senate Bill No. 2135 as it is presently structured only provides civil enforcement authority for the collection of supervision fees for offenses committed after June 30, 1999, leaving enforcement authority for the collection of supervision fees for offenses committed before July 1, 1999 at the present status quo, namely only criminal enforcement through revocation of probation proceedings. The intention of the Department of Corrections and Rehabilitation was to have civil enforcement authority for offenses committed before July 1, 1999, as well as for offenses committed after June 30, 1999, which is now provided for on page 6, lines 3 through 8 of the current bill draft. This Committee has brought this discrepancy to the attention of the Department of Corrections and Rehabilitation.

Attached is a proposed amendment to Senate Bill No. 2135 that will provide civil enforcement authority for collection of supervision fees for offenses committed before July 1, 1999 and correct the discrepancy.

DOCR PROPOSED AMENDMENTS TO SENATE BILL NO. 2135

Page 2, line 11, after "hardship.", insert: "If the offender has not paid the full amount of supervision fees and costs before completion or termination of probation, the court may issue an order, after opportunity for hearing, to determine the amount of supervision fees and costs that are unpaid. The order may be filed, transcribed, and enforced by the department of corrections and rehabilitation in the same manner as civil judgments rendered by a district court of this state."

Renumber accordingly.