

HB 1417 House Appropriations Rep. Lawrence R. Klemin Feb.19, 2025

House Bill No. 1417, relating to parole and probation violations and court fees, is the second of the three bills for criminal justice reform.

HB 1417 is focused on two aspects of our criminal justice system: community supervision and indigent defense.

The bill includes the following proposals:

Community Supervision Consistency

ND's prison population is increasing while most state prison populations across the US are decreasing. Admissions to prison from community supervision violations have grown significantly over the years. From 2014 to 2023, admissions for probation violations **increased 65%, accounting for one-third of admissions in 2023**. Together, parole and probation violations comprised about 38% of admissions in 2014 and increased to 48% of all admissions in 2023.

To address this issue, HB 1417 proposes a more consistent approach for community supervision revocations. The bill does the following:

- Updates and adds definitions related to community supervision
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- Develops tiered sentencing recommendations, so the court and parole board consider graduated sanctions for supervision violations that are specifically for technical violations
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- Eliminates supervision fees, which are \$55 a month, to improve the opportunity for a successful transition into the community.

Tiered Sentencing Recommendations for Supervision Violations

The bill develops tiered sentencing recommendations, so the court and parole board can consider graduated sanctions for parole and probation violations that are specifically for technical violations.

Section 1 is related to violations of **parole** conditions, providing the parole board with guidance to order tiered sentencing for initial and subsequent revocations.

Section 4 is related to violations of **probation** conditions, providing the court with guidance to impose tiered sentencing for initial and subsequent revocations.

These sections say that a person, following a decision by the court or the parole board to revoke supervision due to a technical violation, may be subject to 15 days in jail for their first revocation, up to 30 days in jail for the second revocation, and up to 90 days for the third revocation. For the fourth violation the remaining sentence will be imposed.

Section 2 updates definitions.

Section 2 adds definitions for three terms used in supervision work that have not been defined in our state law: The terms are "absconded," "responsivity factors," and

"technical violation". It also modernizes the existing definition for "risk assessment." Many supervision revocations are due to technical violations and absconding.

Section 3 corrects a cross reference.

Supervision Fees

Section 4 eliminates the \$55 per month supervision fee. That would result in a decrease of \$1.5 million in revenue to DOCR over two years, and this is reflected in the DOCR budget in SB 2015. DOCR tries collect \$6 million in supervision fees every two years, but the collection rate is only about 25%, so only \$1.5 million is typically collected. DOCR has said it spends close to \$1 million administering the fees and trying to collect the fees.

Indigent Defense Best Practices

People have a constitutional right to a public defender when charged with a crime if they can't afford a lawyer. The North Dakota Commission on Legal Counsel for Indigents provides public defenders to eligible people.

The American Bar Association says that jurisdictions should not charge an application fee for public defense services, nor should persons who qualify for public defense services be required to contribute or reimburse defense services.

The ND Commission on Legal Counsel for Indigents supports these two best practices by eliminating the application fee and the ability for the court to recoup defense costs.

Sections 5 and 6 eliminate the ability for the court to request reimbursement of indigent defense costs. Recoupment is rare. In the 2021-23 biennium, the courts collected \$343,000, which was returned to the general fund. The fiscal note on this bill estimates a reduction of \$340,000 for the upcoming biennium.

Section 6 eliminates the \$35 application fee for someone to receive a public defender. This fee also generates minimal revenue. In the 2021-23 biennium, our Indigent Defense agency collected \$312,000 from application fees, which is deposited in the indigent defense administrative fund. The fiscal note on this bill estimates a reduction of \$310,000 for the upcoming biennium.

Study Other Fees

Section 7 proposes that Legislative Management further study other court fees. Other court fees could include travel permits, pre-sentence investigations, the treatment court program, electronic monitoring, alcohol monitoring and the 24x7 program.

Section 8 of the bill adds an appropriation of \$310,000 to the Commission on Legal Counsel for Indigents to replace the reduction in revenue due to the elimination of the application fee.

The goals of this bill are to ensure public safety while saving tax dollars, make the best use of our overcrowded prison and jails, and improve lives. This bill is supported by the Governor and numerous state agencies and other organizations.

FISCAL NOTE
HOUSE BILL NO. 1417
LC# 25.1150.02000
02/11/2025

1 - 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.

	2023-2025 Biennium		2025-2027 Biennium		2027-2029 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues			\$(340,000)	\$(1,810,000)	\$(340,000)	\$(1,810,000)
Expenditures			\$1,500,000	\$(1,500,000)	\$1,500,000	\$(1,500,000)
Appropriations			\$310,000			

2 - County, City, School District, and Township Fiscal Effect

Identify the fiscal effect on the appropriate political subdivision.

	2023-2025 Biennium	2025-2027 Biennium	2027-2029 Biennium
Counties			
Cities			
School Districts			
Townships			

3 - Bill and Fiscal Impact Summary

Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).

This bill removes the assessment of supervision fees, the indigent defense services application fee, and reimbursement of indigent costs and expenses.

4 - Fiscal Impact Sections Detail

Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.

DOCR: Page 8, section 4 removes \$55/month supervision fee charge. DOCR bills approximately \$6 million in supervision fees per biennium with a collection rate of around 25% or \$1,500,000. DOCR addressed the loss of special fund revenue of \$1.5 million by switching funding needs to general funds in SB 2015.

Courts: Section 5 removes the reimbursement of indigent defense costs and expenses resulting in a general fund

revenue reduction of \$340,000 per biennium. Section 6 removes the indigent defense application fee resulting in a \$310,000 per biennium reduction of revenues to the indigent defense administration fund. This fund is used for operations of the ND Commission on Legal Counsel for Indigents.

5 - Revenues Detail

For information shown under state fiscal effect in 1 or 2, please explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.

DOCR: Page 8, section 4 removes \$55/month supervision fee charge. DOCR bills approximately \$6 million in supervision fees per biennium with a collection rate of around 25% or \$1,500,000. DOCR proposed covering the loss of special fund revenue of \$1.5 million by switching funding needs to general funds in SB 2015.

Courts: Section 5 removes the reimbursement of indigent defense costs and expenses resulting in a general fund revenue reduction of \$340,000 per biennium. Section 6 removes the indigent defense application fee resulting in a \$310,000 per biennium reduction of revenues to the indigent defense administration fund. This fund is used for operations of the ND Commission on Legal Counsel for Indigents.

6 - Expenditures Detail

For information shown under state fiscal effect in 1 or 2, please explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.

DOCR: Adults under supervision face many financial obligations due to their offense, including fines, court fees and costs, and restitution. The client/Parole Officer relationship could be improved if the parole officer and other office staff didn't have to remind the clients of their supervision fees each meeting. Having to discuss the financial obligation takes time away from addressing more pertinent issues such as substance use recovery, improving family relationships, employment, and skill building. As well, clients on parole and probation face huge obstacles funding and keeping stable employment that meets their financial needs.

Supervision fees may be added to the violation allegations at a revocation hearing, but they do not play a part in the reason officers are filing for revocation. These balances are referred to collections. Our collection rate is around 25% for supervision fees.

Necessary resources for the implementation: DOCR will need general funds for the loss of special fund collection to continue to pay for transport officer salaries. This was proposed in SB 2015.

7 - Appropriations Detail

For information shown under state fiscal effect in 1 or 2, please explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation or a part of the appropriation is included in the executive budget or relates to a continuing appropriation.

DOCR will need general funds for the loss of special fund collections to continue to pay for transport officer salaries. This was proposed in SB 2015.

Engrossed HB 1417 provides a general fund appropriation of \$310,000 to the Commission on Legal Counsel for Indigents to replace the lost revenue from the removal of the indigent defense application fee.

Contact Information

Name: Don Wolf

Agency: ND Court System

Telephone: 7013283509

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