

HOUSE BILL NO. 4032

January 10, 2019, Introduced by Rep. Brann and referred to the Committee on Judiciary.

A bill to amend 1953 PA 232, entitled
"Corrections code of 1953,"
by amending sections 25a, 36a, and 85 (MCL 791.225a, 791.236a, and
791.285), sections 25a and 36a as amended by 2002 PA 502 and
section 85 as added by 2006 PA 172.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 25a. (1) The department shall collect supervision fees
2 ordered under section ~~13(2)~~ **(13)** of chapter II or section 1 or 3c
3 of chapter XI of the code of criminal procedure, 1927 PA 175, MCL



1 762.13, 771.1, and 771.3c. The department shall maintain records of
2 supervision fees ordered by the court, including records of payment
3 by persons subject to supervision fees and any amounts of
4 supervision fees past due and owing.

5 (2) A supervision fee is payable when the order of delayed
6 sentence or order of probation is entered, unless the court allows
7 a person who is subject to a supervision fee to pay the fee in
8 monthly installments.

9 (3) The department shall waive any applicable supervision fee
10 for a person who is transferred to another state under the
11 interstate compact entered into pursuant to 1935 PA 89, MCL 798.101
12 to 798.103, or the interstate compact entered into pursuant to **the**
13 **interstate compact for adult offender supervision**, 2002 PA 40, MCL
14 3.1011 to 3.1012, for the months during which he or she is in
15 another state. ~~The~~ **Except as provided in subsection (4) and subject**
16 **to subsection (8), the** department shall collect a supervision fee
17 of ~~not more than \$135.00~~ **\$30.00** per month for each month of
18 supervision in this state for an offender transferred to this state
19 under an interstate compact **who is being supervised without an**
20 **electronic monitoring device. If the offender is being supervised**
21 **under this subsection with an electronic monitoring device, the**
22 **department shall collect a supervision fee of \$60.00 per month. In**
23 ~~determining the amount of the fee, the department shall consider~~
24 ~~the offender's projected income and financial resources. The~~
25 ~~department shall use the following table of projected monthly~~
26 ~~income in determining the amount of the fee:~~

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$10.00

1	\$ 500.00-749.99	\$25.00
2	\$ 750.00-999.99	\$40.00
3	\$ 1,000.00 or more	5% of monthly income, but not
4		more than \$135.00

5 ~~The department may collect a higher amount than indicated by~~
6 ~~the table, up to the maximum of \$135.00 for each month of~~
7 ~~supervision in this state, if the department determines that the~~
8 ~~offender has sufficient assets or other financial resources to~~
9 ~~warrant the higher amount. If the department collects a higher~~
10 ~~amount, the amount and the reasons for collecting that amount shall~~
11 ~~be stated in the department records.~~

12 **(4) The department shall waive any applicable supervision fee**
13 **for a person who is transferred to another state under the**
14 **interstate compact entered into pursuant to 1935 PA 89, MCL 798.101**
15 **to 798.103, or the interstate compact entered into pursuant to the**
16 **interstate compact for adult offender supervision, 2002 PA 40, MCL**
17 **3.1011 to 3.1012, if the department determines that the offender is**
18 **indigent.**

19 (5) ~~(4)~~—If a person who is subject to a supervision fee is
20 also subject to any combination of fines, costs, restitution
21 orders, assessments, or payments arising out of the same criminal
22 proceeding, the allocation of money collected for those obligations
23 shall ~~must~~ be as otherwise provided in the code of criminal
24 procedure, 1927 PA 175, MCL 760.1 to 777.69.

25 (6) ~~(5)~~—Twenty percent of the money collected by the
26 department under this section shall ~~must~~ be allocated for
27 administrative costs incurred by the department in collecting
28 supervision fees and for enhanced services, as described in this
29 subsection. Enhanced services include, but are not limited to, the



1 purchase of services for offenders such as counseling, employment
2 training, employment placement, or education; public transportation
3 expenses related to training, counseling, or employment;
4 enhancement of staff performance through specialized training and
5 equipment purchase; and purchase of items for offender employment.
6 The department shall develop priorities for expending the money for
7 enhanced services in consultation with circuit judges in this
8 state. At the end of each fiscal year, the unexpended balance of
9 the money allocated for administrative costs and enhanced services
10 ~~shall~~ **must** be available for carryforward to be used for the
11 purposes described in this subsection in subsequent fiscal years.

12 (7) ~~(6)~~—If a person has not paid the full amount of a
13 supervision fee upon being discharged from probation, or upon
14 termination of the period of delayed sentence for a person subject
15 to delayed sentence, the department shall ~~review and compare the~~
16 ~~actual income of the person during the period of probation or~~
17 ~~delayed sentence with the income amount projected when the~~
18 ~~supervision fee was ordered. If the department determines that the~~
19 ~~person's actual income did not equal or exceed the projected~~
20 ~~income, the department shall waive any unpaid amount in excess of~~
21 ~~the total amount that the person would have been ordered to pay if~~
22 ~~the person's income had been accurately projected, unless the court~~
23 ~~order states that a higher amount was ordered due to available~~
24 ~~assets or other financial resources. Any unpaid amounts not waived~~
25 ~~by the department shall be reported~~ **report the unpaid balance** to
26 the department of treasury. The department of treasury shall
27 attempt to collect the unpaid balances pursuant to section 30a of
28 1941 PA 122, MCL 205.30a. Money collected under this subsection
29 ~~shall~~ **must** not be allocated for the purposes described in



1 subsection ~~(5)~~-(6).

2 (8) Beginning October 1, 2019 and each October 1 thereafter,
3 the state court administrative office shall determine the fee
4 amount for the fees required to be collected under subsection (3)
5 to ensure that the total funds collected by the department under
6 this section are not less than those collected under this section
7 in the fiscal year that immediately preceded the year that the
8 amendatory act that added this subsection becomes effective.

9 (9) The department shall not collect any fees for offenders
10 supervised under this section for electronic monitoring other than
11 the fees required to be collected under subsection (3).

12 (10) As used in this section, "electronic monitoring device"
13 includes any electronic device or instrument that is used to track
14 the location of an individual, enforce a curfew, or detect the
15 presence of alcohol.

16 Sec. 36a. (1) ~~The~~ Except as provided in subsection (6) and
17 subject to subsection (8), the parole board shall include in each
18 order of parole that the department ~~of corrections shall collect a~~
19 parole supervision fee of ~~not more than \$135.00~~ \$30.00 multiplied
20 by the number of months of parole ordered, but not more than 60
21 months if the individual is placed on parole supervision without an
22 electronic monitoring device. If the individual is placed on parole
23 supervision under this subsection with an electronic monitoring
24 device, the parole board shall include in each order of parole that
25 the department shall collect a parole supervision fee of \$60.00
26 multiplied by the number of months of parole ordered, but not more
27 than 60 months. The fee is payable when the parole order is
28 entered, but the fee may be paid in monthly installments if the
29 parole board approves installment payments for that parolee. ~~In~~



1 ~~determining the amount of the fee, the parole board shall consider~~
2 ~~the parolee's projected income and financial resources. The parole~~
3 ~~board shall use the following table of projected monthly income in~~
4 ~~determining the amount of the fee to be ordered:~~

<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
\$ 0-249.99	\$ 0.00
\$ 250.00-499.99	\$10.00
\$ 500.00-749.99	\$25.00
\$ 750.00-999.99	\$40.00
\$ 1,000.00 or more	5% of monthly income, but not more than \$135.00

12 ~~The parole board may order a higher amount than indicated by~~
13 ~~the table, up to the maximum of \$135.00 multiplied by the number of~~
14 ~~months of parole ordered but not more than 60 months, if the parole~~
15 ~~board determines that the parolee has sufficient assets or other~~
16 ~~financial resources to warrant the higher amount. If the parole~~
17 ~~board orders a higher amount, the amount and the reasons for~~
18 ~~ordering that amount shall be stated in the parole order.~~

19 (2) If a person who is subject to a supervision fee is also
20 subject to any combination of fines, costs, restitution,
21 assessments, or payments arising out of the same criminal
22 proceeding, the allocation of money collected for those obligations
23 shall **must** be as provided in section 22 of chapter XV of the code
24 of criminal procedure, 1927 PA 175, MCL 775.22.

25 (3) A person shall **must** not be subject to more than 1 parole
26 supervision fee at the same time. If a parole supervision fee is
27 ordered for a parolee for any month or months during which that
28 parolee already is subject to a parole supervision fee, the
29 department shall waive the fee having the shorter remaining

1 duration.

2 (4) The department shall waive the parole supervision fee for
3 a parolee who is transferred to another state under the interstate
4 compact entered into pursuant to 1935 PA 89, MCL 798.101 to
5 798.103, or the interstate compact entered into pursuant to **the**
6 **interstate compact for adult offender supervision**, 2002 PA 40, MCL
7 3.1011 to 3.1012, for the months during which he or she is in
8 another state. The department shall collect a parole supervision
9 fee of ~~not more than \$135.00~~ **\$30.00** per month for each month of
10 parole supervision in this state for an offender transferred to
11 this state under an interstate compact **if the offender is placed on**
12 **parole supervision without an electronic monitoring device. If the**
13 **offender is placed on parole supervision under this subsection with**
14 **an electronic monitoring device, the department of corrections**
15 **shall collect a parole supervision fee of \$60.00 per month for each**
16 **month of parole supervision in this state.** ~~In determining the~~
17 ~~amount of the fee, the department shall consider the parolee's~~
18 ~~projected income and financial resources. The department shall use~~
19 ~~the following table of projected monthly income in determining the~~
20 ~~amount of the fee:~~

21	<u>Projected Monthly Income</u>	<u>Amount of Fee</u>
22	\$ 0-249.99	\$ 0.00
23	\$ 250.00-499.99	\$10.00
24	\$ 500.00-749.99	\$25.00
25	\$ 750.00-999.99	\$40.00
26	\$ 1,000.00 or more	5% of monthly income, but not
27		more than \$135.00

28 ~~The department may collect a higher amount than indicated by~~
29 ~~the table, up to the maximum of \$135.00 for each month of parole~~



1 ~~supervision in this state, if the department determines that the~~
2 ~~parolee has sufficient assets or other financial resources to~~
3 ~~warrant the higher amount. If the department collects a higher~~
4 ~~amount, the amount and the reasons for collecting that amount shall~~
5 ~~be stated in the department records.~~

6 (5) Twenty percent of the money collected by the department
7 under this section ~~shall~~**must** be allocated for administrative costs
8 incurred by the department in collecting parole supervision fees
9 and for enhanced services, as described in this subsection.
10 Enhanced services include, but are not limited to, the purchase of
11 services for parolees such as counseling, employment training,
12 employment placement, or education; public transportation expenses
13 related to training, counseling, or employment; enhancement of
14 staff performance through specialized training and equipment
15 purchase; and purchase of items for parolee employment. At the end
16 of each fiscal year, the unexpended balance of the money allocated
17 for administrative costs and enhanced services ~~shall~~**must** be
18 available for carryforward to be used for the purposes described in
19 this subsection in subsequent fiscal years.

20 (6) **The department shall waive the supervision fee under**
21 **subsections (1) and (4) if the department determines that an**
22 **offender is indigent.**

23 (7) **The department shall not collect any fees for offenders**
24 **supervised under this section for electronic monitoring in excess**
25 **of the fees required to be collected under subsections (1) and (4).**

26 (8) **Beginning October 1, 2019 and each October 1 thereafter,**
27 **the department shall determine the fee amount for the fees required**
28 **to be collected under subsections (1) and (4) to ensure that the**
29 **total funds collected by the department under this section are not**



1 less than those collected under this section in the fiscal year
2 that immediately preceded the year that the amendatory act that
3 added this subsection becomes effective.

4 (9) ~~(6)~~—If a parolee has not paid the full amount of the
5 parole supervision fee upon being discharged from parole, the
6 department shall ~~review and compare the actual income of the person~~
7 ~~during the period of parole with the income amount projected when~~
8 ~~the parole supervision fee was ordered. If the department~~
9 ~~determines that the parolee's actual income did not equal or exceed~~
10 ~~the projected income, the department shall waive any unpaid amount~~
11 ~~in excess of the total amount that the parolee would have been~~
12 ~~ordered to pay if the parolee's income had been accurately~~
13 ~~projected, unless the parole order states that a higher amount was~~
14 ~~ordered due to available assets or other financial resources. Any~~
15 ~~unpaid amounts not waived by the department shall be reported~~
16 **report the unpaid amount** to the department of treasury. The
17 department of treasury shall attempt to collect the unpaid balances
18 pursuant to section 30a of 1941 PA 122, MCL 205.30a. Money
19 collected under this subsection ~~shall~~**must** not be allocated for the
20 purposes described in subsection (5).

21 (10) **As used in this section, "electronic monitoring device"**
22 **includes any electronic device or instrument that is used to track**
23 **the location of an individual, enforce a curfew, or detect the**
24 **presence of alcohol.**

25 Sec. 85. (1) The lifetime electronic monitoring program is
26 established in the department. The lifetime electronic monitoring
27 program ~~shall~~**must** implement a system of monitoring individuals
28 released from parole, prison, or both parole and prison who are
29 sentenced by the court to lifetime electronic monitoring. The

1 lifetime electronic monitoring program ~~shall~~**must** accomplish all of
2 the following:

3 (a) By electronic means, track the movement and location of
4 each individual from the time the individual is released on parole
5 or from prison until the time of the individual's death.

6 (b) Develop methods by which the individual's movement and
7 location may be determined, both in real time and recorded time,
8 and recorded information retrieved upon request by the court or a
9 law enforcement agency.

10 (2) ~~An~~**Subject to subsection (3), an** individual who is
11 sentenced to lifetime electronic monitoring shall wear or otherwise
12 carry an electronic monitoring device as determined by the
13 department under the lifetime electronic monitoring program in the
14 manner prescribed by that program and shall reimburse the
15 department or its agent ~~for the actual cost of electronically~~
16 ~~monitoring the individual.~~**as provided under section 36a while the**
17 **individual is still on parole, and at the rate of \$60.00 per month**
18 **after the individual is discharged from parole but is still subject**
19 **to electronic monitoring.**

20 (3) **Beginning October 1, 2019 and each October 1 thereafter,**
21 **the department shall determine the fee amount for the fees that**
22 **must be collected under subsection (2) to ensure that the total**
23 **funds collected by the department under this section are not less**
24 **than those collected under this section in the fiscal year that**
25 **immediately preceded the year that the amendatory act that added**
26 **this subsection becomes effective.**

27 (4) ~~(3)~~**As used in this section, "electronic monitoring" means**
28 **a device by which, through global positioning system satellite or**
29 **other means, an individual's movement and location are tracked and**



1 recorded.

2 Enacting section 1. This amendatory act takes effect 90 days
3 after the date it is enacted into law.

4 Enacting section 2. This amendatory act does not take effect
5 unless Senate Bill No.____ or House Bill No.____ (request no.
6 00161'19) of the 100th Legislature is enacted into law.

