

1 House BILL NO. 198
 2 INTRODUCED BY Chris Ahner
 3 BY REQUEST OF THE DEPARTMENT OF CORRECTIONS AND HUMAN SERVICES
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5 A BILL FOR AN ACT ENTITLED: "AN ACT REQUIRING CRIMINAL OFFENDERS TO PAY A FEE FOR THE
 6 PREPARATION OF A PRESENTENCE INVESTIGATION; SETTING THE MAXIMUM AMOUNT THAT A
 7 DISTRICT COURT CLERK MAY CHARGE FOR ADMINISTERING PROBATION AND PAROLE SUPERVISORY
 8 FEES AND PRESENTENCE INVESTIGATION FEES; AND AMENDING SECTIONS 46-18-111 AND
 9 46-23-1031, MCA."
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11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
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13 **Section 1.** Section 46-18-111, MCA, is amended to read:

14 ***46-18-111. Presentence investigation -- when required.** (1) Upon the acceptance of a plea or
 15 upon a verdict or finding of guilty to one or more felony offenses, the district court shall direct the probation
 16 officer to make a presentence investigation and report. The district court shall consider the presentence
 17 investigation report prior to sentencing.

18 (2) If the defendant was convicted of an offense under 45-5-502, 45-5-503, 45-5-504, 45-5-505,
 19 45-5-507, or 45-5-625 involving a victim who was less than 16 years of age when the offense was
 20 committed, the investigation must include an evaluation of the defendant and a recommendation as to
 21 treatment of the offender in the least restrictive environment, considering community safety and offender
 22 needs. The evaluation must be completed by a person who is determined to be qualified under guidelines
 23 established by the department of corrections and human services.

24 (3) All costs related to the evaluation must be paid by the defendant. If the defendant is
 25 determined by the district court to be indigent, all costs related to the evaluation are the responsibility of
 26 the district court and must be paid by the county or the state, or both, under Title 3, chapter 5, part 9.

27 ~~(2)~~(4) Unless the court makes a finding that a report is unnecessary, a defendant convicted of any
 28 offense not enumerated in subsection ~~(4)~~(2) that may result in incarceration for 1 year or more may not be
 29 sentenced before a written presentence investigation report by a probation officer is presented to and
 30 considered by the district court. The district court may, in its discretion, order a presentence investigation

1 for a defendant convicted of a misdemeanor.

2 (5) (a) The district court shall require the defendant to pay a fee of \$25 for costs incurred in
3 preparing the presentence investigation. The fee must be collected by the clerk of the district court.

4 (b) The district court may reduce or waive the fee if it determines that the payment would cause
5 the defendant a significant financial hardship.

6 (c) A district court clerk may deduct the administrative costs of collecting the fee from the total
7 fees collected pursuant to subsection (5)(a). The district court clerk shall deposit the remaining amount to
8 the credit of the county attorney for the purpose of a local crime victims assistance program.
9 Administrative costs may not exceed 20% of the total fees collected."

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11 **Section 2.** Section 46-23-1031, MCA, is amended to read:

12 **"46-23-1031. Supervisory fees -- account established.** (1) (a) Except as provided in subsection
13 (1)(b), a probationer or parolee shall pay a supervisory fee of \$120 a year, prorated at \$10 a month for the
14 number of months under supervision. The fee must be collected by the clerk of the district court with
15 jurisdiction during the probationer's or parolee's period of supervision under this part.

16 (b) The court or the board may reduce or waive the fee or suspend the monthly payment of the
17 fee if it determines that the payment would cause the probationer or parolee a significant financial hardship.

18 (2) (a) There is an account in the state special revenue fund for the fees collected under the
19 provisions of this section.

20 (b) ~~District A district court clerks shall~~ clerk may deduct the administrative costs of collecting the
21 fees from the total fees collected pursuant to subsection (1) ~~the administrative cost of collecting and~~
22 ~~accounting for the fees and.~~ The district court clerk shall deposit the remaining amount into the state
23 special revenue account established in subsection (2)(a). Administrative costs may not exceed 20% of the
24 total fees collected."

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-END-

STATE OF MONTANA - FISCAL NOTE

Fiscal Note for HB0198, as introduced

DESCRIPTION OF PROPOSED LEGISLATION:

An act requiring criminal offenders to pay a fee for the preparation of a presentence investigation; setting the maximum amount that a district court clerk may charge for administering probation and parole supervisory fees and presentence investigation fees.

ASSUMPTIONS:

1. Current caseload trends will continue
2. No projection made on future supervisory fees.
3. The Probation and Parole Bureau writes approximately 1500 presentencing investigation reports per year.
4. District courts shall require offenders to pay a fee of \$25 for costs incurred in preparing the presentence investigations.
5. Estimate that 25% of the offenders will be indigent.
6. District court clerks may deduct up to 20% of these fees for administration costs.
7. Assume most district court clerks are already deducting administrative costs of collecting the supervisory fees.

EFFECT ON COUNTY OR OTHER LOCAL REVENUES OR EXPENDITURES:

PRESENTENCE INVESTIGATIONS:

Judiciary

	<u>FY96</u>	<u>FY97</u>
Presentence investigations (11/93-11/94)	1458	1530
Estimated Assessment/Collection Factor	.70	.70
Estimated Revenue	25,515	26,775
Administrative Costs (20%)	<u>(5,103)</u>	<u>(5,355)</u>
Subtotal	20,412	21,420

Department of Corrections and Human Services

	<u>FY96</u>	<u>FY97</u>
Presentence investigations (11/93-11/94)	1500	1500
Estimated Assessment/Collection Factor	.75	.75
Estimated Revenue	28,125	28,125
Administrative Costs (20%)	<u>(5,625)</u>	<u>(5,625)</u>
Subtotal	22,500	22,500

Net Impact 43,912 43,920

Dave Lewis 1-21-95
 DAVE LEWIS, BUDGET DIRECTOR DATE
 Office of Budget and Program Planning

Chris Ahner 1-23-95
 CHRIS AHNER, PRIMARY SPONSOR DATE
 Fiscal Note for HB0198, as introduced

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