

**FINAL REPORT
OF THE
PROBATION SERVICES
STUDY COMMITTEE**



**Indiana Legislative Services Agency
200 W. Washington St., Suite 301
Indianapolis, Indiana 46204-2789**

November, 2000

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FINAL REPORT

Probation Services Study Committee

I. STATUTORY DIRECTIVE

The Probation Services Study Committee was created and provided its study assignments by Public Law 131-1998, as follows:

The Committee shall study, review and make recommendations concerning the following: (1) The mission of probation services. (2) Duties, roles and responsibilities of probation officers. (3) Organizational changes considered necessary. (4) Improvements to salary schedules and benefits available. (5) Training standards. (6) Caseload and case classification standards. (7) Methods and levels of funding (8) Other topics assigned by the Indiana Legislative Council or the Committee Chairman.

II. INTRODUCTION AND REASONS FOR STUDY

The Committee was directed to study probation services because of the integral role probation plays in law enforcement and correctional processes and its essential role in ensuring safety in Indiana communities. The Committee has three years in which to complete its work and to issue annual reports stating findings, conclusions, and recommendations. The Committee's work must be completed by November 1, 2000.

The Committee is served by 20 members with diverse perspectives on probation issues. The Committee is comprised of: (1) legislative members, including two senators and two representatives; (2) two judges, one who exercises criminal jurisdiction and one who exercises juvenile jurisdiction; (3) three individuals who hold a public office as a county clerk, auditor, commissioner, or councillor; (4) a representative of the Judicial Conference of Indiana; (5) a representative of the Department of Correction (DOC); (6) a representative of the Indiana Prosecuting Attorney's Council; (7) a county sheriff; (8) a county prosecutor; (9) four probation officers; (10) a municipal police chief; and (11) a community corrections program director.

III. SUMMARY OF WORK PROGRAM

The Committee met five times in the final interim of its three year study process.

At its first meeting held on August 10, 2000, the Committee discussed a plan of action for its course of study.

At its second meeting, held on September 7, 2000, the Committee heard testimony concerning juvenile parole violators, caseload and workload measures, and safety concerns of probation officers.

At its third meeting on September 28, 2000, the Committee discussed issues relating to probation user fees for both adult and juvenile offenders and probation officer salaries.

At its fourth meeting on October 10, 2000, the Committee discussed, again, the issues of probation user fees and probation officers salaries.

At the final meeting, on October 24, 2000, the Committee reviewed the results of a survey of the members prepared by the Legislative Services Agency and made final recommendations to the General Assembly and the Judicial Conference.

IV. SUMMARY OF TESTIMONY

During the 2000 interim, the Committee examined the following issues:

Juvenile Parole Violators:

Ron Leffler, Director of Juvenile Transition Programs for the Department of Correction (DOC) provided testimony to the Committee members. During FY 1999, 259 juvenile parole violators stayed in detention for 328 days before the Department of Correction personnel returned them to DOC facilities. The members discussed the problem of housing these juveniles in counties with limited juvenile detention facilities.

Caseload and Workload Measures:

Jeff Bercovitz, Katherine Hurd-Holtzleiter, Chief Probation Officer for Madison County, and Judge David Matsey, Starke Circuit Court, discussed different aspects of the probation workload measurement system. Ms. Hurd-Holtzleiter used the workload analysis results to find that her department had an adequate number of staff and was able to reassign responsibilities. Judge Matsey used the workload analysis to justify funding for additional probation officers from his county council.

Probation Officer Safety Issues:

The Committee members discussed the arguments for and against issuing firearms to probation officers. At issue was whether probation officers would receive adequate training and whether the local governments could incur liabilities.

Probation Officer Salaries:

Several persons testified that probation officers often leave their positions after four years for higher salaried positions. Better paying salaries are available at the federal level, in other states, and in outlying suburban areas. In addition, schools often compete for probation officers too, because probation officers are required to have a four year college degree. To address the issue of low salaries, the Judicial Conference has developed a salary schedule for probation officers intended to be the minimum that the counties would pay. Persons testifying indicated that the counties generally comply with the schedule but tend to use the schedule as the maximum amount that probation officers should be paid.

Higher Education Benefits for Spouses and Children of Probation Officers Killed in the Line of Duty:

Members of both the Committee and the audience noted that they knew of only one death of a probation officer killed in the line of duty. This officer had a wife and two surviving children. It was decided that specific legislation was needed to provide the tuition exemption for his children and any surviving child of an officer killed in the line of duty because administrators at state universities did not believe that specific authorization existed in current law to allow them to exempt these

children from tuition.

Probation User Fees

Probation user fees recover a portion of the costs of probation services provided by the counties. The average expenditure per probationer has increased by 19% between 1990 and 1998 from \$256 to \$306. The average revenue collected from user fees has increased from \$64 in 1990 to \$80 in 1998 leaving \$226 in excess expenditures that the counties need to spend out of general funds for offenders on probation. Members of the Committee and advocates for probation officers proposed several changes to statute to increase the potential revenue that could be collected from probation user fees.

V. COMMITTEE FINDINGS AND RECOMMENDATIONS

The Committee made the following findings of fact:

1. Concerning safety issues, the Committee finds that in certain situations, probation officers are justified in carrying weapons. However, probation officers need to have adequate training and the decision for probation officers to carry weapons should be made at the local level.

The Committee recommends legislation to allow probation officers to carry weapons under certain circumstances if authorized by the court.

2. Concerning probation officer salaries, the Committee recognizes that the counties pay for the costs of the probation officer salaries and that under current law, the Board of the Judicial Conference issues the minimum salary schedule that the counties follow.

Because of this arrangement, the following recommendations are suggested:

The Committee recommends legislation which has the following provisions:

- It would allow a court having probation jurisdiction to apply to the Judicial Conference of Indiana for state financial assistance to be used for probation officer salaries and benefits.
- It would apply only to courts administering probation that meet or exceed all of the minimum standards adopted by the judicial conference of Indiana.
- It would limit the financial assistance for probation officer salaries to 50% of the minimum cost of salaries for not more than the number of probation officers required by the minimum standards adopted by the conference.
- It would eliminate the requirement that the Budget Committee approve the salaries and benefits. It allows counties to appropriate funds for probation positions and services.
- It would allow a county fiscal body to make temporary loans to a court for the payment of probation officer salaries and benefits in anticipation of and not in excess of any amount of financial aid that has been approved by the judicial conference of Indiana for the probation officer salaries and benefits.

- It would specify certain mandatory provisions with respect to the loans.

If this recommended legislation is signed into law, the Committee recommends to the Judicial Conference that it:

- increase the starting salaries of probation officers by \$7,500; and
- extend longevity increases to the probation officers past the current five years.

The Committee approved these recommendations to both the General Assembly and the Judicial Conference on a majority vote.

3. Concerning user fees, the Committee makes the following findings:

- Probation user fees are determined by statute and the statute governing user fees has not changed since 1983.
- No minimum initial user fee for misdemeanants exists.
- Current law is silent on whether probation departments may petition the court to impose or increase user fees when a change occurs in the financial ability of a probationer.
- Current law is silent on whether probation user fees that remain unpaid at the end of a person's term of probation may be recovered in the same manner as unpaid restitution - by reducing the unpaid amount to a judgment. Courts are currently permitted to recover unpaid restitution in this manner.
- Indiana receives probationers from other states for supervision purposes. Current law is unclear on whether courts may charge these probationers at the rate charged in the states from where they were transferred, if these rate are higher than Indiana's.
- Current law is silent about whether courts may issue wage garnishments to recover unpaid probation user fees.
- Current law does not require offenders to pay in full all unpaid probation user fees in order to have a suspended driver's license reinstated.
- Collections specialists increase efficiency of collections and assume the collections burden from officers so that the officers have more time for supervision.
- Under IC 35-38-2-1, a person placed on probation for more than one crime may not be required to pay for more than one initial probation user fee or one monthly probation user fee. Such offenders may be able to pay additional fees.
- Current law is silent on whether adult and juvenile probationers are be able to pay probation user fees in advance without approval of the court or the probation department. In some instances, offenders have paid the entire user fee in advance and successfully complete the conditions of probation early, they petition the court for a refund for the period of time that they paid but are no longer on probation.

- Payment of probation user fees for offenders who are on probation but are not reporting to a probation officer is a question that is unresolved in Allen County.

The Committee made the following recommendations to the General Assembly:

Probation user fees should be increased according to the following schedule:

Adult Felons	Current Fees	Recommended
minimum initial	\$25	\$100
maximum initial	\$100	\$200
minimum monthly	\$5	\$15
maximum monthly	\$15	\$30
Adult Misdemeanants		
minimum initial	none	\$50
maximum initial	\$50	\$100
minimum monthly	none	\$10
maximum monthly	\$10	\$20
Juveniles		
minimum initial	\$25	\$25 (no change)
maximum initial	\$100	\$100 (no change)
minimum monthly	\$5	\$10
maximum monthly	\$15	\$25

The following changes should be made to the statute:

- Probation departments should be permitted to petition the court to impose or increase user fees when a change occurs in the financial ability of a probationer.
- Courts should be permitted to recover unpaid probation user fees at the end of a person's term of probation by reducing the unpaid amount to a judgment.
- Courts should be permitted to charge probationers that are transferred to Indiana for supervision the same rate as the states from which they are transferred, if those rates are higher than Indiana's.
- Courts should be permitted to issue wage garnishments to recover collect user fees.
- An offender who already has a license suspended should be required to pay in full all unpaid probation user fees (as well as all other conditions specified in IC 9-25-6) to have a suspended license reinstated.
- Courts should be permitted to assess additional fees for persons placed on probation for more than one crime.

- Adult and juvenile probationers should be able to pay probation user fees in advance without approval of the court or the probation department once the offender is on probation
- When the clerk of the circuit court collects probation user fees, the clerk's office should be authorized to retain not more than 6% of probation user fees for recovering a portion of the collections costs for the office.

The Committee recommended the increase in probation user fees and changes in administration by a majority vote.

The Committee also recommends to the Probation Committee of the Judicial Conference of Indiana that the court should be required to impose a probation user fee for any suspended sentence regardless of the level of service performed by the probation office. The Committee made this recommendation on a majority vote.

4. Concerning Benefits for Spouses and Children of Probation Officers Killed in the Line of Duty, the Committee finds that SB 76 - 2000 retroactively expands the law to provide that survivors of a probation officer who dies in the line of duty are entitled to receive certain death benefits. However, spouses and children of these officers do not qualify for tuition to public universities to be waived to provide the tuition exemption for their spouses and any surviving child of an officer killed in the line of duty because administrators at state universities did not believe that specific authorization existed in current law to allow them to exempt these children from tuition.

The Committee recommends that the spouses and children of probation officers killed in the line of duty be entitled to the same tuition exemption that the surviving spouses and children of other law enforcement officers are currently entitled under IC 20-12-19.5.

5. Concerning Juvenile Parole Violators, the committee finds that counties, particularly those with limited facilities for retaining juvenile offenders, often experience difficulty in finding appropriate places to house juveniles until they are taken by the Department of Correction.

- During the past fiscal year, 259 juvenile parole violators stayed in detention for 328 days before the Department of Correction personnel returned them to DOC facilities.
- The average number of days per district ranged from less than one day to 4.4 days.
- Intake at DOC's juvenile facilities is limited to one day per week. Consequently, a delay of sometimes a week can occur before juveniles are transported back to DOC facilities once the court has entered an adjudication.
- This is particularly a problem for counties that have no juvenile facilities and contract with other counties and entities for juvenile beds.

The Committee made no recommendations about this issue.

The Committee approved this final report by a unanimous vote.

WITNESS LIST

Ron Leffler, Director of Juvenile Transition Programs for the Department of Correction (DOC)
Jeffrey Bercovitz, Director of Juvenile and Family Law, for the Indiana Judicial Center
Katherine Hurd-Holtzleiter, Chief Probation Officer for Madison County
Eric Zimmerman, President of the Probation Officers Professional Association of Indiana
Robert Bingham, Chief Probation Officer of Marion County
Rodney Fetcher, Chief Probation Officer of Posey County
Wayne Shafter, Chief Probation Officer, Madison County
Karen Palmer, Juvenile Probation Officer for St. Joseph County
Todd McCormick, Hendricks County Probation Officer