

Report of the Subcommittee on Offender Reimbursement for
Assessment and Treatment Pursuant to 2003 SB 123 to the 2010
House Committee on Corrections and Juvenile Justice

CHAIRPERSON: Representative Bob Bethell

OTHER MEMBERS: Representative Janice Pauls and Representative Bob Brookens

STUDY TOPIC

- Study information which updates the Subcommittee on the progress of the collection of offender reimbursement for assessment and treatment pursuant to what is commonly known as 2003 SB 123 (SB 123).

Subcommittee on Offender Reimbursement for Assessment and Treatment

Pursuant to 2003 SB 123

CONCLUSIONS AND RECOMMENDATIONS: An updated report of this Subcommittee is sufficient to provide comparative information to the parties interested in the progress of collection of SB 123 fees from offenders.

The Subcommittee would like the Sentencing Commission to consider further action that would increase reimbursements, including, but not limited to:

- Continue to educate partners regarding reimbursement orders and collections;
- Request correction of journal entries of sentencing where the reimbursement is ordered, but was not journalized;
- Increase orders and collections overall, but especially in those districts where there is little or no reimbursement activity taking place; and
- Try to find a way to put SB 123 reimbursement a little higher in priority, perhaps with a percentage split such as including treatment reimbursement as part of the docket fee disbursement.

Finally, the Subcommittee would like another update on the progress of the collection of offender reimbursement in January 2011.

Proposed Legislation: None.

BACKGROUND

In the 2009 Legislative Session, a Subcommittee was formed at the initiative of Representative Pat Colloton, Chairperson of the House Committee on Corrections and Juvenile Justice to study the issue of offender reimbursement of 2003 SB 123, commonly known as SB 123, fees. SB 123 provides a sentencing alternative for an offender convicted of a first or second drug possession. The offender could be sentenced to Community Corrections intensive supervision and be required to successfully complete a certified drug treatment program in lieu of being sentenced to a state correctional facility. SB 123 promotes the policy of reserving correctional facility capacity for more serious, violent offenders. The Subcommittee consisted of Representative Bob Bethell, Chairperson; Representative Nile Dillmore, and Representative Bob Brookens.

The 2009 Subcommittee found that current law adequately addressed reimbursement so additional

legislation was not necessary. However, the Subcommittee recommended a flat fee of a minimum of \$300 be assessed by the court at sentencing, with Community Corrections requesting modification based upon the offender's ability to pay; the court is required to collect the fee and send it to the Kansas Sentencing Commission (KSC); the probation not be extended if fees are still outstanding at the end of the probation term; the outstanding fees are turned over to a collection agency; and the collection of insurance does not waive collection of the \$300 flat fee.

In the 2010 Legislative Session, the Subcommittee was reauthorized by Representative Pat Colloton, Chairperson of the House Committee on Corrections and Juvenile Justice, to receive information updating the Subcommittee on the progress of the collection of offender reimbursement for assessment and treatment pursuant to SB 123 since February 2009 when the recommendation to assess a minimum \$300 flat fee was made.

COMMITTEE ACTIVITIES

The Subcommittee met on January 27 and March 18, 2010. Items discussed by the 2010 Subcommittee relating to its charge by the Chairperson are reviewed in the following material, along with the Subcommittee's conclusions and recommendations to the House Committee on Corrections and Juvenile Justice.

January 27, 2010

Helen Pedigo, Executive Director of the Kansas Sentencing Commission, updated the Subcommittee on the collections of treatment fees from 2003 SB 123 offenders. In the 2009 Legislative Session, a Subcommittee studied this issue. That Subcommittee found that current law adequately addressed reimbursement so additional legislation was not necessary. However, the Subcommittee recommended a flat fee of a minimum of \$300 be assessed by the court at sentencing, with Community Corrections requesting modification based upon the offender's ability to pay; the court is required to collect the fee and send it to the KSC; the probation not be extended if fees are still outstanding at the end of the probation term; the outstanding fees are turned over to a collection agency; and the collection of insurance does not waive collection of the \$300 flat fee.

Ms. Pedigo indicated that most districts are sending money in but that the money from the collection of the treatment reimbursement was not coming in as was hoped. She indicated that one explanation was that the journal entry was just changed in July to include the flat fee recommended by the Subcommittee. Additionally, the KSC did not place the information that a flat fee of \$300 would be required on the presentence investigation report but will be adding it in the near future. Finally, Ms. Pedigo indicated that another hurdle may be supervision officers do not see collection of fees as their main priority.

Representative Pauls stated that it is a possibility to subject the receipt of SB 123 money to a collection of reimbursement by a certain percentage. The Subcommittee agreed to study the matter further at a later time.

March 18, 2010

The Subcommittee received testimony from Helen Pedigo, Executive Director of the Kansas Sentencing Commission; Jay Holmes, Administrator of the Sedgwick County Department of Corrections; Sharon Brown, Director of Field Services of the Johnson County Department of Corrections; and Keith Clark, Director of Community Corrections, 4th Judicial District.

Ms. Pedigo reiterated her testimony from the January meeting of the Subcommittee. She provided the Subcommittee with a chart showing offender reimbursement collected by Community Corrections Agencies from the time of 2003 SB 123's inception through February 23, 2010. Ms. Pedigo also provided the Subcommittee with a copy of the letter notifying all judges of the district court of the 2009 Subcommittee's recommendations, a copy of the updated Kansas Sentencing Guidelines Journal Entry of Judgment, which specifically provides for SB 123 Offender Reimbursement of at least \$300, a copy of the E-Newsletter of the KSC notifying recipients of the newsletter of the 2009 Subcommittee's recommendations, and a copy of the updated Presentence Investigation Report, which specifically provides the officer the option of requesting a condition of probation be SB 123 Offender Reimbursement of at least \$300. (Attachment 1).

Mr. Holmes provided the Subcommittee with information that SB 123 was intended to reduce the prison population, increase treatment availability across the state, and to foster a collaborative atmosphere between correctional supervision and drug treatment providers. (Attachment 2). He stated this collaboration enables joint decision making regarding offenders' treatment and supervision. As a result, Sedgwick County can claim the successful closure type for this population in CY08 was 67 percent.

Mr. Holmes testified that the typical client incurs an average debt of more than \$1,600.00 in associated court costs, attorneys' fees, drug treatment, and forensic science center fees with every case. This cost, combined with an offender unemployment rate in Sedgwick County of 29 percent, makes it especially difficult for offenders to meet their financial obligations.

Mr. Holmes further testified that in CY09, SB 123 offenders from Sedgwick County reimbursed the State \$8,472.00 in SB 123 drug treatment fees. Since the inception of the SB 123 program in 2003, offenders from Sedgwick County have reimbursed the State

\$42,558.00.

Ms. Brown testified that Johnson County was one of the Community Corrections programs that the 2009 Subcommittee learned were not collecting SB 123 fees from the offenders in the program. After reviewing the letter sent by the Kansas Sentencing Commission on May 4, 2009 regarding the 2009 Subcommittee's recommendations, the 10th Judicial District decided to order SB 123 fees be paid through the Johnson County Clerk of the District Court so that payments could be monitored closely. She stated the Kansas Sentencing Commission has received reimbursement of SB 123 fees from Johnson County totaling \$1,964.00 for the time period November 2003 through February 2010.

Ms. Brown indicated that the amount may not seem significant but one must consider that offenders were only court ordered to begin making payments in July 2009. Additionally, court costs, attorney fees, fines, and restitution are payable prior to the payment of SB 123 fees. (Attachment 3).

Mr. Clark advised that he has met with the judges in his judicial district about the fee set by the Subcommittee at a minimum of \$300.00. It was agreed that the fee would be collected by Community Corrections pursuant to developed policies and procedures and then the fees would be forwarded to the KSC. Mr. Clark advised that judges have been better at ordering the SB 123 fee since the new presentence investigation form was created. He believes the collection of the fees will increase. Mr. Clark did not provide written testimony to the Subcommittee.

Representative Pauls reiterated her suggestion regarding the possibility of subjecting the receipt of SB 123 money to a collection of reimbursement by a certain percentage.

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CONCLUSIONS AND RECOMMENDATIONS

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