

**CHAPTER 68. COUNTY OFFENDER SUPERVISION
FEE PROGRAM**

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Authority

The provisions of this Chapter 68 issued under sections 477.20 and 506 of The Administrative Code of 1929 (71 P. S. §§ 180-7.20 and 186), unless otherwise noted.

Source

The provisions of this Chapter 68 adopted September 17, 1993, effective September 18, 1993, 23 Pa.B. 4392, unless otherwise noted.

GENERAL

§ 68.1. Scope.

This chapter applies to the following:

- (1) Offenders placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment under the jurisdiction of a county within this Commonwealth.
- (2) Counties having jurisdiction over offenders.

§ 68.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Benefit—A financial contribution other than salary which is for the improvement of the employe—for example, health insurance premium payment and retirement contribution.

Board—The Board of Probation and Parole.

County Offender Supervision Fund—oneys administered by the county consisting of that 50% of the supervision fees retained by the county.

Defer—To temporarily postpone payment of the supervision fee, but not to waive or reduce the payment.

Dependent—A person legally eligible to be listed as an exemption for Federal income tax purposes.

Fiscal year—An account period of 12 months beginning July 1 and ending June 30.

Inability to pay—A present set of circumstances rendering an offender incapable of tendering the supervision fee.

Income—oneys derived from all sources, exclusive of Social Security and public assistance, which a client utilizes for self or familial support.

Offender—An adult individual placed on probation, parole, accelerated rehabilitative disposition, probation without verdict or intermediate punishment under the jurisdiction of a county probation department within this Commonwealth.

Personnel—The professional, clerical and support staff employed by a county adult probation department.

Program—A County Offender Supervision Fee Program.

Reduce—To lessen the amount of fee mandated by the Court.

Supervision—The services, including administration, provided offenders within the scope of this chapter.

Supervision fee—An amount of at least \$25 which is specified to be paid to the Court, unless reduced.

Waive—To dispense with the condition, which requires offenders to pay the supervision fee either permanently or temporarily.

ADMINISTRATION OF PROGRAM**§ 68.21. Imposition of condition.**

The sentencing judge of the court of common pleas shall impose upon an offender, as a condition of supervision, a monthly supervision fee unless the court or a supervising agency designated by the court determines that it should be reduced, waived or deferred based upon one or more of the following criteria:

- (1) The offender is 62 years of age or older with no income.

- (2) The offender is receiving public assistance.
- (3) The offender is enrolled as a full-time student for 12 semester credit hours in an educational organization approved by the United States Department of Education.
- (4) The offender is incarcerated.
- (5) The offender is not employable due to a disability, as determined by an examination acceptable to or ordered by the court.
- (6) The offender is responsible for the support of dependents and the payment of a supervision fee constitutes an undue hardship on the offender.
- (7) The client is participating in an inpatient treatment program.
- (8) Other extenuating circumstances as determined by the court or a supervising agency designated by the court.

§ 68.22. Program implementation.

(a) The president judge of the court of common pleas shall appoint an appropriate person to implement the Program. The designated official shall develop policies and procedures which clearly communicate the importance of fee collection and monitoring of payments to managers, supervisors and probation officers. These policies and procedures shall include the following:

(1) *County sentenced supervision.* If an offender is placed under supervision of the county in which the offender was sentenced, that offender shall be required to pay a monthly supervision fee to that county unless this requirement is waived or deferred by the court or its supervising agency.

(2) *Intercounty supervision.* If an offender is transferred from one county to another county in this Commonwealth, the monthly supervision fee shall be paid to the receiving county if the offender has the ability to pay as determined by the supervising agency.

(3) *Interstate supervision.* If an offender is transferred through the Interstate Compact from a county in this Commonwealth to another state, the offender is no longer required to pay a supervision fee to the sending county in this Commonwealth. The transferred offender shall comply with the conditions of supervision of the receiving state, including a supervision fee, if applicable. An offender received for supervision from another state through the Interstate Compact is required to pay a monthly supervision fee unless this requirement is waived or deferred by the supervising agency.

(4) *Cooperative supervision.* If an offender is under the supervision of the Board and a county adult probation/parole agency, the agency actively supervising the offender shall receive the monthly supervision fee. If both agencies are providing active supervision, supervision fees shall be paid to only one agency and the Board's District Director for that area shall confer with the county chief adult probation officer to resolve the issue based upon the following criteria:

- (i) The agency supervising the sentence with the latest maximum term expiration date.
- (ii) The availability of specialized programs.
- (b) Probation/parole administrators, in concert with the court, shall adopt classification systems and case management standards which assure that offenders who pay a supervision fee on a regular basis are not kept on supervision longer than necessary.
- (c) The president judge of the court of common pleas shall establish the priority of court ordered payments, including supervision fees.
- (d) The agency responsible for implementation of the Program shall inform the offender of the following:
 - (1) The offender's obligation and responsibility to pay the supervision fee as ordered and according to the payment schedule as determined by the supervising or collecting agency, or both.
 - (2) The offender's responsibility to initiate a request for the fee to be reduced, waived or deferred based on the offender's inability to pay the fee.
 - (3) The range of sanctions available to the supervising agency and the court in the event the offender fails to pay the supervision fee as ordered.
- (e) The agency administrator or a designee, responsible for implementation of the Program, shall monitor Program operation through inspections and reviews at least annually to determine compliance with policies and procedures.
- (f) On or before August 31 of each year, the president judge of the court of common pleas shall provide the Board with an annual statement which fully reflects collections deposited into and expenditures from the County Offender Supervision Fund for the preceding fiscal year.

ADMINISTRATION OF COUNTY FUNDS

§ 68.51. Collecting entity.

- (a) The president judge of the court of common pleas and the board of county commissioners/county executive shall designate an appropriate county agency to be responsible for collection of supervision fees. Payments shall be in the form acceptable to the collecting agency.
- (b) The administrator of the collecting agency is responsible for the collection, safeguarding and disbursement of supervision fees in accordance with court order. Generally accepted accounting principles shall provide for accurate and timely receipt of funds, expenditures made from the funds and unexpended balances.
- (c) The collecting agency shall deposit, at least monthly, 50% of the fees collected into the County Offender Supervision Fund. The remaining 50% shall be deposited with the county clerk of courts for transmittal to the Board through the Department of Revenue.

§ 68.52. County treasurer/chief financial officer.

(a) The county treasurer/chief financial officer of each county shall establish and administer a county offender supervision fund.

(b) The county treasurer/chief financial officer shall disperse moneys from this fund only at the discretion of the president judge of the court of common pleas. The moneys in this fund shall be used to pay the salaries and employe benefits of adult probation and parole personnel employed by the county adult probation and parole departments and the operational expenses of the department. Moneys from this fund shall be used to supplement Federal, State or county appropriations for the county adult probation and parole department. Moneys remaining in the County Supervision Fee Fund will not lapse at the end of the county's fiscal year but will be rolled over to the next fiscal year.

§ 68.53. County clerk of courts.

The county clerk of courts shall on a monthly basis transfer 50% of the supervision fees collected by that county to the Board through the Department of Revenue on forms at times as directed by the Department of Revenue.

Cross References

This section cited in 37 Pa. Code § 68.73 (relating to disbursement of funds by the Board).

§ 68.54. Audits.

(a) Fiscal records for the receipt and expenditure of County Offender Supervision Funds shall be maintained. Generally accepted accounting principles shall provide for accurate and timely receipt of funds, expenditures made from the funds and unexpended balances.

(b) Independent audits shall be conducted, by or on behalf of, county or state officials at least annually to determine the county's compliance to statutes, court orders, policies and procedures.

DISBURSEMENT OF COUNTY FUNDS**§ 68.71. Conditions.**

The treasurer/chief financial officer shall establish procedures which provide for accurate and timely recording of receipt of funds, expenditures made from the funds, transfer of funds and unexpended balances as necessary to administer this Program.

§ 68.72. Use of County Offender Supervision Funds.

Each county shall develop and implement a system by which funds are distributed. Moneys in this fund shall be used to pay the salaries and employe benefits of adult probation and parole personnel employed by the county adult probation and parole department and operational expenses. Moneys shall be used to supple-

ment Federal, State or county appropriations for the county adult probation department to maintain and improve county adult probation services.

Notes of Decisions

Disbursement of Funds

In a dispute over the disbursement of money from the county offender supervision fund, the Commonwealth Court held that the law is clear that disbursements from the fund are to be made only at the discretion of the president judge, where the law imposes no requirement that the president judge and the county commissioners concur in the disposition of the fund. *Jefferson County v. Court of Common Pleas of Jefferson County*, 738 A.2d 1077 (Pa. Cmwlth. 1999); affirmed 763 A.2d 376 (Pa. 2000).

§ 68.73. Disbursement of funds by the Board.

(a) *Administration of the Program.* The Board will disburse funds received under § 68.53 (relating to county clerk of courts) to counties which:

- (1) Establish policies and procedures for a Program.
- (2) Implement a Program.

(b) *Use of funds distributed by the Board.* Moneys distributed to the counties by the Board shall be used solely for improved adult probation services as approved by the Board.

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