

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

CHAIRPERSON: Representative Bob Bethell

OTHER MEMBERS: Representative Nile Dillmore, and Representative Bob Brookens

STUDY TOPICS

- Study offender reimbursement for assessment and treatment costs pursuant to 2003 SB 123.

Subcommittee on Offender Reimbursement for Assessment and Treatment Costs Pursuant to 2003 SB 123

CONCLUSIONS AND RECOMMENDATIONS: The Subcommittee recommends the Kansas Sentencing Commission (KSC) send a letter to the judges regarding the payment requirements in the statute and requesting their cooperation in ordering reimbursement for assessment and treatment costs to be collected by Community Corrections agencies; a flat fee of a minimum of \$300 be assessed by the Court at sentencing, with Community Corrections requesting, if necessary, modification based upon the offender's ability to pay; Community Corrections would be 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 be turned over to a collection agency; and the collection of insurance does not waive collection of the \$300 flat fee.

Proposed Legislation: None. The Subcommittee concluded additional legislation is not necessary because its recommendations can be incorporated within the current law.

BACKGROUND

The Subcommittee was created at the initiative of Representative Pat Colloton, Chairperson of the House Committee on Corrections and Juvenile Justice to study offender reimbursement for assessment and treatment costs pursuant to what is commonly known as 2003 SB 123 (SB 123). 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 Kansas Department of Corrections (KDOC) is responsible for the certification of all treatment providers who wish to assess and treat SB 123 offenders. To obtain certification for SB 123 assessment and treatment, programs must:

- Be licensed by Social and Rehabilitation Services Addiction and Prevention Services (AAPS);
- Employ at least one counselor that is certified in the cognitive-behavioral tools, *via* the "Thinking for a Change" Facilitator Training conducted by the KDOC to treat SB 123 offenders;
- Employ at least one counselor that is trained and certified to administer the Addiction Severity Index (ASI); and
- Employ at least one counselor that is trained and certified to administer the Substance Abuse Subtle Screening Inventory (SASSI).

Once approved by KDOC, providers also must complete the following documentation with KSC and Community Corrections to ensure payment:

- Enter into a "Provider Agreement with Community Corrections Agency" with each Community Corrections agency to whom they intend to provide services; and

- Enter into a “Qualified Service Organization Agreement (QSOA)” with their Community Corrections agency and with the KSC.

COMMITTEE ACTIVITIES

The Subcommittee met on four occasions: January 27, 2009; February 4, 2009; February 17, 2009; and March 3, 2009. Items discussed by the 2009 Subcommittee relating to its charge by the Chairperson are reviewed in the following material, along with the Subcommittee conclusions and recommendations to the 2009 House Committee on Corrections and Juvenile Justice.

January 27, 2009

Helen Pedigo, Executive Director, KSC, provided the Subcommittee with information on the payment process of SB 123 invoices.

The KSC is the centralized payment system that processes invoices for payment, enters and tracks all expenditures and receipts; prepares the budget; and tracks funding allocations and balances for SB 123.

The offender reimbursement amount is determined by the Court pursuant to KSA 75-52,144.

All SB 123 invoices are submitted to the KSC through the Community Corrections agencies. KSC retains a copy of each “Provider Agreement with Community Corrections” and the treatment rates charged are pursuant to the agreement between the Provider and the Community Corrections agencies. Invoices submitted to KSC must be signed by the treatment provider, the community corrections officer, and the Director of the Community Corrections agency or designee. KSC will pay timely, valid, and authorized invoices.

KSC pays the Provider and the Provider

determines whether the offender has insurance coverage. If the offender has insurance coverage, a claim will be filed by the Provider. Any funds received from the insurer by the Provider is sent to KSC. A monthly insurance report form is required to be sent each month by the Provider regardless of whether insurance is available.

Director Pedigo stated the average cost for assessment and treatment pursuant to SB 123 is about \$3,800 per offender per year. From the inception of SB 123 to the present, KSC has paid invoices in the approximate amount of \$33 million for assessments and treatment. The average reimbursement, for those submitting reimbursement, is about \$300 per offender. The average amount would cover the assessment (\$200) and a small portion of the treatment cost.

Director Pedigo mentioned there are some big judicial districts not collecting reimbursement and that a letter to the Court to remind the Court to order reimbursement might be helpful. Director Pedigo also mentioned that some judicial districts order offender reimbursement of SB 123 costs as a condition of probation. It is within the Court’s discretion to determine the offender’s ability to pay.

It was determined that it is necessary to gather information from the Community Corrections agencies regarding the practice of their respective Judicial Districts. The information would assist the Committee in assessing whether there is a lack of uniformity in ordering or collecting reimbursement for SB 123 costs as a condition of probation.

February 3, 2009

Chairperson Bethell called upon the Community Corrections agencies one-by-one to speak to each Judicial Districts’ practice in imposing and collecting the treatment fees. The following organizations presented testimony to the Subcommittee:

- Reno County Community Corrections (27th Judicial District);
- Johnson County Community Corrections (10th Judicial District);
- Saline County Community Corrections (28th Judicial District);
- Riley and Clay County Community Corrections (21st Judicial District); and
- Northwest Kansas Community Corrections (supervises the following counties by contract: Cheyenne, Decatur, Ellis, Gove, Graham, Logan, Norton, Osborne, Phillips, Rawlins, Rooks, Sheridan, Sherman, Smith, Thomas, Trego, and Wallace).

Chairperson Bethell summarizes the discussions of the meeting as follows:

- The Courts are required by statute to determine the extent, if any, that such person is able to pay for such assessment and treatment;
- The Courts need uniform and consistent direction on how to determine the extent a person can pay for such assessment and treatment.
- The idea that offenders' care should be commensurate with the treatment fee assessed should be vetted, *i.e.*, if an offender receives more care, the treatment fee should be more than an offender who receives less care.
- Avoid doing anything detrimental to SB 123.

The Chairperson asked the Community Corrections agencies to provide input at the next meeting on how to collect the treatment fees and how to communicate with the Courts.

February 17, 2009

Stuart Little reported that Community Corrections Directors met on February 4 to create a proposal that crystallizes their input as directed by the Subcommittee. He introduced Keith Clark, Director, 4th Judicial District, to present the proposal to the Subcommittee. The Directors recommend:

- The KSC send a letter to the judges regarding the payment requirements in the statute and requesting their cooperation in ordering reimbursement for assessment and treatment costs to be collected by Community Corrections agencies;
- A flat fee of \$300 be assessed by the Court at sentencing, with Community Corrections requesting modification, if necessary, based upon the offender's ability to pay;
- Community Corrections would be 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 be turned over to a collection agency; and
- The collection of insurance does not waive collection of the \$300 flat fee.

After discussion, the Subcommittee modified the proposal by setting the \$300 flat fee as a minimum fee. Additionally, the Chairperson asked Director Pedigo about amending the standard Journal Entry of Judgment form to include the SB 123 flat fee. Director Pedigo stated the amendment can be done when the form is amended at the end of the Legislative Session so that all changes could be incorporated into it.

March 3, 2009

Chairperson Bethell called a meeting to finalize the report of the Subcommittee.

CONCLUSIONS AND RECOMMENDATIONS

The Subcommittee concluded additional legislation is not necessary because its recommendations can be incorporated within the current law.

The Subcommittee recommends the KSC send a letter to the judges regarding the payment requirements in the statute and requesting their cooperation in ordering

reimbursement for assessment and treatment costs to be collected by Community Corrections agencies; a flat fee of a minimum of \$300 be assessed by the Court at sentencing, with Community Corrections requesting modification, if necessary, based upon the offender's ability to pay; Community Corrections would be 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 be turned over to a collection agency; and the collection of insurance does not waive collection of the \$300 flat fee.