

KANSAS DEPARTMENT OF CORRECTIONS

 Kansas Department of Corrections	I NTERNAL M ANAGEMENT P OLICY AND P ROCEDURE	SECTION NUMBER 04-106A	PAGE NUMBER 1 of 8
		FISCAL: Offender Fees	
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POLICY STATEMENT

Offender fees shall be assessed for costs imposed by the Department of Corrections or as ordered by the courts. All offender fees will be made a part of a Central Office fee file, which will remain open throughout the offender's period of incarceration and post-incarceration supervision. Any outstanding fees/charges from a previous incarceration or post-incarceration shall be assessed upon the offender's re-entry into departmental custody.

The Director of Information Technology shall establish procedures for the automated processing of offender fees. Fees, fines, and other payments shall be collected in the order of priority and in accordance with procedures contained in this IMPP. The procedure shall require that fees be paid in full at one time, unless partial collection is requested by court order. An offender may utilize the kiosk to display their outstanding fees. An offender who does not have access to a kiosk shall be provided a listing of any outstanding fees as part of the Inmate Trust Fund Accounting Report, per IMPP 04-103.

DEFINITIONS

Administrative Fee: A fee, based on a maximum annual dollar amount established by K.A.R. 44-5-115, charged for the administering of inmate trust fund accounts.

Bank Service Fee: Fees incurred for the monthly maintenance on the inmate trust fund.

Stored Value Card Fee: A fee assessed to releasing offenders who received their inmate trust fund and/or gratuity over an established limit on a stored value card.

Federal Filing Fee: A docket fee assessed by the courts for filing a civil action or to appeal a judgment in a civil action or proceeding.

Forced Savings: A savings account in which 10% of incoming monies less any outstanding obligations is deposited and maintained until the offender's release from custody. The use of the funds in the account is restricted to payment of garnishment and community identifications (birth certificate, driver's license, and social security card. After the offender's cash available balance is exhausted, forced savings may be used for civil filing fees, transcript fees and subpoena fees, and any other costs or fees necessary for an offender to gain access to the courts for purposes of challenging the offender's conviction or sentence, or the offender's conditions of confinement, or other uses as approved by the warden that would facilitate the offender's reentry into the community.

Mandatory Savings: A savings account in which a specified portion of offender earnings from work release or private industry employment is deposited and maintained until the offender's release from custody. The use of the funds in the account is restricted to the payment of garnishment(s).

Medical Fee: A fee assessed for each primary visit initiated by an offender to a facility sick call.

Primary Visit: The initial visit to the facility health authority by an offender for a specific complaint or condition, as outlined in K.A.R. 44-5-115.

State Filing Fee: An initial fee, established and assessed by the court through a court order, for the filing of a civil action, or, to appeal a judgment in a civil action or proceeding. The remaining balance of the docket or filing fee may be assessed by the court if the case is determined to be frivolous.

Supervision Fee: A monthly fee charged to offenders on supervision by the Department of Corrections, in an effort to help offset the cost of providing supervision services.

Urinalysis Fee: A fee assessed for each urinalysis, which has a positive result, administered to an offender for the purpose of determining the use of illegal substances.

Urinalysis Confirmation Fee: A fee assessed for a positive result GCMS test as outlined in IMPP 12-124D.

PROCEDURES

I. General Facility Collection Procedures

- A. The fee record shall be created by the entry of a fee, which is assessed in the offender's name except for the bank service fee.
 1. The bank service fee will be deducted from interest prior to allocation and credit to individual offender's account.
- B. When an offender is returned to the custody of the Department any charges from a previous incarceration shall be included in the offender's fee file as outstanding obligations in addition to any outstanding urinalysis fees and supervision fees assessed while the offender was under post-incarceration supervision.
 1. An automated search for outstanding fees from an offender's previous incarceration shall be performed.

II. Procedures for the Automated Collection of Fines, Fees, and Payments (ACI 3-4044)

- A. The KDOC Information System and Communications section staff shall be responsible to initiate a routine process of the computer to determine if any outstanding fees exist and to determine the available of funds in the respective offender's fund account.
 1. The computer shall collect fees, fines, and other payments in the following priority:
 - a. Money orders posted to the wrong accounts, and/or canteen errors;
 - b. Postage for legal mail (as per IMPP 12-127);
 - c. Urinalysis fees, urinalysis confirmation fee, administrative fees, medical fees and/or supervision fees;
 - d. Alternative drug testing fee and alternative drug confirmation fee;
 - e. Fines;
 - f. Disciplinary restitution;
 - g. Room and Board, and transportation obligations incurred while employed by a private industry (as per IMPP 04-109A);

- h. Work release loans, work release other expenses, room and board, and transportation obligations incurred while employed in traditional work release (as per IMPP 04-109A);
 - i. State or federal initial or frivolous filing fees;
 - j. Crime victims or court ordered restitution and applicable collection fee obligations incurred while employed by a private industry and/or in traditional work release (as per IMPP 04-109A), subject to the provisions set forth in Section XI below;
 - k. Incentive payroll corrections, offender badges, padlocks, key replacement, non-legal postage, stored value card fee, bank statement copy fee, court-ordered restitution on escapes, UPS, copies, issued clothing not turned in on release, and/or TDY charges for hearing impaired offenders.
- B. Fees for offenders who are in a facility shall be automatically collected, as per the above priority, in accordance with the dates the fees were incurred or assessed against the offender's account. Fees incurred or assessed at a later date may be collected first if the offender's account does not contain sufficient funds to satisfy an earlier established fee.
- 1. If the offender lacks the funds to pay the first fee incurred/assessed, the computer shall search through the fees incurred/assessed and the available funds until it determines that an adequate amount is available to pay the entire amount of a later fee.
 - a. Partial payment of fees for offenders who are in a facility shall not be made unless requested by court order.
 - 2. The computer shall search the banking records to determine if the offender has sufficient funds from which the fee might be paid and automatically collect payment for the fees if funds are available to satisfy any outstanding fees.
 - 3. The computer program shall freeze offenders' accounts if fees remain unpaid to permit monies to accumulate in the account sufficiently to enable the eventual payment of the fee.
- C. In accordance with IMPP 04-103D, offenders have access and may utilize the kiosk to display their current and up to three (3) prior years' transactions on their inmate trust fund. Offenders who do not have access to the kiosk shall receive a monthly computer printed statement of any banking account activity, which shall reflect the date and amounts of the automated transactions on their account. The monthly statement shall include the accumulated outstanding balances of fees, fines, and other required payments assessed against the account. A detailed listing of outstanding obligations is available on the kiosk.
- D. No offender funds shall be subjected to collection for fines, fees or payments if those funds were accrued from any of the following sources:
- 1. Social security benefits;
 - 2. Veterans' Administration benefits; or,
 - 3. Workers' compensation benefits paid to the inmate garnishee.

III. Processing of Administrative Fees

- A. The Information Systems and Communications section shall be responsible to run the computer program which automatically assesses the administrative fee on the first working day of each month for any offender who has a trust fund account at his/her current location.

- B. By the tenth calendar day of the month, the custodian of the inmate trust fund shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt Voucher depositing the total of the administrative fees collected for the previous month into the Crime Victims Compensation Board.
 - 1. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies paid to the Crime Victims Compensation Board.

IV. Processing of Medical Fees

- A. The facility health care staff shall be responsible to enter each offender's billable visits to sick call, which shall create a fee in the individual offender fee file.
 - 1. The fees assessed should correspond with the dated information entered on the bottom half of the offender's copy of the Medical Request Form, as provided/approved by the departmental health authority.
- B. By the tenth calendar day of the month, each custodian of the inmate trust fund shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt Voucher depositing the total of the medical fees collected for the previous month into the Department of Corrections General Fee Fund.
 - 1. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies collected as an offset to the cost of the medical services contract.
- C. In the event that the assessment of a medical fee is overturned during the grievance process, the banking staff shall reverse the medical fee in the offender fee file which shall cause the computer to automatically deposit a refund of the fee into the specified offender's trust account if the fee had been paid, or to eliminate the outstanding fee against the trust account.
 - 1. If the medical fee had been collected and deposited into the State General Fund, the repayment of the fee to the offender's trust account shall be reflected as a credit against the collections of the current month medical fees.

V. Processing of Inmate Urinalysis (UA) and Urinalysis Confirmation Fees

- A. Facility staff and/or contract personnel, as designated by the warden and/or contractor, shall be responsible for the entry of all offender urinalysis test results into the computer.
- B. The fee for each urinalysis test having a positive result shall be assessed upon the completion of the confirmation test.
 - 1. Upon a subsequent finding of not guilty or a dismissal in any directly related disciplinary case, the facility disciplinary administrator shall take appropriate steps to ensure that the inmate is reimbursed the related fee.
- C. Monthly, all monies collected from the fee for positive urinalysis results, incurred at a facility, shall be deposited in each of the respective facility's General Fee Fund to be used to defray the costs incurred in administering urinalysis tests.
 - 1. By the tenth calendar day of the month, the custodian of the inmate trust fund shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt voucher depositing the total of the urinalysis fee, incurred while on post-release supervision, into the Supervision Fee Fund; and,
 - 2. A copy of the Receipt Voucher must be submitted to the KDOC Central Office Fiscal Services section for the maintenance of system-wide totals of monies collected.

- D. In the event that the assessment of a UA fee is overturned during the grievance process, the banking staff shall reverse the UA fee in the offender fee file which shall cause the computer to automatically deposit a refund of the fee into the specified inmate's trust account if the fee had been paid, or to eliminate the outstanding fee against the trust account.
1. If the urinalysis fee had been collected and deposited into the facility's General Fee Fund, the repayment of the fee shall be made by a check drawn against the General Fee Fund local bank account which shall be deposited into the inmate's trust account.
 2. If the urinalysis fee had been collected and deposited into the Supervision Fees Fund, the repayment of the fee to the inmate's trust account shall reflect as a credit against the collections of the current month urinalysis fees incurred while on supervision.

VI. Processing of Urinalysis (UA) Fees for Offenders on Post-Incarceration Supervision

- A. The policy and procedures for the collection of fees for positive results of urinalysis tests are contained in IMPP 14-107A and 14-112A.

VII. Processing State Filing Fees

- A. State Filing Fees (Without a Poverty Affidavit)

1. The entire docket fee for filing a state civil lawsuit is required if the offender does not file a poverty affidavit with the lawsuit. The fee for such a filing shall be entered into the computer by appropriate banking section staff and automatically assessed during the routine computer run for available funds in the inmate's trust account. The computer generated check for the filing fee shall accompany the lawsuit papers filed by the offender and forwarded to the appropriate court by the facility business office staff.

- B. State Filing Fee (With a Poverty Affidavit)

1. Offenders who are unable to pay the filing fee must make a request to the appropriate banking section for a Poverty Affidavit to accompany lawsuits filed in state courts. A self-addressed stamped envelope shall accompany the request, in order for the appropriate banking section to return the Poverty Affidavit to the offender. An indigent offender may use an envelope as provided in IMPP 12-127. The offender may then include the Poverty Affidavit with his/her lawsuit papers.
2. When the offender has filed a poverty affidavit in the district court in which the civil lawsuit(s) have been filed the court will establish a filing fee or docket fee.
 - a. The banking staff shall enter the filing fee into the state civil service lawsuit file upon receipt of the court order.
3. An additional fee, which is the filing fee less the initial filing fee, may be assessed by the court if the case is determined to be frivolous.
 - a. The banking staff shall enter the additional fee in the state civil service lawsuit file upon the receipt of the court order.
4. When the fee(s) has been automatically assessed through the computer's nightly run process, the banking staff shall remit the filing fees to the appropriate court.

- C. Court orders on outstanding state filing fees shall be forwarded to the receiving facility in the event of an offender's intra-system transfer or transfer to the Larned State Security Hospital.

- D. If the offender is transferred under the Interstate Corrections Compact Agreement, the banking staff shall notify the court of the offender's location.

1. The Court shall be notified of the offender's transfer only if the court order specifically designates a specific employee at the offender's current location to collect the filing fee.

VIII. Processing Federal Filing Fees

A. Initial filing fee

1. Federal law requires offenders who file lawsuits in federal court to make partial payments. Utilizing the poverty affidavit the court calculates the initial partial payment and issues a court order to the offender allowing 30 days to remit the filing fees or object to the initial filing fee. If the offender chooses to pay the initial fee:
 - a. The offender is required to submit a Special Purchase Order (SPO), together with a copy of the court order, to the appropriate banking section.
 - b. Upon receipt of the SPO, the banking staff shall enter the federal filing fee and initial fee into the computer when sufficient funds exist to pay the initial filing fee. A check shall be issued to the court for the initial partial payment when sufficient funds exist.

B. Subsequent partial payments

1. Upon payment of the initial filing fee, the federal court will issue a court order to the facility requesting monthly payments based upon a percentage of the preceding month's income credited to the offender's account.
 - a. The banking staff shall enter the filing fee upon receipt of the court order.
 - b. The Department defines income as any deposit amount (e.g., deposit; incentive pay; interest; the net of industry wages defined as industry wages less any obligations defined in IMPP 04-109A prior to state filing fees) less any outstanding fees, disciplinary restitutions, and fines multiplied by the percentage determined by the law, as long as the cumulative payments and/or encumbrances have not exceeded the filing fee.
 - c. The computer system will calculate and encumber a partial payment each time an offender with an outstanding court order for federal filing fees receives a deposit. When the facility has encumbered at least \$10 on a specific case/fee, the encumbrances shall be expended and a check shall be issued to the appropriate court.
 - d. Unless directed otherwise by a court order multiple subsequent partial payments will be processed concurrently, not consecutively.

C. Court orders on outstanding federal filing fees shall be forwarded to the receiving facility in the event of an offender's intra-system transfer or transfer to the Larned State Security Hospital.

D. If the offender is transferred under the Interstate Corrections Compact Agreement, the banking staff shall notify the court of the offender's location.

1. The Court shall be notified of the offender's transfer only if the court order specifically designates a specific employee at the offender's current location to collect the filing fee.

IX. Supervision Fees for Post-Release Supervision

A. The policy and procedures for the charge and collection of supervision fees shall be in accordance with IMPP 14-107A.

B. Outstanding supervision fees on offenders re-incarcerated are collected by the facility where the offender is incarcerated.

1. By the tenth calendar day of the month, the custodian of the inmate trust fund shall submit, to the Office of the State Treasurer, a check written against the trust fund account and a Receipt voucher depositing the total of the supervision fees collected for the previous month into the Supervision Fees Fund and the Crime Victims Compensation Board.
 - a. A copy of the Receipt Voucher must be submitted to the KDOC Central office Fiscal Services section for the maintenance of system-wide totals of monies collected.
- C. In the event that the assessment of a supervision fee is reversed, the banking staff shall reverse the supervision fee in the offender fee file which shall cause the computer to automatically deposit a refund of the fee into the specified inmate's trust account if the fee had been paid, or to eliminate the outstanding fee against the trust account.
 1. If the supervision fee had been collected and deposited into the Supervision Fees Fund and Attorney General's account, the repayment to the fee to the inmate's trust account shall be reflected as a credit against the collections of the current month supervision fees.

X. Stored Value Card Fee

- A. The fee shall be entered by staff through the release program in the banking system.
- B. Outstanding stored value card fees shall remain active and collectible in offender banking in event an offender is re-incarcerated.
 1. By the tenth calendar day of the month, the banking section shall deposit the stored value card into the Lansing Correctional Facility inmate benefit fund to be used to defray the cost incurred with the stored value card.

XI. Court Ordered Restitution

- A. The policy and procedures for the collection of court ordered restitution shall be in accordance with IMPP 04-109A.
- B. Restitution payments shall be deducted from an offender's fund account only if:
 1. The offender is subject to an order of the court for immediately payable restitution; or
 2. The offender has entered into an agreement to pay restitution in connection with assignment to traditional or private industry work release.

NOTE: The policy and procedures set forth herein are intended to establish directives and guidelines for staff and offenders and those entities that are contractually bound to adhere to them. They are not intended to establish State created liberty interests for employees or offenders, or an independent duty owed by the Department of Corrections to employees, offenders, or third parties. Similarly, those references to the standards of various accrediting entities as may be contained within this document are included solely to manifest the commonality of purpose and direction as shared by the content of the document and the content of the referenced standards. Any such references within this document neither imply accredited status by a Departmental facility or organizational unit, nor indicate compliance with the standards so cited. The policy and procedures contained within this document are intended to be compliant with all applicable statutes and/or regulatory requirements of the Federal Government and the state of Kansas. This policy and procedure is not intended to establish or create new constitutional rights or to enlarge or expand upon existing constitutional rights or duties.

REPORTS REQUIRED

None.

REFERENCES

P.L.104-134
28 U.S.C. 1915
K.S.A. 60-2001, 75-52,139
K.A.R. 44-5-115
IMPP 04-103D, 04-109A, 12-124D, 12-127, 14-107A, 14-112A
ACI 3-4044

ATTACHMENTS

None.