

Waiving Probation Supervision Fees

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Under G.S. 15A-1343(c1), defendants placed on supervised probation must pay a monthly supervision fee of \$30, unless exempted by the court. That exemption may only be granted for good cause upon motion of the defendant.

Over the past month or so I've received many calls from people who have heard that legislation from the past session removed the court's authority to exempt probationers from the fee. There were lots of changes to probation, and lots of changes to fees, *but as far as I know there were no changes to a judge's authority to waive probation supervision fees.*

After consulting with AOC I have a few theories about what might be causing the confusion. First, a provision in the appropriations act ([S.L. 2009-451](#), section 15.171(a)) made the following changes (underlined) to G.S. 7A-455.1, clearly stating that a judge may not remit the \$50 fee for appointment of counsel:

(b) The mandatory fifty-dollar (\$50.00) fee may not be remitted or revoked by the court and shall be added to any amounts the court determines to be owed for the value of legal services rendered to the defendant and shall be collected in the same manner as attorneys' fees are collected for such representation.

That's strong language, but it applies only to that particular appointment fee, not to supervision fees.

Second, [legislation in 2008](#) amended the law applicable to probationers supervised under the Interstate Compact for Adult Offender Supervision ([G.S. 148-65.7](#)) to say that North Carolina's compact commissioner (or the commissioner's designee) is the waiver authority for Compact-related fees. That includes the \$150 transfer application fee that North Carolina offenders must pay to transfer supervision to another state and the \$30 monthly supervision fee that offenders convicted in other states pay when supervised here. Several judges have asked me whether they can waive either of those fees, and my answer is that it appears as though they can't. But again, this limitation on a judge's fee-waiver authority is limited to this particular context and doesn't affect their ability to waive ordinary supervision fees.

Finally, there's a provision in the main probation reform bill, [S.L. 2009-372](#), that says probationers for whom a period of probation is tolled based on a new charge "shall remain subject to the conditions of probation, including supervision fees, during the tolled period." I don't read the "shall" in that provision to mean a person must pay fees during a tolled period even if a judge has previously waived the fee. Rather, I interpret it to mean whatever probation conditions a person has, including supervision fees if not exempted, continue unabated during a tolled period.

Those are my best guesses. If you know of something I'm missing or have other ideas about what might be causing the confusion, please leave a comment. I'll be embarrassed if someone points out something I overlooked, but I'll get over it. The important thing is getting the proper information out to the field.