

SECOND REGULAR SESSION

HOUSE BILL NO. 1262

95TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES KOMO (Sponsor), SCHIEFFER AND FALLERT (Co-sponsors).
3343L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 559.021 and 559.100, RSMo, and to enact in lieu thereof two new sections relating to conditions of probation and parole.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Sections 559.021 and 559.100, RSMo, are repealed and two new sections
2 enacted in lieu thereof, to be known as sections 559.021 and 559.100, to read as follows:

2 559.021. 1. The conditions of probation shall be such as the court in its discretion deems
2 reasonably necessary to ensure that the defendant will not again violate the law. When a
3 defendant is placed on probation he **or she** shall be given a certificate explicitly stating the
4 conditions on which he **or she** is being released.

5 **2. In addition to such other authority as exists to order conditions of probation, in**
6 **the case of a plea of guilty or a finding of guilt, the court shall order that any defendant**
7 **placed on probation shall agree to any search of his or her person, property, place of**
8 **residence, vehicle, or his or her personal effects, at any time, by any probation officer**
9 **assigned to him or her, with or without a warrant of arrest or with or without a search**
10 **warrant, when such probation officer has reasonable suspicion to believe that the person**
11 **who is on probation is engaged in or has been engaged in criminal activity. The defendant**
12 **may refuse probation conditioned on his or her agreement to such searches. If he or she**
13 **does so, the court shall decide the extent or duration of sentence or other disposition to be**
14 **imposed and render judgment accordingly but in no case shall the court place a defendant**
15 **who has refused to agree to such searches on probation.**

16 **3.** In addition to such other authority as exists to order conditions of probation, the court
17 may order such conditions as the court believes will serve to compensate the victim, any

EXPLANATION — Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted from the law. Matter in **bold-face** type in the above bill is proposed language.

18 dependent of the victim, any statutorily created fund for costs incurred as a result of the
19 offender's actions, or society. Such conditions may include restorative justice methods pursuant
20 to section 217.777, RSMo, or any other method that the court finds just or appropriate including,
21 but not limited to:

22 (1) Restitution to the victim or any dependent of the victim, or statutorily created fund
23 for costs incurred as a result of the offender's actions in an amount to be determined by the judge;

24 (2) The performance of a designated amount of free work for a public or charitable
25 purpose, or purposes, as determined by the judge;

26 (3) Offender treatment programs;

27 (4) Work release programs in local facilities; and

28 (5) Community-based residential and nonresidential programs.

29 [3.] 4. The defendant may refuse probation conditioned on the performance of free work.
30 If he **or she** does so, the court shall decide the extent or duration of sentence or other disposition
31 to be imposed and render judgment accordingly. Any county, city, person, organization, or
32 agency, or employee of a county, city, organization or agency charged with the supervision of
33 such free work or who benefits from its performance shall be immune from any suit by the
34 defendant or any person deriving a cause of action from him if such cause of action arises from
35 such supervision of performance, except for an intentional tort or gross negligence. The services
36 performed by the defendant shall not be deemed employment within the meaning of the
37 provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall
38 not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

39 [4.] 5. In addition to such other authority as exists to order conditions of probation, in the
40 case of a plea of guilty or a finding of guilt, the court may order the assessment and payment of
41 a designated amount of restitution to a county law enforcement restitution fund established by the
42 county commission pursuant to section 50.565, RSMo. Such contribution shall not exceed three
43 hundred dollars for any charged offense. Any restitution moneys deposited into the county law
44 enforcement restitution fund pursuant to this section shall only be expended pursuant to the
45 provisions of section 50.565, RSMo.

46 [5.] 6. A judge may order payment to a restitution fund only if such fund had been created
47 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall
48 not have any direct supervisory authority or administrative control over any fund to which the
49 judge is ordering a defendant to make payment.

50 [6.] 7. A defendant who fails to make a payment to a county law enforcement restitution
51 fund may not have his or her probation revoked solely for failing to make such payment unless
52 the judge, after evidentiary hearing, makes a finding supported by a preponderance of the
53 evidence that the defendant either willfully refused to make the payment or that the defendant

54 willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the
55 resources to pay.

56 [7.] 8. The court may modify or enlarge the conditions of probation at any time prior to
57 the expiration or termination of the probation term.

559.100. 1. The circuit courts of this state shall have power, herein provided, to place on
2 probation or to parole persons convicted of any offense over which they have jurisdiction, except
3 as otherwise provided in sections 195.275 to 195.296, RSMo, section 558.018, RSMo, section
4 559.115, section 565.020, RSMo, sections 566.030, 566.060, 566.067, 566.151, and 566.213,
5 RSMo, section 571.015, RSMo, and subsection 3 of section 589.425, RSMo.

6 2. The circuit court shall have the power to revoke the probation or parole previously
7 granted and commit the person to the department of corrections. The circuit court shall determine
8 any conditions of probation or parole for the defendant that it deems necessary to ensure the
9 successful completion of the probation or parole term, including the extension of any term of
10 supervision for any person while on probation or parole. The circuit court may require that the
11 defendant pay restitution for his crime. The probation or parole may be revoked for failure to pay
12 restitution or for failure to conform his behavior to the conditions imposed by the circuit court.
13 The circuit court may, in its discretion, credit any period of probation or parole as time served on
14 a sentence.

15 **3. In addition to such other authority as exists to order conditions of probation or**
16 **parole, in the case of a plea of guilty or a finding of guilt, the court shall order that any**
17 **defendant placed on probation or parole shall agree to any search of his or her person,**
18 **property, place of residence, vehicle, or his or her personal effects, at any time, by any**
19 **probation or parole officer assigned to him or her, with or without a warrant of arrest or**
20 **with or without a search warrant, when such probation or parole officer has reasonable**
21 **suspicion to believe that the person who is on probation or parole is engaged in or has been**
22 **engaged in criminal activity. The defendant may refuse probation or parole conditioned**
23 **on his or her agreement to such searches. If he or she does so, the court shall decide the**
24 **extent or duration of sentence or other disposition to be imposed and render judgment**
25 **accordingly but in no case shall the court place a defendant who has refused to agree to such**
26 **searches on probation or parole.**

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