

HB 215 -- Defense of Indigent Defendants and Restitution of Crime Victims

Sponsor: Cox

This bill requires restitution to be paid through the office of the prosecuting or circuit attorney. The provisions cannot prohibit the prosecuting attorney or circuit attorney from contracting with or utilizing another entity for the collection of the restitution and costs. Each prosecuting or circuit attorney who takes any action to collect restitution must collect from the person paying restitution an administrative handling cost of \$25 for restitution in an amount of less than \$100, \$50 for an amount between \$100 and \$249, and an additional fee of 10% of the total restitution for an amount of \$250 or more. The maximum fee for administrative handling costs cannot exceed \$75. A \$2 installment cost must also be assessed for each installment payment, except for the first installment, until the amount of restitution is paid in full.

The moneys collected by the prosecuting or circuit attorney must be deposited into the newly created Administrative Handling Cost Fund to be expended by the prosecuting or circuit attorney for office supplies and equipment, capital outlay, trial preparation expenses, additional staff, and employees' salaries.

In addition to the administrative handling cost, the prosecuting or circuit attorney must collect \$5 for each crime victim to whom restitution is paid to be deposited into the Missouri Office of Prosecution Services Fund.

Currently, any person who has been found guilty of or pled guilty to the offense of tampering or stealing may be ordered by the court to make restitution to the victim. The bill allows the court to order restitution to be paid by any person who has been found guilty or has pled guilty to any offense. The list of allowable expenses for restitution is revised to only include, but not be limited to, a victim's reasonable expenses to participate in the prosecution of the crime.

Currently, any person eligible to be released on parole for the offense of tampering or stealing may be required as a condition of parole to make restitution. The bill requires any person eligible to be released on parole to make restitution as a condition of parole.

The court may set an amount of restitution to be paid by any person who has been found guilty of an offense to the victim for the victim's losses due to the offense that may be taken from the inmate's account at the Department of Corrections while he or she

is incarcerated; and upon release from imprisonment, the payment of any unpaid balance may be collected as a condition of conditional release or parole.

Currently, the State Public Defender Director must contract for legal services with private attorneys on a case-by-case basis and with assigned counsel as the Public Defender Commission deems necessary considering the needs of the area. The bill repeals this provision and requires the director to contract out legal services with private attorneys for all nonsexual class C and class D felonies, all misdemeanor cases, all traffic cases, and all probation violation cases. The Office of Administration must handle the bidding process for all the contracts. Contracts must be awarded through a competitive bidding process designed to award contracts to the lowest and best bidder and must give priority to bidders who exhibit experience in criminal law, demonstrate the capacity to provide effective representation in all assigned cases, and carry sufficient malpractice insurance. The Office of Administration must also administer all contracts made by the director, including contracts for cases that are conflicts of the public defender. The director may contract out for legal services with private attorneys direct appeals of any cases handled by public defenders.

The director must also, with the approval and on behalf of the commission, contract with private attorneys for the collection and enforcement of liens and other judgments owed to the state for services rendered by the state public defender system if the prosecuting attorney does not collect and enforce those liens and judgments.

The director must establish district offices, the boundaries of which must coincide with existing judicial circuits. Any district office may contain more than one judicial circuit within its boundaries, but no judicial boundary can include any geographic region of a judicial circuit without including the entire judicial circuit.

The bill repeals the requirement that the director and defenders must provide legal services to an eligible person who is detained or charged with any felony, including appeals from a conviction in the case, or who is detained or charged with a misdemeanor that will probably result in confinement in the county jail upon conviction and requires them to provide legal services to an eligible person who is detained or charged with a class A or class B felony, including appeals from a conviction in the case or a person who is detained or charged with a felony sexual offense. The director may contract out for legal services with private attorneys direct appeals of any cases handled by public defenders.

The public defender must provide legal services in those cases in which a private attorney who has a contract for the provision of legal services has a conflict of interest.

The director and defenders are prohibited from providing legal services or contracting out for legal services with private attorneys for motions claiming ineffective assistance of counsel or the representation of any crime victim or witness.

Currently, 18 C.S.R. 10-4.010 authorizes a local public defender office to certify its maximum caseload has been exceeded and thereafter limit its availability to take additional cases after consultation with the presiding court. The bill invalidates that rule and prohibits the public defender from refusing to provide any representation required under the law without prior approval from a court of competent jurisdiction.

The public defender must pay the prosecuting or circuit attorney a collection fee of 20% of the funds collected by the prosecuting or circuit attorney on behalf of the public defender. The fee must be deposited in the same manner as collection fees are deposited in the county treasury for delinquent taxes.

If the prosecuting attorney does not take action to enforce the judgment within 90 days of entry, the commission may contract with private collection agencies.

The provisions of the bill become effective July 1, 2014, except for the provisions of the bill regarding 18 C.S.R. 10-4.010 that contain an emergency clause.