

SECOND REGULAR SESSION

HOUSE BILL NO. 1253

96TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE RUZICKA.

5112L.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal sections 559.021 and 559.100, RSMo, and to enact in lieu thereof three new sections relating to imposing costs of investigation and prosecution of criminal cases on defendants, with penalty provisions.

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Section A. Sections 559.021 and 559.100, RSMo, are repealed and three new sections enacted in lieu thereof, to be known as sections 550.500, 559.021, and 559.100, to read as follows:

550.500. 1. Any person who pleads guilty to or is found guilty of a misdemeanor or felony offense other than a traffic violation, or any person who has his or her probation or parole revoked, shall be liable for payment of the costs involved in the investigation and prosecution of those cases, including costs incurred by prosecuting or circuit attorneys, law enforcement agencies, probation and parole officers, and fire departments involved in arson investigations. The court shall include these costs in every judgment rendered against the convicted person. For purposes of this section "convicted" means a determination of guilt, or a determination that such person has violated conditions of probation or parole, which is a result of a plea, trial, or a probation or parole revocation hearing, and regardless of whether such person receives a suspended imposition of sentence, suspended execution of sentence, or has sentence imposed, or is placed on probation or parole.

2. The court shall impose the costs of investigation and prosecution in an appropriate amount to be determined under the provisions of subsection 6 of this section notwithstanding the defendant's present ability to pay. The court shall require the

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.

16 defendant to pay the costs within a specified period of time or in specified installments.

17 The end of such period or the last such installment shall not be later than:

18 (1) The end of the period of probation, if probation is ordered;

19 (2) The end of the period of parole, if parole is ordered;

20 (3) Five years after the end of the term of imprisonment imposed, if the court does
21 not order probation or parole; or

22 (4) Five years after the date of sentencing in any other case.

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24 However, in no event shall the obligation to pay any unpaid amounts expire if not paid in
25 full within the period specified in this subsection.

26 3. If not otherwise provided by the court under the provisions of this section, costs
27 shall be paid immediately.

28 4. If a defendant is placed on probation or parole, payment of any costs under this
29 section shall be a condition of such probation or parole. The court may revoke probation
30 or parole if the defendant fails to pay these costs.

31 5. Any default in payment of costs may be collected by any means authorized by
32 law for enforcement of a judgment.

33 6. The prosecuting or circuit attorney shall, prior to adjudication, file with the
34 court a statement containing the requested amount of costs for their office as well as the
35 requested amount of costs for each investigative agency involved and any probation or
36 parole office involved. Costs for misdemeanor cases and probation and parole revocation
37 hearings shall be in a range between fifty dollars and three hundred dollars per case and
38 costs in felony cases shall be in a range between one hundred dollars and seven hundred
39 fifty dollars per case, unless the prosecuting or circuit attorney submits a detailed
40 statement along with sufficient supporting documentation demonstrating the need for
41 imposition of costs higher than the designated range.

42 7. The costs may include any actual expenses incurred in conducting the
43 investigation and prosecution of the case, including the salaries of employees of the
44 prosecuting or circuit attorney's office or the salaries of the employees of any investigative
45 agencies involved in the investigation of the case including employees of the probation and
46 parole office.

47 8. Any dispute as to the proper amount or type of costs shall be resolved by the
48 court by the preponderance of the evidence. The burden of demonstrating the amount of
49 costs incurred is on the prosecuting or circuit attorney. The burden of demonstrating the
50 financial resources of the defendant and the financial needs of the defendant is on the

51 **defendant. The burden of demonstrating such other matters as the court deems**
52 **appropriate is upon the party designated by the court as justice requires.**

53 **9. The circuit clerk shall collect and dispense cost payments in any case.**

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, the court
6 may order such conditions as the court believes will serve to compensate the victim, any
7 dependent of the victim, any statutorily created fund for costs incurred as a result of the
8 offender's actions, or society. Such conditions may include restorative justice methods pursuant
9 to section 217.777, or any other method that the court finds just or appropriate including, but not
10 limited to:

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

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

15 (3) Offender treatment programs;

16 (4) Work release programs in local facilities; [and]

17 (5) Community-based residential and nonresidential programs; **and**

18 **(6) The payment of prosecutorial and investigative costs under section 550.500.**

19 3. The defendant may refuse probation conditioned on the performance of free work.
20 If he **or she** does so, the court shall decide the extent or duration of sentence or other disposition
21 to be imposed and render judgment accordingly. Any county, city, person, organization, or
22 agency, or employee of a county, city, organization or agency charged with the supervision of
23 such free work or who benefits from its performance shall be immune from any suit by the
24 defendant or any person deriving a cause of action from him **or her** if such cause of action arises
25 from such supervision of performance, except for an intentional tort or gross negligence. The
26 services performed by the defendant shall not be deemed employment within the meaning of the
27 provisions of chapter 288. A defendant performing services pursuant to this section shall not be
28 deemed an employee within the meaning of the provisions of chapter 287.

29 4. In addition to such other authority as exists to order conditions of probation, in the
30 case of a plea of guilty or a finding of guilt, the court may order the assessment and payment of
31 a designated amount of restitution to a county law enforcement restitution fund established by
32 the county commission pursuant to section 50.565. Such contribution shall not exceed three
33 hundred dollars for any charged offense. Any restitution moneys deposited into the county law

34 enforcement restitution fund pursuant to this section shall only be expended pursuant to the
35 provisions of section 50.565.

36 5. A judge may order payment to a restitution fund only if such fund had been created
37 by ordinance or resolution of a county of the state of Missouri prior to sentencing. A judge shall
38 not have any direct supervisory authority or administrative control over any fund to which the
39 judge is ordering a defendant to make payment.

40 6. A defendant who fails to make a payment to a county law enforcement restitution fund
41 may not have his or her probation revoked solely for failing to make such payment unless the
42 judge, after evidentiary hearing, makes a finding supported by a preponderance of the evidence
43 that the defendant either willfully refused to make the payment or that the defendant willfully,
44 intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the resources
45 to pay.

46 7. The court may modify or enlarge the conditions of probation at any time prior to the
47 expiration or termination of the probation term.

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

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
8 determine any conditions of probation or parole for the defendant that it deems necessary to
9 ensure the successful completion of the probation or parole term, including the extension of any
10 term of supervision for any person while on probation or parole. The circuit court may require
11 that the defendant pay restitution for his **or her** crime **and pay prosecutorial and investigative**
12 **costs under section 550.500**. The probation or parole may be revoked for failure to pay
13 restitution **or prosecutorial and investigative costs** or for failure to conform his **or her** behavior
14 to the conditions imposed by the circuit court. The circuit court may, in its discretion, credit any
15 period of probation or parole as time served on a sentence.

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