

SECOND REGULAR SESSION

[PERFECTED]

# HOUSE BILL NO. 1183

## 92ND GENERAL ASSEMBLY

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INTRODUCED BY REPRESENTATIVES MAYER (Sponsor), LIPKE, BEAN, CROWELL, KUESSNER, HAMPTON, BARNITZ, DAVIS (122), STEVENSON, MYERS, ENGLER, SWINGER, MAY, KINGERY, LAGER, COOPER (120), DIXON, JETTON, RUESTMAN, WILSON (130), BEHNEN, KELLY (144), BLACK AND SELBY (Co-sponsors).

Read 1<sup>st</sup> time January 21, 2004, and copies ordered printed.

Read 2<sup>nd</sup> time January 22, 2004 and referred to the Committee on Crime Prevention and Public Safety January 29, 2004.

Reported from the Committee on Crime Prevention and Public Safety March 4, 2004 with recommendation that the bill Do Pass.

Taken up for Perfection March 10, 2004. House Bill No. 1183 ordered Perfected and printed, as amended.

STEPHEN S. DAVIS, Chief Clerk

4051L.01P

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### AN ACT

To repeal sections 50.550 and 559.021, RSMo, and to enact in lieu thereof four new sections relating to county law enforcement restitution funds.

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

Section A. Sections 50.550 and 559.021, RSMo, are repealed and four new sections  
2 enacted in lieu thereof, to be known as sections 50.550, 50.565, 559.021, and 1, to read as  
3 follows:

50.550. **1.** The annual budget shall present a complete financial plan for the ensuing  
2 budget year. It shall set forth all proposed expenditures for the administration, operation and  
3 maintenance of all offices, departments, commissions, courts and institutions; the actual or  
4 estimated operating deficits or surpluses from prior years; all interest and debt redemption  
5 charges during the year and expenditures for capital projects.

6 **2.** The budget shall contain adequate provisions for the expenditures necessary for the  
7 care of insane pauper patients in state hospitals, for the cost of holding elections and for the costs  
8 of holding circuit court in the county that are chargeable against the county, for the repair and  
9 upkeep of bridges other than on state highways and not in any special road district, and for the

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

10 salaries, office expenses and deputy and clerical hire of all county officers and agencies.

11         **3.** In addition, the budget shall set forth in detail the anticipated income and other means  
12 of financing the proposed expenditures.

13         **4.** All receipts of the county for operation and maintenance shall be credited to the  
14 general fund, and all expenditures for these purposes shall be charged to this fund; except, that  
15 receipts from the special tax levy for roads and bridges shall be kept in a special fund and  
16 expenditures for roads and bridges may be charged to the special fund.

17         **5.** All receipts from the sale of bonds for any purpose shall be credited to the bond fund  
18 created for the purpose, and all expenditures for this purpose shall be charged to the fund. All  
19 receipts for the retirement of any bond issue shall be credited to a retirement fund for the issue,  
20 and all payments to retire the issue shall be charged to the fund. All receipts for interest on  
21 outstanding bonds and all premiums and accrued interest on bonds sold shall be credited to the  
22 interest fund, and all payments of interest on the bonds shall be charged to the interest fund.

23         **6. Subject to the provisions of section 50.565 the county commission may create a**  
24 **fund to be known as "The County Law Enforcement Restitution Fund".**

25         **7.** The county commission may create other funds as are necessary from time to time.

**50.565. 1. A county commission may establish by ordinance or order a fund whose**  
2 **proceeds may be expended only for the purposes provided for in subsection 3 of this**  
3 **section. The fund shall be designated as a county law enforcement restitution fund and**  
4 **shall be under the supervision of a board of trustees consisting of two citizens of the county**  
5 **appointed by the presiding commissioner of the county, two citizens of the county**  
6 **appointed by the sheriff of the county, and one citizen of the county appointed by the**  
7 **county coroner or medical examiner. The citizens so appointed shall not be current or**  
8 **former employees of either the sheriff's department or the office of the prosecuting**  
9 **attorney for the county.**

10         **2. Money from the county law enforcement restitution fund shall only be expended**  
11 **upon the approval of a majority of the members of the county law enforcement restitution**  
12 **fund's board of trustees and only for the purposes provided for by subsection 3 of this**  
13 **section.**

14         **3. Money from the county law enforcement restitution fund shall only be expended**  
15 **for the following purposes:**

16         **(1) Narcotics investigation, prevention, and intervention;**

17         **(2) Purchase of law enforcement related equipment and supplies for the sheriff's**  
18 **office;**

19         **(3) Matching funds for federal or state law enforcement grants;**

20         **(4) Funding for the reporting of all state and federal crime statistics or information;**

21 and

22 **(5) Any law enforcement related expense, including those of the prosecuting**  
23 **attorney, approved by the board of trustees for the county law enforcement restitution**  
24 **fund that is reasonably related to investigation, charging, preparation, trial, and**  
25 **disposition of criminal cases before the courts of the state of Missouri.**

26 **4. The county commission may not reduce any law enforcement agency's budget**  
27 **as a result of funds the law enforcement agency receives from the county law enforcement**  
28 **restitution fund. The restitution fund is to be used only as a supplement to the law**  
29 **enforcement agency's funding received from other county, state, or federal funds.**

30 **5. County law enforcement restitution funds shall be audited as are all other county**  
31 **funds.**

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 shall be given a certificate explicitly stating the conditions  
4 on which he 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**  
9 **pursuant to section 217.777, RSMo, or any other method that the court finds just or**  
10 **appropriate including**, but [shall] not [be] 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  
13 judge; [and]

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

16 **(3) Offender treatment programs;**

17 **(4) Work release programs in local facilities; and**

18 **(5) Community-based residential and nonresidential programs.**

19 3. The defendant may refuse probation conditioned on the performance of free work. If  
20 he does so, the court shall decide the extent or duration of sentence or other disposition to be  
21 imposed and render judgment accordingly. Any county, city, person, organization, or agency, or  
22 employee of a county, city, organization or agency charged with the supervision of such free work  
23 or who benefits from its performance shall be immune from any suit by the defendant or any  
24 person deriving a cause of action from him if such cause of action arises from such supervision  
25 of performance, except for an intentional tort or gross negligence. The services performed by the

26 defendant shall not be deemed employment within the meaning of the provisions of chapter 288,  
27 RSMo. A defendant performing services pursuant to this section shall not be deemed an  
28 employee within the meaning of the provisions of chapter 287, RSMo.

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

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

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

**Section 1. After September 1, 2004, no fund shall be created to be used as a**  
2 **depository for moneys received or collected to fund additional costs and expenses incurred**  
3 **by any county office. Any money received or collected to fund additional costs and expenses**  
4 **incurred by any county office, excluding any moneys collected pursuant to any section in**  
5 **effect before September 1, 2004, shall be deposited in the general revenue fund of the**  
6 **county.**