

HB 1183 -- COUNTY LAW ENFORCEMENT RESTITUTION FUND

SPONSOR: Mayer

COMMITTEE ACTION: Voted "do pass" by the Committee on Crime Prevention and Public Safety by a vote of 17 to 1.

This bill allows counties to establish by ordinance the County Law Enforcement Restitution Fund. The fund will receive money from court-ordered restitution. The restitution may not exceed \$275 for any charged offense. If a defendant fails to make a payment to the fund, probation may be revoked. The fund may only be used for specified law enforcement expenditures and will be supervised by a board of five trustees appointed by certain county officials. The county is prohibited from reducing any law enforcement agency's budget as a result of establishing the fund. The fund is subject to audit.

The bill also allows the court to order a defendant to enter an offender treatment program, work release program, or a community-based residential or nonresidential program.

FISCAL NOTE: Estimated Net Effect on General Revenue Fund of \$0 to a cost of Unknown in FY 2005, FY 2006, and FY 2007. No impact on Other State Funds in FY 2005, FY 2006, and FY 2007.

PROPOSERS: Supporters say that this program is desperately needed in many of the rural counties throughout the state. The money in this fund is often the difference between having one sheriff's deputy or two. Many of the sheriff's departments in the state have seen their budgets cut in the last few years and were already understaffed and working without necessary equipment. This funding mechanism was in place for several years under the name County Crime Reduction Fund until a judge decided that statutory authority was necessary to clarify that this money was not a fine and was not required by the Missouri Constitution to go to the School Fund. The name change to County Law Enforcement Restitution Fund simply reflects the legislature's intent that the money is, indeed, not a fine. Instead, it is a law that makes the criminal pay back the costs to the county that he or she has caused by his or her illegal acts.

Testifying for the bill were Representatives Mayer, Lipke (157), and Crowell; John Jordan, Cape Girardeau County Sheriff; Missouri Sheriffs Association; Tom Greenwell, Pemiscot County Sheriff; Larry Plunkett, Wayne County Sheriff; and Ken Jones, Moniteau County Sheriff.

OPPOSERS: Those who oppose the bill say that the Missouri Constitution does not permit this kind of mandatory payment. Any

moneys that must be paid by a criminal defendant that are "the clear proceeds of all penalties, forfeitures, and fines collected hereafter for any breach of the penal laws of the state" must be transferred to the schools in the county. In addition, this kind of fund is perceived to be a "buy your way out of jail card." If you can pay this money, you can get a suspended imposition of sentence.

Testifying against the bill was Missouri Association of Criminal Defense Lawyers.

Richard Smreker, Senior Legislative Analyst