

FIRST REGULAR SESSION

# HOUSE BILL NO. 661

## 100TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE MORSE (151).

1538H.011

DANA RADEMAN MILLER, Chief Clerk

### AN ACT

To repeal section 559.021, RSMo, and to enact in lieu thereof one new section relating to conditions of probation.

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

Section A. Section 559.021, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 559.021, to read as follows:

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

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

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

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

(3) Offender treatment programs;

(4) Work release programs in local facilities; and

(5) Community-based residential and nonresidential programs.

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           **3. In addition to other conditions that may be imposed under this section, the judge**  
19 **may assign the defendant to roadside cleanup as a condition of probation if the judge**  
20 **deems it appropriate.**

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

31           ~~[4.]~~ **5.** In addition to such other authority as exists to order conditions of probation, in  
32 the case of a finding of guilt, the court may order the assessment and payment of a designated  
33 amount of restitution to a county law enforcement restitution fund established by the county  
34 commission pursuant to section 50.565. Such contribution shall not exceed three hundred dollars  
35 for any charged offense. Any restitution moneys deposited into the county law enforcement  
36 restitution fund pursuant to this section shall only be expended pursuant to the provisions of  
37 section 50.565.

38           ~~[5.]~~ **6.** A judge may order payment to a restitution fund only if such fund had been  
39 created by ordinance or resolution of a county of the state of Missouri prior to sentencing. A  
40 judge shall not have any direct supervisory authority or administrative control over any fund to  
41 which the judge is ordering a defendant to make payment.

42           ~~[6.]~~ **7.** A defendant who fails to make a payment to a county law enforcement restitution  
43 fund may not have his or her probation revoked solely for failing to make such payment unless  
44 the judge, after evidentiary hearing, makes a finding supported by a preponderance of the  
45 evidence that the defendant either willfully refused to make the payment or that the defendant  
46 willfully, intentionally, and purposefully failed to make sufficient bona fide efforts to acquire the  
47 resources to pay.

48           ~~[7.]~~ **8.** The court may modify or enlarge the conditions of probation at any time prior to  
49 the expiration or termination of the probation term.

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