

FIRST REGULAR SESSION

HOUSE BILL NO. 321

99TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE NEELY.

0836H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To amend chapter 217, RSMo, by adding thereto one new section relating to the work for restitution program.

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

Section A. Chapter 217, RSMo, is amended by adding thereto one new section, to be known as section 217.776, to read as follows:

217.776. 1. As used in this section, the following terms mean:

(1) "Adult offender", any person who pleads guilty to or is found guilty of any offense and who is not a juvenile offender;

(2) "Juvenile offender", any person who is adjudicated in juvenile court for an offense that would be a crime if committed by an adult;

(3) "Local governing agency", the county, city, community, church organization, or state that may form a work restitution program for all nonviolent offenders, or any community-based organization recognized by the state that can form a restitution program to provide a resource to keep nonviolent offenders in their community rather than in jail;

(4) "Nonviolent offender", any offender who is convicted of a crime other than murder in the first or second degree, involuntary manslaughter, involuntary manslaughter in the first or second degree, kidnapping, kidnapping in the first degree, rape in the first degree, forcible rape, sodomy in the first degree, forcible sodomy, robbery in the first degree, or assault in the first degree;

(5) "Persistent offender", any person who has pleaded guilty to or has been found guilty of three or more felony offenses of the laws of this state or of the United States, or any other state, territory, or district;

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 **(6) "Successful completion of the work for restitution program", that an offender**
19 **who has been placed on probation or parole and has had work for restitution imposed as**
20 **a condition of probation or parole has paid all rehabilitation fees in full;**

21 **(7) "Work release", the release of an offender to the community by the court or the**
22 **state, county, or city to the expiration of his or her term, subject to conditions imposed by**
23 **the court or the board and to its supervision; or to work to provide restitution and to allow**
24 **the option of not serving imprisonment;**

25 **(8) "Work restitution", a procedure under which a defendant found guilty of a**
26 **crime upon verdict or plea is released by the court without imprisonment, subject to**
27 **conditions imposed by the court and subject to the supervision of the board;**

28 **(9) "Work for restitution program", a local governing agency program that**
29 **provides supervised work programs for individuals on probation or parole who are**
30 **classified as nonviolent offenders.**

31 **2. Notwithstanding any other provision of law, any person who has pleaded guilty**
32 **or nolo contendere to or been found guilty of any nonviolent offense shall be considered**
33 **by the court for probation. If probation is granted and there is any restitution owed to any**
34 **victim, in addition to other requirements that may be imposed by the court, the court shall**
35 **require participation in, and completion of, the work for restitution program. In such**
36 **cases, the court shall not impose incarceration as an additional condition of probation.**

37 **3. The provisions of subsection 2 of this section shall not apply to:**

38 **(1) Any person who has pleaded guilty to, or been convicted of a dangerous felony**
39 **as defined in section 556.061;**

40 **(2) Any person determined to be a persistent offender;**

41 **(3) Any defendant who has been previously sentenced to probation under the**
42 **provisions of this section and has been unsuccessful in three separate courses of the work**
43 **for restitution program and is found by the court by clear and convincing evidence to be**
44 **unamenable to the work for restitution program; or**

45 **(4) Any defendant who refuses the work for restitution program as a condition of**
46 **probation.**

47 **4. Within seven days of an order imposing probation under the provisions of this**
48 **section, the board shall notify the work for restitution program designated to provide**
49 **treatment.**

50 **5. If at any point during the course of the work for restitution program the**
51 **program provider notifies the board that the defendant is not following the directives of**
52 **the work for restitution program provider, the board may move to the court to revoke**
53 **probation.**

54 **6. If a defendant receives probation under the provisions of this section and violates**
55 **such probation either by being arrested or by violating a condition of probation and the**
56 **state moves to revoke probation, the court shall conduct a hearing to determine whether**
57 **probation shall be revoked. The court may intensify the requirements for the work for**
58 **restitution program, if appropriate, or otherwise modify or revoke probation if the alleged**
59 **violation is proven.**

60 **7. Ineligible inmates under the provisions of this section shall be:**

61 **(1) Inmates serving terms or having past convictions for a dangerous felony as**
62 **defined in section 556.061;**

63 **(2) Any inmate who has, while under parole supervision, been previously**
64 **unsuccessful in a work for restitution program and who is subsequently regarded by the**
65 **board as unamenable to any and all forms of the work for restitution program; or**

66 **(3) Any inmate who refuses to participate in a work for restitution program as a**
67 **condition of parole.**

68 **8. Inmates approved for early parole release to take part in the work for restitution**
69 **program shall be required to participate in and successfully complete the work for**
70 **restitution program as a condition of parole.**

71 **9. The release of the offender shall be coordinated with the work for restitution**
72 **program provider so that the offender is admitted into the program within the first seven**
73 **days of release from prison.**

74 **10. A work for restitution program plan shall be provided to the board within**
75 **thirty days of the individual's admission to the work for restitution program.**

76 **11. On a monthly basis, the work for restitution program provider shall prepare**
77 **and forward a monthly progress report to the board's designee.**

78 **12. If at any point during the course of the work for restitution program the**
79 **program provider notifies the board that the parolee is unamenable to the work for**
80 **restitution program but may be amenable to and in need of a treatment program, the**
81 **board may modify the terms of parole to ensure that the individual receives the treatment**
82 **program.**

83 **13. If at any point during the course of the work for restitution program the**
84 **program provider notifies the board that the parolee is unamenable to the work for**
85 **restitution program and is unamenable to or does not need any other treatment program,**
86 **the board may act to revoke parole.**

87 **14. Each offender in the work for restitution program and under the supervision**
88 **of the board shall be required to:**

89 **(1) Pay restitution to all victims in full;**

90 **(2) Pay a rehabilitation fee in an amount equal to the total amount of restitution the**
91 **offender is ordered to pay to all victims;**

92 **(3) Work a total of twelve hours per day, with eight hours for the offender's own**
93 **income and four hours for restitution, six days per week, until the total amount of**
94 **restitution and rehabilitation fees have been paid. If the offender is currently employed,**
95 **then the offender's hours worked at their regular job will be counted as part of the hours**
96 **but not part of the restitution; and**

97 **(4) Work the required hours per day as deemed by the presiding judge or local**
98 **community enforcement. Juvenile offenders shall work until the total amount of**
99 **restitution and rehabilitation fees have been paid. If the offender is currently employed,**
100 **then the offender's hours worked at their regular job will be counted as part of the hours**
101 **but not part of the restitution.**

102 **15. The amount of the wages in the work for restitution program shall not exceed**
103 **the current federal minimum wage.**

104 **16. The requirement of rehabilitation fees shall become effective on August 28,**
105 **2017, and shall not be applied retroactively to offenders for any past period of supervision.**

106 **17. The payment of restitution and rehabilitation fees shall be a written condition**
107 **of each offender's probation or parole, and no offender shall be released from supervision**
108 **until such restitution and fees have been collected.**

109 **18. Fees may be waived on a temporary or permanent basis for an offender only**
110 **when the board has determined the offender would suffer a serious financial hardship due**
111 **to:**

112 **(1) Temporary or permanent employment disability; or**

113 **(2) Temporary unemployment for bona fide and authorized reasons.**

114 **19. The required fees shall be collected and remitted to the work for restitution**
115 **fund created under this section within sixty days of receipt. The local governing agency**
116 **is authorized to enter into agreements with other governmental entities or contracts with**
117 **nongovernmental entities for the collection of the required fees. An annual report shall be**
118 **prepared that identifies the funds collected and the funds remitted to the work for**
119 **restitution fund. The moneys received from such fees shall be appropriated solely for the**
120 **purpose of funding the work for restitution program required by this section.**

121 **20. Any person who is ordered to participate in the work for restitution program**
122 **to make restitution for damage or loss caused by his or her offense under the provisions**
123 **of this section shall not be considered an employee as defined in section 290.500.**

124 **21. There is hereby created a community based work restitution fund to be known**
125 **as the "Work for Restitution Fund" that shall be administered by the local city, county,**

126 or state. The state treasurer shall be custodian of the fund. In accordance with sections
127 30.170 and 30.180, the state treasurer may approve disbursements. The fund shall be a
128 dedicated fund and, upon appropriation, moneys in the fund shall be used solely for the
129 administration of this section. Notwithstanding the provisions of section 33.080 to the
130 contrary, any moneys remaining in the fund at the end of the biennium shall not revert to
131 the credit of the general revenue fund. The state treasurer shall invest moneys in the fund
132 in the same manner as other funds are invested. Any interest and moneys earned on such
133 investments shall be credited to the fund.

134 22. The local governing agency shall promulgate rules and regulations to implement
135 and administer the provisions of this section. Any rule or portion of a rule, as that term
136 is defined in section 536.010, that is created under the authority delegated in this section
137 shall become effective only if it complies with and is subject to all of the provisions of
138 chapter 536 and, if applicable, section 536.028. This section and chapter 536 are
139 nonseverable, and if any of the powers vested with the general assembly pursuant to
140 chapter 536 to review, to delay the effective date, or to disapprove and annul a rule are
141 subsequently held unconstitutional, then the grant of rulemaking authority and any rule
142 proposed or adopted after August 28, 2017, shall be invalid and void.

143 23. The local governing agency shall provide an annual report that describes the
144 effectiveness and financial impact of the requirements of this section. The study shall
145 include, but not be limited to, a description of the number served and outcomes; a study
146 of the implementation process; a review of lower incarceration costs, reductions in crime,
147 reductions in substance abuse, and reduced welfare costs; and the adequacy of the funding
148 mechanism to implement the provisions of this section.

✓