

FIRST REGULAR SESSION

HOUSE BILL NO. 955

94TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES GUEST (Sponsor), RUESTMAN,
WALLACE AND McGHEE (Co-sponsors).

Read 1st time February 22, 2007 and copies ordered printed.

D. ADAM CRUMBLISS, Chief Clerk

2255L.01I

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
2 known as section 217.774, to read as follows:

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

2 **(1) "Board", the board of probation and parole;**

3 **(2) "Nonviolent offender", any offender who is convicted of a crime other than**
4 **murder in the first or second degree, involuntary manslaughter, kidnapping, forcible rape,**
5 **forcible sodomy, robbery in the first degree, assault in the first degree, or assault of a law**
6 **enforcement officer or emergency personnel in the first degree;**

7 **(3) "Parole", the release of an offender to the community by the court or the state**
8 **board of probation and parole to the expiration of his or her term, subject to conditions**
9 **imposed by the court or the board and to its supervision;**

10 **(4) "Persistent offender", any person who has pleaded guilty to or has been found**
11 **guilty of two or more felony offenses of the laws of this state or of the United States, or any**
12 **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.

13 (5) "Probation", a procedure under which a defendant found guilty of a crime
14 upon verdict or plea is released by the court without imprisonment, subject to conditions
15 imposed by the court and subject to the supervision of the board;

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

19 (7) "Work for restitution program", a department of corrections program that
20 provides supervised work programs for individuals on probation or parole who are
21 classified as nonviolent offenders.

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

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

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

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

32 (3) Any defendant who has been previously sentenced to probation under the
33 provisions of this section and has been unsuccessful in two separate courses of the work for
34 restitution program and is found by the court by clear and convincing evidence, to be
35 unamenable to the work for restitution program;

36 (4) Any defendant who refuses the work for restitution program as a condition of
37 probation.

38 4. Within seven days of an order imposing probation under the provisions of this
39 section, the board shall notify the work for restitution program designated to provide
40 treatment.

41 5. If at any point during the course of the work for restitution program the
42 program provider notifies the board that the defendant is not following the directives of
43 the work for restitution program provider, the board may move to the court to revoke
44 probation.

45 6. Where a defendant receives probation under the provisions of this section and
46 violates such probation either by being arrested or by violating a condition of probation,
47 and the state moves to revoke probation, the court shall conduct a hearing to determine
48 whether probation shall be revoked. The court may intensify the requirements for the

49 work for restitution program if appropriate, or otherwise modify or revoke probation if
50 the alleged violation is proved.

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

52 **(1) Inmates serving terms or having past convictions for a dangerous felony as**
53 **defined in section 556.061, RSMo;**

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

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

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

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

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

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

69 **12. If at any point during the course of the work for restitution program the**
70 **program provider notifies the board that the parolee is unamenable to the work for**
71 **restitution program, but may be amenable to and in need of a treatment program, the**
72 **board may modify the terms of parole to ensure that the individual receives the treatment**
73 **program.**

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

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

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

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

83 **(3) Work a total of twelve hours per day, with eight hours for the offender's own**
84 **income and four hours for restitution, six days per week, until the total amount of**

85 restitution and rehabilitation fees have been paid. If the offender is currently employed,
86 then the offender's hours worked at their regular job will be counted as part of the hours
87 but not part of the restitution.

88 (4) The amount of the wages in the work for restitution program shall not exceed
89 the current federal minimum wage.

90 15. The requirement of rehabilitation fees shall become effective on August 28,
91 2007, and shall not be applied retroactively to offenders for any past period of supervision.

92 16. The payment of restitution and rehabilitation fees shall be a written condition
93 of each offender's probation or parole and no offender shall be released from supervision
94 until such restitution and fees have been collected.

95 17. Fees may be waived on a temporary or permanent basis for an offender only
96 when the board has determined that the offender would suffer a serious financial hardship
97 due to:

98 (1) Temporary or permanent employment disability;

99 (2) Temporary unemployment for bonafide and authorized reasons.

100 18. The required fees shall be collected and remitted to the work for restitution
101 fund created pursuant to this section within sixty days of receipt. The department of
102 corrections is authorized to enter into agreements with other governmental entities for the
103 collection of the required fees, or into contracts with nongovernmental entities, for the
104 collection of the required fees. An annual report shall be prepared that identifies the funds
105 collected and the funds remitted to the work for restitution fund.

106 19. Any person who is ordered to participate in the work for restitution program
107 to make restitution for damage or loss caused by his or her offense pursuant to the
108 provisions of this section shall not be considered an employee as defined in section 290.500,
109 RSMo.

110 20. There is hereby created in the state treasury a fund to be known as the "Work
111 for Restitution Fund" that shall be administered by the department of corrections. The
112 state treasurer shall credit to the fund any interest earned from investing the moneys in the
113 fund. Notwithstanding the provisions of section 33.080, RSMo, money in the work for
114 restitution fund shall not be transferred and placed to the credit of general revenues at the
115 end of the biennium.

116 21. Fees received pursuant to the provisions of this section shall be deposited in the
117 work for restitution fund. The moneys received from such fees shall be appropriated solely
118 for the purpose of funding the work for restitution program required by this section.

119 22. The department of corrections shall promulgate rules and regulations to
120 implement and administer the provisions of this section. Any rule or portion of a rule, as

121 **that term is defined in section 536.010, RSMo, that is created under the authority delegated**
122 **in this section shall become effective only if it complies with and is subject to all of the**
123 **provisions of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This section**
124 **and chapter 536, RSMo, are nonseverable and if any of the powers vested with the general**
125 **assembly pursuant to chapter 536, RSMo, to review, to delay the effective date, or to**
126 **disapprove and annul a rule are subsequently held unconstitutional, then the grant of**
127 **rulemaking authority and any rule proposed or adopted after August 28, 2007, shall be**
128 **invalid and void.**

129 **23. The department of corrections shall provide an annual report that describes the**
130 **effectiveness and financial impact of the requirements of this section. The study shall**
131 **include, but not be limited to: a description of the number served and outcomes, a study**
132 **of the implementation process, a review of lower incarceration costs, reductions in crime,**
133 **reductions in substance abuse, reduced welfare costs, and the adequacy of the funding**
134 **mechanism to implement the provisions of this section.**

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