

SECOND REGULAR SESSION

HOUSE BILL NO. 2171

97TH GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVE SCHARNHORST.

6435H.011

D. ADAM CRUMBLISS, Chief Clerk

AN ACT

To repeal section 488.5375, RSMo, and to enact in lieu thereof one new section relating to reimbursement for costs of examining electronic devices.

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

Section A. Section 488.5375, RSMo, is repealed and one new section enacted in lieu thereof, to be known as section 488.5375, to read as follows:

488.5375. **1.** Upon a plea of guilty or a finding of guilt for a [felony sexual] **misdemeanor or felony** offense in which computers, computer equipment, computer devices, cellular telephones, **computer media**, or other electronic devices were seized **and analyzed**, the court [may] **shall**, in addition to imposition of any penalties provided by law, order the defendant to reimburse the state or local law enforcement agency **performing the analysis** for the costs incurred by such agency in the examination of any computer, computer equipment, computer devices, cellular telephones, **computer media**, or other electronic devices [seized]. Such costs shall include the reasonable costs of performing examinations [of the seized electronic devices] **, acquisition of hardware, or acquisition of software currently not in the possession of the analyzing agency and specifically needed for the case.** [Each law enforcement agency may establish a schedule of such costs; except that,] The court may order the costs reduced if the court determines that the costs are excessive. **Costs collected under this section may be paid directly to the law enforcement agency performing the analysis by the court or collected by the prosecuting attorney or circuit attorney under section 559.100.**

2. Any person ordered by the court to pay costs under this section shall not be released from probation until such costs have been paid in full. If such costs are not paid

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.

17 within the original term of probation, the court shall order the maximum term of
18 probation allowed for such offense.

19 **3. Any person eligible to be released on parole shall be required, as a condition of**
20 **parole, to pay costs under this section. The board of probation and parole shall not release**
21 **any person from any term of parole for such offense until the person has paid such costs**
22 **or until the maximum term of parole for such offense has been served.**

23 **4. The costs under this section may be taken from the inmate's account at the**
24 **department of corrections while the defendant is incarcerated. Upon conditional release**
25 **or parole, if any amount of the cost is unpaid, the payment of the unpaid balance may be**
26 **collected as a condition of conditional release or parole by the prosecuting attorney or**
27 **circuit attorney under section 559.100. The prosecuting attorney or circuit attorney may**
28 **refer any failure to make such restitution as a condition of conditional release or parole to**
29 **the parole board for enforcement.**

30 **5. Any costs collected under this section shall be used for law enforcement purposes**
31 **only. Subject to the laws, rules, regulations, and orders of the state or local jurisdiction**
32 **governing the use of public funds available for law enforcement purposes, such costs shall**
33 **not be deposited into the general funds of any city, county, or state government and may**
34 **only be used for the following purposes:**

35 **(1) The support of investigations and operations that may result in furthering law**
36 **enforcement goals and missions including, but not limited to, payment of overtime for**
37 **officers and investigators, payments to informants, and reward money;**

38 **(2) The training of officers, investigators, prosecutors, and law enforcement**
39 **support personnel in any area that is necessary to perform official law enforcement duties.**
40 **Priority consideration shall be given to training in:**

41 **(a) The use of computers and other equipment in support of law enforcement**
42 **duties; and**

43 **(b) The Fourth Amendment, including search and seizure, probable cause, drafting**
44 **affidavits, and confidential informant reliability;**

45 **(3) The costs associated with the purchase, lease, construction, expansion,**
46 **improvement, or operation of law enforcement or detention facilities used or managed by**
47 **the recipient agency. However, costs collected under this section shall not be used for**
48 **capital improvements on leased property or space;**

49 **(4) The costs associated with the purchase, lease, maintenance, or operation of law**
50 **enforcement equipment for use by law enforcement personnel that supports law**
51 **enforcement activities including, but not limited to, furniture, file cabinets, office supplies,**
52 **telecommunications equipment, copiers, safes, fitness equipment, computers, computer**

53 accessories, computer software, body armor, uniforms, firearms, radios, cellular
54 telephones, electronic surveillance equipment, and vehicles;

55 (5) The costs associated with travel and transportation to perform or in support of
56 law enforcement duties and activities. All related costs shall be in accordance with the
57 agency's state per diem and shall not create the appearance of extravagance or
58 impropriety; and

59 (6) The costs associated with conducting internet and cyber safety, education, and
60 awareness programs by law enforcement agencies including, but not limited to, literature
61 costs and travel expenses.

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