

FIRST REGULAR SESSION

# SENATE BILL NO. 298

90TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR KINDER.

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TERRY L. SPIELER, Secretary.

## AN ACT

To repeal section 559.021, RSMo Supp. 1998, relating to conditions of probation, and to enact in lieu thereof one new section relating to the same subject.

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

Section A. Section 559.021, RSMo Supp. 1998, is repealed and one new section enacted in lieu thereof, to be known as section 559.021, to read as follows: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 shall be given a certificate explicitly stating the conditions on which he 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, or society. Such conditions may include, but shall not be limited to:

(1) Restitution to the victim or any dependent of the victim, in an amount to be determined by the judge; [and]

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

**(3) Payment of a designated amount to a crime reduction fund created by a county, city, town or village of the state of Missouri.**

3. The defendant may refuse probation conditioned on the performance of free work. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. Any county, city,

**EXPLANATION--Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

person, organization, or agency, or employee of a county, city, organization or agency charged with the supervision of such free work or who benefits from its performance shall be immune from any suit by the defendant or any person deriving a cause of action from him if such cause of action arises from such supervision of performance, except for an intentional tort or gross negligence. The services performed by the defendant shall not be deemed employment within the meaning of the provisions of chapter 288, RSMo. A defendant performing services pursuant to this section shall not be deemed an employee within the meaning of the provisions of chapter 287, RSMo.

**4. The defendant may refuse probation conditioned on a payment to a crime reduction fund. If he does so, the court shall decide the extent or duration of sentence or other disposition to be imposed and render judgment accordingly. A judge may order payment to a crime reduction fund only if such fund had been created prior to sentencing by ordinance or resolution of a county, city, town or village of the state of Missouri. A judge shall not have any direct supervisory authority nor administrative control over any fund to which the judge is ordering probationers to make payments. A defendant who fails to make a payment or payments to a crime reduction fund may not have his probation revoked solely for failing to make such payment unless the judge, after an evidentiary hearing, makes a finding supported by a preponderance of the evidence that the defendant either willfully refused to make the payment or that the defendant willfully, intentionally and purposefully failed to make sufficient bona fide efforts to acquire the resources to pay.**

5. The court may modify or enlarge the conditions of probation at any time prior to the expiration or termination of the probation term.

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