

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 510

Introduced by Pirsch, 4.

Read first time January 21, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to crime victims; to amend sections 81-1835,
2 81-1845, and 83-183, Reissue Revised Statutes of
3 Nebraska; to prescribe a defendant surcharge for funding;
4 to provide for certain wages earned by inmates in a work
5 release program and defendant surcharges to be deposited
6 in the Victim's Compensation Fund as prescribed;
7 to create and provide for defendant surcharges to
8 be deposited in the Nebraska Crime Victim Fund and
9 distributed as prescribed; to harmonize provisions; and
10 to repeal the original sections.
11 Be it enacted by the people of the State of Nebraska,

1 Section 1. (1) In addition to any fine or other penalty
2 prescribed by law, a defendant who pleads guilty or nolo contendere
3 to or is convicted of any state or local criminal or traffic
4 offense shall be assessed a surcharge of one dollar.

5 (2) The surcharge shall be imposed on any defendant for
6 whom prosecution, trial, or sentence is deferred, who participates
7 in any pretrial diversion program, or who is sentenced to probation
8 or community service.

9 (3) The surcharge shall be paid within ten days of
10 imposition or final determination. Failure to comply shall be
11 punishable as contempt of court. Contempt proceedings or other
12 proceedings to collect the surcharge shall be initiated by the
13 prosecuting attorney or by the court on its own motion.

14 (4) Money paid to the court by a defendant shall be
15 applied to the surcharge before being applied to any fine, penalty,
16 cost, or other assessment imposed on the defendant. The clerk of
17 the court shall remit the proceeds from the surcharge to the State
18 Treasurer for credit to the Nebraska Crime Victim Fund.

19 Sec. 2. The Nebraska Crime Victim Fund is created. The
20 fund shall contain the amounts credited pursuant to section 1
21 of this act and such other amounts as may be appropriated by
22 the Legislature. Such fund shall be administered by the Nebraska
23 Commission on Law Enforcement and Criminal Justice. The commission
24 shall distribute the funds credited pursuant to section 1 of this
25 act each fiscal year, in amounts determined by the commission,

1 first to the Victim Information and Notification Everyday network
2 for the State of Nebraska, and any remaining funds to comprehensive
3 crime victim assistance programs or nonprofit organizations that
4 work for the benefit of such programs.

5 Sec. 3. Section 81-1835, Reissue Revised Statutes of
6 Nebraska, is amended to read:

7 81-1835 There is hereby established in the state treasury
8 a Victim's Compensation Fund from which all awards or judgments
9 under the Nebraska Crime Victim's Reparations Act shall be paid.
10 This fund shall include deposits pursuant to sections 29-2286,
11 81-1836, 83-183, and 83-183.01 and shall be in such amount as
12 the Legislature shall determine to be reasonably sufficient to
13 meet anticipated claims. When the amount of money in the fund
14 is not sufficient to pay any awards or judgments under the act,
15 the Director of Administrative Services shall immediately advise
16 the Legislature and request an emergency appropriation to satisfy
17 such awards and judgments. Any money in the fund available for
18 investment shall be invested by the state investment officer
19 pursuant to the Nebraska Capital Expansion Act and the Nebraska
20 State Funds Investment Act.

21 Sec. 4. Section 81-1845, Reissue Revised Statutes of
22 Nebraska, is amended to read:

23 81-1845 (1) Any public or private nonprofit agency that,
24 at a minimum, provides services to victims may apply to the
25 Nebraska Commission on Law Enforcement and Criminal Justice for

1 selection and funding as a victim and witness assistance center
2 pursuant to sections 81-1843 to 81-1851.

3 (2) The commission shall consider the following factors,
4 together with any other factors it deems appropriate, in selecting
5 applicants to receive funds and be designated as a victim and
6 witness assistance center:

7 (a) The number of volunteers that the proposed center
8 will utilize;

9 (b) The stated goals of the applicant;

10 (c) The potential number of people that may be served
11 by the proposed center and the needs of the community for such a
12 center;

13 (d) Evidence of community support for the establishment
14 of the proposed center; and

15 (e) The organizational structure of the agency which will
16 operate the proposed center and provide services to victims and
17 witnesses of crimes.

18 (3) Upon evaluation of all applicants, the Nebraska
19 Commission on Law Enforcement and Criminal Justice shall select
20 a number of public or private nonprofit agencies which the
21 commission deems qualified for designation to receive funding
22 for the establishment and operation of such centers.

23 (4) The commission shall, upon the establishment of such
24 centers, conduct appraisals of their performance to determine which
25 of the centers shall receive continuation grants. The commission

1 shall report its finding to the Governor and the Clerk of the
2 Legislature.

3 (5) For purposes of this section, victim means a person
4 who has suffered direct physical, sexual, emotional, or pecuniary
5 harm as a result of the commission of a crime.

6 Sec. 5. Section 83-183, Reissue Revised Statutes of
7 Nebraska, is amended to read:

8 83-183 (1) To establish good habits of work and
9 responsibility, to foster vocational training, and to reduce
10 the cost of operating the facilities, persons committed to
11 the department shall be employed, eight hours per day, so far
12 as possible in constructive and diversified activities in the
13 production of goods, services, and foodstuffs to maintain the
14 facilities, for state use, and for other purposes authorized by
15 law. To accomplish these purposes, the director may establish and
16 maintain industries and farms in appropriate facilities and may
17 enter into arrangements with any other board or agency of the
18 state, any natural resources district, or any other political
19 subdivision, except for school districts, educational service
20 units, community colleges, state colleges, or universities, for
21 the employment of persons committed to the department for state
22 or governmental purposes. Nothing in this subsection shall be
23 construed to effect a reduction in the number of work release
24 positions.

25 (2) The director shall make rules and regulations

1 governing the hours, conditions of labor, and the rates of
2 compensation of persons committed to the department. In determining
3 the rates of compensation, such regulations may take into
4 consideration the quantity and quality of the work performed by
5 such person, whether or not such work was performed during regular
6 working hours, the skill required for its performance, and the
7 economic value of similar work outside of correctional facilities.

8 (3) Except as provided in section 83-183.01, wage
9 payments to a person committed to the department shall be set aside
10 by the chief executive officer of the facility in a separate fund.
11 The fund shall enable such person committed to the department to
12 contribute to the support of his or her dependents, if any, to
13 make necessary purchases from the commissary, and to set aside
14 sums to be paid to him or her at the time of his or her release
15 from the facility. The director may authorize the chief executive
16 officer to deposit up to five percent of the fund into the Victim's
17 Compensation Fund.

18 (4) The director may authorize the chief executive
19 officer to invest the earnings of a person committed to the
20 department. Any accrued interest thereon shall be credited to such
21 person's fund.

22 (5) The director may authorize the chief executive
23 officer to reimburse the state from the wage fund of a person
24 committed to the department for:

25 (a) The actual value of property belonging to the state

1 or any other person intentionally or recklessly destroyed by such
2 person committed to the department during his or her commitment;

3 (b) The actual value of the damage or loss incurred as a
4 result of unauthorized use of property belonging to the state or
5 any other person by such person committed to the department;

6 (c) The actual cost to the state for injuries or other
7 damages caused by intentional acts of such person committed to the
8 department; and

9 (d) The reasonable costs incurred in returning such
10 person committed to the department to the facility to which he or
11 she is committed in the event of his or her escape.

12 (6) No person committed to the department shall be
13 required to engage in excessive labor, and no such person shall be
14 required to perform any work for which he or she is declared unfit
15 by a physician designated by the director. No person who performs
16 labor or work pursuant to this section shall be required to wear
17 manacles, shackles, or other restraints.

18 (7) The director may authorize that a portion of the
19 earnings of a person committed to the department be retained by
20 that person for personal use.

21 Sec. 6. The Revisor of Statutes shall assign section 1 of
22 this act to Chapter 33, article 1.

23 Sec. 7. Original sections 81-1835, 81-1844, 81-1845, and
24 83-183, Reissue Revised Statutes of Nebraska, are repealed.