

## LEGISLATIVE BILL 510

Approved by the Governor April 14, 2010

Introduced by Pirsch, 4; Fulton, 29; Gay, 14; Giese, 17; Hadley, 37; Hansen, 42; Howard, 9; Janssen, 15; Krist, 10; Nelson, 6; Nordquist, 7; Pankonin, 2; Wallman, 30.

FOR AN ACT relating to criminal procedure; to amend sections 29-2207 and 83-184, Reissue Revised Statutes of Nebraska, and section 81-1835, Revised Statutes Supplement, 2009; to require assessments on convictions and affirmations upon appeal; to provide funding for compensation of victims of crime and for rehabilitation of certain offenders as prescribed; to create funds; to harmonize provisions; to provide a duty for the Revisor of Statutes; and to repeal the original sections.

Be it enacted by the people of the State of Nebraska,

Section 1. (1) In addition to all other costs assessed according to law, an assessment of one dollar shall be assessed for each conviction of a person for any misdemeanor or felony in county court or district court and each affirmation on appeal. No such assessment shall be collected in any juvenile court proceeding. No county shall be liable for the assessment imposed pursuant to this section. The assessments shall be remitted to the State Treasurer on forms prescribed by the State Treasurer within ten days after the end of the month.

(2) The Nebraska Crime Victim Fund is created. The fund shall contain the amounts remitted pursuant to subsection (1) of this section and section 83-184. The fund shall be administered by the Nebraska Commission on Law Enforcement and Criminal Justice. As soon as funds become available, the commission shall direct the State Treasurer to transfer money from the Nebraska Crime Victim Fund to the Department of Correctional Services Facility Cash Fund and the Supreme Court Automation Cash Fund to pay for the initial costs in implementing this legislative bill, in amounts to be determined by the Department of Correctional Services and the Supreme Court and certified to the commission. When such costs are fully reimbursed, the Nebraska Crime Victim Fund shall terminate and the State Treasurer shall distribute seventy-five percent of the funds remitted pursuant to subsection (1) of this section and section 83-184 to the Victim's Compensation Fund to be awarded as compensation for losses and expenses allowable under the Nebraska Crime Victim's Reparations Act and shall distribute twenty-five percent of such funds to the Reentry Cash Fund.

Sec. 2. Section 29-2207, Reissue Revised Statutes of Nebraska, is amended to read:

29-2207 In every case of conviction of any person for any felony or misdemeanor, it shall be the duty of the court or magistrate to render judgment for the costs of prosecution against the person convicted and remit the assessment as provided in section 1 of this act.

Sec. 3. In every case of appeal of a conviction of any person for any felony or misdemeanor to the district court, Court of Appeals, or Supreme Court that is affirmed, the court shall remit the assessment as provided in section 1 of this act.

Sec. 4. Section 81-1835, Revised Statutes Supplement, 2009, is amended to read:

81-1835 The Victim's Compensation Fund is created. The fund shall be used to pay awards or judgments under the Nebraska Crime Victim's Reparations Act other than distributions from the Community Trust. The fund shall include deposits pursuant to sections 29-2286, 81-1836, ~~and~~ 83-183.01, and 83-184 and section 1 of this act and donations or contributions from public or private sources and shall be in such amount as the Legislature shall determine to be reasonably sufficient to meet anticipated claims. When the amount of money in the fund is not sufficient to pay any awards or judgments under the act, the Director of Administrative Services shall immediately advise the Legislature and request an emergency appropriation to satisfy such awards and judgments. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 5. Section 83-184, Reissue Revised Statutes of Nebraska, is amended to read:

83-184 (1) When the conduct, behavior, mental attitude, and conditions indicate that a person committed to the department and the general society of the state will be benefited, and there is reason to believe that

the best interests of the people of the state and the person committed to the department will be served thereby, in that order, and upon the recommendation of the ~~Board of Parole board~~ in the case of each committed offender, the ~~Director of Correctional Services~~ director may authorize such person, under prescribed conditions, to:

(a) Visit a specifically designated place or places and return to the same or another facility. An extension of limits may be granted to permit a visit to a dying relative, attendance at the funeral of a relative, the obtaining of medical services, the contacting of prospective employers, or for any other reason consistent with the public interest; or

(b) Work at paid employment or participate in a training program in the community on a voluntary basis whenever:

(i) Such paid employment will not result in the displacement of employed workers, or be applied in skills, crafts, or trades in which there is a surplus of available gainful labor in the locality, or impair existing contracts for services; and

(ii) The rates of pay and other conditions of employment will not be less than those paid or provided for work of similar nature in the locality in which the work is to be performed.

(2) The wages earned by a person authorized to work at paid employment in the community under the provisions of this section shall be credited by the chief executive officer of the facility to such person's wage fund. The director shall authorize the chief executive officer to withhold up to five percent of such person's net wages. The funds withheld pursuant to this subsection shall be remitted to the State Treasurer for credit as provided in subsection (2) of section 1 of this act.

(3) A person authorized to work at paid employment in the community under the provisions of this section may be required to pay, and the ~~Director of Correctional Services~~ director is authorized to collect, such costs incident to the person's confinement as the ~~Director of Correctional Services~~ director deems appropriate and reasonable. Collections shall be deposited in the state treasury as miscellaneous receipts.

(4) The willful failure of a person to remain within the extended limits of his or her confinement or to return within the time prescribed to a facility designated by the ~~Director of Correctional Services~~ director may be deemed an escape from custody punishable as provided in section 28-912.

(5) No person employed in the community under the provisions of this section or otherwise released shall, while working in such employment in the community or going to or from such employment or during the time of such release, be deemed to be an agent, employee, or servant of the state.

Sec. 6. The Reentry Cash Fund is created. The fund shall be administered by the Department of Correctional Services. The State Treasurer shall credit funds remitted pursuant to section 83-184 and section 1 of this act and donations or contributions from public or private sources to the Reentry Cash Fund. The fund shall be used by the department for tuition, fees, and other costs associated with reentry and reintegration programs offered to offenders that are placed in the incarceration work camp. Any money in the fund available for investment shall be invested by the state investment officer pursuant to the Nebraska Capital Expansion Act and the Nebraska State Funds Investment Act.

Sec. 7. The Revisor of Statutes shall assign section 3 of this act to Chapter 29, article 23, and section 6 of this act to Chapter 83.

Sec. 8. Original sections 29-2207 and 83-184, Reissue Revised Statutes of Nebraska, and section 81-1835, Revised Statutes Supplement, 2009, are repealed.