

Stricken language would be deleted from and underlined language would be added to present law.

State of Arkansas
91st General Assembly
Regular Session, 2017

As Engrossed: S2/13/17
A Bill

SENATE BILL 269

By: Senator J. Hutchinson

For An Act To Be Entitled

*AN ACT CONCERNING THE COLLECTION OF RESTITUTION BY AN
EMPLOYEE OF THE DEPARTMENT OF COMMUNITY CORRECTION;
TO ESTABLISH THE DEPARTMENT OF FINANCE AND
ADMINISTRATION AS THE DESIGNATED AGENCY FOR
COLLECTION OF RESTITUTION IN CERTAIN CIRCUMSTANCES;
TO PERMIT THE DEPARTMENT OF FINANCE AND
ADMINISTRATION TO USE ALL LEGAL MEANS TO COLLECT
RESTITUTION IF THE PERSON IS IN ARREARS; AND FOR
OTHER PURPOSES.*

Subtitle

*AN ACT CONCERNING THE COLLECTION OF
RESTITUTION; AND TO ESTABLISH THE
DEPARTMENT OF FINANCE AND ADMINISTRATION
AS THE DESIGNATED AGENCY FOR COLLECTION
OF RESTITUTION IN CERTAIN CIRCUMSTANCES.*

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code § 5-4-205(g), concerning a judgment of restitution by a court against a person convicted of an offense, is amended to read as follows:

(g)(1) The court shall enter a judgment against the defendant for the amount determined under subdivision (b)(4) of this section.

(2) The judgment may be enforced by the state or a beneficiary of the judgment in the same manner as a judgment for money in a civil action.

(3) A judgment under this section may be discharged by a



settlement between the defendant and the beneficiary of the judgment.

(4) The court shall determine priority among multiple beneficiaries on the basis of:

- (A) The seriousness of the harm each beneficiary suffered;
- (B) The other resources of the beneficiaries; and
- (C) Other equitable factors.

(5) If more than one (1) defendant is convicted of the crime for which there is a judgment under this section, the defendants are jointly and severally liable for the judgment unless the court determines otherwise.

~~(6)(A) A judgment shall require payment to the Department of Community Correction.~~

~~(B) The department shall provide for supervision and disbursement of funds under subdivision (g)(6)(A) of this section by the department's authorized economic sanction officers.~~

SECTION 2. Arkansas Code § 5-4-907 is amended to read as follows:

5-4-907. Cost, fees, and restitution.

(a) The pre-adjudication probation program judge may order the offender to pay:

- (1) Court costs as provided in § 16-10-305;
- (2) Any substance abuse treatment costs;
- (3) Drug testing costs;
- (4) Costs associated with mental health treatment;
- (5) A pre-adjudication probation program user fee;
- (6) Any restitution owed the victim of the charged criminal

offense;

- (7) Necessary supervision fees;
- (8) Any applicable residential treatment fees;
- (9) Tuition and other educational fees for vocational schools,

technical schools, community colleges, or two-year and four-year public universities that are part of the pre-adjudication probation program for which the offender is participating; and

(10) Any fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1), ~~which are to be paid to the Department of Community Correction.~~

(b)(1) The pre-adjudication probation program judge shall establish a

schedule for the payment of costs, fees, and restitution.

(2) The cost for substance abuse treatment, mental health treatment, drug testing, and supervision shall be set by the treatment and supervision providers respectively and made part of the order of the pre-adjudication probation program judge for payment.

(3) Pre-adjudication probation program user fees shall be set by the pre-adjudication probation program judge.

(4) Treatment, drug testing, and supervision costs or fees shall be paid to the respective providers.

(5) Fees determined or authorized under § 12-27-125(b)(17)(B) or § 16-93-104(a)(1) shall be paid ~~to the Department of Community Correction~~ as determined by law.

(6) Restitution to the victim shall be paid directly to the victim.

(c) Court orders for costs, fees, and restitution shall remain an obligation of the participant in the pre-adjudication probation program with court monitoring until fully paid.

SECTION 3. Arkansas Code Title 16, Chapter 93, Subchapter 1, is amended to add an additional section to read as follows:

16-93-111. Collection of restitution from a person on parole – Interception of funds by the Department of Finance and Administration.

(a) The Department of Finance and Administration shall collect any restitution that a circuit court may have ordered a person to pay as a condition of his or her sentence and who is subsequently released on parole.

(b) The department may use any legal means to collect any unpaid restitution it is authorized to collect under this section that is more than three (3) months in arrears, including an interception of the person's state income tax return or lottery winnings.

(c)(1) The department shall make available to a prosecuting attorney, circuit court, or law enforcement agency upon request an accounting of a person's payments of his or her restitution.

(2) An accounting provided under subdivision (c)(1) of this section shall comply with evidentiary standards and be submitted in a manner that would be considered a business record under Rules 801 through 804 of the Arkansas Rules of Evidence.

(3) Upon the request of a prosecuting attorney or defense attorney, the department shall make available a person to testify in court as to the nature of and data included in an accounting of a person's payments of his or her restitution.

/s/J. Hutchinson