

LEGISLATURE OF NEBRASKA

ONE HUNDRED SECOND LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 201

Introduced by Council, 11; McGill, 26; Pirsch, 4.

Read first time January 07, 2011

Committee: Judiciary

A BILL

- 1 FOR AN ACT relating to probation; to amend section 29-2262.06,
- 2 Reissue Revised Statutes of Nebraska; to change fees; and
- 3 to repeal the original section.
- 4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Section 29-2262.06, Reissue Revised Statutes
2 of Nebraska, is amended to read:

3 29-2262.06 (1) Except as otherwise provided in this
4 section, whenever a district court or county court sentences an adult
5 offender to probation, the court shall require the probationer to pay
6 a one-time administrative enrollment fee and thereafter a monthly
7 probation programming fee.

8 (2) Participants in non-probation-based programs or
9 services in which probation personnel or probation resources are
10 utilized pursuant to an interlocal agreement authorized by
11 subdivision (16) of section 29-2252 and in which all or a portion of
12 the costs of such probation personnel or such probation resources are
13 covered by funds provided pursuant to section 29-2262.07 shall pay
14 the one-time administrative enrollment fee described in subdivision
15 (3)(a) of this section and the monthly probation programming fee
16 described in subdivision (3)(c) of this section. In addition, the
17 provisions of subsections (4), (7), and (10) of this section
18 applicable to probationers apply to participants in non-probation-
19 based programs or services. Any participant in a non-probation-based
20 program or service who defaults on the payment of any such fees may,
21 at the discretion of the court, be subject to removal from such non-
22 probation-based program or service. This subdivision does not
23 preclude a court or other governmental entity from charging
24 additional local fees for participation in such non-probation-based
25 programs and services or other similar non-probation-based programs

1 and services.

2 (3) The court shall establish the administrative
3 enrollment fee and monthly probation programming fees as follows:

4 (a) ~~Adult~~ Through September 30, 2011, adult probationers
5 placed on either probation or intensive supervision probation and
6 participants in non-probation-based programs or services shall pay a
7 one-time administrative enrollment fee of thirty dollars. Beginning
8 on October 1, 2011, adult probationers placed on either probation or
9 intensive supervision probation and participants in non-probation-
10 based programs or services shall pay a one-time administrative
11 enrollment fee of fifty-five dollars. The fee shall be paid in a lump
12 sum upon the beginning of probation supervision or participation in a
13 non-probation-based program or service;

14 (b) ~~Adult~~ Through September 30, 2011, adult probationers
15 placed on probation shall pay a monthly probation programming fee of
16 twenty-five dollars, not later than the tenth day of each month, for
17 the duration of probation. Beginning on October 1, 2011, adult
18 probationers placed on probation shall pay a monthly probation
19 programming fee of fifty dollars, not later than the tenth day of
20 each month, for the duration of probation; and

21 (c) ~~Adult~~ Through September 30, 2011, adult probationers
22 placed on intensive supervision probation and participants in non-
23 probation-based programs or services shall pay a monthly probation
24 programming fee of thirty-five dollars, not later than the tenth day
25 of each month, for the duration of probation or participation in a

1 non-probation-based program or service. Beginning on October 1, 2011,
2 adult probationers placed on intensive supervision probation and
3 participants in non-probation-based programs or services shall pay a
4 monthly probation programming fee of sixty dollars, not later than
5 the tenth day of each month, for the duration of probation or
6 participation in a non-probation-based program or service.

7 (4) The court shall waive payment of the monthly
8 probation programming fees in whole or in part if after a hearing a
9 determination is made that such payment would constitute an undue
10 hardship on the offender due to limited income, employment or school
11 status, or physical or mental handicap. Such waiver shall be in
12 effect only during the period of time that the probationer or
13 participant in a non-probation-based program or service is unable to
14 pay his or her monthly probation programming fee.

15 (5) If a probationer defaults in the payment of monthly
16 probation programming fees or any installment thereof, the court may
17 revoke his or her probation for nonpayment, except that probation
18 shall not be revoked nor shall the offender be imprisoned for such
19 nonpayment if the probationer is financially unable to make the
20 payment, if he or she so states to the court in writing under oath,
21 and if the court so finds after a hearing.

22 (6) If the court determines that the default in payment
23 described in subsection (5) of this section was not attributable to a
24 deliberate refusal to obey the order of the court or to failure on
25 the probationer's part to make a good faith effort to obtain the

1 funds required for payment, the court may enter an order allowing the
2 probationer additional time for payment, reducing the amount of each
3 installment, or revoking the fees or the unpaid portion in whole or
4 in part.

5 (7) No probationer or participant in a non-probation-
6 based program or service shall be required to pay more than one
7 monthly probation programming fee per month. This subsection does not
8 preclude local fees as provided in subsection (2) of this section.

9 (8) The imposition of monthly probation programming fees
10 in this section shall be considered separate and apart from the fees
11 described in subdivisions (2)(m) and (o) of section 29-2262.

12 (9) Any adult probationer received for supervision
13 pursuant to ~~section 29-2637~~ or the Interstate Compact for Adult
14 Offender Supervision shall be assessed both a one-time administrative
15 enrollment fee and monthly probation programming fees during the
16 period of time the probationer is actively supervised by Nebraska
17 probation authorities.

18 (10) The probationer or participant in a non-probation-
19 based program or service shall pay the fees described in this section
20 to the clerk of the court. The clerk of the court shall remit all
21 fees so collected to the State Treasurer for credit to the Probation
22 Program Cash Fund.

23 Sec. 2. Original section 29-2262.06, Reissue Revised
24 Statutes of Nebraska, is repealed.