

LEGISLATURE OF NEBRASKA
ONE HUNDRED SEVENTH LEGISLATURE
SECOND SESSION

LEGISLATIVE BILL 1035

Introduced by Lathrop, 12.

Read first time January 13, 2022

Committee: Judiciary

- 1 A BILL FOR AN ACT relating to the Nebraska Probation Administration Act;
- 2 to amend section 29-2262.06, Reissue Revised Statutes of Nebraska;
- 3 to change provisions relating to non-probation-based programs or
- 4 services, fees, and problem-solving courts; and to repeal the
- 5 original section.
- 6 Be it enacted by the people of the State of Nebraska,

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

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

8 ~~(2)(a) (2) Participants in problem-solving courts non-probation-~~
9 ~~based programs or services in which probation personnel or probation~~
10 ~~resources are utilized pursuant to an interlocal agreement authorized by~~
11 ~~subdivision (16) of section 29-2252 and in which all or a portion of the~~
12 ~~costs of such probation personnel or such probation resources are covered~~
13 ~~by funds provided pursuant to section 29-2262.07 shall pay the one-time~~
14 ~~administrative enrollment fee described in subdivision (3)(a) of this~~
15 ~~section and the monthly probation programming fee described in~~
16 ~~subdivision (3)(c) of this section.~~

17 (b) In addition, judges presiding over problem-solving courts may
18 require participants to pay the cost of tests to determine the presence
19 of drugs or alcohol, psychological evaluations, offender assessment
20 screens, and electronic monitoring.

21 (c) The ~~the~~ provisions of subsections (4), (7), and (10) of this
22 section applicable to probationers apply to participants in problem-
23 solving courts non-probation-based programs or services. Any participant
24 ~~in a non-probation-based program or service~~ who defaults on the payment
25 of any such fees may, at the discretion of the court, be subject to
26 removal from such problem-solving court non-probation-based program or
27 ~~service.~~ This subdivision does not preclude a court or other governmental
28 entity from charging additional local fees for participation in such non-
29 probation-based programs and services or other similar non-probation-
30 based programs and services.

31 (3) The court shall establish the administrative enrollment fee and

1 monthly probation programming fees as follows:

2 (a) Adult probationers placed on either probation or intensive
3 supervision probation and participants in problem-solving courts ~~non-~~
4 ~~probation-based programs or services~~ shall pay a one-time administrative
5 enrollment fee of thirty dollars. The fee shall be paid in a lump sum
6 upon the beginning of probation supervision or participation in a
7 problem-solving court ~~non-probation-based program or service~~;

8 (b) Adult probationers placed on probation shall pay a monthly
9 probation programming fee of twenty-five dollars, not later than the
10 tenth day of each month, for the duration of probation; and

11 (c) Adult probationers placed on intensive supervision probation and
12 participants in problem-solving courts ~~non-probation-based programs or~~
13 ~~services~~ shall pay a monthly probation programming fee of thirty-five
14 dollars, not later than the tenth day of each month, for the duration of
15 probation or participation in a problem-solving court ~~non-probation-based~~
16 ~~program or service~~.

17 (4) The court shall waive payment of the monthly probation
18 programming fees in whole or in part if after a hearing a determination
19 is made that such payment would constitute an undue hardship on the
20 offender due to limited income, employment or school status, or physical
21 or mental handicap. Such waiver shall be in effect only during the period
22 of time that the probationer or participant in a problem-solving court
23 ~~non-probation-based program or service~~ is unable to pay his or her
24 monthly probation programming fee.

25 (5) If a probationer defaults in the payment of monthly probation
26 programming fees or any installment thereof, the court may revoke his or
27 her probation for nonpayment, except that probation shall not be revoked
28 nor shall the offender be imprisoned for such nonpayment if the
29 probationer is financially unable to make the payment, if he or she so
30 states to the court in writing under oath, and if the court so finds
31 after a hearing.

1 (6) If the court determines that the default in payment described in
2 subsection (5) of this section was not attributable to a deliberate
3 refusal to obey the order of the court or to failure on the probationer's
4 part to make a good faith effort to obtain the funds required for
5 payment, the court may enter an order allowing the probationer additional
6 time for payment, reducing the amount of each installment, or revoking
7 the fees or the unpaid portion in whole or in part.

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

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

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

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

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