

1 State of Arkansas  
2 91st General Assembly  
3 Regular Session, 2017  
4

*As Engrossed: S2/13/17*

# A Bill

SENATE BILL 269

5 By: Senator J. Hutchinson  
6

## For An Act To Be Entitled

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

## Subtitle

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

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27 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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29 SECTION 1. Arkansas Code § 5-4-205(g), concerning a judgment of  
30 restitution by a court against a person convicted of an offense, is amended  
31 to read as follows:

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

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

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



1 settlement between the defendant and the beneficiary of the judgment.

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

4 (A) The seriousness of the harm each beneficiary suffered;

5 (B) The other resources of the beneficiaries; and

6 (C) Other equitable factors.

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

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

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

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

17 5-4-907. Cost, fees, and restitution.

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

20 (1) Court costs as provided in § 16-10-305;

21 (2) Any substance abuse treatment costs;

22 (3) Drug testing costs;

23 (4) Costs associated with mental health treatment;

24 (5) A pre-adjudication probation program user fee;

25 (6) Any restitution owed the victim of the charged criminal  
26 offense;

27 (7) Necessary supervision fees;

28 (8) Any applicable residential treatment fees;

29 (9) Tuition and other educational fees for vocational schools,  
30 technical schools, community colleges, or two-year and four-year public  
31 universities that are part of the pre-adjudication probation program for  
32 which the offender is participating; and

33 (10) Any fees determined or authorized under § 12-27-

34 125(b)(17)(B) or § 16-93-104(a)(1), ~~which are to be paid to the Department of~~  
35 ~~Community Correction.~~

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

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

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

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

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

10 (5) Fees determined or authorized under § 12-27-125(b)(17)(B) or  
11 § 16-93-104(a)(1) shall be paid ~~to the Department of Community Correction~~ as  
12 determined by law.

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

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

18  
19 *SECTION 3. Arkansas Code Title 16, Chapter 93, Subchapter 1, is*  
20 *amended to add an additional section to read as follows:*

21 16-93-111. Collection of restitution from a person on parole –  
22 Interception of funds by the Department of Finance and Administration.

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

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

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

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

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

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6   /s/J. Hutchinson  
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