

STATE OF NEW YORK

5433

2021-2022 Regular Sessions

IN ASSEMBLY

February 16, 2021

Introduced by M. of A. DE LA ROSA -- read once and referred to the Committee on Correction

AN ACT to repeal subdivision 9 of section 201 of the correction law, relating to the parole supervision fee, and section 257-c of the executive law, relating to probation administrative fees; to amend the executive law, in relation to prohibiting certain fees associated with probation; and to amend the correction law and the executive law, in relation to termination and discharge of certain sentences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 9 of section 201 of the correction law is
2 REPEALED.

3 § 2. Section 257-c of the executive law is REPEALED.

4 § 3. The executive law is amended by adding a new section 257-c to
5 read as follows:

6 § 257-c. Prohibition on fees associated with probation. Notwithstand-
7 ing any other provision of law, no county or city may adopt a local law
8 requiring individuals currently serving or who shall be sentenced to a
9 period of probation upon conviction of any crime to pay any fee, includ-
10 ing but not limited to an administrative fee, supervision fee, monitor-
11 ing fee, testing fee, or screening fee, to the local probation depart-
12 ment with the responsibility of supervising the probationer. Nothing in
13 this section shall be construed to affect the collection of restitution
14 payments and associated surcharges pursuant to sections 65.10 and 60.27
15 of the penal law and subdivision 8 of section 420.10 of the criminal
16 procedure law.

17 § 4. Subdivision 2 of section 205 of the correction law, as added by
18 section 32 of subpart A of part C of chapter 62 of the laws of 2011, is
19 amended to read as follows:

20 2. A merit termination granted by the department under this section
21 shall constitute a termination of the sentence with respect to which it

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 was granted. No such merit termination shall be granted unless the
2 department is satisfied that termination of sentence from presumptive
3 release, parole, conditional release or post-release supervision is in
4 the best interest of society[, ~~and that the parolee or releasee, other-~~
5 ~~wise financially able to comply with an order of restitution and the~~
6 ~~payment of any mandatory surcharge previously imposed by a court of~~
7 ~~competent jurisdiction, has made a good faith effort to comply there-~~
8 ~~with~~].

9 § 5. Subdivisions 1 and 3 of section 259-j of the executive law, as
10 amended by section 38-g of subpart A of part C of chapter 62 of the laws
11 of 2011, are amended to read as follows:

12 1. Except where a determinate sentence was imposed for a felony other
13 than a felony defined in article two hundred twenty or article two
14 hundred twenty-one of the penal law, if the board of parole is satisfied
15 that an absolute discharge from presumptive release, parole, conditional
16 release or release to a period of post-release supervision is in the
17 best interests of society, the board may grant such a discharge prior to
18 the expiration of the full term or maximum term to any person who has
19 been on unrevoked community supervision for at least three consecutive
20 years. A discharge granted under this section shall constitute a termi-
21 nation of the sentence with respect to which it was granted. [~~No such~~
22 ~~discharge shall be granted unless the board is satisfied that the paro-~~
23 ~~lee or releasee, otherwise financially able to comply with an order of~~
24 ~~restitution and the payment of any mandatory surcharge, sex offender~~
25 ~~registration fee or DNA databank fee previously imposed by a court of~~
26 ~~competent jurisdiction, has made a good faith effort to comply there-~~
27 ~~with~~].

28 3. Notwithstanding any other provision of this section to the contra-
29 ry, where a term of post-release supervision in excess of five years has
30 been imposed on a person convicted of a crime defined in article one
31 hundred thirty of the penal law, including a sexually motivated felony,
32 the board of parole may grant a discharge from post-release supervision
33 prior to the expiration of the maximum term of post-release supervision.
34 Such a discharge may be granted only after the person has served at
35 least five years of post-release supervision, and only to a person who
36 has been on unrevoked post-release supervision for at least three
37 consecutive years. No such discharge shall be granted unless the board
38 of parole or the department acting pursuant to its responsibility under
39 subdivision one of section two hundred one of the correction law
40 consults with any licensed psychologist, qualified psychiatrist, or
41 other mental health professional who is providing care or treatment to
42 the supervisee; and the board[~~;~~ ~~(a)~~] determines that a discharge from
43 post-release supervision is in the best interests of society[~~;~~ ~~and (b)~~
44 ~~is satisfied that the supervisee, otherwise financially able to comply~~
45 ~~with an order of restitution and the payment of any mandatory surcharge,~~
46 ~~sex offender registration fee, or DNA data bank fee previously imposed~~
47 ~~by a court of competent jurisdiction, has made a good faith effort to~~
48 ~~comply therewith~~]. Before making a determination to discharge a person
49 from a period of post-release supervision, the board of parole may
50 request that the commissioner of the office of mental health arrange a
51 psychiatric evaluation of the supervisee. A discharge granted under this
52 section shall constitute a termination of the sentence with respect to
53 which it was granted.

54 § 6. This act shall take effect immediately.