S T A T E O F N E W Y O R K

3356

2009-2010 Regular Sessions

I N A S S E M B L Y

January 27, 2009

Introduced by M. of A. BRADLEY, GALEF, PAULIN, SPANO -- Multi-Sponsored by -- M. of A. ALFANO, BARRA -- read once and referred to the Committee on Correction

AN ACT to amend the executive law, in relation to the payment of a fee for polygraph and related services by persons sentenced to probation following convictions for sex offense crimes; and to amend the penal law, in relation to conditions of probation and of conditional discharge

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The executive law is amended by adding a new section 246-a to read as follows:

S 246-A. PAYMENT OF REIMBURSEMENT FOR POLYGRAPH SERVICES IN THE COUNTY OF WESTCHESTER; SEX OFFENSE CRIMES. 1. THE COMMISSIONER OF THE WESTCHESTER COUNTY DEPARTMENT OF PROBATION MAY REQUIRE A PERSON WHO RECEIVES A SENTENCE OF PROBATION PURSUANT TO ARTICLE SIXTY-FIVE OF THE PENAL LAW FOLLOWING A CONVICTION FOR A CRIME OF SEXUAL ASSAULT TO PAY REIMBURSEMENT FOR THE EXPENSES RELATED TO CONDUCTING POLYGRAPHS AND RELATED SERVICES AS A PART OF A SEXUAL OFFENDER TREATMENT PROGRAM; PROVIDED THAT HE OR SHE IS OF SUFFICIENT MEANS OR ABLE TO EARN SUCH MEANS. REIMBURSEMENT PAYMENTS MADE PURSUANT TO THIS SECTION SHALL BE CALCULATED AND PAYABLE MONTHLY AND SHALL NOT EXCEED THE ACTUAL EXPENSE INCURRED BY THE WESTCHESTER COUNTY DEPARTMENT OF PROBATION IN CONDUCTING SUCH POLYGRAPH AND RELATED SERVICES. THE COMMISSIONER OF THE WESTCHESTER COUNTY DEPARTMENT OF PROBATION MAY MAKE PAYMENT OF SUCH REIMBURSEMENT OR A PORTION THEREOF A CONDITION OF PROBATION, OR MAY DISPENSE WITH ANY SUCH PAYMENT, AFTER CONSIDERATION OF ALL RELEVANT FACTORS, INCLUDING THE PROBATIONER'S:

(A) FINANCIAL RESOURCES, ASSETS AND EXPENSES;

(B) HEALTH;

(C) AGE;

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

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(D) CURRENT CHILD SUPPORT AND MAINTENANCE COURT ORDERS;
(E) OUTSTANDING COURT ORDERED FINES OR RESTITUTION OR CURRENT INCOME EXECUTIONS OR INCOME DEDUCTIONS; AND
(F) ANY OTHER FACTOR WHICH THE COURT SHALL EXPRESSLY FIND TO BE JUST AND PROPER.
2. FOR THE PURPOSES OF THIS SECTION, THE TERM "SEXUAL ASSAULT" MEANS AN OFFENSE DEFINED IN ARTICLE ONE HUNDRED THIRTY OR TWO HUNDRED SIXTY-THREE, OR IN SECTION 255.25, OF THE PENAL LAW, OR AN ATTEMPT TO COMMIT ANY OF THE FOREGOING OFFENSES.
3. THE PROVISIONS OF SUBDIVISION SIX OF SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW SHALL GOVERN FOR THE PURPOSES OF COLLECTION OF SUCH FEE.
4. THE PROBATION ADMINISTRATIVE FEE AUTHORIZED BY THIS CHAPTER SHALL NOT BE IMPOSED WHEN PAYMENT AUTHORIZED BY THIS SECTION IS IMPOSED.
5. IN THE EVENT OF NON-PAYMENT OF ANY REIMBURSEMENT PAYMENTS WHICH HAVE NOT BEEN WAIVED BY THE WESTCHESTER COUNTY DEPARTMENT OF PROBATION, PAYMENT MAY BE SOUGHT BY ENFORCEMENT IN ANY MANNER PERMITTED BY LAW FOR ENFORCEMENT OF A DEBT.
6. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE UTILIZED FOR PROBATION SERVICES BY THE WESTCHESTER COUNTY DEPARTMENT OF PROBATION. SUCH MONEYS SHALL NOT BE CONSIDERED BY THE DIVISION OF PROBATION AND CORRECTIONAL ALTERNATIVES WHEN DETERMINING STATE AID REIMBURSEMENT PURSUANT TO SECTION TWO HUNDRED FORTY-SIX OF THIS ARTICLE. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL NOT BE USED TO REPLACE FEDERAL FUNDS OTHERWISE UTILIZED FOR PROBATION SERVICES.

S 2. Paragraphs (b) and (c) of subdivision 3 of section 65.10 of the penal law, paragraph (c) as amended by chapter 270 of the laws of 1980, are amended and a new paragraph (d) is added to read as follows:
(b) Remain within the jurisdiction of the court unless granted permission to leave by the court or the probation officer; [and]
(c) Answer all reasonable inquiries by the probation officer and notify the probation officer prior to any change in address or employment[.]; AND
(D) IN THE COUNTY OF WESTCHESTER, PAY A FEE FOR POLYGRAPH SERVICES PURSUANT TO SECTION TWO HUNDRED FORTY-SIX-A OF THE EXECUTIVE LAW.

S 3. This act shall take effect immediately.