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

341

2011-2012 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 5, 2011

Introduced by M. of A. PAULIN, GALEF, ORTIZ -- Multi-Sponsored by -- M. of A. CANESTRARI, ENGLEBRIGHT, GUNTHER, MAYERSOHN, PHEFFER, SWEENEY, WRIGHT -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to imposing a probation administrative fee upon persons sentenced to probation following convictions for crimes of domestic violence

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 257-d to read as follows:

S 257-D. PROBATION ADMINISTRATIVE FEE; CRIMES OF DOMESTIC VIOLENCE. 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY COUNTY AND THE CITY OF NEW YORK, MAY ADOPT A LOCAL LAW REQUIRING INDIVIDUALS CURRENTLY SERVING OR WHO SHALL BE SENTENCED TO A PERIOD OF PROBATION UPON CONVICTION OF ANY CRIME OF DOMESTIC VIOLENCE TO PAY TO THE LOCAL PROBATION DEPARTMENT WITH THE RESPONSIBILITY OF SUPERVISING THE PROBATIONER AN ADMINISTRATIVE FEE OF NOT MORE THAN THIRTY DOLLARS PER MONTH OR THE ACTUAL COST OF SUPERVISING SUCH PROBATIONER, WHICHEVER SHALL BE LESS. THE DEPARTMENT SHALL WAIVE ALL OR PART OF SUCH FEE WHERE, BECAUSE OF THE INDIGENCE OF THE OFFENDER, THE PAYMENT OF SAID SURCHARGE WOULD WORK AN UNREASONABLE HARDSHIP ON THE PERSON CONVICTED, HIS OR HER IMMEDIATE FAMILY, OR ANY OTHER PERSON WHO IS DEPENDENT ON SUCH PERSON FOR FINANCIAL SUPPORT.

2. FOR THE PURPOSES OF THIS SECTION, THE TERM "CRIME OF DOMESTIC VIOLENCE" SHALL MEAN A CONVICTION FOR ANY MISDEMEANOR OR FELONY DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-ONE, ONE HUNDRED TWENTY-FIVE, ONE HUNDRED THIRTY, OR ONE HUNDRED THIRTY-FIVE OF THE PENAL LAW, AND A CONVICTION FOR ANY MISDEMEANOR OR FELONY FOR AN ATTEMPT TO COMMIT A CRIME DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-ONE, ONE HUNDRED TWENTY-FIVE, ONE HUNDRED THIRTY, OR ONE HUNDRED

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

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THIRTY-FIVE OF THE PENAL LAW, WHEN THE VICTIM IS A SPOUSE OF THE PROBATIONER, A PARENT OF THE PROBATIONER, A CHILD OF THE PROBATIONER, OR A MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE PROBATIONER, AS THE TERM "MEMBER OF THE SAME FAMILY OR HOUSEHOLD" IS DEFINED IN SUBDIVISION ONE OF SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW.

3. THE PROVISIONS OF SUBDIVISION SIX OF SECTION 420.10 OF THE CRIMINAL PROCEDURE LAW SHALL GOVERN FOR PURPOSES OF COLLECTION OF THE ADMINISTRATIVE FEE.

4. THE PROBATION ADMINISTRATIVE FEE AUTHORIZED BY THIS SECTION SHALL NOT CONSTITUTE NOR BE IMPOSED AS A CONDITION OF PROBATION.

5. IN THE EVENT OF NON-PAYMENT OF ANY FEES WHICH HAVE NOT BEEN WAIVED BY THE LOCAL PROBATION DEPARTMENT, THE COUNTY OR THE CITY OF NEW YORK MAY SEEK TO ENFORCE PAYMENT 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 LOCAL PROBATION DEPARTMENT. SUCH MONEYS SHALL NOT BE CONSIDERED BY THE DIVISION WHEN DETERMINING STATE AID REIMBURSEMENT PURSUANT TO SECTION TWO HUNDRED FORTY-SIX OF THIS CHAPTER. MONIES COLLECTED SHALL NOT BE USED TO REPLACE FEDERAL FUNDS OTHERWISE UTILIZED FOR PROBATION SERVICES.

7. THE DIRECTOR OF THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNATIVES SHALL SUBMIT A REPORT, WITH RECOMMENDATIONS, TO THE GOVERNOR, TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, AND THE CHAIRPERSONS OF THE SENATE CRIME VICTIMS, CRIME AND CORRECTION COMMITTEE, THE ASSEMBLY CORRECTION COMMITTEE, THE SENATE CODES COMMITTEE AND THE ASSEMBLY CODES COMMITTEE ON OR BEFORE JANUARY FIRST, TWO THOUSAND THIRTEEN AND JANUARY FIRST, TWO THOUSAND FOURTEEN AS TO THE EFFECTIVENESS OF THE PROBATION ADMINISTRATIVE FEE FOR CRIMES OF DOMESTIC VIOLENCE IN ENHANCING THE DELIVERY OF PROBATION SERVICES THROUGHOUT THE STATE. THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, AMOUNTS OF FEES IMPOSED AND COLLECTED, RATES OF PAYMENT FOR DIFFERENT CATEGORIES OF CONVICTIONS AND TYPES OF OFFENDERS, AND REMEDIES UTILIZED AND COSTS INCURRED FOR COLLECTION IN CASES OF NON-PAYMENT.

S 2. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.