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

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I N S E N A T E

February 27, 2012

Introduced by Sens. DeFRANCISCO, JOHNSON, LARKIN, MARTINS, O'MARA, RANZENHOFER, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, in relation to authorizing the adoption of a local law requiring certain individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime to pay the local probation department with the responsibility of supervising the probationer an administrative fee of up to twenty dollars per month

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

Section 1. Section 257-c of the executive law, as added by chapter 55 of the laws of 1992, subdivision 5 as amended by section 58 of part A of chapter 56 of the laws of 2010, is amended to read as follows:

S 257-c. Probation administrative fee. 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 under article thirty-one of the vehicle and traffic law to pay to the local probation department with the responsibility of supervising the probationer an administrative fee of thirty dollars per month. 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. 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, EXCEPT THOSE UNDER ARTICLE THIRTY-ONE OF THE VEHICLE AND TRAFFIC LAW, TO PAY THE LOCAL PROBATION DEPARTMENT WITH THE RESPONSIBILITY OF SUPERVISING THE PROBATIONER AN ADMINISTRATIVE FEE OF UP TO TWENTY DOLLARS PER MONTH. THE DEPARTMENT SHALL WAIVE ALL OR PART OF SUCH FEE WHERE, BECAUSE OF THE INDIGENCE OF THE OFFENDER, THE PAYMENT

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

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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.

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.

[3.] 4. The probation administrative fee authorized by this section shall not constitute nor be imposed as a condition of probation.

[4.] 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.

[5.] 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 pursuant to section two hundred forty-six of the executive law. Monies collected shall not be used to replace federal funds otherwise utilized for probation services.

S 2. This act shall take effect immediately; provided that the amendments to section 257-c of the executive law made by section one of this act shall not affect the expiration of such section and shall expire therewith.