

6561

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:

1 Section 1. Section 257-c of the executive law, as added by chapter 55
2 of the laws of 1992, subdivision 5 as amended by section 58 of part A of
3 chapter 56 of the laws of 2010, is amended to read as follows:
4 S 257-c. Probation administrative fee. 1. Notwithstanding any other
5 provision of law, every county and the city of New York, may adopt a
6 local law requiring individuals currently serving or who shall be
7 sentenced to a period of probation upon conviction of any crime under
8 article thirty-one of the vehicle and traffic law to pay to the local
9 probation department with the responsibility of supervising the proba-
10 tioner an administrative fee of thirty dollars per month. The department
11 shall waive all or part of such fee where, because of the indigence of
12 the offender, the payment of said surcharge would work an unreasonable
13 hardship on the person convicted, his or her immediate family, or any
14 other person who is dependent on such person for financial support.
15 2. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY COUNTY AND THE
16 CITY OF NEW YORK, MAY ADOPT A LOCAL LAW REQUIRING INDIVIDUALS CURRENTLY
17 SERVING OR WHO SHALL BE SENTENCED TO A PERIOD OF PROBATION UPON
18 CONVICTION OF ANY CRIME, EXCEPT THOSE UNDER ARTICLE THIRTY-ONE OF THE
19 VEHICLE AND TRAFFIC LAW, TO PAY THE LOCAL PROBATION DEPARTMENT WITH THE
20 RESPONSIBILITY OF SUPERVISING THE PROBATIONER AN ADMINISTRATIVE FEE OF
21 UP TO TWENTY DOLLARS PER MONTH. THE DEPARTMENT SHALL WAIVE ALL OR PART
22 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.

LBD13573-01-1

1 OF SAID SURCHARGE WOULD WORK AN UNREASONABLE HARDSHIP ON THE PERSON
2 CONVICTED, HIS OR HER IMMEDIATE FAMILY, OR ANY OTHER PERSON WHO IS
3 DEPENDENT ON SUCH PERSON FOR FINANCIAL SUPPORT.

4 3. The provisions of subdivision six of section 420.10 of the criminal
5 procedure law shall govern for purposes of collection of the administra-
6 tive fee.

7 [3.] 4. The probation administrative fee authorized by this section
8 shall not constitute nor be imposed as a condition of probation.

9 [4.] 5. In the event of non-payment of any fees which have not been
10 waived by the local probation department, the county or the city of New
11 York may seek to enforce payment in any manner permitted by law for
12 enforcement of a debt.

13 [5.] 6. Monies collected pursuant to this section shall be utilized
14 for probation services by the local probation department. Such moneys
15 shall not be considered by the division when determining state aid
16 pursuant to section two hundred forty-six of the executive law. Monies
17 collected shall not be used to replace federal funds otherwise utilized
18 for probation services.

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