

890

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

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

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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. The executive law is amended by adding a new section 257-d
2 to read as follows:
3 S 257-D. PROBATION ADMINISTRATIVE FEE; CRIMES OF DOMESTIC VIOLENCE.
4 1. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, EVERY COUNTY AND THE CITY
5 OF NEW YORK, MAY ADOPT A LOCAL LAW REQUIRING INDIVIDUALS CURRENTLY SERV-
6 ING OR WHO SHALL BE SENTENCED TO A PERIOD OF PROBATION UPON CONVICTION
7 OF ANY CRIME OF DOMESTIC VIOLENCE TO PAY TO THE LOCAL PROBATION DEPART-
8 MENT WITH THE RESPONSIBILITY OF SUPERVISING THE PROBATIONER AN ADMINIS-
9 TRATIVE FEE OF NOT MORE THAN THIRTY DOLLARS PER MONTH OR THE ACTUAL COST
10 OF SUPERVISING SUCH PROBATIONER, WHICHEVER SHALL BE LESS. 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. FOR THE PURPOSES OF THIS SECTION, THE TERM "CRIME OF DOMESTIC
16 VIOLENCE" SHALL MEAN A CONVICTION FOR ANY MISDEMEANOR OR FELONY DEFINED
17 IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWENTY-ONE, ONE HUNDRED TWEN-
18 TY-FIVE, ONE HUNDRED THIRTY, OR ONE HUNDRED THIRTY-FIVE OF THE PENAL
19 LAW, AND A CONVICTION FOR ANY MISDEMEANOR OR FELONY FOR AN ATTEMPT TO
20 COMMIT A CRIME DEFINED IN ARTICLE ONE HUNDRED TWENTY, ONE HUNDRED TWEN-
21 TY-ONE, ONE HUNDRED TWENTY-FIVE, ONE HUNDRED THIRTY, OR ONE HUNDRED
22 THIRTY-FIVE OF THE PENAL LAW, WHEN THE VICTIM IS A SPOUSE OF THE PROBA-

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

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1 TIONER, A PARENT OF THE PROBATIONER, A CHILD OF THE PROBATIONER, OR A
2 MEMBER OF THE SAME FAMILY OR HOUSEHOLD AS THE PROBATIONER, AS THE TERM
3 "MEMBER OF THE SAME FAMILY OR HOUSEHOLD" IS DEFINED IN SUBDIVISION ONE
4 OF SECTION 530.11 OF THE CRIMINAL PROCEDURE LAW.

5 3. THE PROVISIONS OF SUBDIVISION SIX OF SECTION 420.10 OF THE CRIMINAL
6 PROCEDURE LAW SHALL GOVERN FOR PURPOSES OF COLLECTION OF THE ADMINISTRA-
7 TIVE FEE.

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

10 5. IN THE EVENT OF NON-PAYMENT OF ANY FEES WHICH HAVE NOT BEEN WAIVED
11 BY THE LOCAL PROBATION DEPARTMENT, THE COUNTY OR THE CITY OF NEW YORK
12 MAY SEEK TO ENFORCE PAYMENT IN ANY MANNER PERMITTED BY LAW FOR ENFORCE-
13 MENT OF A DEBT.

14 6. MONIES COLLECTED PURSUANT TO THIS SECTION SHALL BE UTILIZED FOR
15 PROBATION SERVICES BY THE LOCAL PROBATION DEPARTMENT. SUCH MONEYS SHALL
16 NOT BE CONSIDERED BY THE DIVISION WHEN DETERMINING STATE AID REIMBURSE-
17 MENT PURSUANT TO SECTION TWO HUNDRED FORTY-SIX OF THIS CHAPTER. MONIES
18 COLLECTED SHALL NOT BE USED TO REPLACE FEDERAL FUNDS OTHERWISE UTILIZED
19 FOR PROBATION SERVICES.

20 7. THE DIRECTOR OF THE OFFICE OF PROBATION AND CORRECTIONAL ALTERNA-
21 TIVES SHALL SUBMIT A REPORT, WITH RECOMMENDATIONS, TO THE GOVERNOR,
22 TEMPORARY PRESIDENT OF THE SENATE, SPEAKER OF THE ASSEMBLY, AND THE
23 CHAIRPERSONS OF THE SENATE CRIME VICTIMS, CRIME AND CORRECTION COMMIT-
24 TEE, THE ASSEMBLY CORRECTION COMMITTEE, THE SENATE CODES COMMITTEE AND
25 THE ASSEMBLY CODES COMMITTEE ON OR BEFORE JANUARY FIRST, TWO THOUSAND
26 FIFTEEN AND JANUARY FIRST, TWO THOUSAND SIXTEEN AS TO THE EFFECTIVENESS
27 OF THE PROBATION ADMINISTRATIVE FEE FOR CRIMES OF DOMESTIC VIOLENCE IN
28 ENHANCING THE DELIVERY OF PROBATION SERVICES THROUGHOUT THE STATE. THE
29 REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, AMOUNTS OF FEES IMPOSED AND
30 COLLECTED, RATES OF PAYMENT FOR DIFFERENT CATEGORIES OF CONVICTIONS AND
31 TYPES OF OFFENDERS, AND REMEDIES UTILIZED AND COSTS INCURRED FOR
32 COLLECTION IN CASES OF NON-PAYMENT.

33 S 2. This act shall take effect on the first of November next succeed-
34 ing the date on which it shall have become a law.