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2015-2016 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 7, 2015

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Introduced by M. of A. PAULIN, GALEF, ORTIZ -- Multi-Sponsored by -- M.  
of A. ENGLEBRIGHT, GUNTHER, 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.

LBD04993-01-5

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 SEVENTEEN AND JANUARY FIRST, TWO THOUSAND EIGHTEEN AS TO THE EFFECTIVE-  
27 NESS OF THE PROBATION ADMINISTRATIVE FEE FOR CRIMES OF DOMESTIC VIOLENCE  
28 IN ENHANCING THE DELIVERY OF PROBATION SERVICES THROUGHOUT THE STATE.  
29 THE REPORT SHALL INCLUDE, BUT NOT BE LIMITED TO, AMOUNTS OF FEES IMPOSED  
30 AND COLLECTED, RATES OF PAYMENT FOR DIFFERENT CATEGORIES OF CONVICTIONS  
31 AND 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.