

3716

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 27, 2015

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Introduced by M. of A. DiPIETRO, KOLB -- Multi-Sponsored by -- M. of A. OAKS, TENNEY -- read once and referred to the Committee on Codes

AN ACT to amend the penal law and the state finance law, in relation to increasing the crime victim's assistance fee, creating a crime victim's lien and creating a crime victim's assistance account

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

1     Section 1. Section 80.00 of the penal law is amended by adding a new  
2     subdivision 8 to read as follows:  
3     8. THE TERM "FINE" AS DEFINED IN THIS SECTION SHALL NOT INCLUDE A  
4     MANDATORY SURCHARGE OR A CRIME VICTIM'S ASSISTANCE FEE AS DEFINED IN  
5     SECTION 60.35 OF THIS TITLE.  
6     S 2. Section 80.05 of the penal law is amended by adding a new subdi-  
7     vision 7 to read as follows:  
8     7. THE TERM "FINE" AS DEFINED IN THIS SECTION SHALL NOT INCLUDE A  
9     MANDATORY SURCHARGE OR A CRIME VICTIM'S ASSISTANCE FEE AS DEFINED IN  
10    SECTION 60.35 OF THIS TITLE.  
11    S 3. Section 60.35 of the penal law, as amended by section 1 of part E  
12    of chapter 56 of the laws of 2004, subparagraphs (i), (ii) and (iii) of  
13    paragraph (a) of subdivision 1 as amended by section 1 of part DD and  
14    subdivision 10 as amended by section 2 of part Y of chapter 56 of the  
15    laws of 2008, paragraph (b) of subdivision 1 as amended by chapter 320  
16    of the laws of 2006, subdivision 4 as amended by chapter 525 of the laws  
17    of 2013, and subdivision 8 as amended by section 121 of subpart B of  
18    part C of chapter 62 of the laws of 2011, is amended to read as follows:  
19    S 60.35 Mandatory surcharge, sex offender registration fee, DNA databank  
20       fee, supplemental sex offender victim fee and crime victim  
21       assistance fee required in certain cases.  
22    1. (a) Except as provided in section eighteen hundred nine of the  
23    vehicle and traffic law and section 27.12 of the parks, recreation and  
24    historic preservation law, whenever proceedings in an administrative

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

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tribunal or a court of this state result in a conviction for a felony, a misdemeanor, or a violation, as these terms are defined in section 10.00 of this chapter, there shall be levied at sentencing a mandatory surcharge, sex offender registration fee, DNA databank fee and a crime victim assistance fee in addition to any sentence required or permitted by law, in accordance with the following schedule:

(i) a person convicted of a felony, EXCLUDING THOSE FELONIES SET FORTH IN CLAUSES (A) AND (B) OF THIS SUBPARAGRAPH, shall pay a mandatory surcharge of three hundred dollars and a crime victim assistance fee of [twenty-five] FIVE HUNDRED dollars;

(A) A PERSON CONVICTED OF A FELONY OFFENSE OF HOMICIDE, AS DEFINED IN SECTION 125.00 OF THIS CHAPTER, SHALL PAY A MANDATORY SURCHARGE OF FIVE HUNDRED DOLLARS AND A CRIME VICTIM ASSISTANCE FEE OF TWO THOUSAND FIVE HUNDRED DOLLARS FOR EVERY MONTH OF WHICH SUCH PERSON IS SENTENCED TO SERVE TIME IN A CORRECTIONAL FACILITY, AS DEFINED IN SECTION FORTY OF THE CORRECTION LAW;

(B) A PERSON CONVICTED OF A VIOLENT FELONY OFFENSE, AS DEFINED IN SECTION 70.02 OF THIS CHAPTER, SHALL PAY A MANDATORY SURCHARGE OF TWO HUNDRED FIFTY DOLLARS AND A CRIME VICTIM ASSISTANCE FEE OF ONE THOUSAND DOLLARS FOR EVERY MONTH OF WHICH SUCH PERSON IS SENTENCED TO SERVE TIME IN A CORRECTIONAL FACILITY, AS DEFINED IN SECTION FORTY OF THE CORRECTION LAW;

(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars and a crime victim assistance fee of [twenty-five] TWO HUNDRED FIFTY dollars;

(iii) a person convicted of a violation shall pay a mandatory surcharge of [ninety-five] ONE HUNDRED dollars and a crime victim assistance fee of twenty-five dollars;

(iv) a person convicted of a sex offense as defined by subdivision two of section one hundred sixty-eight-a of the correction law or a sexually violent offense as defined by subdivision three of section one hundred sixty-eight-a of the correction law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a sex offender registration fee of fifty dollars.

(v) a person convicted of a designated offense as defined by subdivision seven of section nine hundred ninety-five of the executive law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee of fifty dollars.

(b) When the felony or misdemeanor conviction in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subdivision results from an offense contained in article one hundred thirty of this chapter, incest in the third, second or first degree as defined in sections 255.25, 255.26 and 255.27 of this chapter or an offense contained in article two hundred sixty-three of this chapter, the person convicted shall pay a supplemental sex offender victim fee of one thousand dollars in addition to the mandatory surcharge and any other fee.

2. Where a person is convicted of two or more crimes or violations committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose a mandatory surcharge and a crime victim assistance fee, and where appropriate a supplemental sex offender victim fee, in accordance with the provisions of this section for the crime or violation which carries the highest classification, and no other sentence to pay a mandatory surcharge, crime victim assistance fee or supplemental sex offender victim fee required by this section shall be imposed. Where a person is

1 convicted of two or more sex offenses or sexually violent offenses, as  
2 defined by subdivisions two and three of section one hundred sixty-  
3 eight-a of the correction law, committed through a single act or omis-  
4 sion, or through an act or omission which in itself constituted one of  
5 the offenses and also was a material element of the other, the court  
6 shall impose only one sex offender registration fee. Where a person is  
7 convicted of two or more designated offenses, as defined by subdivision  
8 seven of section nine hundred ninety-five of the executive law, commit-  
9 ted through a single act or omission, or through an act or omission  
10 which in itself constituted one of the offenses and also was a material  
11 element of the other, the court shall impose only one DNA databank fee.

12 3. The mandatory surcharge, sex offender registration fee, DNA data-  
13 bank fee[, crime victim assistance fee,] and supplemental sex offender  
14 victim fee provided for in subdivision one of this section shall be paid  
15 to the clerk of the court or administrative tribunal that rendered the  
16 conviction. Within the first ten days of the month following collection  
17 of the mandatory surcharge[, crime victim assistance fee,] and supple-  
18 mental sex offender victim fee, the collecting authority shall determine  
19 the amount of mandatory surcharge, crime victim assistance fee, and  
20 supplemental sex offender victim fee collected and, if it is an adminis-  
21 trative tribunal, or a town or village justice court, it shall then pay  
22 such money to the state comptroller who shall deposit such money in the  
23 state treasury pursuant to section one hundred twenty-one of the state  
24 finance law to the credit of the criminal justice improvement account  
25 established by section ninety-seven-bb of the state finance law. Within  
26 the first ten days of the month following collection of the sex offender  
27 registration fee and DNA databank fee, the collecting authority shall  
28 determine the amount of the sex offender registration fee and DNA data-  
29 bank fee collected and, if it is an administrative tribunal, or a town  
30 or village justice court, it shall then pay such money to the state  
31 comptroller who shall deposit such money in the state treasury pursuant  
32 to section one hundred twenty-one of the state finance law to the credit  
33 of the general fund. If such collecting authority is any other court of  
34 the unified court system, it shall, within such period, pay such money  
35 attributable to the mandatory surcharge or crime victim assistance fee  
36 to the state commissioner of taxation and finance to the credit of the  
37 criminal justice improvement account established by section ninety-sev-  
38 en-bb of the state finance law. If such collecting authority is any  
39 other court of the unified court system, it shall, within such period,  
40 pay such money attributable to the sex offender registration fee and the  
41 DNA databank fee to the state commissioner of taxation and finance to  
42 the credit of the general fund.

43 3-A. WITHIN THE FIRST TEN DAYS FOLLOWING THE PRONOUNCEMENT OF  
44 SENTENCE OF THE CONVICTED OFFENDER, THE CLERK OF THE COURT PRONOUNCING  
45 THE SENTENCE SHALL CALCULATE AND DETERMINE THE AMOUNT OF THE CRIME  
46 VICTIM ASSISTANCE FEE PROVIDED FOR IN SUBDIVISION ONE OF THIS SECTION.  
47 IMMEDIATELY THEREAFTER, THE CONVICTED OFFENDER SHALL PAY TO THE CLERK OF  
48 THE COURT OR ADMINISTRATIVE TRIBUNAL THAT RENDERED THE CONVICTION THE  
49 FULL AMOUNT OF THE CRIME VICTIM'S ASSISTANCE FEE SO CALCULATED AND  
50 DETERMINED, AND SUCH COURT SHALL THEREUPON ACT AS THE COLLECTING AUTHOR-  
51 ITY. IF SUCH COLLECTING AUTHORITY IS AN ADMINISTRATIVE TRIBUNAL, OR A  
52 TOWN OR VILLAGE JUSTICE COURT, IT SHALL THEN PAY SUCH MONEY TO THE STATE  
53 COMPTROLLER WHO SHALL DEPOSIT SUCH MONEY IN THE STATE TREASURY PURSUANT  
54 TO SECTION ONE HUNDRED TWENTY-ONE OF THE STATE FINANCE LAW TO THE CREDIT  
55 OF THE CRIME VICTIM'S ASSISTANCE ACCOUNT ESTABLISHED BY SECTION NINETY-  
56 FOUR-C OF THE STATE FINANCE LAW. IF SUCH COLLECTING AUTHORITY IS ANY

OTHER COURT OF THE UNIFIED COURT SYSTEM, IT SHALL, WITHIN SUCH PERIOD, PAY SUCH MONEY TO THE STATE COMMISSIONER OF TAXATION AND FINANCE TO THE CREDIT OF THE CRIME VICTIM'S ASSISTANCE ACCOUNT ESTABLISHED BY SECTION NINETY-FOUR-C OF THE STATE FINANCE LAW.

3-B. UPON THE PRONOUNCEMENT OF SENTENCE UPON A CONVICTED OFFENDER, THE CLERK OF THE COURT PRONOUNCING SUCH SENTENCE SHALL CREATE A CRIME VICTIM'S LIST. THIS LIST SHALL PROVIDE THE NAME OF THE CONVICTED OFFENDER AND THE OFFENSES FOR WHICH HE WAS CONVICTED, AS WELL AS THE NAME, ADDRESS, AND TELEPHONE NUMBER OF EVERY INDIVIDUAL WHOM THE COURT DEEMS A VICTIM OF THE CRIME OR CRIMES FOR WHICH THE CONVICTED OFFENDER WAS CONVICTED. A VICTIM OF THE CRIME SHALL INCLUDE ANYONE AGAINST WHOM A CRIME OR VIOLENT ACT IN FURTHERANCE OF A CRIME WAS COMMITTED, OR IN THE CASE OF A HOMICIDE ALL FAMILY MEMBERS OF THE DECEASED VICTIM WITHIN ONE DEGREE OF CONSANGUINITY. THIS LIST SHALL BE FILED WITH THE ATTORNEY GENERAL AND SHALL BE SEALED FROM PUBLIC INSPECTION SO AS TO PROTECT CRIME VICTIMS FROM HAVING THEIR NAMES AND IDENTITIES MADE KNOWN TO THE PUBLIC AND THE PRESS.

4. Any person who has paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or a supplemental sex offender victim fee under the authority of this section based upon a conviction that is subsequently reversed or who paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee or supplemental sex offender victim fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee upon application, in the case of a town or village court, to the state comptroller. The state comptroller shall require such proof as is necessary in order to determine whether a refund is required by law. In all other cases, such application shall be made to the department, agency or court that collected such surcharge or fee. Such department, agency or court shall initiate the refund process and the state comptroller shall pay the refund pursuant to subdivision fifteen of section eight of the state finance law.

5. (a) When a person who is convicted of a crime or violation and sentenced to a term of imprisonment has failed to pay the mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee or supplemental sex offender victim fee required by this section, the clerk of the court that rendered the conviction shall notify the superintendent or the municipal official of the facility where the person is confined. The superintendent or the municipal official shall cause any amount owing to be collected from such person during his or her term of imprisonment from moneys to the credit of an inmates' fund or such moneys as may be earned by a person in a work release program pursuant to section eight hundred sixty of the correction law OR AS THEY MAY BE AWARDED TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLEMENT OF LITIGATION. Such moneys attributable to the mandatory surcharge or crime victim assistance fee shall be paid over to the state comptroller to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law and such moneys attributable to the sex offender registration fee or DNA databank fee shall be paid over to the state comptroller to the credit of the general fund, except that any such moneys collected which are surcharges, sex offender registration fees, DNA databank fees[, crime victim assistance fees] or supplemental sex offender victim fees levied

1 in relation to convictions obtained in a town or village justice court  
2 shall be paid within thirty days after the receipt thereof by the super-  
3 intendent or municipal official of the facility to the justice of the  
4 court in which the conviction was obtained. SUCH MONEYS, WITH RESPECT TO  
5 THE PAYMENT OF THE CRIME VICTIM'S ASSISTANCE FEE, SHALL BE PAID OVER TO  
6 THE STATE COMPTROLLER TO THE CREDIT OF THE CRIME VICTIM'S ASSISTANCE  
7 ACCOUNT ESTABLISHED BY SECTION NINETY-FOUR-C OF THE STATE FINANCE LAW.  
8 For the purposes of collecting such mandatory surcharge, sex offender  
9 registration fee, DNA databank fee, crime victim assistance fee, and  
10 supplemental sex offender victim fee, the state shall be legally enti-  
11 tled to the money to the credit of an inmates' fund or money which is  
12 earned by an inmate in a work release program OR AS THEY MAY BE AWARDED  
13 TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLEMENT OF LITIGATION. For  
14 purposes of this subdivision, the term "inmates' fund" shall mean moneys  
15 in the possession of an inmate at the time of his or her admission into  
16 such facility, funds earned by him or her as provided for in section one  
17 hundred eighty-seven of the correction law and any other funds received  
18 by him or her or on his or her behalf and deposited with such super-  
19 intendent or municipal official, OR FUNDS RECEIVED INCLUDING ANY FUNDS  
20 THAT MAY BE AWARDED TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLEMENT  
21 OF LITIGATION.

22 (b) The incarceration fee provided for in subdivision two of section  
23 one hundred eighty-nine of the correction law shall not be assessed or  
24 collected if any order of restitution or reparation, fine, mandatory  
25 surcharge, sex offender registration fee, DNA databank fee, crime victim  
26 assistance fee or supplemental sex offender victim fee remains unpaid.  
27 In such circumstances, any monies which may lawfully be withheld from  
28 the compensation paid to a prisoner for work performed while housed in a  
29 general confinement facility in satisfaction of such an obligation shall  
30 first be applied toward satisfaction of such obligation.

31 5-A. FOR THE PURPOSES OF COLLECTING SUCH MANDATORY SURCHARGE OR CRIME  
32 VICTIM'S ASSISTANCE FEE, THE STATE SHALL BE LEGALLY ENTITLED TO FILE A  
33 CRIME VICTIM'S LIEN AGAINST THE CONVICTED OFFENDER, IN THE AMOUNT OF THE  
34 UNPAID PORTION OF SUCH MANDATORY SURCHARGE OR CRIME VICTIM'S ASSISTANCE  
35 FEE. SUCH LIEN MAY BE FILED ANY TIME AFTER A SENTENCE IS PRONOUNCED UPON  
36 THE OFFENDER, AND SHALL EXIST FROM THE DATE OF THE PRONOUNCEMENT OF SUCH  
37 SENTENCE UNTIL THE CONVICTED OFFENDER PAYS THE FULL AMOUNT OF THE MANDA-  
38 TORY SURCHARGE AND CRIME VICTIM'S ASSISTANCE FEE, OR FOR TWENTY-FIVE  
39 YEARS FROM THE DATE OF THE PRONOUNCEMENT OF THE CONVICTED OFFENDER'S  
40 SENTENCE, WHICHEVER IS LESS. SUCH LIEN SHALL BE FILED WITH THE ATTORNEY  
41 GENERAL BY THE CLERK OF THE COURT FROM WHICH THE OFFENDER IS CONVICTED.  
42 UPON THE FILING OF SUCH LIEN, THE ATTORNEY GENERAL MAY AT ANY TIME THER-  
43 EAFTER EXECUTE AND ENFORCE SUCH LIEN AGAINST THE CONVICTED OFFENDER, FOR  
44 THE COLLECTION OF THE MANDATORY SURCHARGE AND/OR THE CRIME VICTIM'S  
45 ASSISTANCE FEE. SUCH LIEN SHALL EMPOWER THE ATTORNEY GENERAL, WITHOUT  
46 PRIOR APPLICATION TO ANY COURT OR ADMINISTRATIVE TRIBUNAL, TO TAKE ANY  
47 ACTION NECESSARY TO COLLECT SUCH MANDATORY SURCHARGE AND/OR CRIME  
48 VICTIM'S ASSISTANCE FEE, INCLUDING, BUT NOT LIMITED TO, THE ATTACHMENT,  
49 SEIZURE AND SALE OF THE CONVICTED OFFENDER'S ASSETS, INCLUDING REAL  
50 PROPERTY, PERSONAL TANGIBLE PROPERTY AND/OR PERSONAL INTANGIBLE PROPER-  
51 TY, AS WELL AS THE GARNISHMENT OF UP TO TWENTY-FIVE PERCENT OF THE  
52 CONVICTED OFFENDER'S WAGES. THIS COLLECTION SHALL BE ENFORCEABLE WHETHER  
53 OR NOT SUCH OFFENDER IS INCARCERATED AT THE TIME OF ITS EXECUTION, AND  
54 WHETHER OR NOT SUCH OFFENDER HAS COMPLETELY OR PARTIALLY SERVED THE  
55 SENTENCE PRONOUNCED UPON HIM.

1 5-B. ALL MONIES COLLECTED PURSUANT TO THE ENFORCEMENT AND EXECUTION OF  
2 THE STATE'S CRIME VICTIM'S LIEN AGAINST A CONVICTED OFFENDER, AS SET  
3 FORTH IN SUBDIVISION FIVE OF THIS SECTION, SHALL BE DELIVERED BY THE  
4 ATTORNEY GENERAL TO THE COMPTROLLER. THE COMPTROLLER SHALL DEPOSIT INTO  
5 THE INTERNAL SERVICE FUND ACCOUNT FOR THE DEPARTMENT OF LAW, AN AMOUNT  
6 EQUAL TO NINETEEN PERCENT OF THE MONIES SO COLLECTED, IN ORDER TO OFFSET  
7 THE COSTS AND EXPENSES OF PERFORMING SUCH COLLECTION, LIEN ENFORCEMENT  
8 AND EXECUTION. ALL REMAINING MONIES, IF COLLECTED FROM THE FAILURE OF  
9 THE CONVICTED OFFENDER TO PAY A MANDATORY SURCHARGE, SHALL BE DEPOSITED  
10 BY THE COMPTROLLER INTO THE CRIMINAL JUSTICE IMPROVEMENT ACCOUNT, AS  
11 DEFINED IN SECTION NINETY-SEVEN-BB OF THE STATE FINANCE LAW, AND IF  
12 COLLECTED FROM THE FAILURE OF THE CONVICTED OFFENDER TO PAY A CRIME  
13 VICTIM'S ASSISTANCE FEE SHALL BE DEPOSITED BY THE COMPTROLLER INTO THE  
14 CRIME VICTIM'S ASSISTANCE ACCOUNT, AS DEFINED IN SECTION NINETY-FOUR-C  
15 OF THE STATE FINANCE LAW. UPON THE COLLECTION OF MONIES UNDER THIS  
16 SECTION, THE ATTORNEY GENERAL SHALL PROVIDE WRITTEN NOTICE TO THE CRIME  
17 VICTIM OR VICTIMS ON THE CRIME VICTIM'S LIST FOR THE CONVICTED OFFENDER  
18 WHICH WAS PREPARED BY THE COURT OR ADMINISTRATIVE TRIBUNAL AND FILED  
19 WITH THE ATTORNEY GENERAL PURSUANT TO SUBDIVISION THREE-B OF THIS  
20 SECTION.

21 6. Notwithstanding any other provision of this section, where a person  
22 has made restitution or reparation pursuant to section 60.27 of this  
23 article, such person [shall] AT THE DISCRETION OF THE COURT, MAY not be  
24 required to pay a mandatory surcharge or a crime victim assistance fee.

25 7. Notwithstanding the provisions of subdivision one of section 60.00  
26 of this article, the provisions of subdivision one of this section shall  
27 not apply to a violation under any law other than this chapter.

28 8. Subdivision one of section 130.10 of the criminal procedure law  
29 notwithstanding, at the time that the mandatory surcharge, sex offender  
30 registration fee or DNA databank fee, crime victim assistance fee or  
31 supplemental sex offender victim fee is imposed a town or village court  
32 may, and all other courts shall, issue and cause to be served upon the  
33 person required to pay the mandatory surcharge, sex offender registra-  
34 tion fee or DNA databank fee, crime victim assistance fee or supple-  
35 mental sex offender victim fee, a summons directing that such person  
36 appear before the court regarding the payment of the mandatory  
37 surcharge, sex offender registration fee or DNA databank fee, crime  
38 victim assistance fee or supplemental sex offender victim fee, if after  
39 sixty days from the date it was imposed it remains unpaid. The desig-  
40 nated date of appearance on the summons shall be set for the first day  
41 court is in session falling after the sixtieth day from the imposition  
42 of the mandatory surcharge, sex offender registration fee or DNA data-  
43 bank fee, crime victim assistance fee or supplemental sex offender  
44 victim fee. The summons shall contain the information required by subdi-  
45 vision two of section 130.10 of the criminal procedure law except that  
46 in substitution for the requirement of paragraph (c) of such subdivision  
47 the summons shall state that the person served must appear at a date,  
48 time and specific location specified in the summons if after sixty days  
49 from the date of issuance the mandatory surcharge, sex offender regis-  
50 tration fee or DNA databank fee, crime victim assistance fee or supple-  
51 mental sex offender victim fee remains unpaid. The court shall not issue  
52 a summons under this subdivision to a person who is being sentenced to a  
53 term of confinement in excess of sixty days in jail or in the department  
54 of corrections and community supervision. The mandatory surcharges, sex  
55 offender registration fee and DNA databank fees, crime victim assistance

1 fees and supplemental sex offender victim fees for those persons shall  
2 be governed by the provisions of section 60.30 of this article.

3 9. Notwithstanding the provisions of subdivision one of this section,  
4 in the event a proceeding is in a town or village court, such court  
5 shall add an additional five dollars to the surcharges imposed by such  
6 subdivision one.

7 10. The provisions of this section shall apply to sentences imposed  
8 upon a youthful offender finding; provided, however that the court shall  
9 not impose the sex offender registration fee, DNA databank fee or  
10 supplemental sex offender victim fee, as defined in subparagraphs (iv)  
11 and (v) of paragraph (a) and paragraph (b) of subdivision one of this  
12 section, for an offense in which the conviction was substituted with a  
13 youthful offender finding.

14 S 4. Subdivision 5 of section 60.35 of the penal law, as amended by  
15 section 2 of part E of chapter 56 of the laws of 2004, is amended to  
16 read as follows:

17 5. When a person who is convicted of a crime or violation and  
18 sentenced to a term of imprisonment has failed to pay the mandatory  
19 surcharge, sex offender registration fee, DNA databank fee, crime victim  
20 assistance fee or supplemental sex offender victim fee required by this  
21 section, the clerk of the court that rendered the conviction shall noti-  
22 fy the superintendent or the municipal official of the facility where  
23 the person is confined. The superintendent or the municipal official  
24 shall cause any amount owing to be collected from such person during his  
25 or her term of imprisonment from moneys to the credit of an inmates'  
26 fund or such moneys as may be earned by a person in a work release  
27 program pursuant to section eight hundred sixty of the correction law OR  
28 AS THEY MAY BE AWARDED TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLE-  
29 MENT OF LITIGATION. Such moneys attributable to the mandatory surcharge  
30 or crime victim assistance fee shall be paid over to the state comp-  
31 troller to the credit of the criminal justice improvement account estab-  
32 lished by section ninety-seven-bb of the state finance law and such  
33 moneys attributable to the sex offender registration fee or DNA databank  
34 fee shall be paid over to the state comptroller to the credit of the  
35 general fund, except that any such moneys collected which are  
36 surcharges, sex offender registration fees, DNA databank fees[, crime  
37 victim assistance fees] or supplemental sex offender victim fees levied  
38 in relation to convictions obtained in a town or village justice court  
39 shall be paid within thirty days after the receipt thereof by the super-  
40 intendent or municipal official of the facility to the justice of the  
41 court in which the conviction was obtained. SUCH MONEYS, WITH RESPECT TO  
42 THE PAYMENT OF THE CRIME VICTIM'S ASSISTANCE FEE, SHALL BE PAID OVER TO  
43 THE STATE COMPTROLLER TO THE CREDIT OF THE CRIME VICTIM'S ASSISTANCE  
44 ACCOUNT ESTABLISHED BY SECTION NINETY-FOUR-C OF THE STATE FINANCE LAW.  
45 For the purposes of collecting such mandatory surcharge, sex offender  
46 registration fee, DNA databank fee, crime victim assistance fee and  
47 supplemental sex offender victim fee, the stateshall be legally enti-  
48 tled to the money to the credit of an inmates' fund or money which is  
49 earned by an inmate in a work release program OR AS THEY MAY BE AWARDED  
50 TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLEMENT OF LITIGATION. For  
51 purposes of this subdivision, the term "inmates' fund" shall mean moneys  
52 in the possession of an inmate at the time of his or her admission into  
53 such facility, funds earned by him or her as provided for in section one  
54 hundred eighty-seven of the correction law and any other funds received  
55 by him or her or on his or her behalf and deposited with such super-  
56 intendent or municipal official, OR FUNDS RECEIVED, INCLUDING ANY FUNDS

1 THAT MAY BE AWARDED TO SUCH INMATE PURSUANT TO LITIGATION OR SETTLEMENT  
2 OF LITIGATION.

3 S 5. The state finance law is amended by adding a new section 94-c to  
4 read as follows:

5 S 94-C. CRIME VICTIM'S ASSISTANCE ACCOUNT. 1. THERE IS HEREBY ESTAB-  
6 LISHED IN THE JOINT CUSTODY OF THE STATE COMPTROLLER AND THE ATTORNEY  
7 GENERAL A SPECIAL REVENUE FUND TO BE KNOWN AS THE "CRIME VICTIM'S  
8 ASSISTANCE ACCOUNT."

9 2. THE CRIME VICTIM'S ASSISTANCE ACCOUNT SHALL CONSIST OF ALL MONIES  
10 RECEIVED BY THE STATE PURSUANT TO SECTION 60.35 OF THE PENAL LAW AND ALL  
11 OTHER FEES, FINES, GRANTS, BEQUESTS OR OTHER MONIES CREDITED, APPROPRI-  
12 ATED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE.

13 3. MONIES OF THE CRIME VICTIM'S ASSISTANCE ACCOUNT SHALL BE MADE  
14 AVAILABLE FOR THE FOLLOWING PURPOSES:

15 A. FOR STATE OPERATION EXPENSES AND LOCAL ASSISTANCE SERVICES TO  
16 PROVIDE SERVICES TO CRIME VICTIMS AND WITNESSES; AND

17 B. FOR GRANTS AND EXPENSES TO PRIVATE ASSOCIATIONS, SERVICES AND  
18 PROGRAMS WHICH PROVIDE SERVICES TO CRIME VICTIMS AND WITNESSES; AND

19 C. FOR COMPENSATION PAYMENTS TO CRIME VICTIMS AND THEIR FAMILIES.

20 4. MONIES ALLOCATED FROM THE CRIME VICTIM'S ASSISTANCE ACCOUNT FOR  
21 STATE OPERATION EXPENSES AND LOCAL ASSISTANCE SERVICES, TO PROVIDE  
22 SERVICES TO CRIME VICTIMS AND WITNESSES, SHALL NOT, IN THE AGGREGATE,  
23 ANNUALLY EXCEED TEN PERCENT OF THE FUNDS OF THE ACCOUNT'S PREVIOUS  
24 YEAR'S ANNUAL CASH BALANCE. THE ATTORNEY GENERAL SHALL MAKE AN ANNUAL  
25 RECOMMENDATION TO THE GOVERNOR AND THE LEGISLATURE AS TO THE ALLOCATION  
26 OF THESE MONIES.

27 5. MONIES ALLOCATED FROM THE CRIME VICTIM'S ASSISTANCE ACCOUNT FOR  
28 GRANTS AND EXPENSES TO PRIVATE ASSOCIATIONS, SERVICES AND PROGRAMS,  
29 WHICH PROVIDE SERVICES TO CRIME VICTIMS AND WITNESSES, SHALL NOT, IN THE  
30 AGGREGATE, ANNUALLY EXCEED TEN PERCENT OF THE FUNDS OF THE ACCOUNT'S  
31 PREVIOUS YEAR'S ANNUAL CASH BALANCE. THE ATTORNEY GENERAL SHALL MAKE AN  
32 ANNUAL RECOMMENDATION TO THE GOVERNOR AND THE LEGISLATURE AS TO THE  
33 ALLOCATION OF THESE MONIES.

34 6. UPON THE PAYMENT OR COLLECTION OF A CRIME VICTIM'S ASSISTANCE FEE,  
35 OR A PORTION THEREOF, FROM A CONVICTED OFFENDER, AND UPON THE DEPOSIT OF  
36 SUCH MONIES INTO THE CRIME VICTIM'S ASSISTANCE ACCOUNT BY THE COMP-  
37 TROLLER, A CRIME VICTIM, WHO IS SET FORTH ON A CRIME VICTIM'S LIST FOR  
38 THE CONVICTED OFFENDER AS DEFINED IN SUBDIVISION FIVE OF SECTION 60.35  
39 OF THE PENAL LAW, SHALL BE ELIGIBLE TO APPLY TO THE ATTORNEY GENERAL FOR  
40 CRIME VICTIM'S ASSISTANCE. UPON VERIFICATION OF THE ATTORNEY GENERAL  
41 FROM THE CRIME VICTIM'S LIST THAT SUCH APPLICANT IS A CRIME VICTIM OF  
42 THE CONVICTED OFFENDER, AND UPON VERIFICATION FROM THE STATE COMPTROLLER  
43 THAT PAYMENT OR COLLECTION OF MONIES WERE MADE AGAINST SUCH CONVICTED  
44 OFFENDER AND THAT SUCH MONIES WERE DEPOSITED INTO THE CRIME VICTIM'S  
45 ASSISTANCE ACCOUNT AND THE AMOUNT OF SUCH MONIES, IF ANY, THAT HAVE BEEN  
46 PREVIOUSLY PAID BY OR COLLECTED FROM, SUCH CONVICTED OFFENDER, THE  
47 ATTORNEY GENERAL SHALL CERTIFY TO THE COMPTROLLER THAT SUCH APPLICANT IS  
48 ELIGIBLE TO RECEIVE CRIME VICTIM'S ASSISTANCE. SUCH CERTIFICATION SHALL  
49 SPECIFY THE CURRENT NAME AND ADDRESS OF THE CRIME VICTIM, AND THE AMOUNT  
50 OF THE MONIES DEPOSITED INTO THE CRIME VICTIM'S ASSISTANCE ACCOUNT AS A  
51 RESULT OF THE PAYMENT BY, OR THE COLLECTION OF MONIES FROM, THE  
52 CONVICTED OFFENDER. PURSUANT TO THE ISSUANCE OF THE ATTORNEY GENERAL'S  
53 CERTIFICATION OR CERTIFICATIONS, THE COMPTROLLER SHALL WITHIN THIRTY  
54 DAYS OF RECEIPT OF SUCH CERTIFICATION OR CERTIFICATIONS, ISSUE AND  
55 PROVIDE A PRO RATA PAYMENT TO EACH CRIME VICTIM IN THE AMOUNT OF SEVEN-  
56 TY-FIVE PERCENT OF THE AMOUNT OF MONEY SO CERTIFIED AS HAVING BEEN



1 DEPOSITED IN THE CRIME VICTIM'S ASSISTANCE ACCOUNT AS A RESULT OF THE  
2 PAYMENT BY, OR THE COLLECTION OF MONIES FROM, THE CONVICTED OFFENDER.  
3 S 6. This act shall take effect on the ninetieth day after it shall  
4 have become a law and shall apply to all convictions occurring on or  
5 after such date, provided that the amendments to subdivision 5 of  
6 section 60.35 of the penal law made by section three of this act shall  
7 be subject to the expiration and reversion of such subdivision pursuant  
8 to subdivision h of section 74 of chapter 3 of the laws of 1995, as  
9 amended, when upon such date the provisions of section four of this act  
10 shall take effect.