STATE OF NEW YORK

4353--A

2021-2022 Regular Sessions

IN SENATE

February 3, 2021

Introduced by Sen. SEPULVEDA -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to repeal subdivision 9 of section 201 of the correction law, relating to the parole supervision fee, subdivision 2 of section 189 of the correction law, relating to compensation paid to a prisoner for certain work performed, paragraph b of subdivision 5 of section 60.35 of the penal law, relating to incarceration fees, and section 257-c of the executive law, relating to probation administrative fees; to amend the executive law, in relation to prohibiting certain fees associated with probation; and to amend the correction law and the executive law, in relation to termination and discharge of certain sentences

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 9 of section 201 of the correction law is REPEALED.

§ 2. Subdivision 2 of section 189 of the correction law is REPEALED.

§ 3. Paragraph b of subdivision 5 of section 60.35 of the penal law is REPEALED.

§ 4. Section 257-c of the executive law is REPEALED.

§ 5. The executive law is amended by adding a new section 257-c to read as follows:

§ 257-c. Prohibition on fees associated with probation. Notwithstanding any other provision of law, no county or city may adopt a local law requiring individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime to pay any fee, including but not limited to an administrative fee, supervision fee, monitoring fee, testing fee, or screening fee, to the local probation department with the responsibility of supervising the probationer. Nothing in this section shall be construed to affect the collection of restitution

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

LBD07684-02-1

payments and associated surcharges pursuant to sections 65.10 and 60.27 of the penal law and subdivision 8 of section 420.10 of the criminal procedure law.

§ 6. Subdivision 2 of section 205 of the correction law, as added by section 32 of subpart A of part C of chapter 62 of the laws of 2011, is amended to read as follows:

2. A merit termination granted by the department under this section shall constitute a termination of the sentence with respect to which it was granted. No such merit termination shall be granted unless the department is satisfied that termination of sentence from presumptive release, parole, conditional release or post-release supervision is in the best interest of society[~~, and that the parolee or releasee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith~~].

§ 7. Subdivisions 1 and 3 of section 259-j of the executive law, as amended by section 38-g of subpart A of part C of chapter 62 of the laws of 2011, are amended to read as follows:

1. Except where a determinate sentence was imposed for a felony other than a felony defined in article two hundred twenty or article two hundred twenty-one of the penal law, if the board of parole is satisfied that an absolute discharge from presumptive release, parole, conditional release or release to a period of post-release supervision is in the best interests of society, the board may grant such a discharge prior to the expiration of the full term or maximum term to any person who has been on unrevoked community supervision for at least three consecutive years. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted. [~~No such discharge shall be granted unless the board is satisfied that the parolee or releasee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee or DNA databank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith.~~]

3. Notwithstanding any other provision of this section to the contrary, where a term of post-release supervision in excess of five years has been imposed on a person convicted of a crime defined in article one hundred thirty of the penal law, including a sexually motivated felony, the board of parole may grant a discharge from post-release supervision prior to the expiration of the maximum term of post-release supervision. Such a discharge may be granted only after the person has served at least five years of post-release supervision, and only to a person who has been on unrevoked post-release supervision for at least three consecutive years. No such discharge shall be granted unless the board of parole or the department acting pursuant to its responsibility under subdivision one of section two hundred one of the correction law consults with any licensed psychologist, qualified psychiatrist, or other mental health professional who is providing care or treatment to the supervisee; and the board[~~: (a)~~] determines that a discharge from post-release supervision is in the best interests of society[~~; and (b) is satisfied that the supervisee, otherwise financially able to comply with an order of restitution and the payment of any mandatory surcharge, sex offender registration fee, or DNA data bank fee previously imposed by a court of competent jurisdiction, has made a good faith effort to comply therewith~~]. Before making a determination to discharge a person

from a period of post-release supervision, the board of parole may request that the commissioner of the office of mental health arrange a psychiatric evaluation of the supervisee. A discharge granted under this section shall constitute a termination of the sentence with respect to which it was granted.

§ 8. This act shall take effect immediately.