STATE OF NEW YORK

4183

2023-2024 Regular Sessions

IN ASSEMBLY

February 10, 2023

Introduced by M. of A. BURGOS, REYES, SEAWRIGHT, SIMON, STECK, EPSTEIN, L. ROSENTHAL, FORREST, MAMDANI, CRUZ, GONZALEZ-ROJAS, AUBRY, JACKSON, BURDICK, GALLAGHER, MITAYNES, LAVINE, KELLES, SEPTIMO, RIVERA, MEEKS, WALKER, GIBBS, COOK, HEVESI -- read once and referred to the Committee on Codes

AN ACT to amend the civil practice law and rules, the executive law, the correction law, the vehicle and traffic law, the village law and the state finance law, in relation to eliminating court surcharges and fees; and to repeal certain provisions of the penal law, the vehicle and traffic law, the correction law, the parks, recreation and historic preservation law, the executive law and the environmental conservation law relating thereto (Part A); to amend the penal law and the vehicle and traffic law, in relation to prohibiting mandatory minimum fines for penal law and vehicle and traffic offenses (Part B); to amend the penal law and the vehicle and traffic law, in relation to mandating that courts engage in an individualized assessment of a person's financial ability to pay a fine prior to imposing a fine (Part C); to amend the criminal procedure law, in relation to eliminating the availability of incarceration as a remedy for a failure to pay a fine, surcharge or fee, lifting and vacating all existing warrants issued solely based on a person's failure to timely pay a fine, surcharge or fee and ending all existing sentences of incarceration based on such failure; and to repeal certain provisions of the criminal procedure law relating thereto (Part D); in relation to vacating all existing unsatisfied civil judgments entered solely based on a person's failure to timely pay a surcharge or fee and to repeal certain provisions of the criminal procedure law relating thereto (Part E); to amend the criminal procedure law, in relation to prohibiting the collection of a fine, restitution or reparation from the funds of an incarcerated person; and to amend the correction law, in relation to prohibiting the payment of court fines, mandatory surcharges, certain fees, restitution, reparation or forfeitures from the earnings of prisoners (Part F); and in relation to vacating all existing unpaid surcharges, DNA databank fees, crime victim assistance

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

LBD00485-02-3

fees, sexual offender registration fees, or supplemental sex offender victim fees (Part G)

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

Section 1. This act enacts into law major components of legislation relating to ending the unfair financial burdens imposed on defendants in criminal, vehicle and traffic, or other types of criminal or quasi-criminal matters by the existence of mandatory court surcharges and fees, mandatory minimum fines and mandatory probation or parole fees. This act further enacts into law procedures by which courts would be required to engage in an individualized assessment of a person's financial ability to pay a fine prior to imposing a fine, eliminates the availability of incarceration as a remedy for a failure to pay a fine, and vacates all existing warrants or unsatisfied civil judgments issued solely based on a person's failure to timely pay a fine, surcharge, or fee. Each component is wholly contained within a Part identified as Parts A through G. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

§ 2. Legislative intent. The legislative intent of this act is to end the inequitable financial burdens placed on defendants by the previously enacted statutory provisions which have authorized or mandated the imposition of surcharges, fees, and/or mandatory minimum fines, which have had a disparate impact on poor defendants, people of color, and those who lack access to the significant financial resources necessary in order to satisfy the imposition of surcharges, fees, and fines, and which have also contributed to mass incarceration in New York state. The legislative intent is also to end New York's regressive reliance on generating governmental revenue by imposing surcharges, fees, and fines on those least able to pay.

PART A

Section 1. Section 60.35 of the penal law is REPEALED.

§ 2. Section 1809 of the vehicle and traffic law is REPEALED.

§ 3. Section 1809-a of the vehicle and traffic law is REPEALED.

§ 4. Section 1809-aa of the vehicle and traffic law is REPEALED.

§ 5. Section 1809-b of the vehicle and traffic law is REPEALED.

§ 6. Section 1809-c of the vehicle and traffic law is REPEALED.

§ 7. Section 1809-d of the vehicle and traffic law is REPEALED.

§ 8. Section 1809-e of the vehicle and traffic law is REPEALED.

§ 9. Section 71-0213 of the environmental conservation law is REPEALED.

§ 10. The opening paragraph of paragraph 2 of subdivision (f) of section 1101 of the civil practice law and rules, as amended by chapter 322 of the laws of 2021, is amended to read as follows:

If the court determines that the incarcerated individual has insufficient means to pay the full filing fee, the court may permit the incar-

cerated individual to pay a reduced filing fee, the minimum of which shall not be less than fifteen dollars and the maximum of which shall not be more than fifty dollars. The court shall require an initial payment of such portion of the reduced filing fee as the incarcerated individual can reasonably afford or shall authorize no initial payment of the fee if exceptional circumstances render the incarcerated individual unable to pay any fee; provided however, that the difference between the amount of the reduced filing fee and the amount paid by the incarcerated individual in the initial partial payment shall be assessed against the incarcerated individual as an outstanding obligation to be collected either by the superintendent or the municipal official of the facility at which the incarcerated individual is confined, as the case may be[~~, in the same manner that mandatory surcharges are collected as provided for in subdivision five of section 60.35 of the penal law~~]. The court shall notify the superintendent or the municipal official of the facility where the incarcerated individual is housed of the amount of the reduced filing fee that was not directed to be paid by the incarcerated individual. Thereafter, the superintendent or the municipal official shall forward to the court any fee obligations that have been collected, provided however, that:

§ 11. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by chapter 322 of the laws of 2021, subparagraph (i) as amended by chapter 486 of the laws of 2022, is amended to read as follows:

(a) (i) Except as provided in subparagraph (ii) of this paragraph, at least one month prior to the date on which an incarcerated individual may be paroled pursuant to subdivision one of section 70.40 of the penal law, a member or members as determined by the rules of the board shall personally interview such incarcerated individual and determine whether he or she should be paroled in accordance with the guidelines adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the incarcerated individual shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the incarcerated individual is released, he or she shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order, [~~mandatory surcharge, sex offender registration fee and DNA databank fee~~] previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution[~~, mandatory surcharge, sex offender registration fees and DNA databank fees as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law~~]. If the incarcerated individual is released, he or she shall also be notified in writing that his or her voting rights will be restored upon release.

(ii) Any incarcerated individual who is scheduled for presumptive release pursuant to section eight hundred six of the correction law shall not appear before the board as provided in subparagraph (i) of this paragraph unless such incarcerated individual's scheduled presumptive release is forfeited, canceled, or rescinded subsequently as

provided in such law. In such event, the incarcerated individual shall appear before the board for release consideration as provided in subparagraph (i) of this paragraph as soon thereafter as is practicable.

§ 12. Paragraph (a) of subdivision 2 of section 259-i of the executive law, as amended by chapter 486 of the laws of 2022, is amended to read as follows:

(a) At least one month prior to the expiration of the minimum period or periods of imprisonment fixed by the court or board, a member or members as determined by the rules of the board shall personally interview an incarcerated individual serving an indeterminate sentence and determine whether he or she should be paroled at the expiration of the minimum period or periods in accordance with the procedures adopted pursuant to subdivision four of section two hundred fifty-nine-c of this article. If parole is not granted upon such review, the incarcerated individual shall be informed in writing within two weeks of such appearance of the factors and reasons for such denial of parole. Such reasons shall be given in detail and not in conclusory terms. The board shall specify a date not more than twenty-four months from such determination for reconsideration, and the procedures to be followed upon reconsideration shall be the same. If the incarcerated individual is released, he or she shall be given a copy of the conditions of parole. Such conditions shall where appropriate, include a requirement that the parolee comply with any restitution order [~~and mandatory surcharge~~] previously imposed by a court of competent jurisdiction that applies to the parolee. The conditions shall indicate which restitution collection agency established under subdivision eight of section 420.10 of the criminal procedure law, shall be responsible for collection of restitution [~~and mandatory surcharge as provided for in section 60.35 of the penal law and section eighteen hundred nine of the vehicle and traffic law~~]. If the incarcerated individual is released, he or she shall also be notified in writing that his or her voting rights will be restored upon release.

§ 12-a. Section 257-c of the executive law is REPEALED and a new section 257-c is added to read as follows:

§ 257-c. Probation fees prohibited. Notwithstanding any other provision of law, no county or city may require 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 payments pursuant to sections 65.10 and 60.27 of the penal law and subdivision eight of section 420.10 of the criminal procedure law.

§ 12-b. Paragraph (a) of subdivision 2 of section 205 of the correction law, as amended by chapter 491 of the laws of 2021, is amended to read as follows:

(a) 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~~].

§ 12-c. 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.

§ 13. Subdivision 5 of section 27.12 of the parks, recreation and historic preservation law is REPEALED and subdivision 6 is renumbered subdivision 5.

§ 14. Subdivision 4 of section 60.02 of the penal law is renumbered subdivision 3.

§ 15. Subparagraph (i) of paragraph (j-1) of subdivision 2 of section 503 of the vehicle and traffic law, as amended by section 3 of part PP of chapter 59 of the laws of 2009, is amended to read as follows:

(i) When a license issued pursuant to this article, or a privilege of operating a motor vehicle or of obtaining such a license, has been suspended based upon a failure to answer an appearance ticket or a summons [~~or failure to pay a fine, penalty or mandatory surcharge~~], pursuant to subdivision three of section two hundred twenty-six, subdivision four of section two hundred twenty-seven, **or** subdivision four-a of section five hundred ten [~~or subdivision five-a of section eighteen hundred nine~~] of this chapter, such suspension shall remain in effect until a termination of a suspension fee of seventy dollars [~~is paid~~] to the court or tribunal that initiated the suspension of such license or privilege. In no event may the aggregate of the fees imposed by an individual court pursuant to this paragraph for the termination of all suspensions that may be terminated as a result of a person's answers, **or** appearances [~~or payments~~] made in such cases pending before such individual court exceed four hundred dollars. For the purposes of this paragraph, the various locations of the administrative tribunal established under article two-A of this chapter shall be considered an individual court.

§ 16. Section 4-411 of the village law, as amended by section 12 of part F of chapter 62 of the laws of 2003, is amended to read as follows:

§ 4-411 Disposition of fines and penalties. Except as otherwise provided by law, all fines and penalties imposed for the violation of a village local law, ordinance or regulation shall be the property of the village, whether or not the village has established the office of village justice. [~~Nothing in this section shall be deemed to affect the disposition of mandatory surcharges, sex offender registration fees, DNA databank fees or crime victim assistance fees as provided by section 60.35 of the penal law, or of mandatory surcharges as provided by section eighteen hundred nine of the vehicle and traffic law, or of fines, penalties and forfeitures as provided by section eighteen hundred three of the vehicle and traffic law relating to traffic offenses.~~]

§ 17. Subdivision 2 of section 837-i of the executive law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

2. The commissioner in consultation with the chief executive officers of cities with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census shall establish a system to record and monitor the issuance and disposition of parking tickets[~~, to monitor the collection of the mandatory surcharge required by section eighteen hundred nine-a of the vehicle and traffic law~~] and to receive information from cities for this purpose. Each such city shall report on such parking violations on a monthly basis in the form and manner prescribed by the commissioner including, but not limited to, the parking tickets issued, the dispositions of such tickets and the amount of fines[~~,~~] **and** penalties [~~and mandatory surcharges~~] collected. The commissioner shall collect, process and analyze such information and present periodic reports on the parking violations enforcement and disposition program.

§ 18. Section 837-j of the executive law is REPEALED.

§ 19. Subdivision 1 of section 837-i of the executive law, as added by chapter 166 of the laws of 1991, is amended to read as follows:

1. The commissioner, in cooperation with the commissioner of the department of motor vehicles, and in consultation with the chief executive officers of cities with a population in excess of one hundred thousand persons according to the nineteen hundred eighty United States census shall prescribe the form and content of uniform parking tickets for such cities in all cases involving a parking, standing or stopping

violation as defined in accordance with the vehicle and traffic law, hereinafter referred to as parking violations, or of any local law, ordinance, rule or regulation adopted pursuant to the vehicle and traffic law relating to parking violations. [~~Upon written application of the chief executive officer of any such city, the commissioner, after consultation with the commissioner of the department of motor vehicles, may authorize the use of a parking ticket other than the uniform parking ticket prescribed pursuant to this section if he or she determines that use of such other parking ticket is not inconsistent with, and will not diminish the effectiveness of, the parking violations enforcement and disposition program established pursuant to section eight hundred thirty-seven-j of this chapter, and may also authorize for a specified time period the use of a parking ticket which was used by such city on or before the effective date of this section.~~]

§ 20. Clause (E) of subparagraph 2 of paragraph a of subdivision 2 of section 235 of the vehicle and traffic law, as separately added by chapters 421, 460, and 773 of the laws of 2021, is amended to read as follows:

(E) that submission of a plea of guilty to the parking violation makes the owner liable for payment of the stated fine and additional penalties imposed pursuant to paragraph b of this subdivision [~~and the mandatory surcharge of fifteen dollars imposed upon parking violations pursuant to section eighteen hundred nine-a of this chapter~~].

§ 21. Subdivision 4 of section 1203-g of the vehicle and traffic law, as added by chapter 497 of the laws of 1999, is amended to read as follows:

4. Every county and the city of New York that establishes a handicapped parking education program shall establish a separate handicapped parking education fund in the custody of the chief fiscal officer of each such county or city, by April first, two thousand[~~, which shall consist of moneys granted to such county or city pursuant to section eighteen hundred nine-b of this chapter~~]. No provision of law shall be deemed to preclude a county or the city of New York from receiving funds [~~from other sources~~] to be deposited in the handicapped parking education fund, provided such funds are used in a manner and for purposes consistent with this section. The moneys of such fund shall be disbursed to provide education, advocacy and increased awareness of handicapped parking laws and may be used to execute contracts with private organizations for such purposes. Such contracts shall be awarded upon competitive bids after the issuance of requests for proposal.

§ 22. Subdivision 2 of section 99-n of the state finance law, as added by chapter 223 of the laws of 2005, is amended to read as follows:

2. The fund shall consist of all monies appropriated for its purpose[~~,~~] **and** all monies required by this section or any other provision of law to be paid into or credited to such fund[~~, collected by the mandatory surcharges imposed pursuant to subdivision one of section eighteen hundred nine-d of the vehicle and traffic law~~]. Nothing contained in this section shall prevent the department of motor vehicles from receiving grants or other appropriations for the purposes of the fund as defined in this section and depositing them into the fund according to law.

§ 23. This act shall take effect immediately; provided however that the amendments to subdivision (f) of section 1101 of the civil practice law and rules made by section ten of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith; and provided further, however, that the amendments to paragraph (a) of

subdivision 2 of section 259-i of the executive law made by section eleven of this act shall be subject to the expiration and reversion of such paragraph pursuant to subdivision d of section 74 of chapter 3 of the laws of 1995, as amended, when upon such date the provisions of section twelve of this act shall take effect.

PART B

Section 1. The penal law is amended by adding a new section 80.20 to read as follows:

§ 80.20 Mandatory minimum fines prohibited.

Notwithstanding any other provision of law, no offense shall carry a mandatory minimum fine.

§ 2. Section 1800 of the vehicle and traffic law is amended by adding a new subdivision (j) to read as follows:

(j) Notwithstanding any other provision of law, no offense described in this chapter shall carry a mandatory minimum fine.

§ 3. This act shall take effect immediately.

PART C

Section 1. Section 80.05 of the penal law is amended by adding a new subdivision 7 to read as follows:

7. Individualized assessment. When imposing a fine pursuant to the provisions of this section, the court shall consider the profit gained by the defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which the defendant engaged, the impact on any victims, and the defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support. In addition, when imposing a fine the court shall establish such payment schedules as are fair and reasonable taking into consideration the defendant's economic circumstances.

§ 2. The vehicle and traffic law is amended by adding a new section 1811 to read as follows:

§ 1811. Fines; individualized assessment. When imposing a fine pursuant to the provisions of this section, the court shall consider the profit gained by the defendant's conduct, whether the amount of the fine is disproportionate to the conduct in which the defendant engaged, the impact on any victims, and the defendant's economic circumstances, including the defendant's ability to pay, the effect of the fine upon his or her immediate family or any other persons to whom the defendant owes an obligation of support. In addition, when imposing a fine the court shall establish such payment schedules as are fair and reasonable taking into consideration the defendant's economic circumstances.

§ 3. Collection and reporting on data relating to fines. (a) It shall be the duty of a court of record or administrative tribunal to report data to the division of criminal justice services on the disposition and collection of all fines imposed pursuant to the penal law and vehicle and traffic law. Such data shall include, at minimum, information on the number of fines imposed; the provision of law pursuant to which each fine was imposed; the amount of the fine; the court that issued the fine; the outcome of any individualized assessment conducted pursuant to section 80.05 of the penal law or section 1811 of the vehicle and traffic law; the amount of the fine that has been paid, if any; and the

race, ethnicity, age, and sex of the person for whom the fine was imposed.

(b) All data collected pursuant to this section shall be a public record. The division shall be charged with compiling such data in an annual report to be made available on the division's website.

§ 4. This act shall take effect immediately.

PART D

Section 1. Subdivisions 3 and 4 of section 420.10 of the criminal procedure law are REPEALED.

§ 2. Section 420.35 of the criminal procedure law is REPEALED.

§ 3. Subdivision 5 of section 420.10 of the criminal procedure law, as separately amended by chapters 233 and 506 of the laws of 1985, the second undesignated paragraph as amended by chapter 618 of the laws of 1992, the closing paragraph as amended by chapter 322 of the laws of 2021, is amended to read as follows:

5. Application for resentence. In any case where the defendant is unable to pay a fine, restitution or reparation imposed by the court, he may at any time apply to the court for resentence. In such case, if the court is satisfied that the defendant is unable to pay the fine, restitution or reparation it must:

(a) Adjust the terms of payment; or

(b) Lower the amount of the fine, restitution or reparation **to an amount the defendant is able to pay, or revoke it entirely from the sentence if the defendant has no ability to pay**; or

(c) [~~Where the sentence consists of probation or imprisonment and a fine, restitution or reparation, revoke the portion of the sentence imposing the fine, restitution or reparation; or~~

~~(d)~~] Revoke the entire sentence imposed and resentence the defendant. Upon such resentence the court may impose any sentence it originally could have imposed, except that the amount of any fine, restitution or reparation imposed may not be in excess of the amount the defendant is able to pay **and that the court may not sentence the defendant to any term of imprisonment, probation, or post-release supervision in excess of any such term imposed by the original sentence**.

In any case where the defendant applies for resentencing with respect to any condition of the sentence relating to restitution or reparation the court must order that notice of such application and a reasonable opportunity to be heard be given to the person or persons given notice pursuant to subdivision one of this section. If the court grants the defendant's application by changing the original order for restitution or reparation in any manner, the court must place the reasons therefor on the record.

[~~For the purposes of this subdivision, the court shall not determine that the defendant is unable to pay the fine, restitution or reparation ordered solely because of such defendant's incarceration but shall consider all the defendant's sources of income including, but not limited to, moneys in the possession of an incarcerated individual at the time of his or her admission into such facility, funds earned by him or her in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by him or her as provided for in section one hundred eighty-seven of the correction law and any other funds received by him or her or on his or her behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.~~]

In determining whether an incarcerated defendant is able to pay a fine, restitution, or reparation, the court shall not consider income earned pursuant to subdivision four of section one hundred fifty of the correction law, income earned pursuant to section one hundred eighty-seven of the correction law, or funds received by the defendant or on the defendant's behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.

§ 4. Subdivision 1 of section 420.30 of the criminal procedure law, as amended by chapter 3 of the laws of 1995, is amended to read as follows:

1. Applicability. The procedure specified in this section governs remission of fines, restitution or reparation [~~in all cases not covered by subdivision four of section 420.10~~].

§ 5. The criminal procedure law is amended by adding a new section 420.11 to read as follows:

§ 420.11 Warrants and sentences of incarceration; effectiveness.

1. All warrants issued prior to the effective date of this section pursuant to the provisions of subdivision three of section 420.10 of this article as such subdivision existed prior to the effective date of this section and/or the provisions of subdivision one of section 420.35 of this article as such subdivision existed prior to the effective date of this section solely based on the alleged failure on the part of a defendant to timely pay, and/or to appear on a court date set for the sole purpose of payment of, a fine, restitution, reparation, surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, and/or supplemental sex offender victim fee, are deemed to be null and void.

2. The office of court administration, in consultation with such other state or municipal agencies as necessary, shall establish procedures to formally rescind all warrants issued prior to the effective date of this section pursuant to the provisions of subdivision three of section 420.10 of this article as such subdivision existed prior to the effective date of this section and/or the provisions of subdivision one of section 420.35 of this article as such subdivision existed prior to the effective date of this section solely based on the alleged failure on the part of a defendant to timely pay, and/or to appear on a court date set for the sole purpose of payment of, a fine, restitution, reparation, surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, and/or supplemental sex offender victim fee. Such procedures shall not require any affirmative actions on the part of any defendant subject to any such warrant. Such procedures shall be designed and implemented so as to accomplish the rescinding of all such warrants within six months of the effective date of this section.

3. All sentences of incarceration imposed prior to the effective date of this section pursuant to the provisions of subdivision three of section 420.10 of this article as such subdivision existed prior to the effective date of this section, subdivision five of section 420.10 of this article, or section 420.35 of this article as such section existed prior to the effective date of this section based solely on the alleged failure on the part of a defendant to timely pay, or timely appear on a court date scheduled for the purposes of payment of, a fine, restitution, reparation, surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, or supplemental sex offender victim fee are deemed to be null and void and any person serving such a sentence shall be released from custody immediately.

4. The office of court administration, in consultation with such other state or municipal agencies as is necessary, shall establish procedures

to formally rescind all sentences of incarceration imposed prior to the effective date of this section pursuant to the provisions of subdivision three of section 420.10 of this article as such subdivision existed prior to the effective date of this section or section 420.35 of this article as such section existed prior to the effective date of this section based solely on the alleged failure on the part of a defendant to timely pay a fine, restitution, reparation, surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, or supplemental sex offender victim fee. Such procedures shall not require any affirmative actions on the part of any defendant subject to any such sentence.

§ 6. Subdivision 1 of section 430.20 of the criminal procedure law, as amended by chapter 788 of the laws of 1971, is amended to read as follows:

1. In general. When a sentence of imprisonment is pronounced, [~~or when th sentence consists of a fine and the court has directed that the defendant be imprisoned until it is satisfied,~~] the defendant must forthwith be committed to the custody of the appropriate public servant and detained until the sentence is complied with.

§ 7. Subdivision 5 of section 430.20 of the criminal procedure law is REPEALED.

§ 8. This act shall take effect immediately.

PART E

Section 1. All unsatisfied civil judgments issued prior to the effective date of this act pursuant to the provisions of subdivision 5 of section 420.40 of the criminal procedure law solely based on the alleged failure on the part of a defendant to timely pay, and/or to appear on a court date set for the sole purpose of payment of a surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, or supplemental sex offender victim fee are deemed to be null and void and, for all legal purposes, vacated and discharged.

§ 2. The office of court administration, in consultation with such other state or municipal agencies as necessary, shall establish procedures to formally vacate and discharge all unsatisfied civil judgments entered prior to the effective date of this act pursuant to the provisions of subdivision 5 of section 420.40 of the criminal procedure law solely based on the alleged failure on the part of a defendant to timely pay, and/or to appear on a court date set for the sole purpose of payment of, a surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, or supplemental sex offender victim fee. Such procedures shall not require any affirmative actions on the part of any defendant subject to any such civil judgment. Such procedures shall be designed and implemented so as to accomplish the vacatur and discharge of all such civil judgments within six months of the effective date of this act.

§ 3. Subdivision 3 of section 420.30 of the criminal procedure law is REPEALED.

§ 4. This act shall take effect immediately.

PART F

Section 1. Section 420.10 of the criminal procedure law is amended by adding a new subdivision 9 to read as follows:

9. In no case shall a fine, restitution, or reparation be collected out of the funds of a person who is presently incarcerated, including funds earned by the person in a work release program as defined in subdivision four of section one hundred fifty of the correction law, funds earned by a person as provided for in section one hundred eighty-seven of the correction law, and any other funds received by the person or on the person's behalf and deposited with the superintendent or the municipal official of the facility where the person is confined.

§ 2. Section 154 of the correction law, as added by chapter 788 of the laws of 1968, subdivision 4 as amended by section 3 of part F of chapter 62 of the laws of 2003, is amended to read as follows:

§ 154. Disposition of Earnings. The earnings of a prisoner participating in a work release program, less any payroll deductions required or authorized by law, shall be deposited with the department in a trust fund account. Such earnings shall not be subject to attachment or garnishment in the hands of the department. The commissioner is authorized to provide for disbursements from the trust fund account for any or all of the following purposes:

1. Such costs incident to the prisoner's confinement as the commissioner deems appropriate and reasonable.

2. Such costs related to the prisoner's work release program as the commissioner deems appropriate and reasonable.

3. Support of the prisoner's dependents.

[~~**4. Payment of court fines, mandatory surcharge, sex offender registration fee, DNA databank fee, restitution or reparation, or forfeitures.**~~]

The balance of such earnings, if any, after disbursements for any of the foregoing purposes shall be paid to the prisoner upon termination of his imprisonment.

§ 3. This act shall take effect immediately.

PART G

Section 1. All orders issued prior to the effective date of this act directing payment by a defendant of a surcharge, DNA databank fee, crime victim assistance fee, sexual offender registration fee, supplemental sex offender victim fee, probation supervision fee or parole supervision fee are deemed to be null and void and, such orders are for all legal purposes, vacated and discharged. Pursuant to this section, any existing encumbrances on commissary accounts or similar accounts held by a correctional facility, jail, or detention facility shall be lifted and deemed null and void.

§ 2. This act shall take effect immediately.

§ 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

§ 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through G of this act shall be as specifically set forth in the last section of such Parts.