STATE OF NEW YORK

5269--A

2023-2024 Regular Sessions

IN ASSEMBLY

March 7, 2023

Introduced by M. of A. CUNNINGHAM, DILAN, GIBBS, HYNDMAN, WALKER, COOK -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the criminal procedure law, in relation to providing for the return of fines, restitution and reparation payments where there was an unjust conviction

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

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

9. Effect of unjust conviction. (a) Where a court requires that a fine, restitution or reparation be paid by a defendant, and such defendant is subsequently (i) pardoned upon the ground of innocence of the crime or crimes for which such defendant was sentenced and which are the grounds for the fine, restitution or reparation; or (ii) such defendant's judgment of conviction was reversed or vacated, and the accusatory instrument dismissed or, if a new trial was ordered, either such defendant was found not guilty at the new trial or such defendant was not retried and the accusatory instrument dismissed; provided that the judgement of conviction was reversed or vacated, and the accusatory instrument was dismissed, on any of the following grounds: (1) paragraph (a), (b), (c), (e) or (g) of subdivision one of section 440.10 of this part; or (2) subdivision one (where based upon grounds set forth in clause one of this subparagraph), two, three (where the count dismissed was the sole basis for the imprisonment complained of) or five of section 470.20 of this part; or (3) comparable provisions of the former code of criminal procedure or subsequent law; or (4) the statute, or application thereof, on which the accusatory instrument was based violated the constitution of the United States or the state of New York; all such fines, restitution or reparations made by or collected from

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

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such defendant and any interest thereon shall be returned to such defendant within ninety days following the notice of adjudication for such pardon, reversal or vacation pursuant to subparagraphs (i) and (ii) of this paragraph; provided, however, that such court shall have the authority to lessen from such amount any debt owed by such defendant and shall apply this amount to any outstanding fines and/or penalties owed by the same individual. If payment is not made within ninety days, a penalty shall accrue at the same rate as that imposed for failure to make timely payment of a fine, restitution or reparation and shall be paid by the state agency, court, prosecutor's office, or restitution agency in possession of such fine, restitution or reparation.

(b) The return of such moneys shall be accompanied by an accounting, including the method of accounting, for all such moneys, and including a record of any involved state agency, court, prosecutor's office, and restitution agency.

§ 2. This act shall take effect immediately.