STATE OF NEW YORK

4812

2023-2024 Regular Sessions

IN SENATE

February 15, 2023

Introduced by Sen. CLEARE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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 such defendant and any interest thereon shall be returned to such defendant within ninety days following the notice of adjudication for

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

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such pardon, reversal or vacation pursuant to subparagraphs (i) and (ii) of this paragraph.

(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.