

STATE OF NEW YORK

318--A

2025-2026 Regular Sessions

IN SENATE

(Prefiled)

January 8, 2025

Introduced by Sens. SALAZAR, BRISPORT, BROUK, CLEARE, COMRIE, COONEY, FERNANDEZ, GIANARIS, GONZALEZ, GOUNARDES, JACKSON, KAVANAGH, KRUEGER, MAY, MYRIE, PARKER, PERSAUD, RAMOS, RIVERA, SANDERS, SEPULVEDA, SERRANO, STAVISKY, WEBB -- read twice and ordered printed, and when printed to be committed to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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 certain 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 mandating that courts engage in an individualized assessment of a person's financial ability to pay a fine prior to imposing a fine (Part B); 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 C); 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 D); 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 E); and in

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

LBD00566-02-6

relation to vacating all existing unpaid surcharges, DNA databank fees, crime victim assistance fees, sexual offender registration fees, or supplemental sex offender victim fees (Part F)

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

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

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

32

PART A

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

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

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

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

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

38 § 6. Section 71-0213 of the environmental conservation law is
39 REPEALED.

40 § 7. The opening paragraph of paragraph 2 of subdivision (f) of
41 section 1101 of the civil practice law and rules, as amended by chapter
42 322 of the laws of 2021, is amended to read as follows:

43 If the court determines that the incarcerated individual has insuffi-
44 cient means to pay the full filing fee, the court may permit the incar-
45 cerated individual to pay a reduced filing fee, the minimum of which
46 shall not be less than fifteen dollars and the maximum of which shall

1 not be more than fifty dollars. The court shall require an initial
2 payment of such portion of the reduced filing fee as the incarcerated
3 individual can reasonably afford or shall authorize no initial payment
4 of the fee if exceptional circumstances render the incarcerated individ-
5 ual unable to pay any fee; provided however, that the difference between
6 the amount of the reduced filing fee and the amount paid by the incar-
7 cerated individual in the initial partial payment shall be assessed
8 against the incarcerated individual as an outstanding obligation to be
9 collected either by the superintendent or the municipal official of the
10 facility at which the incarcerated individual is confined, as the case
11 may be [~~in the same manner that mandatory surcharges are collected as~~
12 ~~provided for in subdivision five of section 60.35 of the penal law~~]. The
13 court shall notify the superintendent or the municipal official of the
14 facility where the incarcerated individual is housed of the amount of
15 the reduced filing fee that was not directed to be paid by the incarcer-
16 ated individual. Thereafter, the superintendent or the municipal offi-
17 cial shall forward to the court any fee obligations that have been
18 collected, provided however, that:

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

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

51 (ii) Any incarcerated individual who is scheduled for presumptive
52 release pursuant to section eight hundred six of the correction law
53 shall not appear before the board as provided in subparagraph (i) of
54 this paragraph unless such incarcerated individual's scheduled presump-
55 tive release is forfeited, canceled, or rescinded subsequently as
56 provided in such law. In such event, the incarcerated individual shall

1 appear before the board for release consideration as provided in subpar-
2 agraph (i) of this paragraph as soon thereafter as is practicable.

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

6 (a) At least one month prior to the expiration of the minimum period
7 or periods of imprisonment fixed by the court or board, a member or
8 members as determined by the rules of the board shall personally inter-
9 view an incarcerated individual serving an indeterminate sentence and
10 determine whether ~~[he or she]~~ such individual should be paroled at the
11 expiration of the minimum period or periods in accordance with the
12 procedures adopted pursuant to subdivision four of section two hundred
13 fifty-nine-c of this article. If parole is not granted upon such review,
14 the incarcerated individual shall be informed in writing within two
15 weeks of such appearance of the factors and reasons for such denial of
16 parole. Such reasons shall be given in detail and not in conclusory
17 terms. The board shall specify a date not more than twenty-four months
18 from such determination for reconsideration, and the procedures to be
19 followed upon reconsideration shall be the same. If the incarcerated
20 individual is released, ~~[he or she]~~ such individual shall be given a
21 copy of the conditions of parole. Such conditions shall where appropri-
22 ate, include a requirement that the parolee comply with any restitution
23 order ~~[and mandatory surcharge]~~ previously imposed by a court of compe-
24 tent jurisdiction that applies to the parolee. The conditions shall
25 indicate which restitution collection agency established under subdivi-
26 sion eight of section 420.10 of the criminal procedure law, shall be
27 responsible for collection of restitution ~~[and mandatory surcharge as~~
28 ~~provided for in section 60.35 of the penal law and section eighteen~~
29 ~~hundred nine of the vehicle and traffic law]~~. If the incarcerated indi-
30 vidual is released, ~~[he or she]~~ such individual shall also be notified
31 in writing that ~~[his or her]~~ such individual's voting rights will be
32 restored upon release.

33 § 10. Section 257-c of the executive law is REPEALED and a new section
34 257-c is added to read as follows:

35 § 257-c. Probation fees prohibited. Notwithstanding any other
36 provision of law, no county or city may require individuals currently
37 serving or who shall be sentenced to a period of probation upon
38 conviction of any crime to pay any fee, including but not limited to an
39 administrative fee, supervision fee, monitoring fee, testing fee, or
40 screening fee, to the local probation department with the responsibility
41 of supervising the probationer. Nothing in this section shall be
42 construed to affect the collection of restitution payments pursuant to
43 sections 65.10 and 60.27 of the penal law and subdivision eight of
44 section 420.10 of the criminal procedure law.

45 § 11. Paragraph (a) of subdivision 2 of section 205 of the correction
46 law, as amended by chapter 491 of the laws of 2021, is amended to read
47 as follows:

48 (a) A merit termination granted by the department under this section
49 shall constitute a termination of the sentence with respect to which it
50 was granted. No such merit termination shall be granted unless the
51 department is satisfied that termination of sentence from presumptive
52 release, parole, conditional release or post-release supervision is in
53 the best interest of society~~, and that the parolee or releasee, other~~
54 ~~wise financially able to comply with an order of restitution and the~~
55 ~~payment of any mandatory surcharge previously imposed by a court of~~

1 ~~competent jurisdiction, has made a good faith effort to comply there-~~
2 ~~with].~~

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

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

22 3. Notwithstanding any other provision of this section to the contra-
23 ry, where a term of post-release supervision in excess of five years has
24 been imposed on a person convicted of a crime defined in article one
25 hundred thirty of the penal law, including a sexually motivated felony,
26 the board of parole may grant a discharge from post-release supervision
27 prior to the expiration of the maximum term of post-release supervision.
28 Such a discharge may be granted only after the person has served at
29 least five years of post-release supervision, and only to a person who
30 has been on unrevoked post-release supervision for at least three
31 consecutive years. No such discharge shall be granted unless the board
32 of parole or the department acting pursuant to its responsibility under
33 subdivision one of section two hundred one of the correction law
34 consults with any licensed psychologist, qualified psychiatrist, or
35 other mental health professional who is providing care or treatment to
36 the supervisee; and the board[~~;~~ ~~(a)~~] determines that a discharge from
37 post-release supervision is in the best interests of society[~~;~~ ~~and (b)~~
38 ~~is satisfied that the supervisee, otherwise financially able to comply~~
39 ~~with an order of restitution and the payment of any mandatory surcharge,~~
40 ~~sex offender registration fee, or DNA data bank fee previously imposed~~
41 ~~by a court of competent jurisdiction, has made a good faith effort to~~
42 ~~comply therewith]. Before making a determination to discharge a person
43 from a period of post-release supervision, the board of parole may
44 request that the commissioner of the office of mental health arrange a
45 psychiatric evaluation of the supervisee. A discharge granted under this
46 section shall constitute a termination of the sentence with respect to
47 which it was granted.~~

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

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

53 § 15. Subparagraph (i) of paragraph (j-1) of subdivision 2 of section
54 503 of the vehicle and traffic law, as amended by section 3 of part PP
55 of chapter 59 of the laws of 2009, is amended to read as follows:

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

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

21 § 4-411 Disposition of fines and penalties. Except as otherwise
22 provided by law, all fines and penalties imposed for the violation of a
23 village local law, ordinance or regulation shall be the property of the
24 village, whether or not the village has established the office of
25 village justice. [~~Nothing in this section shall be deemed to affect the~~
26 ~~disposition of mandatory surcharges, sex offender registration fees, DNA~~
27 ~~databank fees or crime victim assistance fees as provided by section~~
28 ~~60.35 of the penal law, or of mandatory surcharges as provided by~~
29 ~~section eighteen hundred nine of the vehicle and traffic law, or of~~
30 ~~fines, penalties and forfeitures as provided by section eighteen hundred~~
31 ~~three of the vehicle and traffic law relating to traffic offenses.]~~

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

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

35 1. The commissioner, in cooperation with the commissioner of the
36 department of motor vehicles, and in consultation with the chief execu-
37 tive officers of cities with a population in excess of one hundred thou-
38 sand persons according to the nineteen hundred eighty United States
39 census shall prescribe the form and content of uniform parking tickets
40 for such cities in all cases involving a parking, standing or stopping
41 violation as defined in accordance with the vehicle and traffic law,
42 hereinafter referred to as parking violations, or of any local law,
43 ordinance, rule or regulation adopted pursuant to the vehicle and traf-
44 fic law relating to parking violations. [~~Upon written application of the~~
45 ~~chief executive officer of any such city, the commissioner, after~~
46 ~~consultation with the commissioner of the department of motor vehicles,~~
47 ~~may authorize the use of a parking ticket other than the uniform parking~~
48 ~~ticket prescribed pursuant to this section if he or she determines that~~
49 ~~use of such other parking ticket is not inconsistent with, and will not~~
50 ~~diminish the effectiveness of, the parking violations enforcement and~~
51 ~~disposition program established pursuant to section eight hundred thir-~~
52 ~~ty seven j of this chapter, and may also authorize for a specified time~~
53 ~~period the use of a parking ticket which was used by such city on or~~
54 ~~before the effective date of this section.]~~

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

1 2. The fund shall consist of all monies appropriated for its
2 purpose[~~7~~] and all monies required by this section or any other
3 provision of law to be paid into or credited to such fund[~~7, collected by~~
4 ~~the mandatory surcharges imposed pursuant to subdivision one of section~~
5 ~~eighteen hundred nine-d of the vehicle and traffic law~~]. Nothing
6 contained in this section shall prevent the department of motor vehicles
7 from receiving grants or other appropriations for the purposes of the
8 fund as defined in this section and depositing them into the fund
9 according to law.

10 § 20. This act shall take effect immediately; provided however that
11 the amendments to subdivision (f) of section 1101 of the civil practice
12 law and rules made by section seven of this act shall not affect the
13 expiration of such subdivision and shall be deemed to expire therewith;
14 and provided further, however, that the amendments to paragraph (a) of
15 subdivision 2 of section 259-i of the executive law made by section
16 eight of this act shall be subject to the expiration and reversion of
17 such paragraph pursuant to subdivision d of section 74 of chapter 3 of
18 the laws of 1995, as amended, when upon such date the provisions of
19 section nine of this act shall take effect.

20 PART B

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

23 7. Waiver or reduction of certain fines. Notwithstanding any other
24 provision of law to the contrary, the court shall waive or reduce any
25 statutorily mandated fine imposed upon an indigent person, pursuant to
26 such person's conviction, if:

27 (a) such person, being financially unable to obtain or afford counsel,
28 is represented by counsel, or was represented by counsel in the underly-
29 ing matter, pursuant to section seven hundred twenty-two of the county
30 law, in which case the court shall waive the statutorily mandated fine;
31 or

32 (b) the court determines such fine should otherwise be waived or
33 reduced in the interest of justice. In determining whether to waive or
34 reduce any statutorily mandated fine pursuant to this paragraph, the
35 court may consider the totality of the defendant's circumstances includ-
36 ing:

37 (i) the defendant's income and financial resources;

38 (ii) the defendant's debt and financial obligations;

39 (iii) whether the imposition of such fine would cause an unreasonable
40 hardship on the defendant, the defendant's immediate family, or any
41 other person who is dependent on such defendant for financial support;
42 and

43 (iv) any other information concerning the defendant's circumstances
44 that the court may deem relevant or necessary.

45 If the court determines that neither condition outlined in paragraph
46 (a) or (b) of this subdivision applies, the court shall impose a statu-
47 torily mandated fine, if applicable, as directed by statute.

48 § 2. The vehicle and traffic law is amended by adding a new section
49 1811 to read as follows:

50 § 1811. Fines; individualized assessment. 1. Notwithstanding any other
51 provision of law to the contrary, the court shall waive or reduce any
52 statutorily mandated fine imposed upon an indigent person, pursuant to
53 such person's conviction, if:

1 a. such person, being financially unable to obtain or afford counsel,
2 is represented by counsel, or was represented by counsel in the underly-
3 ing matter, pursuant to section seven hundred twenty-two of the county
4 law, in which case the court shall waive the statutorily mandated fine;
5 or

6 b. the court determines such fine should otherwise be waived or
7 reduced in the interest of justice. In determining whether to waive or
8 reduce any statutorily mandated fine pursuant to this paragraph, the
9 court may consider the totality of the defendant's circumstances includ-
10 ing:

11 (i) the defendant's income and financial resources;

12 (ii) the defendant's debt and financial obligations;

13 (iii) whether the imposition of such fine would cause an unreasonable
14 hardship on the defendant, the defendant's immediate family, or any
15 other person who is dependent on such defendant for financial support;
16 and

17 (iv) any other information concerning the defendant's circumstances
18 that the court may deem relevant or necessary.

19 If the court determines that neither condition outlined in paragraph a
20 or b of this subdivision applies, the court shall impose a statutorily
21 mandated fine, if applicable, as directed by statute.

22 2. It shall be the duty of a court of record or administrative tribu-
23 nal to report data to the division of criminal justice services on the
24 disposition and collection of all surcharges, fees and fines imposed
25 pursuant to the penal law and this chapter. Such data shall include, at
26 minimum, information on the number of surcharges, fees and fines
27 imposed; the provision of law pursuant to which each surcharge, fee or
28 fine was imposed; the amount of the surcharge, fee or fine; the court
29 that issued the surcharge, fee or fine; the outcome of any waiver or
30 reduction application and individualized assessment conducted pursuant
31 to section 80.05 of the penal law or section eighteen hundred eleven of
32 this article; the amount of the surcharge, fee or fine that has been
33 paid, if any; and the race, ethnicity, age, and sex of the person for
34 whom the surcharge, fee or fine was imposed.

35 § 3. This act shall take effect immediately.

36 PART C

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

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

40 § 3. Subdivision 5 of section 420.10 of the criminal procedure law, as
41 separately amended by chapters 233 and 506 of the laws of 1985, the
42 second undesignated paragraph as amended by chapter 618 of the laws of
43 1992, the closing paragraph as amended by chapter 322 of the laws of
44 2021, is amended to read as follows:

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

50 (a) Adjust the terms of payment; or

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

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

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

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

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

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

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

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

43 § 5. The criminal procedure law is amended by adding a new section
44 420.11 to read as follows:

45 § 420.11 Warrants and sentences of incarceration; effectiveness.

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

1 2. The office of court administration, in consultation with such other
2 state or municipal agencies as necessary, shall establish procedures to
3 formally rescind all warrants issued prior to the effective date of this
4 section pursuant to the provisions of subdivision three of section
5 420.10 of this article as such subdivision existed prior to the effec-
6 tive date of this section and/or the provisions of subdivision one of
7 section 420.35 of this article as such subdivision existed prior to the
8 effective date of this section solely based on the alleged failure on
9 the part of a defendant to timely pay, and/or to appear on a court date
10 set for the sole purpose of payment of, a fine, restitution, reparation,
11 surcharge, DNA databank fee, crime victim assistance fee, sexual offen-
12 der registration fee, and/or supplemental sex offender victim fee. Such
13 procedures shall not require any affirmative actions on the part of any
14 defendant subject to any such warrant. Such procedures shall be
15 designed and implemented so as to accomplish the rescinding of all such
16 warrants within six months of the effective date of this section.

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

29 4. The office of court administration, in consultation with such other
30 state or municipal agencies as is necessary, shall establish procedures
31 to formally rescind all sentences of incarceration imposed prior to the
32 effective date of this section pursuant to the provisions of subdivision
33 three of section 420.10 of this article as such subdivision existed
34 prior to the effective date of this section or section 420.35 of this
35 article as such section existed prior to the effective date of this
36 section based solely on the alleged failure on the part of a defendant
37 to timely pay a fine, restitution, reparation, surcharge, DNA databank
38 fee, crime victim assistance fee, sexual offender registration fee, or
39 supplemental sex offender victim fee. Such procedures shall not require
40 any affirmative actions on the part of any defendant subject to any such
41 sentence.

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

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

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

52 § 8. This act shall take effect immediately.

1 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.

9 § 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.

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

25 § 4. This act shall take effect immediately.

26 PART E

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

29 9. In no case shall a court fee, surcharge or money owed as part of an incarcerated person's sentence be collected out of the incarcerated individual's fund account or any other funds or accounts 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, funds deposited into a commissary or canteen account as defined by section twenty-six 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.

41 § 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:

44 § 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:

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

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

1 3. Support of the prisoner's dependents.

2 [~~4. Payment of court fines, mandatory surcharge, sex offender regis-~~
3 ~~tration fee, DNA databank fee, restitution or reparation, or forfei-~~
4 ~~tures.~~]

5 The balance of such earnings, if any, after disbursements for any of
6 the foregoing purposes shall be paid to the prisoner upon termination of
7 [~~his~~] such prisoner's imprisonment.

8 § 3. This act shall take effect immediately.

9

PART F

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

19 § 2. This act shall take effect immediately.

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

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