

NEW FINANCIAL PENALTIES PROPOSED
in the NEW YORK STATE 2006 EXECUTIVE BUDGET

In 2004 the Center for Community Alternatives produced a compilation of the financial consequences of a criminal conviction in New York entitled Sentencing for Dollars, along with an accompanying policy statement. At that time we expressed concern about the increasing tendency among state legislatures across the nation to create and/or increase fees, fines, penalties, surcharges and assessments for people convicted of criminal offenses. In particular we focused on the effect that these financial penalties have on reentry and reintegration. Sentencing for Dollars was a call to strike the proper balance between shifting costs along to "offenders" when the penalty bears some relationship to the offense, and the need to avoid the counterproductive, harmful, and unintended collateral consequences that such financial penalties may have on reentry and reintegration.

Unfortunately, the 2006 New York State Executive Budget contains new proposals that would again increase financial penalties on people reintegrating into the community from the criminal justice system. CCA once more raises our concern that these financial penalties would present a crushing burden on defendants, roughly 80 percent of whom are indigent. There is little doubt that if new and/or enhanced penalties are passed, reentry and reintegration will become increasingly difficult.

Proposed financial consequences of a criminal conviction include:

1. Probation Fee - Amend Executive Law §257-c to allow for local laws to require a probation fee of \$30.00 per month for all persons on probation.
2. Electronic Monitoring and Drug Testing Fees - Amend Executive Law §257-c to allow local laws to require payment of an electronic monitoring fee of \$8.00 per day and a drug testing fee of \$8.00 per day. These fees would be capped at a \$1,800.00 per year for both, and \$900.00 per year for one, still a significant burden for people with limited to no income.
3. New Collection Device - This amendment of Executive Law §257-c would permit the probation department to file a written determination of the amount of fees owed to probation with the County Clerk, without the need for a court order, and such determination by probation would have the same effect as a court order. This civil judgment would then be reflected negatively in a person's credit history creating an additional barrier to employment because many employers use a credit check to screen out employment applications.
4. "Penalty" Fee Increase for Cash Bail - Currently the County Treasurer, or in the case of the City of New York, the Commissioner of Finance, collects a two percent fee on any cash bail and an additional fee of one percent on that same cash bail. The Executive Budget proposes to add an additional one percent to increase the total fees to four percent. This would be accomplished through an amendment to General Municipal Law §99-m.
5. Additional Probation Fees - Amend Penal Law §60.35 by adding a new subdivision 10. A new \$25.00 probation fee is proposed for any person on probation who is subject to a DNA bank fee. The new fee (\$25.00) is paid to probation to supervise and ensure the probationer's compliance with the payment of the \$50.00 DNA bank fee. Likewise, there is a proposed \$25.00 fee for any person on probation who is subject to a sex offender registration fee. This fee will be paid to probation to ensure the probationer's compliance with paying the SORA registration fee. The net result would be that an individual would pay a fee totaling \$50.00 so that probation could supervise the payment of two other fees.
6. OCA Criminal History Search - This proposal would amend Part J of Chapter 62 of the Laws of

2003 to increase the fee charged for an OCA criminal history search from \$52 to \$60.

Our apprehension about the addition of more financial consequences arises from the fact that legislation of this type is often considered in a vacuum. Seldom are these new and increased fees, surcharges and penalties contemplated by the Legislature in the context of the sum of all penalties. When viewed in isolation each increase appears to be a good idea for revenue production. However, when examined as a part of the entire set of fees and other financial penalties, the undue and unrealistic burden on individual defendants is readily apparent.

For example, a person convicted of a low level drug felony sale and placed on five years probation could face the following additional financial consequences if the proposed legislation is enacted:

Probation fee for supervision \$1,800.00
Probation fee for electronic monitoring and drug testing \$1,800.00
Cash bail fee (\$1,000.00 bail - 1% increase) \$10.00
DNA bank probation collection fee \$25.00
\$3,635.00

This \$3,635.00 would be in addition to the existing financial penalties of:

Mandatory surcharge \$250.00
Crime victim assistance fee \$20.00
Cash bail fee (\$1,000.00 bail - 3%) \$30.00
DNA bank fee \$50.00
Fee for termination of license suspension \$25.00
\$375.00

When the new proposed fees are added to the existing fees, this defendant, most likely indigent, seeking to put his or her life back together, will face over \$4,000.00 in fees, penalties, and surcharges.

CCA cautions that these fees and financial penalties are being imposed without careful thought about how they will affect reintegration and reentry. It is unrealistic to expect people with limited means to pay these costs. The funding of criminal justice programs and services must be viewed as a broad public responsibility and should not be dependent upon monies from people who are already struggling financially.

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