



Legislation Text

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Res. No. 671

Resolution calling on the New York Legislature to pass, and the Governor to sign, S00313/A04183, which would eliminate court, probation, and parole surcharges & fees as well as prohibit mandatory minimum fines for penal and vehicle & traffic laws.

By Council Members Restler, Rivera, Riley, Ossé, Hanif and Gutiérrez

Whereas, The State of New York imposes various fees and surcharges on individuals convicted of offenses under the penal law, vehicle and traffic law, and environmental conservation law; and

Whereas, These fees and surcharges are typically mandatory and applied irrespective of an individual's ability to pay or any other relevant factor; and

Whereas, Fines imposed by New York courts vary depending on the offense, with some offenses having mandatory minimum fines and others having a range of permissible fines; and

Whereas, The current legal framework in New York courts lacks a mechanism for the sentencing court to waive fees and surcharges, except for a limited exception enacted in the Laws of 2020, chapter 144, applicable to individuals under 21; and

Whereas, Current law does not require courts to inquire into or consider a defendant's ability to pay, financial resources, other financial obligations, or any other relevant factor when determining fines; and

Whereas, The lack of consideration for defendants' financial circumstances can have devastating consequences for working-class or individuals in poverty, leading to insurmountable debt and greater barriers to meeting basic needs, exacerbating existing inequalities and perpetuating cycles of poverty; and

Whereas, While courts may allow for payment deferrals, such deferrals result in civil judgments against defendants, adversely affecting their credit reports and impeding their ability to obtain loans, purchase homes, and in some cases secure employment, creating a cycle of financial instability; and

Whereas, Under the current criminal justice system, consequences for nonpayment of financial penalties can include the suspension of the defendant's driver's license, and if a defendant is sentenced to incarceration as a penalty for their conviction, funds are withheld from their inmate funds account and their wages from work assignments are garnished; and

Whereas, The consequences for nonpayment of financial penalties can extend beyond incarceration, including the suspension of the defendant's driver's license and further periods of incarceration; and

Whereas, The current system of mandatory fees and surcharges is widely acknowledged by organizations to be harmful, disproportionately affecting certain racial groups, and ultimately counterproductive; and

Whereas, According to the Brennan Center for Justice "*The Steep Cost of Criminal Justice Fees and Fines*", a 2019 report found that generating revenue through levying fees and fines on criminal defendants is costly, inefficient, and wasteful as fees often cost more to collect than they generate in revenue; and

Whereas, According to the NYC Bar "*New York Should Re-Examine Mandatory Court Fees Imposed on Individuals Convicted of Criminal Offenses and Violations*", The Bar Association recommends simply eliminating mandatory surcharges and fees as tying convictions to revenue raising is inherently problematic and fines imposed by criminal courts should be imposed only when they are tied directly to the criminal act, such as for restitution; and

Whereas, The U.S. Department of Justice issued a Dear Colleague Letter to Courts in April 2023 that cautioned against fines and fees practices and noted that they are often unlawful, discriminatory, and generate

little or no net revenue; and

Whereas, S00313, sponsored by State Senator Julia Salazar, and A04183, sponsored by State Assemblymember Kenny Burgos, seek to eliminate court, probation, and parole surcharges and fees as well as prohibit mandatory minimum fines for penal and vehicle and traffic laws and eliminate incarceration as a penalty for failing to pay a fine, surcharge, or fee; and

Whereas, S00313/A04183 is supported by the No Price on Justice Coalition, a coalition of economic and racial justice advocates, grassroots organizations, and impacted people working to end New York's predatory court fines and fees; and

Whereas, The Council of the City of New York supports S00313/A04183 as a means of addressing financial burdens and reforms in the legal system, including the elimination of certain fees, the prohibition of mandatory minimum fines, individualized assessments of financial capability, and the elimination of incarceration as a consequence for non-payment; now, therefore, be it

Resolved, That the Council of the City of New York calls on the New York State Legislature to pass, and the Governor to sign, S00313/A04183, which would eliminate court, probation, and parole surcharges & fees as well as prohibit mandatory minimum fines for penal and vehicle & traffic laws.

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