

Submitted by the County Executive and introduced by \_\_\_\_\_

**LOCAL LAW NO. 2 - 2011**

**A LOCAL LAW AMENDING LOCAL LAW NO. 10-1992, AS AMENDED, CONSTITUTING TITLE 20 OF THE MISCELLANEOUS LAWS, RELATING TO THE FEES CHARGED BY THE PROBATION DEPARTMENT**

APPROVED AS TO FORM

Passed by the Nassau County Legislature on March 21, 2011  
Voting: ayes:19 nays: 0 abstained:0

Became a law on March 28, 2011 with the approval of County Executive

WHEREAS, pursuant to Municipal Home Rule Law section 10[1][ii][9a], the County of Nassau has the power to adopt and amend local laws relating to the fixing, levy, collection, and administration of charges, rates, and fees; and

WHEREAS, the County's cost of providing services relating to defendants who are sentenced to probation by the courts of Nassau County has increased since the fees were set in 1991; now, therefore,

BE IT ENACTED by the Nassau County Legislature as follows:

Section 1. Section 1 of Local Law No. 10-1992, as last amended by Local Law No. 2-2009 constituting Title 20 of the Miscellaneous Laws of Nassau County, is hereby amended as follows:

TITLE 20

FEES FOR PROBATION DEPARTMENT SERVICES

- Section
1. Legislative intent
  2. Administrative, presentence investigation, electronic monitoring, drug testing, victim impact panel session, certificate of relief investigation, and community service placement fees
  3. Investigation fee
  4. Community service placement fee
  5. Fee usage
  6. Severability

Section 1. **Legislative intent.** Chapter 55 of the Laws of 1992 provides the County of Nassau with the power to impose a probation administrative fee on those individuals currently serving or who shall be sentenced to a period of probation upon conviction of any crime under Article 31 of the Vehicle and Traffic Law in relation to alcohol and drug related motor vehicle matters as well as the power to impose a probation investigation fee for investigations ordered by the Family Court in custody and visitation proceedings. The County Legislature finds it to be in the best interests of the County of Nassau to permit the Probation Department to collect such fees from all persons sentenced to probation as has been mandated by other counties in New York State. The County Legislature further finds it to be in the best interests of the County of Nassau to increase the current probation administrative fee for probationers other than those currently serving or who shall be sentenced to a period of probation upon conviction of any crime under Article 31 of the Vehicle and Traffic Law in relation to alcohol and drug related motor vehicle matters. The County Legislature further finds it to be in the best interests of the County of Nassau to impose fees for presentence investigations, electronic monitoring, drug testing, victim impact panel sessions, and community service placements.

**§ 2. Administrative, presentence investigation, electronic monitoring, drug testing victim impact panel session, certificate of relief investigation, and community service placement fees.**

A. An individual currently serving, or who shall be sentenced to a period of probation upon conviction of any crime under Article 31 of the Vehicle and Traffic Law, shall pay the Probation Department an administrative fee of thirty dollars (\$30) per month for probation services from the time the probation period is commenced until such period is terminated.

B. Other than individuals covered by subdivision A., an individual currently serving, or who shall be sentenced to a period of probation shall pay the Probation Department an administrative fee of fifty dollars (\$50) per month for probation services from the time the probation period is commenced until said period is terminated.

C. An individual before the Court for sentencing, for whom a presentence investigation is either mandatory, or ordered by the court pursuant to section 390.20 of the Criminal Procedure Law, shall pay the Probation Department a fee of three hundred seventy-five dollars (\$375) per investigation.

(1) In addition to the presentence investigation fees set forth above, an administrative fee of one hundred twenty-five dollars (\$125) per investigation will be assessed for an individual for whom a presentence investigation is conducted by the Sex Offender/Domestic Violence Unit of the Nassau County Probation Department.

D. An individual currently serving, or who shall be sentenced to a period of probation and who is required to submit to electronic monitoring by the Court pursuant to Section 65.10(4) of the Penal Law, shall pay the Probation Department a fee of not less than three dollars (\$3.00) per day and not more than twelve dollars (\$12) per day for such services from the time the



probation period is commended until such time as either the requirement of said monitoring is terminated by the Court, the Probation Department or the period of probation is terminated.

E. An individual currently serving, or who shall be sentenced to a period of probation, required to submit to drug testing by the Court or the Probation Department, shall pay the Probation Department a fee of twelve dollars and fifty cents (\$12.50) per test from the time the probation period is commenced until such time as the period of probation is terminated.

F. A fee, of one hundred dollars (\$100), per session shall be paid to the Probation Department, by any individual whose attendance at a victim impact panel is either (1) mandated by the Court as a requirement of conditional discharge; or (2) required by the Court or the Probation Department, to attend, the victim impact panel, during said individual's sentenced term of probation.

G. An individual before the court on an application for a certificate of relief, for whom an investigation is ordered in the court shall pay the Probation department a fee of two hundred fifty dollars (\$250) per investigation.

H. An individual who is sentenced to the sanction of community service, to be placed by the Probation Department, shall pay a community service placement fee of one hundred eighty-seven dollars and fifty cents (\$187.50) to the Probation Department at the time of the placement interview with the Probation Department. If the individual fails or refuses to pay the fee, the Probation Department may return the case to court for appropriate action.

I. The provisions of Subdivision 6 of Section 420.10 of the Criminal Procedure Law shall govern for purposes of collection of the Administrative, Pre Sentence Investigations, Certificate of Relief Investigations, Electronic Monitoring, Drug Testing, and Victim Impact Panel fees.

J. The Administrative, Pre-Sentence Investigations, Certificate of Relief Investigations, Electronic Monitoring, Drug Testing, Victim Impact Panel, and community service placement fees authorized by this section shall not constitute, nor be imposed as, a condition of probation.

K. The Probation Department shall waive all, or part, of the Administrative, Pre-Sentence Investigations, Certificate of Relief Investigations, Electronic Monitoring, Drug Testing, Victim Impact Panel, and community service placement fees where, because of the indigence of the offender, the payment of said fees would work an unreasonable hardship on the person convicted, his or her family or any other person who is dependent on such person for financial support.

L. In the event of nonpayment of any fees which have not been waived, the County may seek to enforce payment in any manner permitted by law for the enforcement of a debt.

**§ 3. Investigation fee.**

A. When ordered to conduct an investigation pursuant to Sections 252-a and 653 of the Family Court Act involving custody and visitation proceedings, the Probation Department shall receive an investigation fee of not less than fifty dollars and not more than five hundred dollars from the parties in such proceeding for performing such investigation.

B. Such fee shall be based on the parties' ability to pay the fee and the schedule for payment shall be fixed by the court issuing the order for investigation, pursuant to the guidelines issued by the Director of the Division of Probation and Correctional Alternatives.

C. The court shall apportion the fee between the parties based upon the respective financial circumstances of the parties and the equities of the case.

D. The court, at its discretion, may waive the investigation fee when the parties lack sufficient means to pay the fee.

§ 4. **Fee usage.** Fees collected pursuant to this Title shall be used to offset the cost of providing the services for which the fees are collected.

§ 5. **Severability.** If any clause, sentence, paragraph subdivision, section or part of this Title or its application to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order of judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Title or its application to the person or circumstance directly involved in the controversy in which such judgment or order shall be rendered.

§ 2. It is hereby determined, pursuant to the provisions of the State Environmental Quality Review Act, 8 N.Y.E.C.L. section 0101 et seq. and its implementing regulations, Part 617 of 6 N.Y.C.R.R., and Section 1611 of the County Government Law of Nassau County, that the adoption of this local law is a "Type II" Action within the meaning of Section 617.5(c)(20) and (27) of 6 N.Y.C.R.R., and, accordingly, is of a class of actions which do not have a significant effect on the environment; and no further review is required.

§3. This Local Law shall take effect immediately

**APPROVED**



**County Executive**

**DATE** 3/28/2011