



Legislation Text

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Int. No. 743

By Council Members Barron, Reynoso and Rosenthal

A Local Law to amend the administrative code of the city of New York, in relation to child support for persons wrongly incarcerated due to prosecutorial misconduct

Be it enacted by the Council as follows:

Section 1. Chapter 2 of title 7 of the administrative code of the city of New York is amended to add a new section 7-213 to read as follows:

§ 7-213 Authority to make payments for child support for persons wrongly incarcerated due to prosecutorial misconduct. a. The comptroller, after consultation with the corporation counsel, is hereby authorized and empowered to make a payment to a recipient of child support, pursuant to section 413 of the family court act, upon application by either the supporting parent or the recipient of child support, when the following criteria are met:

1. the supporting parent was prosecuted by a district attorney representing one of New York city's five boroughs;

2. there is an unpaid amount of child support that was due during a period of time in which the supporting parent was incarcerated;

3. the supporting parent was not convicted of any felony or misdemeanor in connection with their incarceration, nor does any felony or misdemeanor charge in connection with their incarceration remain pending, or, if there was a conviction, such conviction has since been vacated pursuant to the criminal procedure law or a claim of unjust conviction has been found by a court of competent jurisdiction pursuant to section 8-b of the court of claims act;

4. a court of competent jurisdiction has held that there was prosecutorial misconduct in relation to the supporting parent's incarceration or, under criteria to be determined by the comptroller and the corporation counsel, where the wrongful actions of a district attorney have resulted in incarceration or an undue extension of incarceration;

5. the supporting parent, the recipient of child support, and any other interested party as identified by the corporation counsel, shall agree that such payment by the comptroller shall serve as satisfaction of an amount of unpaid child support equal to the amount of such payment; and

6. if requested by the corporation counsel, the supporting parent shall agree to release the city of New York, any employee or agency thereof, the district attorney, and any employees thereof, from any current or future claim for damages in relation to such child support payments.

b. Any payment made pursuant to this section shall be made in the discretion of the comptroller, after consultation with the corporation counsel, and shall not be made as a matter of right. No payment shall exceed the amount of child support unpaid during the period of time in which the supporting parent was incarcerated.

c. The payments authorized by this section shall be limited by the appropriation of funds available for such purpose.

§ 2. This local law takes effect six months after it becomes law, except that the corporation counsel and the comptroller shall take all actions necessary for its implementation, including the promulgation of rules, prior to such effective date.

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