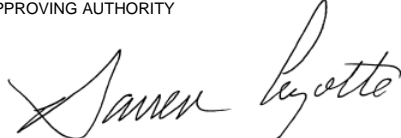
 Corrections and Community Supervision DIRECTIVE	TITLE		NO. 2788
	Collection & Repayment of Incarcerated Individual Advances & Obligations		DATE 12/21/2023
SUPERSEDES DIR #2788 Dtd. 09/20/22	DISTRIBUTION A B	PAGES PAGE 1 OF 17	DATE LAST REVISED
REFERENCES (Include but are not limited to) See Section II	APPROVING AUTHORITY 		

I. PURPOSE: This directive establishes procedures for the collection and repayment of money due from incarcerated individuals as a result of advances or obligations. The facility Business Office is responsible for processing, collection, and payment with assistance, as specified, from other administrative or program staff.

II. REFERENCES

- Correction Law, Section 125
- Civil Practice Law and Rules
- Public Health Law
- HIPAA
- Criminal Procedure Law
- Penal Law
- Executive Law
- Prison Litigation Reform Act (PLRA) of 1995
- 22 NYCRR, Section 140.6
- ACA Expected Practices 5-ACI-1B-24 and 2-CO-1B-05
- Directives #0008, #2791, #4421, #4422
- DOCCS Health Services Policy Manual (HSPM)
- Temporary Release Manual

III. OBLIGATIONS: The facility Business Office will provide notification to the incarcerated individual whenever staff generate an encumbrance. Examples of financial obligations which individuals may incur are listed below.

Type of Obligation	Source/Authorization	Form of Notification to Incarcerated Individual
Advances	Advance Form IAS 2708	Advance Form IAS 2708
Mandatory surcharge, crime victim assistance fee, fine, restitution, reparation, sex offender registration fee, DNA databank fee, supplemental sex offender victim fee, and designated surcharge	Order of Commitment NOTE: Collection will not be made if a judge has ordered deferral of mandatory surcharge, sex offender registration fee, or DNA data bank fee.	Written - copy of Inmate Records Coordinator (IRC) memo or memo from facility Business Office

Court costs, reparations, restitution, child support, judgments	Court Order	Written - copy of IRC memo or memo from facility Business Office
Restitution for damage/loss of property up to \$100, and \$5 disciplinary surcharge	Tier II disposition	Verbal - Tier II disposition
Restitution for damage/loss of property, and \$5 disciplinary surcharge	Tier III disposition	Verbal - Tier III disposition
Voluntary restitution; Disbursement Form IAS 2706	Signed Form IAS 2706	Disbursement Form IAS 2706
Gate money	Release date of one year or less	Incarcerated Individual Monthly Account Statement
Court filing fees (Federal, State)	Written notification from the court and signed authorization from incarcerated individual or signed Form IAS 2706	Written memo from facility Business Office or copy of Form IAS 2706

IV. ADVANCES: Funds in the minimum amount necessary may be advanced to incarcerated individuals with insufficient funds in their accounts. Because advances represent direct cash disbursements, the collection and repayment is made as soon as possible, as first priority, from all funds available, and accruing to the individual's account.

Form IAS 2708, "Authorized Advance Request," serves as authorization to proceed with collection and repayment of advances and must be signed by the incarcerated individual for mail, copies of medical records, legal photocopies, and temporary release advances. Advances authorized by the Business Office do not require the incarcerated individual's signature. Advances may be made only for the purposes specified below.

A. Postage – Mail

1. Legal Mail (reference Directive #4421, "Privileged Correspondence"): To ensure that indigent incarcerated individuals maintain their right of access to the courts, the facility shall approve a Form IAS 2708 advance request to pay for first-class mail postage if the individual has insufficient funds and if the following conditions are met:
 - a. The mail is legal mail (e.g., it is addressed to a judge, clerk of court, attorney, or authorized legal representative; or is related to a potential or ongoing legal matter).
 - b. Any balance of the incarcerated individual's free weekly postage allowance is applied to the legal mail postage costs.
 - c. The requested advance and the balance of unpaid previous advances for legal mail postage do not exceed \$20.

Advances for "special handling" (e.g., certified mail, return receipt, express mail, etc.) will not be approved unless required by a statute or court rule.

Exceeding the \$20 limit shall only be approved if the incarcerated individual can show by court rules, a statute of limitations, or other legal deadline applicable to their individual circumstance that the legal mail must be sent prior to receipt of the next week's free postage allowance. The individual must provide justification for such advance.

No request for a legal mail advance will be denied by facility staff without prior consultation with the Office of Counsel regardless of the unpaid previous balance. Any question whether a particular item qualifies as "legal mail," or whether an advance is allowable, should be directed to the Office of Counsel.

2. **Personal Postage** (reference Directive #4422, "Incarcerated Individual Correspondence Program"): Funds may be advanced for postage for one domestic first-class one-ounce letter per month under the following circumstances:
 - a. The incarcerated individual has received a disciplinary confinement sanction or administrative segregation for 30 days or more, and has insufficient funds.
 - b. The individual has lost telephone privileges, has a zero balance, or insufficient funds, and has not refused to accept available program assignments.
 3. **Postage for Disposition of Property**: Funds may be advanced for postage to send disallowed property home or return it to a vendor at *reception facilities*, or postage to send contraband or disallowed items home when received at a *new facility*.
- B. **Medical Records**: In accordance with Section 18 of Public Health Law, Health Insurance Portability and Accountability Act (HIPAA) privacy regulations, and Department of Corrections and Community Supervision's (DOCCS) Health Services Policy Manual (HSPM) Item 4.04, an incarcerated individual may request copies of their medical records. Charges are based on a flat fee of \$.25 per page. If the individual does not have sufficient funds to pay for the requested copies, a completed Form IAS 2708 advance request must be presented to the health unit.
- C. **Temporary Release**: Funds may be advanced for specified temporary release program activities if sufficient funds are not available in the incarcerated individual's account. (See the Temporary Release Program Rules & Regulations.)
- D. **Adjustment Advances**: Although DOCCS policy is not to "advance" funds to an incarcerated individual for an activity within the individual's control other than those listed above, circumstances beyond the control of the individual or errors at the facility may necessitate an advance when the individual does not have sufficient funds. The advance to the individual's account will be made immediately upon discovery of the error or outlay of funds in the minimum amount necessary. Examples are:
1. An unpaid returned check from the bank when the incarcerated individual has insufficient funds.
 2. Commissary overbuys resulting from clerical or computer errors.
 3. Erroneous credits resulting from a clerical or computer error in posting a receipt, refund, or adjustment.

NOTE: When two incarcerated individuals' accounts are involved, the funds will be immediately disbursed from the incorrect account and deposited into the correct account; a copy of the original receipt should be filed in the daily transaction folder.

- E. Legal Photocopies: Advances for legal photocopies will be authorized for incarcerated individuals with insufficient funds if the following conditions are met:
1. The specific documents being copied are required by the courts and cannot be replicated longhand.
 2. The requested advance and the balance of unpaid previous advances for legal photocopies do not exceed \$20.

Exceeding the \$20 limit shall only be approved if the incarcerated individual can show by court rules, statute, or circumstances applicable to their individual case why the documents to be copied cannot be replicated longhand.

No request for a legal photocopy advance will be denied by facility staff without prior consultation with the Office of Counsel regardless of the unpaid previous balance.

Any question as to whether a particular document qualifies for legal photocopies or whether an advance is allowable should be directed to the Office of Counsel.

- F. Facility Required Items: Upon admission to the facility, funds may be advanced for specific items purchased in the Commissary that are required for an incarcerated individual to have at the facility where they are located (e.g., padlocks). These advances are authorized by the Business Office and do not require the individual's signature.

V. COLLECTION OF ADVANCES AND OBLIGATIONS

- A. Advances and other obligations must be collected and paid via the encumbrance mechanism which is established on an incarcerated individual's account. No collection will be initiated, however, in any case where the sentencing court has ordered the deferral of a mandatory surcharge, sex offender registration fee, or DNA data bank fee, pursuant to Criminal Procedure Law Section 420.40. An encumbrance creates a permanent record of moneys collected and paid on behalf of an individual. The source/authorization documents listed above represent authorization to establish an encumbrance. The facility Business Office originating the encumbrance retains the Business Office copy of the documentation in the individual account files even if the individual transfers to another facility before the obligation is paid.

The encumbrance mechanism functions automatically through the Incarcerated Individual Commissary Accounting System (ICAS). However, depending upon the type of obligation, it may be initiated automatically by ICAS or manually started by facility staff. The rates at which moneys are collected and the priority order for collections are also dependent on type, as detailed below.

B. Order and Rate of Collection

1. Advances: Advances are collected as first priority before automatic and manual collections. If more than one advance is owed, the oldest will be collected first. Advances are collected at a rate of 100% of all receipts (payroll and outside).
2. Automatic ICAS Collections: As incarcerated individuals qualify, the following types of obligations are collected automatically through ICAS. The automatic ICAS collection takes precedence over manual collections.
 - a. Lag Pay: For the first 15 weeks of payroll, 20% of the weekly payroll amount is withheld from all incarcerated individuals' pay until a full three weeks of pay (15 days) has been withheld.

The first time a payroll transaction (340-manual or 341-automated) is processed, the computer automatically reduces the amount of the pay by 20%. Example: Incarcerated individual earned \$2.50. The payroll amount of \$2.50 is entered into the computer. When the payroll is processed, the computer automatically deducts \$.50 (20%) from the payroll amount. The payroll receipt amount posted to the account will be \$2.00. The account statement will indicate days lagged 1, amount lagged \$.50.

This process will continue each payroll week until 15 days of pay have been lagged. The lag amount is not added to the account balance until the incarcerated individual is released.

- b. Gate Money: Gate money collections to save the \$40 release money will begin when an incarcerated individual is within one year of earliest release date and will be collected at a rate of 12.5% of all receipts (payroll and outside). The gate money encumbrance amount will be the difference between \$40 and the lag amount withheld. If the full 15 days of lag have not been completed when the gate money encumbrance is established, the computer will automatically reduce the gate money owed amount as the lag amount increases. If an incarcerated individual earns a high rate of pay during the first 15 weeks of payroll, the total amount of lag withheld could exceed \$40. In this case, a gate money encumbrance would not be established. Once commenced, the gate money collection process will continue.
3. Manual Collections: Manual encumbrances will be collected from the balance of receipts after advances and automatic ICAS collections (gate money) have been processed. Manual encumbrances are collected in the order in which they were established, the oldest to the most recent.
 - a. When a new encumbrance is established, all spendable funds will be applied to the collection. If sufficient funds are available in the incarcerated individual's account to pay off an encumbrance as it is established, the amount available will be immediately collected and disbursed. If there are insufficient spendable funds available to pay off an encumbrance when it is established, the amount available will be immediately collected. This process takes place even if there are other unsatisfied encumbrances on the account when the new encumbrance is initiated. The balance due on unsatisfied encumbrances will be collected at the rate of 20% of payroll receipts and 25% of outside receipts. Exceptions to this process are the collection of Federal court filing fees and court motion/bill of costs (see subsection V-B-3-d) and court-ordered restitutions (see subsection V-B-3-e).
 - b. When two encumbrances are active, up to 40% of weekly earnings and 50% of outside receipts will be collected. Exceptions to this process are the collection of Federal court filing fees and court motion/bill of costs (see subsection V-B-3-d) and court-ordered restitutions (see subsection V-B-3-e).
 - c. When more than two manual encumbrances have been entered against an incarcerated individual's account, the same receipt will be applied to the third and subsequent encumbrance(s) if the prior encumbrance(s) become fully collected before 40% of the payroll or 50% of the outside receipt has been used.

Exceptions to this process are the collection of Federal court filing fees and court motion/bill of costs (see subsection V-B-3-d) and court-ordered restitutions (see subsection V-B-3-e).

- d. When an encumbrance is established for a Federal court filing fee or a court motion/bill of costs, a partial payment will be collected (see subsection VIII-B-2). The remainder of the amount owed will be collected at a rate of 20% of all receipts (payroll and outside) if the incarcerated individual's spendable account balance exceeds \$10 after the receipt has been posted.

In the case of multiple encumbrances, the computer will skip over a Federal court filing fee or court motion/bill of costs encumbrance if the spendable balance is \$10 or under after the receipt has been posted. The next encumbrance, in date order, will be subject to the collection process using the appropriate percentage.

- e. When an encumbrance is established for a court-ordered restitution, it will be the first manual encumbrance in order of collection (see subsection VII-B). In addition, court-ordered restitutions are collected at a rate of 20% of incarcerated individual payroll and 50% of outside receipts. When two or more court-ordered restitutions are active, up to 40% of weekly earnings and 100% of outside receipts will be collected.

VI. PAYMENT OF ADVANCES AND OTHER OBLIGATIONS: All obligations are to be collected and paid by the facility having control of the incarcerated individual. Should the individual be transferred prior to the full collection of the obligation, collection shall continue at the new facility. Once the total obligation is satisfied, the collecting facility will process either OSC Form AC 909-S, "Report of Moneys Received" (Revenues), or OSC Form AC 1286-S, "Refund of Appropriation," depending upon the type of obligation. The individual will receive notification when the advance or encumbrance has been initiated, but there will be no further notification at the time of payment. The individual's monthly account statement will provide the individual with a record of the collection and payment of all advances and encumbrances.

- A. Advances: Upon full collection of advances, an automatic disbursement (payment) will be processed by ICAS. Payments of advances will be forwarded bi-weekly to the Treasury on OSC Form AC 1286-S using the totals from the ICAS report F292 (encumbrances and advances paid during current month).

*The below incarcerated individual accounts adjustment coding must ONLY be used when an advance has been established. Unrecoverable funds (e.g., paroled, released individuals, etc.) must be collected by vouchering against facility funds. Coding is to be determined by facility.

PAYMENT OF ADVANCES

Postage:	Refund of Appropriation (see below chart for coding)
Medical Records:	Refund of Appropriation to collecting facility. The facility determines which chart field to use based on expenditures.
Temporary/	Work release facilities must establish an advance for checks written from their facility Work Release checking account. The facility issuing

Work Release:	the advance will process a voucher charging the incarcerated individual account adjustment coding below to reimburse the Facility Agency Advance Account. The collecting facility will process a Refund of Appropriation using this same coding.
Returned Check:	The facility establishing the advance will process a voucher against the incarcerated individual account adjustment coding to reimburse the Facility Incarcerated Individual Fund Account. The collecting facility will process a Refund of Appropriation using this same coding.
Commissary Error:	The facility where the error occurs must first establish the commissary advance and then process a General Ledger (GL) journal charging the incarcerated account adjustment coding to reimburse the Commissary Account. The collecting facility will process a Refund of Appropriation using the same coding.
Credit Error:	The facility establishing the advance will voucher against the incarcerated account adjustment coding to reimburse the Facility Incarcerated Individual Fund Account. The collecting facility will process a Refund of Appropriation using this same coding.
Legal Photocopies:	Refund of Appropriation to the collecting facility. The facility determines which chart field to use based on expenditures.

Advance Code	SFS Chart Field Values				
	DEPARTMENT	PROGRAM	FUND	ACCOUNT	BUD REF
01 Postage	3250226	17738	10050 - State Purpose	55203	Curr. Yr.
02 Work Release	Your Dept.	18030	10050 - State Purpose	55047	Curr. Yr.
03 Returned Check	3250285	18249	10050 - State Purpose	55047	Curr. Yr.
04 Commissary Error	3250285	18249	10050 - State Purpose	55047	Curr. Yr.
05 Credit Error	3250285	18249	10050 - State Purpose	55047	Curr. Yr.
06 Medical Records	Facility Determines Which Chart Field To Use Based on Expenditures				
08 Legal Photocopies	Facility Determines Which Chart Field To Use Based on Expenditures				

NOTE: No Product Code is used on OSC Form AC-1286-S for above advance payments.

- B. Encumbrance payments from the “collected in full” encumbrances will be made either on an immediate basis or on a bi-weekly basis using ICAS reports F290 (encumbrances collected in full) and F292 (encumbrances/advances paid during current month). Encumbrance payments will be transmitted to the appropriate collection agency or transmitted on OSC Form AC 1286-S (to collecting facility) or OSC Form AC 909-S.

VII. MANDATORY SURCHARGE/CRIME VICTIMS ASSISTANCE FEE/SEX OFFENDER REGISTRATION FEE/DNA DATABANK FEE/SUPPLEMENTAL SEX OFFENDER VICTIM FEE/COURT-ORDERED RESTITUTIONS/FINES – SPECIAL PROCEDURES

A. General: An incarcerated individual’s sentence and order of commitment, or other official documentation from the sentencing court, will specify if a mandatory surcharge, crime victim assistance fee, sex offender registration fee, DNA databank fee, supplemental sex offender victim fee, fine, or restitution have been imposed as required under Section 60.35 of the Penal Law, and if they must be collected. Therefore, collection of any ordered obligation ordinarily begins at the Reception/Classification facility and will continue at any subsequent facility until payment can be made. Collection must be initiated whenever the sentencing court provides notice that payment has been ordered.

B. Court-Ordered Restitution: In general, the system is programmed to collect manual encumbrances in the order in which they are established; however, court-ordered restitution is an exception to this procedure. Once a new restitution is established on an incarcerated individual’s account, it will take priority collection over all other manual obligations. The computer system is programmed to ensure that court-ordered restitutions are the first manual encumbrances to be collected and are collected at a rate of 20% of incarcerated individual payroll and 50% of outside receipts. When two court-ordered restitution encumbrances are active, up to 40% of weekly earnings and 100% of outside receipts are collected.

C. Facility Inmate Records Coordinator (IRC)

1. At the Reception/Classification Center, the facility IRC, using a stamp or other suitable method, marks the outside of the incarcerated individual’s legal file as shown in subsection VII-C-2-a or b. If a surcharge, crime victim assistance fee, sex offender registration fee, DNA databank fee, supplemental sex offender victim fee, restitution, or fine has been imposed, the IRC fills in all available information, and provides that same information to the facility Business Office. The IRC notification to the Business Office will include the type of obligation imposed, the indictment number, county of commitment, and total amount due.

2. MANDATORY SURCHARGE IMPOSED _____

CRIME VICTIM ASSISTANCE FEE IMPOSED _____

RESTITUTION

FINES

Total Amt Due (if indicated) _____

Total Amt Due (if indicated) _____

Date Due (if indicated) _____

Date Due (if indicated) _____

Business Office Notified

Business Office Notified

(Date/Person)

(Date/Person)

Date Paid _____

Date Paid _____

or

a. NO SURCHARGE IMPOSED (review date) _____

NO CRIME VICTIM ASSISTANCE FEE IMPOSED

(review date) _____

b. NO RESTITUTION/FINE

3. The IRC at the first general confinement facility to which an incarcerated individual is transferred from the Reception/Classification Center will review the individual's file to ensure that proper notification had been sent to the Classification Center Business Office. If it is determined that a notice had not been sent, then it is necessary for the IRC to send one. No further notifications are required. If at some future date an individual receives an additional sentence with a mandatory surcharge/crime victim fee, then a new notice only should be sent to the facility Business Office.
4. The IRC notifies the facility Community Supervision office of the status of the court-ordered fees, fines, and restitution:
 - a. Prior to the incarcerated individual's release.
 - b. When the court fees are paid in full.

D. Facility Business Office

1. Establishes and collects encumbrances for mandatory surcharge(s), crime victim assistance fee(s); mandatory surcharge and crime victim fees are combined as one encumbrance per commitment. When establishing mandatory surcharge/crime victim encumbrances, Business Office staff will use ICAS encumbrance code "01" and will enter the indictment number in the comments field and county code in the county code field. If spendable funds are available in the incarcerated individual's account to pay off the encumbrance as it is established, the amount available will be immediately collected and disbursed. If there are insufficient funds to immediately pay off the encumbrance, the amount available will be immediately collected. The remaining amount owed will be collected as receipts are posted to the individual's account.
2. Establishes and collects encumbrances for court-ordered restitutions using ICAS encumbrance code "17." The indictment number will be entered in the comment field. County code of the county of commitment will be entered into the computer in the county code field. Collection rules are the same as for mandatory surcharge (above).
3. Establishes and collects encumbrances for court-ordered fines using ICAS encumbrance code "32." The indictment number will be entered in the comment field and county code in the county code field. Collection rules are the same as for mandatory surcharge (above).
4. Establishes and collects encumbrances for sex offender registration fees using ICAS encumbrance code "25." The indictment number will be entered in the comment field. Collection rules are the same as for the mandatory surcharge (above).
5. Establishes and collects encumbrances for DNA databank fees using ICAS encumbrance code "26." The indictment number will be entered in the comment field. Collection rules are the same as for the mandatory surcharge (above).
6. Establishes and collects encumbrances for supplemental sex offender victim fees using ICAS encumbrance code "39." The indictment number will be entered in the comment field. Collection rules are the same as for mandatory surcharge (above).

7. Provides notification of mandatory surcharge/crime victim assistance fee payments and court-ordered restitution payments, sex offender registration fees, DNA databank fees, supplemental sex offender victim fees, partial or full, to the IRC for inclusion in the incarcerated individual's legal file and to prompt the IRC to forward a corresponding notice to the sentencing court and Community Supervision office. If mandatory surcharge/crime victim fee encumbrances are partially paid due to an individual's release from DOCCS, the first \$20 or \$25, depending on the amount assessed by the court, of the partial payment will be designated for the crime victim assistance fee and the remainder of the partial payment will be designated for the mandatory surcharge.
8. Sends payment of mandatory surcharge, crime victim fees, sex offender registration fees, DNA databank fees, and supplemental sex offender victim fees to the Division of the Treasury via OSC Form AC 909-S. Sends payment of court-ordered restitutions to the Probation Department in the county of commitment. For cases in New York City, sends payment of court-ordered restitutions to Safe Horizons. Restitution payments to the county Probation Department or to Safe Horizons must be sent with a cover letter and must contain the following information: incarcerated individual name, date of birth, New York State Identification Number (NYSID) and Department Identification Number (DIN), indictment number, amount of original restitution order, and amount of restitution collected while in DOCCS custody being forwarded either to the county Probation Department or in NYC to Safe Horizons. For payments to Safe Horizons, the cover letter must also indicate the county of commitment and should be addressed to the Director. Court-ordered fines are sent to the court which imposed the fine unless commitment papers indicate otherwise (see Sample - Attachment A).

VIII. FEDERAL COURT FILING FEES - SPECIAL PROCEDURES: Under the Prison Litigation Reform Act (PLRA) of 1995, incarcerated individuals filing an action in Federal courts are required to pay a filing fee.

A. Application for Forma Pauperis

1. If an incarcerated individual does not send in the full amount of the fee when filing the court action (or appeal), a forma pauperis application is required. Facility Business Office staff will certify the account balance information on the form and return it to the incarcerated individual so that the individual may transmit it to the court.
2. After the court has reviewed and approved the pauperis application, the Superintendent of the facility where the incarcerated individual is housed will receive a letter which includes a signed authorization form from the incarcerated individual. Upon receipt of the letter, facility Business Office staff will forward copies of the individual's last six months of account statements to the court.

B. Establishing an Encumbrance

1. An encumbrance will be established on the incarcerated individual's account using the appropriate encumbrance code for the court where the fee payment is to be sent. If the action is pending with the U.S. Court of Appeals, Second Circuit, the court may indicate that the payment is to be sent to the underlying court from which the civil action originated. In those cases, the encumbrance code for the court to which payment is to be made should be used.

- This information will be found in the letter to the Superintendent. When establishing the encumbrance for court filing fees, the court docket number (CIV) MUST be entered in the "reason comments" field. The docket number must be entered without dashes or spaces. This will identify the incarcerated individual with the civil action and eliminate duplicate encumbrances.
2. When establishing the encumbrance for the full amount of the filing fee, facility Business Office staff will enter the collected amount of the encumbrance using the amount of the partial filing fee. The partial filing fee payment amount can be found on the incarcerated individual's account statement and is the greater amount of either 20% of the average monthly deposits or 20% of the average spendable balance for the six-month period immediately preceding the filing of the complaint or notice of appeal. If the amount available in the individual's spendable balance is less than the calculated partial payment fee, the amount available will be used as the collected amount. If the amount is zero, the collected amount will be zero. The remaining unpaid balance of the filing fee will be collected at the rate of 20% of all receipts (payroll and outside) if the spendable balance is over \$10 after the receipt has been posted. If an individual has more than one Federal filing fee, collection will be at the rate of 20% per month per federal filing fee, up to 100% of the individual's monthly outside receipts.
 3. Payments of filing fees will be sent to the Clerk of the Court in the district where the action was initiated. Checks should note incarcerated individual's name, DIN, and CIV (see Sample - Attachment A). No payments will be sent to the court until the full amount of the fees has been collected, or the individual is released.
- C. Full Payment of Filing Fee – Incarcerated Individual Initiated
1. If the incarcerated individual is not filing a forma pauperis application, has available funds, and wishes to send the full amount of the court filing fee to the court, the individual will forward a disbursement form to the facility Business Office, indicating the amount of the fee to be disbursed, the court district where the fee is to be sent, and a CIV, if available.
 2. If a CIV is available, facility Business Office staff will establish an encumbrance on the incarcerated individual's account for the full amount of the fee, using the appropriate encumbrance code for the district where the fee is to be sent. The CIV will be entered in the "reason comments" field. An immediate payoff of the encumbrance will be processed, and a check forwarded to the Clerk of the Court. The check should note the incarcerated individual's name, DIN, and CIV (see Sample - Attachment A).
 3. If the CIV is not indicated on the disbursement form, an encumbrance will not be established for the incarcerated individual initiated payment. A disbursement will be processed, and a check forwarded to the Clerk of the Court. The check should note the individual's name and DIN (see Sample - Attachment A).
 4. If the incarcerated individual does not have sufficient funds to process the immediate payoff of the encumbrance or to process a disbursement of the filing fee, facility Business Office staff will note insufficient funds on the disbursement form and return it to the individual.

IX. NEW YORK STATE COURT FILING FEES - SPECIAL PROCEDURES: Pursuant to an amendment to the Civil Practice Law and Rules (CPLR), incarcerated individual filing actions in State courts must pay a filing fee, as determined by the court. The amount of the filing fee will not be less than \$15. The filing fee requirement also applies to the filing of individual personal property claims in the Court of Claims.

A. Reduced Filing Fee

1. If an incarcerated individual does not send in the full amount of the fee when commencing an action in the State courts, an application requesting a reduction of the fees must be submitted to the court in the form set forth in Appendix A-1 of 22 NYCRR Section 140.6. The incarcerated individual's submission of the application includes an authorization signed by the individual to allow DOCCS to release the account balance information to the court, and further authorizes DOCCS to collect the filing fee as determined by the court.
2. Upon receipt of the application, the court shall review the account balance information. If the court determines that the incarcerated individual has insufficient means to pay the full filing fee, the court may permit the individual to pay a reduced filing fee, the minimum of which shall not be less than \$15 and the maximum of which shall not be more than \$50. The court may require the individual to make an initial payment of the reduced filing fee.
 - a. If an initial payment is ordered, the incarcerated individual will receive an order from the court indicating the amount to be paid. The individual is responsible for having the initial payment sent to the court. Initial payments are not to be processed through the encumbrance system. An individual may submit a disbursement request to the facility Business Office indicating the amount of the fee to be disbursed, court index number (if available) and the name and address of the court where the initial payment is to be sent. After the initial payment is received by the court, the facility will receive a Court Order directing that the Superintendent collect the remainder of the filing fee (difference between reduced fee and initial payment) by assessing it as an outstanding obligation. The Court Order will include the individual's name, DIN, index number (or claim number), amount of the fee, and court Originating Agency Identifier (ORI) number. This Court Order will be forwarded to the IRC, who will then make a copy for inclusion in the individual's folder. The IRC will also send a copy of this Order to the facility Business Office. When the order is received, the facility will establish an encumbrance.
 - b. If no initial payment is ordered, the facility will receive a Court Order indicating that the full amount of the reduced filing fee is to be collected. This is the amount that will be encumbered.

B. Establishing an Encumbrance

1. An encumbrance will be established on the incarcerated individual's account for the amount of the filing fee as indicated on the Court Order. ICAS encumbrance code "50" will be used for all State court filing fees. When establishing the encumbrance for State court filing fees, the index number (or claim number) must be entered in the "reason comments" field, and the court ORI number must be entered in the "ORI" field.

Upon establishment of the encumbrance, if the spendable balance is sufficient to pay off the encumbrance, the amount available will be immediately collected and disbursed. If there are insufficient funds to pay off the encumbrance when it is established, the available amount will be collected. The balance due will be collected at the rate of 20% of payroll receipts and 25% of outside receipts.

2. Upon full collection of the fee, or partial collection if the incarcerated individual is released from the custody of DOCCS, the fee will be disbursed from the individual's account and a check will be forwarded to the appropriate Clerk of the Court where the application was initiated. The check should note the individual's name, DIN, and court index number or claim number if available (see Sample - Attachment A).

C. Full Payment of Filing Fee – Incarcerated Individual Initiated

1. If the incarcerated individual wishes to pay the full amount of the fee as determined by the court, the individual will forward a disbursement form to the facility Business Office, indicating the amount of the fee to be disbursed, court index number (if available), and the name and address of the court where the fee is to be sent.
2. If sufficient funds are available in the incarcerated individual's account, the facility Business Office will process the disbursement and forward a check to the Clerk of the Court. The check should note the incarcerated individual's name, DIN, and court index number (if available). If the individual does not have sufficient funds to process the disbursement for the filing fee, facility Business Office staff will note insufficient funds on the disbursement form and return it to the individual (see Sample - Attachment A).

X. COURT MOTION/BILL OF COSTS

- A. Incarcerated individuals may be obligated to pay a bill of costs and/or motion costs relating to court actions filed by the individual. In such cases, a letter and a copy of the Court Order will be sent to the facility Superintendent by the Office of the Attorney General advising that a bill of costs and/or motion costs has been issued by the court.

The letter will include the incarcerated individual's name, DIN, CIV, amount to be collected, and will ask that the necessary steps be taken to collect the costs. The original of the letter and copy of the Court Order will be forwarded to the IRC for inclusion in the incarcerated individual's folder. The IRC will notify the facility Business Office of the Court Order in the same format that is used for notification of mandatory surcharges. Notification will include name, DIN, type of obligation imposed (court bill of costs and/or motion costs), docket number, and amount to be collected.

- B. Upon notification by the IRC that a court bill of costs and/or motion costs has been imposed, facility Business Office staff will establish an encumbrance for the amount owed, using encumbrance code "31." The docket number will be entered in the comments section of the encumbrance.

After establishing the encumbrance for the full amount of the bill of costs and/or motion costs, staff will enter the collected amount of the encumbrance using the amount of the partial filing fee. The partial filing fee payment amount can be found on the incarcerated individual's account statement and is the greater amount of either 20% of the average monthly deposits or 20% of the average spendable balance for the six-month period immediately preceding notification of the Court Order.

If the amount available in the incarcerated individual's spendable balance is less than the calculated partial-payment fee, the amount available will be used as the collected amount. If the amount is zero, the collected amount will be zero. The remaining unpaid balance will be collected at the rate of 20% of all receipts (payroll and outside) if the spendable balance is over \$10 after the receipt has been posted.

- C. When the bill of costs/motion costs encumbrance has been fully collected, or partially collected upon the incarcerated individual's release, a check will be drawn to the Office of the Attorney General. On the check will be noted incarcerated individual name, DIN, and CIV. The check will be forwarded to the Office of the Attorney General, Budget and Fiscal Management Bureau, State Capitol, Albany, New York 12224, Attention: Accounts Receivable Unit (see Sample - Attachment A).

Business Office staff do not need to notify the IRC of the payment status of court bill of costs/motion costs as they do for mandatory surcharge payments.

Other than the initial notification upon establishment of the encumbrance, the incarcerated individual will receive no further notification that the court bill of costs and/or motion costs payment has been processed (the monthly account statement contains this information).

- D. It should be noted that court bills of cost and court motion costs are different from the court filing fees that are imposed by the Federal courts under the PLRA. Court filing fees do not require the involvement of the IRC. The courts send a letter to the Superintendent, along with an authorization form signed by the incarcerated individual, to notify the facility that a Federal court filing fee has been imposed. This letter and authorization form must be forwarded to the Business Office for processing. These documents are to be retained in the Business Office files at the facility where the encumbrance is initiated.

XI. EXECUTIVE LAW SECTION 632-a – SON OF SAM LAW

Executive Law Section 632-a was enacted to assist crime victims in their attempts to collect civil damages from the convicted persons who caused them harm. The Son of Sam Law was amended to its present form in 2001. The amendment broadens the funds subject to the law's reach by adding a new category of covered funds called "funds of a convicted person." "Funds of a convicted person" means funds and property received from any source by a person convicted of a specified crime.

- A. Injunction: Upon receipt of a completed affidavit from a victim or victim's representative, the NYS Office of Victim Service, in conjunction with the Office of the Attorney General, will submit papers to the Albany County Supreme Court. Once signed, the Temporary Restraining Order will be faxed to the assigned facility; one copy for service upon the incarcerated individual and one copy for the Superintendent. The incarcerated individual must be served by the date noted on the Order (usually within five days). Once the individual is served, an affidavit of service **must** be completed and returned to the Office of the Attorney General.

- B. Establishing an Encumbrance: The Superintendent shall ensure that notification is forwarded to Business Office staff. Upon notification that a Temporary Injunction is received directing the facility to refrain from in any way disbursing, encumbering, transferring, or assigning any portion of funds to be deposited in or credited to the incarcerated individual's account, Incarcerated Individual Account staff will establish an encumbrance for the amount of one million dollars (\$1,000,000), using the encumbrance code "15," Son of Sam Law. The amount to be collected is the total amount of spendable funds less the first one thousand dollars (\$1,000), pursuant to Executive Law 632-a(3). The index number will be entered in the comment section of the encumbrance.
- C. Release: If an incarcerated individual has a pending release and has a Son of Sam encumbrance, facility Business Office staff must contact Central Office/Incarcerated Individual Accounts for further direction.
- D. Stipulation of Settlement: If a settlement between the victim and the incarcerated individual is reached, the facility will receive a "So Ordered" Stipulation of Settlement from the Office of the Attorney General. Central Office/Incarcerated Individual Accounts must be contacted for further direction.

XII. CHILD SUPPORT - SPECIAL PROCEDURES

- A. Any documents relating to child support, including Incarcerated Individual Withholding for Support, should be faxed to Central Office/Incarcerated Individual Accounts. Central Office will work in conjunction with the Office of Temporary & Disability Assistance/Division of Child Support Enforcement to verify all current payments, arrears, poverty orders, etc., in order to accurately compute the encumbrance.
- B. In general, child support encumbrances are calculated by taking the number of months until the incarcerated individual's earliest release date, multiplying by the monthly amount listed on the Order, and then adding the arrears amount owed.
- C. Once the amount is calculated, Central Office staff will contact the facility Business Office to establish an encumbrance using the code "30," Child Support. The New York Case Identifier on the Order should be entered in the comment section.
- D. The Business Office will send notification to the incarcerated individual that an encumbrance has been established. When the encumbrance is fully collected, or partially collected upon the individual's release, payment is sent to the collection agency indicated on the Court Order.

XIII. UNSATISFIED OBLIGATIONS/ADVANCES AT TIME OF RELEASE FROM CUSTODY

- A. If sufficient funds are not available at time of release from custody for payment of all existing obligations, the first \$40 of the balance of the incarcerated individual's account shall be reserved for release funds. The remainder, if any, shall be applied to satisfy the uncollected advances and encumbrances.

If the incarcerated individual account balance is less than \$40 at the time of release, a check will be drawn from the facility Consolidated Advance Account for the difference.
- B. Any Cash to Outgoing Incarcerated Individuals (COGII) monies provided pursuant to Section 125 of the Correction Law shall not be considered a part of the incarcerated individual's account nor utilized for payment of any obligation/advance unless authorized in writing by the incarcerated individual.

- C. When additional funds are received after parole, a refund of appropriation must be processed against the centralized account up to the full amount of COGII funds provided, not to exceed \$40. The balance of the additional funds received on behalf of the former incarcerated individual should be sent to their last known address. If a forwarding address is unavailable, funds will be considered abandoned property and should be reported in accordance with Directive #2791, "Lost & Found/Abandoned Property." If additional funds are received at a facility that was not the releasing facility, the funds must be receipted and deposited to that facility's Incarcerated Individual Fund checkbook. A check should then be immediately drawn to the releasing facility which will then comply with the above procedure.

Sample Incarcerated Individual Obligation Payment Cover Letter

Use Department Letter Head (See Directive #0008, "Use of Department Stationery & Business Cards")

Date:

Albany County Clerk
32 North Russell Road
Albany, NY 12206

RE: John Doe
DIN: #00-A-0000
NYSID: 1234567A
REF #:

Release Date:

Dear Sir/Madam:

Attached you will find check number _____ collected from the funds of above-mentioned incarcerated individual to be applied toward the following fee and/or obligation(s):

	Amount	Amount	
	<u>Ordered</u>	<u>Paid</u>	<u>Balance</u>
New York State Filing Fee	\$ _____	\$ _____	\$ _____
Federal Filing Fee	\$ _____	\$ _____	\$ _____
Court-Ordered Restitution	\$ _____	\$ _____	\$ _____
Child Support	\$ _____	\$ _____	\$ _____
Court Motion/Bill of Costs	\$ _____	\$ _____	\$ _____
Court-Ordered Fine	\$ _____	\$ _____	\$ _____

Please note: If the above is a partial payment, the incarcerated individual may have been released from incarceration before the obligation was fully collected.

Please contact us if you have any questions.

Sincerely,

Incarcerated Individual Accounts