

2955

2013-2014 Regular Sessions

I N S E N A T E

January 25, 2013

Introduced by Sen. LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the executive law, in relation to establishing the crime stoppers council, within the division of criminal justice services, for the purpose of providing assistance to crime stoppers organizations in the state; to amend the penal law, in relation to imposing a crime stoppers fee upon a person convicted of a criminal offense and sentenced to probation therefor; and to amend the state finance law, in relation to establishing the crime stoppers fund

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The executive law is amended by adding a new section 837-s
2 to read as follows:
3 S 837-S. CRIME STOPPERS COUNCIL. 1. AS USED IN THIS SECTION:
4 (A) "COUNCIL" MEANS THE CRIME STOPPERS COUNCIL ESTABLISHED PURSUANT TO
5 SUBDIVISION TWO OF THIS SECTION.
6 (B) "CRIME STOPPERS ORGANIZATION" MEANS NEW YORK STATE CRIME STOPPERS,
7 INC. OR ANY NOT-FOR-PROFIT COUNTY CRIME STOPPERS ORGANIZATION WHICH IS A
8 CRIME STOPPERS PROGRAM APPROVED FOR CONSIDERATION FOR FUNDING BY THE NEW
9 YORK STATE CRIME STOPPERS, INC., EXCLUDING ANY COUNTY OF THE CITY OF NEW
10 YORK.
11 2. (A) THERE SHALL BE ESTABLISHED, WITHIN THE DIVISION, A CRIME STOP-
12 PERS COUNCIL. THE COUNCIL SHALL BE COMPOSED OF SIX MEMBERS. ONE MEMBER
13 SHALL BE THE CHAIR OF THE NEW YORK STATE CRIME STOPPERS, INC. OR HIS OR
14 HER DESIGNEE; ONE MEMBER SHALL BE A MEMBER OF A POLICE AGENCY; ONE
15 MEMBER SHALL BE A CIVILIAN WHO IS NOT A MEMBER OF A CRIME STOPPERS
16 ORGANIZATION OR A POLICE AGENCY; ONE MEMBER SHALL BE A MEMBER OF THE
17 MEDIA; ONE MEMBER SHALL BE AN ATTORNEY ADMITTED TO PRACTICE IN THE
18 STATE; AND ONE MEMBER SHALL BE AN EX OFFICIO MEMBER FROM THE OFFICE OF
19 THE GOVERNOR AND SHALL BE APPOINTED BY THE GOVERNOR. THE INITIAL
20 APPOINTMENT OF THE MEMBERS OF THE COUNCIL SHALL BE COMPLETED BY THE

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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COMMISSIONER WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. IN ADDITION, THE COMMISSIONER SHALL DESIGNATE THE CHAIR OF THE COUNCIL AS THE CHAIRPERSON OF THE NEW YORK STATE CRIME STOPPERS, INC. OR HIS OR HER DESIGNEE, WHO SHALL BE A NON-VOTING MEMBER.

(B) THE MEMBERS OF THE COUNCIL SHALL SERVE A TERM OF TWO YEARS; PROVIDED THAT THE APPOINTMENT OF THE MEMBER WHO IS THE CHAIR OF THE NEW YORK STATE CRIME STOPPERS, INC. OR HIS OR HER DESIGNEE SHALL BE PERMANENT; AND PROVIDED FURTHER THAT THE EX OFFICIO MEMBER FROM THE OFFICE OF THE GOVERNOR MAY BE REAPPOINTED BY THE GOVERNOR. A MEMBER OF THE COUNCIL MAY BE REMOVED BY THE COMMISSIONER FOR CAUSE AFTER AN OPPORTUNITY TO BE HEARD IN HIS OR HER DEFENSE EXCEPT THE CHAIRPERSON OF THE COUNCIL OR HIS OR HER DESIGNEE WHO IS A PERMANENT MEMBER OF THE COUNCIL.

(C) ANY MEMBER APPOINTED TO FILL A VACANCY CREATED OTHER THAN BY EXPIRATION OF TERM SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER WHOM HE OR SHE IS TO SUCCEED. VACANCIES CAUSED BY THE EXPIRATION OF TERM OR OTHERWISE SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINTMENTS.

(D) THE MEMBERS OF THE COUNCIL SHALL RECEIVE NO COMPENSATION FOR THEIR SERVICES BUT EACH MEMBER SHALL BE ENTITLED TO RECEIVE HIS OR HER ACTUAL AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF HIS OR HER DUTIES.

(E) THE COUNCIL SHALL MEET ON A REGULAR BASIS AT THE CALL OF THE COMMISSIONER OR THE CHAIR. THE MEMBERS SHALL CONSTITUTE A QUORUM FOR THE CONDUCT OF BUSINESS BY THE COUNCIL, AND NO ACTION SHALL BE TAKEN BY THE COUNCIL WITHOUT THE APPROVAL OF A MAJORITY OF THE MEMBERS.

3. THE COUNCIL SHALL HAVE THE FOLLOWING FUNCTIONS, POWERS AND DUTIES:

(A) TO PROMULGATE REGULATIONS ESTABLISHING A CERTIFICATION PROCESS FOR CRIME STOPPERS ORGANIZATIONS WHICH SHALL BE ELIGIBLE TO RECEIVE GRANTS PURSUANT TO THIS SECTION;

(B) TO PROVIDE TRAINING TO CRIME STOPPERS ORGANIZATIONS;

(C) TO REQUIRE THAT CRIME STOPPERS ORGANIZATIONS MAINTAIN SEPARATE BANK ACCOUNTS FOR AND ACCOUNTING OF THE GRANT MONEYS AWARDED PURSUANT TO THIS SECTION;

(D) TO REQUIRE ANY CRIME STOPPERS ORGANIZATION WITHIN THE STATE, EXCLUDING THE CITY OF NEW YORK, TO FIRST BECOME A MEMBER OF NEW YORK STATE CRIME STOPPERS, INC. AND BE APPROVED BY SUCH ENTITY AS A PROPERLY FUNCTIONING CRIME STOPPERS ORGANIZATION WITHIN THE STATE BEFORE SUCH ORGANIZATION CAN BE CONSIDERED BY THE COUNCIL FOR FUNDING; AND

(E) TO, SUBJECT TO THE APPROVAL OF THE COMMISSIONER, ESTABLISH REGULATIONS PROVIDING GRANTS TO CERTIFIED CRIME STOPPERS ORGANIZATIONS FOR ADMINISTRATIVE AND TRAINING EXPENSES, AND FOR REWARDS PAID BY SUCH ORGANIZATIONS TO MEMBERS OF THE GENERAL PUBLIC FOR THE PROVISION OF INFORMATION LEADING TO THE APPREHENSION OF FUGITIVES CHARGED WITH OR CONVICTED OF A FELONY. SUCH REGULATIONS SHALL ESTABLISH A SCHEDULE FOR THE PAYMENT OF SUCH GRANTS BASED UPON THE TYPES OF ADMINISTRATIVE EXPENSES INCURRED, THE TYPES AND AMOUNT OF TRAINING PROVIDED, AND THE SEVERITY OF THE FELONY WITH WHICH THE APPREHENDED FUGITIVE IS CHARGED OR HAS BEEN CONVICTED. SUCH REGULATIONS SHALL ESTABLISH THAT GRANT FUNDING SHALL BE AVAILABLE AND DISTRIBUTED TO CRIME STOPPERS ORGANIZATIONS BASED ON THE SIZE OF THE POPULATION OF THE AREA SERVED BY SUCH ORGANIZATION.

S 2. The section heading of section 60.35 of the penal law, as amended by section 1 of part E of chapter 56 of the laws of 2004, is amended to read as follows:

Mandatory surcharge, sex offender registration fee, DNA databank fee, supplemental sex offender victim fee, CRIME STOPPERS FEE and crime victim assistance fee required in certain cases.

1 S 3. Subdivision 1 of section 60.35 of the penal law is amended by
2 adding a new paragraph (c) to read as follows:

3 (C) WHEN A PERSON IS CONVICTED OF A VIOLATION, A MISDEMEANOR OR A
4 FELONY AND A SENTENCE OF PROBATION IS IMPOSED THEREFOR PURSUANT TO ARTI-
5 CLE SIXTY-FIVE OF THIS TITLE, THE PERSON CONVICTED SHALL PAY A CRIME
6 STOPPERS FEE OF FIFTY DOLLARS IN ADDITION TO THE MANDATORY SURCHARGE AND
7 ANY OTHER FEE.

8 S 4. Subdivisions 2, 3, 4 and 8 of section 60.35 of the penal law,
9 subdivisions 2, 3 and 4 as amended by section 1 of part E of chapter 56
10 of the laws of 2004 and subdivision 8 as amended by section 121 of
11 subpart B of part C of chapter 62 of the laws of 2011, are amended to
12 read as follows:

13 2. Where a person is convicted of two or more crimes or violations
14 committed through a single act or omission, or through an act or omis-
15 sion which in itself constituted one of the crimes or violations and
16 also was a material element of the other, the court shall impose a
17 mandatory surcharge and a crime victim assistance fee, and where appro-
18 priate a supplemental sex offender victim fee AND/OR A CRIME STOPPERS
19 FEE, in accordance with the provisions of this section for the crime or
20 violation which carries the highest classification, and no other
21 sentence to pay a mandatory surcharge, crime victim assistance fee,
22 CRIME STOPPERS FEE or supplemental sex offender victim fee required by
23 this section shall be imposed. Where a person is convicted of two or
24 more sex offenses or sexually violent offenses, as defined by subdivi-
25 sions two and three of section one hundred sixty-eight-a of the
26 correction law, committed through a single act or omission, or through
27 an act or omission which in itself constituted one of the offenses and
28 also was a material element of the other, the court shall impose only
29 one sex offender registration fee. Where a person is convicted of two or
30 more designated offenses, as defined by subdivision seven of section
31 nine hundred ninety-five of the executive law, committed through a
32 single act or omission, or through an act or omission which in itself
33 constituted one of the offenses and also was a material element of the
34 other, the court shall impose only one DNA databank fee.

35 3. The mandatory surcharge, sex offender registration fee, DNA data-
36 bank fee, crime victim assistance fee, CRIME STOPPERS FEE and supple-
37 mental sex offender victim fee provided for in subdivision one of this
38 section shall be paid to the clerk of the court or administrative tribu-
39 nal that rendered the conviction. Within the first ten days of the month
40 following collection of the mandatory surcharge, crime victim assistance
41 fee, and supplemental sex offender victim fee, the collecting authority
42 shall determine the amount of mandatory surcharge, crime victim assist-
43 ance fee, and supplemental sex offender victim fee collected and, if it
44 is an administrative tribunal, or a town or village justice court, it
45 shall then pay such money to the state comptroller who shall deposit
46 such money in the state treasury pursuant to section one hundred twen-
47 ty-one of the state finance law to the credit of the criminal justice
48 improvement account established by section ninety-seven-bb of the state
49 finance law. Within the first ten days of the month following collection
50 of the sex offender registration fee and DNA databank fee, the collect-
51 ing authority shall determine the amount of the sex offender registra-
52 tion fee and DNA databank fee collected and, if it is an administrative
53 tribunal, or a town or village justice court, it shall then pay such
54 money to the state comptroller who shall deposit such money in the state
55 treasury pursuant to section one hundred twenty-one of the state finance
56 law to the credit of the general fund. WITHIN THE FIRST TEN DAYS OF THE

1 MONTH FOLLOWING COLLECTION OF THE CRIME STOPPERS FEE, THE COLLECTING
2 AUTHORITY SHALL DETERMINE THE AMOUNT OF THE CRIME STOPPERS FEE COLLECTED
3 AND, IF IT IS AN ADMINISTRATIVE TRIBUNAL, OR A TOWN OR VILLAGE JUSTICE
4 COURT, IT SHALL THEN PAY SUCH MONEY TO THE STATE COMPTROLLER WHO SHALL
5 DEPOSIT SUCH MONEY IN THE STATE TREASURY PURSUANT TO SECTION ONE HUNDRED
6 TWENTY-ONE OF THE STATE FINANCE LAW TO THE CREDIT OF THE CRIME STOPPERS
7 FUND ESTABLISHED BY SECTION EIGHTY-ONE OF THE STATE FINANCE LAW. If such
8 collecting authority is any other court of the unified court system, it
9 shall, within such period, pay such money attributable to the mandatory
10 surcharge or crime victim assistance fee to the state commissioner of
11 taxation and finance to the credit of the criminal justice improvement
12 account established by section ninety-seven-bb of the state finance law.
13 If such collecting authority is any other court of the unified court
14 system, it shall, within such period, pay such money attributable to the
15 sex offender registration fee and the DNA databank fee to the state
16 commissioner of taxation and finance to the credit of the general fund.
17 IF SUCH COLLECTING AUTHORITY IS ANY OTHER COURT OF THE UNIFIED COURT
18 SYSTEM, IT SHALL, WITHIN SUCH PERIOD, PAY SUCH MONEY ATTRIBUTABLE TO THE
19 CRIME STOPPERS FEE TO THE COMMISSIONER OF TAXATION AND FINANCE TO THE
20 CREDIT OF THE CRIME STOPPERS FUND ESTABLISHED BY SECTION EIGHTY-ONE OF
21 THE STATE FINANCE LAW.

22 4. Any person who has paid a mandatory surcharge, sex offender regis-
23 tration fee, DNA databank fee, a crime victim assistance fee, CRIME
24 STOPPERS FEE or a supplemental sex offender victim fee under the author-
25 ity of this section based upon a conviction that is subsequently
26 reversed or who paid a mandatory surcharge, sex offender registration
27 fee, DNA databank fee, a crime victim assistance fee, CRIME STOPPERS FEE
28 or supplemental sex offender victim fee under the authority of this
29 section which is ultimately determined not to be required by this
30 section shall be entitled to a refund of such mandatory surcharge, sex
31 offender registration fee, DNA databank fee, crime victim assistance
32 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee upon
33 application to the state comptroller. The state comptroller shall
34 require such proof as is necessary in order to determine whether a
35 refund is required by law.

36 8. Subdivision one of section 130.10 of the criminal procedure law
37 notwithstanding, at the time that the mandatory surcharge, sex offender
38 registration fee or DNA databank fee, crime victim assistance fee, CRIME
39 STOPPERS FEE or supplemental sex offender victim fee is imposed a town
40 or village court may, and all other courts shall, issue and cause to be
41 served upon the person required to pay the mandatory surcharge, sex
42 offender registration fee or DNA databank fee, crime victim assistance
43 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee, a
44 summons directing that such person appear before the court regarding the
45 payment of the mandatory surcharge, sex offender registration fee or DNA
46 databank fee, crime victim assistance fee, CRIME STOPPERS FEE or supple-
47 mental sex offender victim fee, if after sixty days from the date it was
48 imposed it remains unpaid. The designated date of appearance on the
49 summons shall be set for the first day court is in session falling after
50 the sixtieth day from the imposition of the mandatory surcharge, sex
51 offender registration fee or DNA databank fee, crime victim assistance
52 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee. The
53 summons shall contain the information required by subdivision two of
54 section 130.10 of the criminal procedure law except that in substitution
55 for the requirement of paragraph (c) of such subdivision the summons
56 shall state that the person served must appear at a date, time and

1 specific location specified in the summons if after sixty days from the
2 date of issuance the mandatory surcharge, sex offender registration fee
3 or DNA databank fee, crime victim assistance fee, CRIME STOPPERS FEE or
4 supplemental sex offender victim fee remains unpaid. The court shall not
5 issue a summons under this subdivision to a person who is being
6 sentenced to a term of confinement in excess of sixty days in jail or in
7 the department of corrections and community supervision. The mandatory
8 surcharges, sex offender registration fee and DNA databank fees, crime
9 victim assistance fees, CRIME STOPPER FEES and supplemental sex offender
10 victim fees for those persons shall be governed by the provisions of
11 section 60.30 of this article.

12 S 5. The state finance law is amended by adding a new section 81 to
13 read as follows:

14 S 81. CRIME STOPPERS FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT
15 CUSTODY OF THE STATE COMPTROLLER AND THE COMMISSIONER OF TAXATION AND
16 FINANCE A SPECIAL FUND TO BE KNOWN AS THE "CRIME STOPPERS FUND".

17 2. MONEYS IN THE CRIME STOPPERS FUND SHALL BE KEPT SEPARATELY FROM AND
18 SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE JOINT OR SOLE
19 CUSTODY OF THE STATE COMPTROLLER OR THE COMMISSIONER OF TAXATION AND
20 FINANCE.

21 3. THE CRIME STOPPERS FUND SHALL CONSIST OF MONIES RECEIVED BY THE
22 STATE PURSUANT TO PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION 60.35 OF
23 THE PENAL LAW, AND ALL OTHER GRANTS, BEQUESTS OR OTHER MONIES CREDITED,
24 APPROPRIATED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE.

25 4. THE MONEYS IN SUCH FUND, FOLLOWING APPROPRIATION BY THE LEGISLA-
26 TURE, SHALL BE MADE AVAILABLE TO THE DIVISION OF CRIMINAL JUSTICE
27 SERVICES FOR ALLOCATION BY THE CRIME STOPPERS COUNCIL, SUBJECT TO THE
28 APPROVAL OF THE COMMISSIONER OF SUCH DIVISION, PURSUANT TO SECTION EIGHT
29 HUNDRED THIRTY-SEVEN-S OF THE EXECUTIVE LAW. SPECIFICALLY, (A) TWENTY
30 PERCENT OF SUCH MONIES SHALL BE DISBURSED FOR THE ADMINISTRATIVE
31 EXPENSES OF CRIME STOPPERS ORGANIZATIONS IN ACCORDANCE WITH SUCH SECTION
32 OF THE EXECUTIVE LAW; AND (B) EIGHTY PERCENT OF SUCH MONIES SHALL BE
33 DISBURSED FOR GRANTS TO CRIME STOPPERS ORGANIZATIONS FOR REGARDS PAID TO
34 MEMBERS OF THE GENERAL PUBLIC FOR THE PROVISION OF INFORMATION LEADING
35 TO THE APPREHENSION OF FUGITIVES CHARGED WITH OR CONVICTED OF A FELONY.

36 S 6. This act shall take effect on the one hundred eightieth day after
37 it shall have become a law. Effective immediately, the addition, amend-
38 ment and/or repeal of any rule or regulation necessary for the implemen-
39 tation of this act on its effective date is authorized to be made on or
40 before such date.