

S T A T E O F N E W Y O R K

6617--A

2011-2012 Regular Sessions

I N A S S E M B L Y

March 23, 2011

Introduced by M. of A. ROBERTS, JEFFRIES, BENEDETTO, M. MILLER, MAISEL, SCHIMEL, STEVENSON, REILLY, WEISENBERG, SPANO, WEPRIN, COOK -- Multi-Sponsored by -- M. of A. ABBATE, BOYLE, CALHOUN, CAMARA, CASTELLI, CERETTO, CROUCH, DUPREY, GALEF, GIBSON, GUNTHER, HIKIND, KATZ, J. MILLER, MONTESANO, PALMESANO, PHEFFER, RAIA, REILICH, SALADINO, SAYWARD, THIELE, TOWNS -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the military law and the penal law, in relation to criminal interference with funeral services

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

1 Section 1. The military law is amended by adding a new section 255 to
2 read as follows:
3 S 255. PROTESTS AT MILITARY FUNERALS. 1. LEGISLATIVE INTENT. THE
4 LEGISLATURE FINDS AND DETERMINES THAT CERTAIN INDIVIDUALS AND GROUPS
5 HAVE BEEN DISRUPTING THE FUNERALS OF MILITARY PERSONNEL WHO DIED WHILE
6 SERVING IN THE ACTIVE MILITARY SERVICE OF THE UNITED STATES OR THE FORCE
7 OF THE ORGANIZED MILITIA.
8 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT ALTHOUGH IT IS
9 IMPORTANT FOR OUR STATE'S CITIZENS TO BE ABLE TO EXERCISE THEIR CONSTI-
10 TUTIONALLY PROTECTED RIGHT TO FREE SPEECH, THERE IS ALSO A COMPELLING
11 STATE INTEREST IN PRESERVING AND PROTECTING THE FAMILIES AND FRIENDS OF
12 SUCH DECEASED MILITARY PERSONNEL, ESPECIALLY AT SUCH A SOLEMN TIME AS
13 THE DECEASED MILITARY PERSONNEL'S FUNERAL, MEMORIAL SERVICE, WAKE, BURI-
14 AL OR PROCESSION TO OR FROM THE SAME.
15 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ORDER TO BALANCE
16 THE CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH, AND THE COMPELLING
17 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
18 FRIENDS OF DECEASED MILITARY PERSONNEL, THE STATE POLICE POWERS, AND
19 THOSE OF ITS LOCALITIES, MAY BE EMPLOYED TO PROVIDE SUFFICIENT

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

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1 PROTECTION OF THE FAMILIES AND FRIENDS OF SUCH DECEASED MILITARY PERSON-
2 NEL, AT SUCH A SOLEMN TIME AS THE DECEASED MILITARY PERSONNEL'S FUNERAL,
3 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME.

4 2. THE DIVISION OF MILITARY AND NAVAL AFFAIRS SHALL PROVIDE AND MAKE
5 AVAILABLE AN INFORMATIONAL GUIDE WHICH SHALL DETAIL THE PUBLIC
6 PROTECTIONS AND PROTEST RESTRICTIONS CONCERNING THE FUNERAL, MEMORIAL
7 SERVICE, WAKE, BURIAL, OR PROCESSION TO OR FROM THE SAME OF A DECEASED
8 MILITARY PERSONNEL MEMBER.

9 S 2. The section heading, subdivision 1 and the closing paragraph of
10 section 240.70 of the penal law, as added by chapter 635 of the laws of
11 1999, are amended to read as follows:

12 Criminal interference with health care services, FUNERAL SERVICES, or
13 religious worship in the second degree.

14 1. A person is guilty of criminal interference with health services,
15 FUNERAL SERVICES, or religious worship in the second degree when:

16 (a) by force or threat of force or by physical obstruction, he or she
17 intentionally injures, intimidates or interferes with, or attempts to
18 injure, intimidate or interfere with, another person because such other
19 person was or is obtaining or providing reproductive health services; or

20 (b) by force or threat of force or by physical obstruction, he or she
21 intentionally injures, intimidates or interferes with, or attempts to
22 injure, intimidate or interfere with, another person in order to
23 discourage such other person or any other person or persons from obtain-
24 ing or providing reproductive health services; or

25 (c) by force or threat of force or by physical obstruction, he or she
26 intentionally injures, intimidates or interferes with, or attempts to
27 injure, intimidate or interfere with, another person because such person
28 was or is seeking to exercise the right of religious freedom at a place
29 of religious worship; or

30 (d) he or she intentionally damages the property of a health care
31 facility, or attempts to do so, because such facility provides reproduc-
32 tive health services, or intentionally damages the property of a place
33 of religious worship; OR

34 (E) WITH INTENT TO PREVENT OR DISRUPT A FUNERAL OR BURIAL, FUNERAL
35 HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNERAL OR
36 MEMORIAL SERVICE FOR A DECEASED PERSON, WHEN HE OR SHE:

37 (I) BLOCKS, IMPEDES, INHIBITS, OR IN ANY OTHER MANNER OBSTRUCTS OR
38 INTERFERES WITH ACCESS INTO OR FROM ANY BUILDING OR PARKING LOT OF A
39 BUILDING IN WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING
40 CONDUCTED, OR ANY BURIAL PLOT OR THE PARKING LOT OF THE CEMETERY IN
41 WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING CONDUCTED;
42 OR

43 (II) CONGREGATES, PICKETS OR DEMONSTRATES WITHIN FIVE HUNDRED FEET OF
44 AN EVENT SPECIFIED IN THIS SUBDIVISION; OR

45 (III) WITHOUT AUTHORIZATION FROM THE FAMILY OF THE DECEASED OR PERSON
46 CONDUCTING THE SERVICE, DURING A FUNERAL, WAKE, MEMORIAL SERVICE, OR
47 BURIAL:

48 (1) SINGS, CHANTS, WHISTLES, SHOUTS, YELLS, OR USES A BULLHORN, AUTO
49 HORN, SOUND AMPLIFICATION EQUIPMENT, OR OTHER SOUNDS OR IMAGES OBSERVA-
50 BLE TO OR WITHIN EARSHOT OF PARTICIPANTS IN THE FUNERAL, WAKE, MEMORIAL
51 SERVICE, OR BURIAL; OR

52 (2) DOES OR MAKES ANY UTTERANCE, GESTURE, OR DISPLAY DESIGNED TO
53 OUTRAGE THE SENSIBILITIES OF THE GROUP ATTENDING THE FUNERAL OR BURIAL,
54 FUNERAL HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNER-
55 AL OR MEMORIAL SERVICE FOR A DECEASED PERSON; OR

56 (3) DISTRIBUTES LITERATURE OR ANY OTHER ITEM.

1 Criminal interference with health care services, FUNERAL SERVICES, or
2 religious worship in the second degree is a class A misdemeanor.
3 S 3. Section 240.71 of the penal law, as amended by chapter 493 of the
4 laws of 2009, is amended to read as follows:
5 S 240.71 Criminal interference with health care services, FUNERAL
6 SERVICES or religious worship in the first degree.
7 A person is guilty of criminal interference with health care services,
8 FUNERAL SERVICES or religious worship in the first degree when he or she
9 commits the crime of criminal interference with health care services,
10 FUNERAL SERVICES or religious worship in the second degree and has been
11 previously convicted of the crime of criminal interference with health
12 care services, FUNERAL SERVICES or religious worship in the first or
13 second degree or aggravated interference with health care services in
14 the first or second degree.
15 Criminal interference with health care services, FUNERAL SERVICES or
16 religious worship in the first degree is a class E felony.
17 S 4. This act shall take effect immediately.