

5331--A

2013-2014 Regular Sessions

I N A S S E M B L Y

February 22, 2013

Introduced by M. of A. LENTOL -- read once and referred to the Committee on Codes -- recommitted to the Committee on Codes in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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

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

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1 THE GOVERNOR AND SHALL BE APPOINTED BY THE GOVERNOR. THE INITIAL
2 APPOINTMENT OF THE MEMBERS OF THE COUNCIL SHALL BE COMPLETED BY THE
3 COMMISSIONER WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS SECTION. IN
4 ADDITION, THE COMMISSIONER SHALL DESIGNATE THE CHAIR OF THE COUNCIL AS
5 THE CHAIRPERSON OF THE NEW YORK STATE CRIME STOPPERS, INC. OR HIS OR HER
6 DESIGNEE, WHO SHALL BE A NON-VOTING MEMBER.

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

15 (C) ANY MEMBER APPOINTED TO FILL A VACANCY CREATED OTHER THAN BY EXPI-
16 RATION OF TERM SHALL BE APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER
17 WHOM HE OR SHE IS TO SUCCEED. VACANCIES CAUSED BY THE EXPIRATION OF TERM
18 OR OTHERWISE SHALL BE FILLED IN THE SAME MANNER AS ORIGINAL APPOINT-
19 MENTS.

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

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

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

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

31 (B) TO PROVIDE TRAINING TO CRIME STOPPERS ORGANIZATIONS;

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

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

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

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

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

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

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

11 S 4. Subdivisions 2, 3, 4 and 8 of section 60.35 of the penal law,
12 subdivisions 2 and 3 as amended by section 1 of part E of chapter 56 of
13 the laws of 2004, subdivision 4 as amended by chapter 525 of the laws of
14 2013, and subdivision 8 as amended by section 121 of subpart B of part C
15 of chapter 62 of the laws of 2011, are amended to read as follows:

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

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

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

25 4. Any person who has paid a mandatory surcharge, sex offender regis-
26 tration fee, DNA databank fee, a crime victim assistance fee, CRIME
27 STOPPERS FEE or a supplemental sex offender victim fee under the author-
28 ity of this section based upon a conviction that is subsequently
29 reversed or who paid a mandatory surcharge, sex offender registration
30 fee, DNA databank fee, a crime victim assistance fee, CRIME STOPPERS FEE
31 or supplemental sex offender victim fee under the authority of this
32 section which is ultimately determined not to be required by this
33 section shall be entitled to a refund of such mandatory surcharge, sex
34 offender registration fee, DNA databank fee, crime victim assistance
35 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee upon
36 application, in the case of a town or village court, to the state comp-
37 troller. The state comptroller shall require such proof as is necessary
38 in order to determine whether a refund is required by law. In all other
39 cases, such application shall be made to the department, agency or court
40 that collected such surcharge or fee. Such department, agency or court
41 shall initiate the refund process and the state comptroller shall pay
42 the refund pursuant to subdivision fifteen of section eight of the state
43 finance law.

44 8. Subdivision one of section 130.10 of the criminal procedure law
45 notwithstanding, at the time that the mandatory surcharge, sex offender
46 registration fee or DNA databank fee, crime victim assistance fee, CRIME
47 STOPPERS FEE or supplemental sex offender victim fee is imposed a town
48 or village court may, and all other courts shall, issue and cause to be
49 served upon the person required to pay the mandatory surcharge, sex
50 offender registration fee or DNA databank fee, crime victim assistance
51 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee, a
52 summons directing that such person appear before the court regarding the
53 payment of the mandatory surcharge, sex offender registration fee or DNA
54 databank fee, crime victim assistance fee, CRIME STOPPERS FEE or supple-
55 mental sex offender victim fee, if after sixty days from the date it was
56 imposed it remains unpaid. The designated date of appearance on the

1 summons shall be set for the first day court is in session falling after
2 the sixtieth day from the imposition of the mandatory surcharge, sex
3 offender registration fee or DNA databank fee, crime victim assistance
4 fee, CRIME STOPPERS FEE or supplemental sex offender victim fee. The
5 summons shall contain the information required by subdivision two of
6 section 130.10 of the criminal procedure law except that in substitution
7 for the requirement of paragraph (c) of such subdivision the summons
8 shall state that the person served must appear at a date, time and
9 specific location specified in the summons if after sixty days from the
10 date of issuance the mandatory surcharge, sex offender registration fee
11 or DNA databank fee, crime victim assistance fee, CRIME STOPPERS FEE or
12 supplemental sex offender victim fee remains unpaid. The court shall not
13 issue a summons under this subdivision to a person who is being
14 sentenced to a term of confinement in excess of sixty days in jail or in
15 the department of corrections and community supervision. The mandatory
16 surcharges, sex offender registration fee and DNA databank fees, crime
17 victim assistance fees, CRIME STOPPER FEES and supplemental sex offender
18 victim fees for those persons shall be governed by the provisions of
19 section 60.30 of this article.

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

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

25 2. MONEYS IN THE CRIME STOPPERS FUND SHALL BE KEPT SEPARATELY FROM AND
26 SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE JOINT OR SOLE
27 CUSTODY OF THE STATE COMPTROLLER OR THE COMMISSIONER OF TAXATION AND
28 FINANCE.

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

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

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