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

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:

Section 1. The executive law is amended by adding a new section 837-s to read as follows:

S 837-S. CRIME STOPPERS COUNCIL. 1. AS USED IN THIS SECTION:

(A) "COUNCIL" MEANS THE CRIME STOPPERS COUNCIL ESTABLISHED PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

(B) "CRIME STOPPERS ORGANIZATION" MEANS NEW YORK STATE CRIME STOPPERS, INC. OR ANY NOT-FOR-PROFIT COUNTY CRIME STOPPERS ORGANIZATION WHICH IS A CRIME STOPPERS PROGRAM APPROVED FOR CONSIDERATION FOR FUNDING BY THE NEW YORK STATE CRIME STOPPERS, INC., EXCLUDING ANY COUNTY OF THE CITY OF NEW YORK.

2. (A) THERE SHALL BE ESTABLISHED, WITHIN THE DIVISION, A CRIME STOPPERS COUNCIL. THE COUNCIL SHALL BE COMPOSED OF SIX MEMBERS. ONE MEMBER SHALL BE THE CHAIR OF THE NEW YORK STATE CRIME STOPPERS, INC. OR HIS OR HER DESIGNEE; ONE MEMBER SHALL BE A MEMBER OF A POLICE AGENCY; ONE MEMBER SHALL BE A CIVILIAN WHO IS NOT A MEMBER OF A CRIME STOPPERS ORGANIZATION OR A POLICE AGENCY; ONE MEMBER SHALL BE A MEMBER OF THE MEDIA; ONE MEMBER SHALL BE AN ATTORNEY ADMITTED TO PRACTICE IN THE 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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THE GOVERNOR AND SHALL BE APPOINTED BY THE GOVERNOR. THE INITIAL APPOINTMENT OF THE MEMBERS OF THE COUNCIL SHALL BE COMPLETED BY THE 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.

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

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

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

2. Where a person is convicted of two or more crimes or violations committed through a single act or omission, or through an act or omission which in itself constituted one of the crimes or violations and also was a material element of the other, the court shall impose a mandatory surcharge and a crime victim assistance fee, and where appropriate a supplemental sex offender victim fee AND/OR A CRIME STOPPERS FEE, in accordance with the provisions of this section for the crime or violation which carries the highest classification, and no other sentence to pay a mandatory surcharge, crime victim assistance fee, CRIME STOPPERS FEE or supplemental sex offender victim fee required by this section shall be imposed. Where a person is convicted of two or more sex offenses or sexually violent offenses, as defined by subdivisions two and three of section one hundred sixty-eight-a of the correction law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one sex offender registration fee. Where a person is convicted of two or more designated offenses, as defined by subdivision seven of section nine hundred ninety-five of the executive law, committed through a single act or omission, or through an act or omission which in itself constituted one of the offenses and also was a material element of the other, the court shall impose only one DNA databank fee.

3. The mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, CRIME STOPPERS FEE and supplemental sex offender victim fee provided for in subdivision one of this section shall be paid to the clerk of the court or administrative tribunal that rendered the conviction. Within the first ten days of the month following collection of the mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee, the collecting authority shall determine the amount of mandatory surcharge, crime victim assistance fee, and supplemental sex offender victim fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such money to the state comptroller who shall deposit such money in the state treasury pursuant to section one hundred twenty-one of the state finance law to the credit of the criminal justice improvement account established by section ninety-seven-bb of the state finance law. Within the first ten days of the month following collection of the sex offender registration fee and DNA databank fee, the collecting authority shall determine the amount of the sex offender registration fee and DNA databank fee collected and, if it is an administrative tribunal, or a town or village justice court, it shall then pay such

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

4. Any person who has paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee, CRIME STOPPERS FEE or a supplemental sex offender victim fee under the authority of this section based upon a conviction that is subsequently reversed or who paid a mandatory surcharge, sex offender registration fee, DNA databank fee, a crime victim assistance fee, CRIME STOPPERS FEE or supplemental sex offender victim fee under the authority of this section which is ultimately determined not to be required by this section shall be entitled to a refund of such mandatory surcharge, sex offender registration fee, DNA databank fee, crime victim assistance fee, CRIME STOPPERS FEE or supplemental sex offender victim fee upon application, in the case of a town or village court, to the state comptroller. The state comptroller shall require such proof as is necessary in order to determine whether a refund is required by law. In all other cases, such application shall be made to the department, agency or court that collected such surcharge or fee. Such department, agency or court shall initiate the refund process and the state comptroller shall pay the refund pursuant to subdivision fifteen of section eight of the state finance law.

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

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

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

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

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

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

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

S 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.