STATE OF NEW YORK

2768

2017-2018 Regular Sessions

IN ASSEMBLY

January 23, 2017

Introduced by M. of A. ZEBROWSKI, ABBATE, HEVESI, SCHIMMINGER, LUPARDO, GALEF, ROSENTHAL, TITONE, GUNTHER, CUSICK -- Multi-Sponsored by -- M. of A. HOOPER -- read once and referred to the Committee on Codes

AN ACT to amend the penal law, in relation to providing certain criminal penalties for damage to military monuments

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. The penal law is amended by adding a new section 145.24 to read as follows:

§ 145.24 Desecration of a military monument.

A person is guilty of desecration of a military monument when with intent to damage property, and having no right to do so nor any reasonable ground to believe that he or she has such right, he or she damages any real or personal property maintained as a military monument. A "military monument", for the purposes of this section, is any monument that was erected with the intent to honor a current or former member or members of the armed forces or to mark or commemorate a past military action or battle.

Desecration of a military monument is a class A misdemeanor.

§ 2. Section 60.29 of the penal law, as added by chapter 165 of the laws of 1997, is amended to read as follows:

§ 60.29 Authorized disposition; cemetery **or military monument** desecration.

When a person is convicted of an offense defined in section 145.22 [~~or~~], 145.23 **or 145.24** of this chapter or of an attempt to commit such an offense, and the sentence imposed by the court for such conviction includes a sentence of probation or conditional discharge, such sentence shall, where appropriate, be in accordance with paragraph (h) of subdivision two of section 65.10 of this [~~article~~] **title** as such section relates to cemetery **or military monument** crime.

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

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§ 3. Paragraph (h) of subdivision 2 of section 65.10 of the penal law, as amended by chapter 508 of the laws of 2001, is amended to read as follows:

(h) Perform services for a public or not-for-profit corporation, association, institution or agency, including but not limited to services for the division of substance abuse services, services in an appropriate community program for removal of graffiti from public or private property, including any property damaged in the underlying offense, or services for the maintenance and repair of real or personal property maintained as a cemetery plot, grave, burial place or other place of interment of human remains **or a military monument**. Provided however, that the performance of any such services shall not result in the displacement of employed workers or in the impairment of existing contracts for services, nor shall the performance of any such services be required or permitted in any establishment involved in any labor strike or lockout. The court may establish provisions for the early termination of a sentence of probation or conditional discharge pursuant to the provisions of subdivision three of section 410.90 of the criminal procedure law after such services have been completed. Such sentence may only be imposed upon conviction of a misdemeanor, violation, or class D or class E felony, or a youthful offender finding replacing any such conviction, where the defendant has consented to the amount and conditions of such service;

§ 4. This act shall take effect on the first of November next succeeding the date on which it shall have become a law.