STATE OF NEW YORK

1818--C

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. DINOWITZ, BENEDETTO, COLTON, PEOPLES-STOKES, GUNTHER, WOERNER, RIVERA, STECK, BRABENEC -- Multi-Sponsored by -- M. of A. GLICK, RAMOS -- read once and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- 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 -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the penal law, in relation to criminal impersonation in the second degree and establishes a stolen valor fee

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

Section 1. Section 10.00 of the penal law is amended by adding five new subdivisions 23, 24, 25, 26 and 27 to read as follows:

23. "Military or reserves" means (a) the United States army, navy, air force, marines, space force, coast guard, commissioned corps of the National Oceanic and Atmospheric Administration, commissioned corps of the Public Health Service, and the reserve components thereof including the army national guard and air national guard or (b) the New York guard or the New York naval militia, or the organized militia or defense force of any other state, territory or the District of Columbia, or (c) any group designated by the federal government as performing or having performed active military, naval, air, or space service for purposes of eligibility for benefits administered by the United States department of veterans affairs.

24. "Servicemember" means a person serving as a member of the military or reserves.

25. "Former servicemember" means a person who was a member of the military or reserves as defined in subdivision twenty-three of this section and who was discharged or released therefrom.

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

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26. "First responder" means a firefighter, law enforcement officer, paramedic, emergency medical technician, emergency services dispatcher, or other individual, whether compensated or not, who, in the course of their professional or volunteer duties, responds to fire, medical, hazardous material, or other similar emergencies.

27. "First responder agency" means a state or local district, municipality, or other political subdivision or volunteer organization for which a first responder provides fire protection, paramedic services, law enforcement, emergency services, or rescue or recovery services.

§ 2. Subdivision 5 of section 190.25 of the penal law, as added by chapter 739 of the laws of 2021, is amended and two new subdivisions 6 and 7 are added to read as follows:

5. Impersonates another person, without such other person's permission, by using the other person's electronic signature with intent to obtain a benefit or injure or defraud the other person or another person. For the purposes of this subdivision, electronic signature shall have the same meaning as set forth in subdivision three of section three hundred two of the state technology law[~~.~~]**; or**

6. (a) Pretends to be a servicemember or former servicemember, or wears or displays without authority, any uniform, badge or other insignia or facsimile thereof by which such servicemember or former servicemember is lawfully distinguished, or falsely holds oneself out to be a recipient of a decoration or medal created by federal or state laws and regulations to honor servicemembers or former servicemembers or falsely expresses by such person's words or actions that such person is a servicemember or former servicemember or is acting with approval or authority of the military or reserves; and (b) so acts with intent to obtain a benefit or to injure or defraud another or induce another to submit to such pretended official authority, to solicit funds or to otherwise cause another to act in reliance upon that pretense; or

7. (a) Pretends to be a first responder, or wears or displays without authority any uniform, badge, insignia or facsimile thereof by which such first responder is lawfully distinguished, or falsely holds oneself out to be a recipient of a decoration or medal created by federal or state laws and regulations to honor first responders, or falsely expresses by such person's words or actions that such person is a first responder or is acting with approval or authority of a first responder agency; and (b) so acts with intent to obtain a benefit or to injure or defraud another or induce another to submit to such pretended official authority, to solicit funds or to otherwise cause another to act in reliance upon that pretense.

§ 3. Subdivisions 1, 2 and 3 of section 60.35 of the penal law, as amended by section 1 of part E of chapter 56 of the laws of 2004, subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 1 as amended by section 1 of part DD of chapter 56 of the laws of 2008 and paragraph (b) of subdivision 1 as amended by chapter 320 of the laws of 2006, are amended to read as follows:

1. (a) Except as provided in section eighteen hundred nine of the vehicle and traffic law and section 27.12 of the parks, recreation and historic preservation law, whenever proceedings in an administrative tribunal or a court of this state result in a conviction for a felony, a misdemeanor, or a violation, as these terms are defined in section 10.00 of this chapter, there shall be levied at sentencing a mandatory surcharge, sex offender registration fee, DNA databank fee [~~and~~]**,** a crime victim assistance fee**, and a stolen valor fee** in addition to any

sentence required or permitted by law, in accordance with the following schedule:

(i) a person convicted of a felony shall pay a mandatory surcharge of three hundred dollars and a crime victim assistance fee of twenty-five dollars;

(ii) a person convicted of a misdemeanor shall pay a mandatory surcharge of one hundred seventy-five dollars and a crime victim assistance fee of twenty-five dollars;

(iii) a person convicted of a violation shall pay a mandatory surcharge of ninety-five dollars and a crime victim assistance fee of twenty-five dollars;

(iv) a person convicted of a sex offense as defined by subdivision two of section one hundred sixty-eight-a of the correction law or a sexually violent offense as defined by subdivision three of section one hundred sixty-eight-a of the correction law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a sex offender registration fee of fifty dollars[~~.~~]**;**

(v) a person convicted of a designated offense as defined by subdivision seven of section nine hundred ninety-five of the executive law shall, in addition to a mandatory surcharge and crime victim assistance fee, pay a DNA databank fee of fifty dollars[~~.~~]**;**

(vi) a person convicted of any offense pursuant to subdivision six or seven of section 190.25 of this chapter shall, in addition to a mandatory surcharge and crime victim assistance fee, pay any other fee required by this article, and pay a stolen valor fee in the amount of two hundred fifty dollars.

(b) When the felony or misdemeanor conviction in subparagraphs (i), (ii) or (iv) of paragraph (a) of this subdivision results from an offense contained in article one hundred thirty of this chapter, incest in the third, second or first degree as defined in sections 255.25, 255.26 and 255.27 of this chapter or an offense contained in article two hundred sixty-three of this chapter, the person convicted shall pay a supplemental sex offender victim fee of one thousand dollars in addition to the mandatory surcharge and any other fee.

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 **or a stolen valor 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 [~~or~~]**,** supplemental sex offender victim fee**, or a stolen valor 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, [~~and~~] supplemental sex offender victim fee**, and stolen valor 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**, and stolen valor 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. 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. **Notwithstanding any other provision of this subdivision, all monies paid to the state comptroller or to the commissioner of taxation and finance which are attributable to monies collected for the stolen valor fee shall be credited to the veterans remembrance and cemetery maintenance and operation fund established pursuant to section ninety-seven-mmmm of the state finance law.**

§ 4. This act shall take effect immediately.