

STATE OF NEW YORK

1818--A

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

AN ACT to amend the penal law, in relation to creating the crime of stolen valor

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

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

3 23. "Member of the military or reserves" means (a) a member of the
4 United States army, navy, air force, marines, coast guard, army national
5 guard, air national guard and/or reserves thereof or (b) a member of the
6 New York guard or the New York naval militia.

7 24. "Veteran" means a person who was a member of the military or
8 reserves as defined in subdivision twenty-three of this section, but who
9 has since been discharged from such services.

10 25. "First responder" means a firefighter, law enforcement officer,
11 paramedic, emergency medical technician, emergency services dispatcher,
12 or other individual, including an employee of a legally organized and
13 recognized volunteer organization, whether compensated or not, who, in
14 the course of his or her professional duties, responds to fire, medical,
15 hazardous material, or other similar emergencies.

16 26. "First responder agency" means a state or local district, munici-
17 pality, or other political subdivision that employs a first responder,
18 to provide fire protection, paramedic services, law enforcement, emer-
19 gency services, or rescue or recovery services, or a recognized volun-
20 teer organization that provides fire protection, paramedic services, law
21 enforcement, emergency services, or rescue or recovery services.

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

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1 § 2. The penal law is amended by adding a new section 190.28 to read
2 as follows:

3 § 190.28 Stolen valor.

4 A person is guilty of stolen valor when he or she pretends to be a
5 member of the military or reserves as defined by subdivision twenty-
6 three of section 10.00 of this chapter, or pretends to be a veteran as
7 defined by subdivision twenty-four of section 10.00 of this chapter, or
8 pretends to be a first responder as defined by subdivision twenty-five
9 of section 10.00 of this chapter, or wears or displays without authori-
10 ty, any uniform, badge or other insignia or facsimile thereof, by which
11 such member of the military, veteran or first responder is lawfully
12 distinguished or expresses by his or her words or actions that he or she
13 is acting with the approval or authority of any department of defense
14 branch, the United States Coast Guard or first responder agency for the
15 purpose of fraudulently obtaining money or other benefits.

16 Stolen valor is a class A misdemeanor.

17 § 3. Subdivisions 1, 2 and 3 of section 60.35 of the penal law, as
18 amended by section 1 of part E of chapter 56 of the laws of 2004,
19 subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 1 as
20 amended by section 1 of part DD of chapter 56 of the laws of 2008 and
21 paragraph (b) of subdivision 1 as amended by chapter 320 of the laws of
22 2006, are amended to read as follows:

23 1. (a) Except as provided in section eighteen hundred nine of the
24 vehicle and traffic law and section 27.12 of the parks, recreation and
25 historic preservation law, whenever proceedings in an administrative
26 tribunal or a court of this state result in a conviction for a felony, a
27 misdemeanor, or a violation, as these terms are defined in section 10.00
28 of this chapter, there shall be levied at sentencing a mandatory
29 surcharge, sex offender registration fee, DNA databank fee [~~and~~], a
30 crime victim assistance fee, and a stolen valor fee in addition to any
31 sentence required or permitted by law, in accordance with the following
32 schedule:

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

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

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

42 (iv) a person convicted of a sex offense as defined by subdivision two
43 of section one hundred sixty-eight-a of the correction law or a sexually
44 violent offense as defined by subdivision three of section one hundred
45 sixty-eight-a of the correction law shall, in addition to a mandatory
46 surcharge and crime victim assistance fee, pay a sex offender registra-
47 tion fee of fifty dollars[~~+~~];

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

52 (vi) a person convicted of any offense pursuant to section 190.28 of
53 this chapter shall, in addition to a mandatory surcharge and crime
54 victim assistance fee, pay any other fee required by this article, and
55 pay a stolen valor fee in the amount of two hundred fifty dollars.

1 (b) When the felony or misdemeanor conviction in subparagraphs (i),
2 (ii) or (iv) of paragraph (a) of this subdivision results from an
3 offense contained in article one hundred thirty of this chapter, incest
4 in the third, second or first degree as defined in sections 255.25,
5 255.26 and 255.27 of this chapter or an offense contained in article two
6 hundred sixty-three of this chapter, the person convicted shall pay a
7 supplemental sex offender victim fee of one thousand dollars in addition
8 to the mandatory surcharge and any other fee.

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

31 3. The mandatory surcharge, sex offender registration fee, DNA data-
32 bank fee, crime victim assistance fee, [~~and~~] supplemental sex offender
33 victim fee, and stolen valor fee provided for in subdivision one of this
34 section shall be paid to the clerk of the court or administrative tribu-
35 nal that rendered the conviction. Within the first ten days of the month
36 following collection of the mandatory surcharge, crime victim assistance
37 fee, and supplemental sex offender victim fee, the collecting authority
38 shall determine the amount of mandatory surcharge, crime victim assist-
39 ance fee, [~~and~~] supplemental sex offender victim fee, and stolen valor
40 fee collected and, if it is an administrative tribunal, or a town or
41 village justice court, it shall then pay such money to the state comp-
42 troller who shall deposit such money in the state treasury pursuant to
43 section one hundred twenty-one of the state finance law to the credit of
44 the criminal justice improvement account established by section ninety-
45 seven-bb of the state finance law. Within the first ten days of the
46 month following collection of the sex offender registration fee and DNA
47 databank fee, the collecting authority shall determine the amount of the
48 sex offender registration fee and DNA databank fee collected and, if it
49 is an administrative tribunal, or a town or village justice court, it
50 shall then pay such money to the state comptroller who shall deposit
51 such money in the state treasury pursuant to section one hundred twen-
52 ty-one of the state finance law to the credit of the general fund. If
53 such collecting authority is any other court of the unified court
54 system, it shall, within such period, pay such money attributable to the
55 mandatory surcharge or crime victim assistance fee to the state commis-
56 sioner of taxation and finance to the credit of the criminal justice

1 improvement account established by section ninety-seven-bb of the state
2 finance law. If such collecting authority is any other court of the
3 unified court system, it shall, within such period, pay such money
4 attributable to the sex offender registration fee and the DNA databank
5 fee to the state commissioner of taxation and finance to the credit of
6 the general fund. Notwithstanding any other provision of this subdivi-
7 sion, all monies paid to the state comptroller or to the commissioner of
8 taxation and finance which are attributable to monies collected for the
9 stolen valor fee shall be credited to the veterans remembrance and ceme-
10 tery maintenance and operation fund established pursuant to section
11 ninety-seven-mmmmm of the state finance law.
12 § 4. This act shall take effect immediately.