

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.

LBD00836-07-4

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

6 27. "First responder agency" means a state or local district, munici-
7 pality, or other political subdivision or volunteer organization for
8 which a first responder provides fire protection, paramedic services,
9 law enforcement, emergency services, or rescue or recovery services.

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

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

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

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

42 § 3. Subdivisions 1, 2 and 3 of section 60.35 of the penal law, as
43 amended by section 1 of part E of chapter 56 of the laws of 2004,
44 subparagraphs (i), (ii) and (iii) of paragraph (a) of subdivision 1 as
45 amended by section 1 of part DD of chapter 56 of the laws of 2008 and
46 paragraph (b) of subdivision 1 as amended by chapter 320 of the laws of
47 2006, are amended to read as follows:

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

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

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

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

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

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

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

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

27 (b) When the felony or misdemeanor conviction in subparagraphs (i),
28 (ii) or (iv) of paragraph (a) of this subdivision results from an
29 offense contained in article one hundred thirty of this chapter, incest
30 in the third, second or first degree as defined in sections 255.25,
31 255.26 and 255.27 of this chapter or an offense contained in article two
32 hundred sixty-three of this chapter, the person convicted shall pay a
33 supplemental sex offender victim fee of one thousand dollars in addition
34 to the mandatory surcharge and any other fee.

35 2. Where a person is convicted of two or more crimes or violations
36 committed through a single act or omission, or through an act or omis-
37 sion which in itself constituted one of the crimes or violations and
38 also was a material element of the other, the court shall impose a
39 mandatory surcharge and a crime victim assistance fee, and where appro-
40 priate a supplemental sex offender victim fee or a stolen valor fee, in
41 accordance with the provisions of this section for the crime or
42 violation which carries the highest classification, and no other
43 sentence to pay a mandatory surcharge, crime victim assistance fee [~~or~~],
44 supplemental sex offender victim fee, or a stolen valor fee required by
45 this section shall be imposed. Where a person is convicted of two or
46 more sex offenses or sexually violent offenses, as defined by subdivi-
47 sions two and three of section one hundred sixty-eight-a of the
48 correction law, committed through a single act or omission, or through
49 an act or omission which in itself constituted one of the offenses and
50 also was a material element of the other, the court shall impose only
51 one sex offender registration fee. Where a person is convicted of two or
52 more designated offenses, as defined by subdivision seven of section
53 nine hundred ninety-five of the executive law, committed through a
54 single act or omission, or through an act or omission which in itself
55 constituted one of the offenses and also was a material element of the
56 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.