

STATE OF NEW YORK

9154

IN SENATE

May 1, 2024

Introduced by Sen. SKOUFIS -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

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:

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

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

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

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

26. "First responder agency" means a state or local district, municipality, or other political subdivision that employs a first responder, to provide fire protection, paramedic services, law enforcement, emergency services, or rescue or recovery services, or a recognized volunteer organization that provides fire protection, paramedic services, law enforcement, emergency services, or rescue or recovery services.

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

§ 190.28 Stolen valor.

A person is guilty of stolen valor when he or she pretends to be a member of the military or reserves as defined by subdivision twenty-three of section 10.00 of this chapter, or pretends to be a veteran as defined by subdivision twenty-four of section 10.00 of this chapter, or

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

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pretends to be a first responder as defined by subdivision twenty-five of section 10.00 of this chapter, or wears or displays without authority, any uniform, badge or other insignia or facsimile thereof, or holds oneself out to be a recipient of a decoration or medal created by federal or state laws and regulations to honor the members or veterans of the United States Armed Forces or the organized militia or first responders by which such member of the military, veteran or first responder is lawfully distinguished or expresses by his or her words or actions that he or she is acting with the approval or authority of any department of defense branch, the United States Coast Guard or first responder agency for the purpose of fraudulently obtaining money or other benefits.

Stolen valor is a class A misdemeanor.

§ 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 section 190.28 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

1 hundred sixty-three of this chapter, the person convicted shall pay a
2 supplemental sex offender victim fee of one thousand dollars in addition
3 to the mandatory surcharge and any other fee.

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

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

1 the general fund. Notwithstanding any other provision of this subdivi-
2 sion, all monies paid to the state comptroller or to the commissioner of
3 taxation and finance which are attributable to monies collected for the
4 stolen valor fee shall be credited to the veterans remembrance and ceme-
5 tery maintenance and operation fund established pursuant to section
6 ninety-seven-mmmmm of the state finance law.

7 § 4. This act shall take effect immediately.