

**A RESOLUTION TO BE SUBMITTED BY
LEGISLATORS HARDWICK, MILLS and DIXON**

Re: Supporting New York State Senate Bills S. 3900 and S. 3901 and Assembly Bills A. 6617 and A. 6285, regulating protests at funerals

WHEREAS, protestors have recently demonstrated at funerals of deceased military members, protesting military policies made by the Congress and President of the United States; and

WHEREAS, these protests are extremely hurtful to mourners and have the potential to create confrontational and violent situations; and

WHEREAS, such confrontational situations are a public safety hazard; and

WHEREAS, New York State Senate Bill S. 3901 and Assembly Bill A. 6295 establish regulations for protests at military funerals; and

WHEREAS, these regulations recognize free speech rights but also takes steps, including a buffer zone, in order to address public safety concerns; and

WHEREAS, New York State Senate Bill S. 3900 and Assembly Bill A. 6617 direct that the public be informed regarding regulations for protesting at military funerals, as well as amend New York State Penal Law §240.70, Criminal interference with health care services or religious worship in the second degree, and §240.71, Criminal interference with health care services or religious worship in the first degree, to include funeral services; and

WHEREAS, implementing these laws would allow protesters freedom of speech and permit families to mourn the loss of a loved one without unreasonable proximate hostility.

NOW, THEREFORE, BE IT

RESOLVED, that the Erie County Legislature goes on record in support of New York State Senate Bills S. 3900 and S. 3901 and Assembly Bills A. 6617 and A. 6285, regulating protests at funerals; and be it further

RESOLVED, that a certified copy of this resolution be forwarded to Governor Andrew Cuomo, Senate Majority Leader Dean Skelos, Assembly Speaker Sheldon Silver and the local delegation to the New York State Legislature.

Fiscal Impact: None



Friday, April 8, 2011

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

Bill No.: S. 3900

 [Summary](#) [Actions](#) [Votes](#) [Memo](#) [Text](#)**S. 3900 Summary:**

BILL NO S03900

SAME AS Same as A 6617

SPONSOR GRIFFO

COSPNSR ZELDIN, BALL, SKELOS, ALESI, AVELLA, BONACIC, DEFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRISANTI, HANNON, JOHNSON, KLEIN, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MCDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG

MLTSPNSR

Add S255, Mil L; amd SS240.70 & 240.71, Pen L

Creates the crimes of criminal interference with a funeral service in the first and second degrees; provides that criminal interference in the first degree be a class E felony and in the second degree to be a class A misdemeanor.

[Go to top](#)**S. 3900 Text:**

STATE OF NEW YORK

3900

2011-2012 Regular Sessions

IN SENATE

March 9, 2011

Introduced by Sens. GRIFFO, ZELDIN, BALL, SKELOS, ALESI, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO,

MARTINS, MAZIARZ, McDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG -- read twice and ordered printed, and when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the military law and the penal law, in relation to criminal interference with funeral services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The military law is amended by adding a new section 255 to
2 read as follows:

3 S 255. PROTESTS AT MILITARY FUNERALS. 1. LEGISLATIVE INTENT. THE
4 LEGISLATURE FINDS AND DETERMINES THAT CERTAIN INDIVIDUALS AND GROUPS
5 HAVE BEEN DISRUPTING THE FUNERALS OF MILITARY PERSONNEL WHO DIED WHILE
6 SERVING IN THE ACTIVE MILITARY SERVICE OF THE UNITED STATES OR THE FORCE
7 OF THE ORGANIZED MILITIA.

8 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT ALTHOUGH IT IS
9 IMPORTANT FOR OUR STATE'S CITIZENS TO BE ABLE TO EXERCISE THEIR CONSTI-
10 TUTIONALLY PROTECTED RIGHT TO FREE SPEECH, THERE IS ALSO A COMPELLING
11 STATE INTEREST IN PRESERVING AND PROTECTING THE FAMILIES AND FRIENDS OF
12 SUCH DECEASED MILITARY PERSONNEL, ESPECIALLY AT SUCH A SOLEMN TIME AS
13 THE DECEASED MILITARY PERSONNEL'S FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL
14 OR PROCESSION TO OR FROM THE SAME.

15 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ORDER TO BALANCE
16 THE CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH, AND THE COMPELLING
17 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
18 FRIENDS OF DECEASED MILITARY PERSONNEL, THE STATE POLICE POWERS, AND
19 THOSE OF ITS LOCALITIES, MAY BE EMPLOYED TO PROVIDE SUFFICIENT
20 PROTECTION OF THE FAMILIES AND FRIENDS OF SUCH DECEASED MILITARY PERSON-

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

LBD05144-04-1

S. 3900

2

1 NEL, AT SUCH A SOLEMN TIME AS THE DECEASED MILITARY PERSONNEL'S FUNERAL,
2 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME.

3 2. THE DIVISION OF MILITARY AND NAVAL AFFAIRS SHALL PROVIDE AND MAKE
4 AVAILABLE AN INFORMATIONAL GUIDE WHICH SHALL DETAIL THE PUBLIC
5 PROTECTIONS AND PROTEST RESTRICTIONS CONCERNING THE FUNERAL, MEMORIAL
6 SERVICE, WAKE, BURIAL, OR PROCESSION TO OR FROM THE SAME OF A DECEASED
7 MILITARY PERSONNEL MEMBER.

8 S 2. The section heading, subdivision 1 and the closing paragraph of
9 section 240.70 of the penal law, as added by chapter 635 of the laws of
10 1999, are amended to read as follows:

11 Criminal interference with health care services, FUNERAL SERVICES, or
12 religious worship in the second degree.

13 1. A person is guilty of criminal interference with health services,
14 FUNERAL SERVICES, or religious worship in the second degree when:

15 (a) by force or threat of force or by physical obstruction, he or she
16 intentionally injures, intimidates or interferes with, or attempts to
17 injure, intimidate or interfere with, another person because such other
18 person was or is obtaining or providing reproductive health services; or

19 (b) by force or threat of force or by physical obstruction, he or she
20 intentionally injures, intimidates or interferes with, or attempts to
21 injure, intimidate or interfere with, another person in order to
22 discourage such other person or any other person or persons from obtain-

23 ing or providing reproductive health services; or
 24 (c) by force or threat of force or by physical obstruction, he or she
 25 intentionally injures, intimidates or interferes with, or attempts to
 26 injure, intimidate or interfere with, another person because such person
 27 was or is seeking to exercise the right of religious freedom at a place
 28 of religious worship; or
 29 (d) he or she intentionally damages the property of a health care
 30 facility, or attempts to do so, because such facility provides reproduc-
 31 tive health services, or intentionally damages the property of a place
 32 of religious worship; OR
 33 (E) WITH INTENT TO PREVENT OR DISRUPT A FUNERAL OR BURIAL, FUNERAL
 34 HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNERAL OR
 35 MEMORIAL SERVICE FOR A DECEASED PERSON, WHEN HE OR SHE:
 36 (I) BLOCKS, IMPEDES, INHIBITS, OR IN ANY OTHER MANNER OBSTRUCTS OR
 37 INTERFERES WITH ACCESS INTO OR FROM ANY BUILDING OR PARKING LOT OF A
 38 BUILDING IN WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING
 39 CONDUCTED, OR ANY BURIAL PLOT OR THE PARKING LOT OF THE CEMETERY IN
 40 WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING CONDUCTED;
 41 OR
 42 (II) CONGREGATES, PICKETS OR DEMONSTRATES WITHIN FIVE HUNDRED FEET OF
 43 AN EVENT SPECIFIED IN THIS SUBDIVISION; OR
 44 (III) WITHOUT AUTHORIZATION FROM THE FAMILY OF THE DECEASED OR PERSON
 45 CONDUCTING THE SERVICE, DURING A FUNERAL, WAKE, MEMORIAL SERVICE, OR
 46 BURIAL:
 47 (1) SINGS, CHANTS, WHISTLES, SHOUTS, YELLS, OR USES A BULLHORN, AUTO
 48 HORN, SOUND AMPLIFICATION EQUIPMENT, OR OTHER SOUNDS OR IMAGES OBSERVA-
 49 BLE TO OR WITHIN EARSHOT OF PARTICIPANTS IN THE FUNERAL, WAKE, MEMORIAL
 50 SERVICE, OR BURIAL; OR
 51 (2) DOES OR MAKES ANY UTTERANCE, GESTURE, OR DISPLAY DESIGNED TO
 52 OUTRAGE THE SENSIBILITIES OF THE GROUP ATTENDING THE FUNERAL OR BURIAL,
 53 FUNERAL HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNER-
 54 AL OR MEMORIAL SERVICE FOR A DECEASED PERSON; OR
 55 (3) DISTRIBUTES LITERATURE OR ANY OTHER ITEM.
 S. 3900 3

1 Criminal interference with health care services, FUNERAL SERVICES, or
 2 religious worship in the second degree is a class A misdemeanor.
 3 S 3. Section 240.71 of the penal law, as amended by chapter 493 of the
 4 laws of 2009, is amended to read as follows:
 5 S 240.71 Criminal interference with health care services, FUNERAL
 6 SERVICES or religious worship in the first degree.
 7 A person is guilty of criminal interference with health care services,
 8 FUNERAL SERVICES or religious worship in the first degree when he or she
 9 commits the crime of criminal interference with health care services or
 10 religious worship in the second degree and has been previously convicted
 11 of the crime of criminal interference with health care services, FUNERAL
 12 SERVICES or religious worship in the first or second degree or aggra-
 13 vated interference with health care services in the first or second
 14 degree.
 15 Criminal interference with health care services, FUNERAL SERVICES or
 16 religious worship in the first degree is a class E felony.
 17 S 4. This act shall take effect immediately.

[Go to top](#)

Contact Webmaster
 Page display time = 0.0202 sec



Friday, April 8, 2011

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

Bill No.: A. 6617

 [Summary](#) [Actions](#) [Votes](#) [Memo](#) [Text](#)**A. 6617 Summary:**

BILL NO A06617

SAME AS Same as S 3900

SPONSOR Roberts

COSPNSR Jeffries, Benedetto, Miller M, Maisel, Schimel, Stevenson, Reilly,
Weisenberg, Spano, Weprin, CookMLTSPNSR Abbate, Boyle, Calhoun, Camara, Castelli, Ceretto, Crouch, Duprey,
Galef, Gibson, Gunther, Hikind, Katz, Miller J, Montesano, Pheffer,
Raia, Reilich, Sayward, Thiele, Towns

Add S255, Mil L; amd SS240.70 & 240.71, Pen L

Creates the crimes of criminal interference with a funeral service in the first and second degrees; provides that criminal interference in the first degree be a class E felony and in the second degree to be a class A misdemeanor.

[Go to top](#)**A. 6617 Text:**

S T A T E O F N E W Y O R K

6617

2011-2012 Regular Sessions

I N A S S E M B L Y

March 23, 2011

Introduced by M. of A. ROBERTS -- read once and referred to the Committee on Codes.

AN ACT to amend the military law and the penal law, in relation to crim-

inal interference with funeral services

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The military law is amended by adding a new section 255 to
2 read as follows:

3 S 255. PROTESTS AT MILITARY FUNERALS. 1. LEGISLATIVE INTENT. THE
4 LEGISLATURE FINDS AND DETERMINES THAT CERTAIN INDIVIDUALS AND GROUPS
5 HAVE BEEN DISRUPTING THE FUNERALS OF MILITARY PERSONNEL WHO DIED WHILE
6 SERVING IN THE ACTIVE MILITARY SERVICE OF THE UNITED STATES OR THE FORCE
7 OF THE ORGANIZED MILITIA.

8 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT ALTHOUGH IT IS
9 IMPORTANT FOR OUR STATE'S CITIZENS TO BE ABLE TO EXERCISE THEIR CONSTI-
10 TUTIONALLY PROTECTED RIGHT TO FREE SPEECH, THERE IS ALSO A COMPELLING
11 STATE INTEREST IN PRESERVING AND PROTECTING THE FAMILIES AND FRIENDS OF
12 SUCH DECEASED MILITARY PERSONNEL, ESPECIALLY AT SUCH A SOLEMN TIME AS
13 THE DECEASED MILITARY PERSONNEL'S FUNERAL, MEMORIAL SERVICE, WAKE, BURI-
14 AL OR PROCESSION TO OR FROM THE SAME.

15 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ORDER TO BALANCE
16 THE CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH, AND THE COMPELLING
17 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
18 FRIENDS OF DECEASED MILITARY PERSONNEL, THE STATE POLICE POWERS, AND
19 THOSE OF ITS LOCALITIES, MAY BE EMPLOYED TO PROVIDE SUFFICIENT
20 PROTECTION OF THE FAMILIES AND FRIENDS OF SUCH DECEASED MILITARY PERSON-
21 NEL, AT SUCH A SOLEMN TIME AS THE DECEASED MILITARY PERSONNEL'S FUNERAL,
22 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME.

23 2. THE DIVISION OF MILITARY AND NAVAL AFFAIRS SHALL PROVIDE AND MAKE
24 AVAILABLE AN INFORMATIONAL GUIDE WHICH SHALL DETAIL THE PUBLIC
25 PROTECTIONS AND PROTEST RESTRICTIONS CONCERNING THE FUNERAL, MEMORIAL

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

LBD05144-04-1

A. 6617

2

1 SERVICE, WAKE, BURIAL, OR PROCESSION TO OR FROM THE SAME OF A DECEASED
2 MILITARY PERSONNEL MEMBER.

3 S 2. The section heading, subdivision 1 and the closing paragraph of
4 section 240.70 of the penal law, as added by chapter 635 of the laws of
5 1999, are amended to read as follows:

6 Criminal interference with health care services, FUNERAL SERVICES, or
7 religious worship in the second degree.

8 1. A person is guilty of criminal interference with health services,
9 FUNERAL SERVICES, or religious worship in the second degree when:

10 (a) by force or threat of force or by physical obstruction, he or she
11 intentionally injures, intimidates or interferes with, or attempts to
12 injure, intimidate or interfere with, another person because such other
13 person was or is obtaining or providing reproductive health services; or

14 (b) by force or threat of force or by physical obstruction, he or she
15 intentionally injures, intimidates or interferes with, or attempts to
16 injure, intimidate or interfere with, another person in order to
17 discourage such other person or any other person or persons from obtain-
18 ing or providing reproductive health services; or

19 (c) by force or threat of force or by physical obstruction, he or she
20 intentionally injures, intimidates or interferes with, or attempts to
21 injure, intimidate or interfere with, another person because such person
22 was or is seeking to exercise the right of religious freedom at a place
23 of religious worship; or

24 (d) he or she intentionally damages the property of a health care
 25 facility, or attempts to do so, because such facility provides reproduc-
 26 tive health services, or intentionally damages the property of a place
 27 of religious worship; OR

28 (E) WITH INTENT TO PREVENT OR DISRUPT A FUNERAL OR BURIAL, FUNERAL
 29 HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNERAL OR
 30 MEMORIAL SERVICE FOR A DECEASED PERSON, WHEN HE OR SHE:

31 (I) BLOCKS, IMPEDES, INHIBITS, OR IN ANY OTHER MANNER OBSTRUCTS OR
 32 INTERFERES WITH ACCESS INTO OR FROM ANY BUILDING OR PARKING LOT OF A
 33 BUILDING IN WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING
 34 CONDUCTED, OR ANY BURIAL PLOT OR THE PARKING LOT OF THE CEMETERY IN
 35 WHICH A FUNERAL, WAKE, MEMORIAL SERVICE, OR BURIAL IS BEING CONDUCTED;
 36 OR

37 (II) CONGREGATES, PICKETS OR DEMONSTRATES WITHIN FIVE HUNDRED FEET OF
 38 AN EVENT SPECIFIED IN THIS SUBDIVISION; OR

39 (III) WITHOUT AUTHORIZATION FROM THE FAMILY OF THE DECEASED OR PERSON
 40 CONDUCTING THE SERVICE, DURING A FUNERAL, WAKE, MEMORIAL SERVICE, OR
 41 BURIAL:

42 (1) SINGS, CHANTS, WHISTLES, SHOUTS, YELLS, OR USES A BULLHORN, AUTO
 43 HORN, SOUND AMPLIFICATION EQUIPMENT, OR OTHER SOUNDS OR IMAGES OBSERVA-
 44 BLE TO OR WITHIN EARSHOT OF PARTICIPANTS IN THE FUNERAL, WAKE, MEMORIAL
 45 SERVICE, OR BURIAL; OR

46 (2) DOES OR MAKES ANY UTTERANCE, GESTURE, OR DISPLAY DESIGNED TO
 47 OUTRAGE THE SENSIBILITIES OF THE GROUP ATTENDING THE FUNERAL OR BURIAL,
 48 FUNERAL HOME VIEWING OF A DECEASED PERSON, FUNERAL PROCESSION, OR FUNER-
 49 AL OR MEMORIAL SERVICE FOR A DECEASED PERSON; OR

50 (3) DISTRIBUTES LITERATURE OR ANY OTHER ITEM.

51 Criminal interference with health care services, FUNERAL SERVICES, or
 52 religious worship in the second degree is a class A misdemeanor.

53 S 3. Section 240.71 of the penal law, as amended by chapter 493 of the
 54 laws of 2009, is amended to read as follows:

55 S 240.71 Criminal interference with health care services, FUNERAL
 56 SERVICES or religious worship in the first degree.

A. 6617

3

1 A person is guilty of criminal interference with health care services,
 2 FUNERAL SERVICES or religious worship in the first degree when he or she
 3 commits the crime of criminal interference with health care services or
 4 religious worship in the second degree and has been previously convicted
 5 of the crime of criminal interference with health care services, FUNERAL
 6 SERVICES or religious worship in the first or second degree or aggra-
 7 vated interference with health care services in the first or second
 8 degree.

9 Criminal interference with health care services, FUNERAL SERVICES or
 10 religious worship in the first degree is a class E felony.

11 S 4. This act shall take effect immediately.

[Go to top](#)

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Page display time = 0.0207 sec



Friday, April 8, 2011

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

Bill No.: S. 3901



Summary



Actions



Votes



Memo



Text

S. 3901 Summary:

BILL NO S03901

SAME AS Same as A 6285

SPONSOR ZELDIN

COSPNSR GRIFFO, BALL, SKELOS, ADDABBO, ALESI, AVELLA, BONACIC, DEFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRISANTI, HANNON, JOHNSON, KLEIN, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MCDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG

MLTSPNSR

Add S255, Mil L

Regulates protests at funerals of deceased military members.

[Go to top](#)**S. 3901 Text:**

S T A T E O F N E W Y O R K

3901

2011-2012 Regular Sessions

I N S E N A T E

March 9, 2011

Introduced by Sens. ZELDIN, GRIFFO, BALL, SKELOS, ALESI, BONACIC, DeFRANCISCO, FARLEY, FLANAGAN, FUSCHILLO, GALLIVAN, GOLDEN, GRISANTI, HANNON, JOHNSON, LANZA, LARKIN, LAVALLE, LIBOUS, LITTLE, MARCELLINO, MARTINS, MAZIARZ, MCDONALD, NOZZOLIO, O'MARA, RANZENHOFER, RITCHIE, ROBACH, SALAND, SEWARD, YOUNG -- read twice and ordered printed, and

when printed to be committed to the Committee on Veterans, Homeland Security and Military Affairs

AN ACT to amend the military law, in relation to the regulation of protests at military funerals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The military law is amended by adding a new section 255 to
2 read as follows:

3 S 255. REGULATION OF PROTESTS AT MILITARY FUNERALS. 1. LEGISLATIVE
4 INTENT. THE LEGISLATURE FINDS AND DETERMINES THAT ALTHOUGH IT IS IMPOR-
5 TANT FOR OUR STATE'S CITIZENS TO BE ABLE TO EXERCISE THEIR CONSTITU-
6 TIONALLY PROTECTED RIGHT TO FREE SPEECH, THERE IS ALSO A COMPELLING
7 STATE INTEREST IN PRESERVING AND PROTECTING THE FAMILIES AND FRIENDS OF
8 DECEASED MILITARY PERSONNEL, ESPECIALLY AT SUCH A SOLEMN TIME AS THE
9 DECEASED MILITARY PERSONNEL'S FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR
10 PROCESSION TO OR FROM THE SAME.

11 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ORDER TO BALANCE
12 THE CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH, AND THE COMPELLING
13 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
14 FRIENDS OF DECEASED MILITARY PERSONNEL, THE STATE POLICE POWERS, AND
15 THOSE OF ITS LOCALITIES, MAY BE EMPLOYED TO PROVIDE SUFFICIENT
16 PROTECTION OF THE FAMILIES AND FRIENDS OF SUCH DECEASED MILITARY PERSON-
17 NEL, AT SUCH A SOLEMN TIME AS THE DECEASED MILITARY PERSONNEL'S FUNERAL,
18 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME.

19 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ADDITION TO ANY
20 STATE PROHIBITION WHICH MAY BE IMPOSED UNDER THE PENAL LAW, WITH RESPECT

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

LBD10109-02-1

S. 3901

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1 TO THE EXERCISE OF FREE SPEECH WITHIN A CERTAIN DISTANCE FROM A FUNERAL,
2 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME, THAT
3 THERE IS ALSO A COMPELLING STATE INTEREST IN PROVIDING FOR A SAFETY AND
4 PROTECTION BUFFER ZONE, WITHIN WHICH THE EXPRESSION OF SUCH FREE SPEECH
5 RIGHTS MAY ONLY BE EXERCISED, PURSUANT TO A CONTROLLED, REGULATED,
6 PERMITTED SYSTEM, IN ORDER THAT THE PUBLIC PEACE AND SAFETY OF THE MOUR-
7 NERS, PROTESTERS, AND THE GENERAL PUBLIC CAN BE EFFECTIVELY MAINTAINED.

8 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IT IS THE INTENT OF
9 THIS LEGISLATION TO PROVIDE FOR THE STANDARDS OF SUCH SAFETY AND
10 PROTECTION BUFFER ZONES, AND THAT IN SO DOING, SEEKS TO ESTABLISH THE
11 REQUIRED BALANCE BETWEEN THE ABILITY OF OUR STATE'S CITIZENS TO EXERCISE
12 THEIR CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH AND THE COMPELLING
13 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
14 FRIENDS OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE
15 UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA.

16 2. MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM. ANY CITY, TOWN,
17 VILLAGE OR COUNTY, MAY, BY LOCAL LAW, ESTABLISH A MILITARY FUNERAL BUFF-
18 ER ZONE PUBLIC SAFETY PROGRAM. SUCH PROGRAM SHALL REQUIRE THAT ANY
19 CITIZEN OR GROUP THAT CONDUCTS A PROTEST WITHIN TWO THOUSAND FIVE
20 HUNDRED FEET OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION
21 OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE UNITED STATES
22 OR THE FORCE OF THE ORGANIZED MILITIA, MAY DO SO ONLY AFTER FIRST
23 OBTAINING A PERMIT FROM THE NEW YORK STATE DIVISION OF MILITARY AND
24 NAVAL AFFAIRS (HEREINAFTER "DIVISION"). UPON THE ISSUANCE OF A PERMIT

25 UNDER THIS SUBDIVISION TO CONDUCT SUCH A PROTEST IN A LOCALITY, THE
26 DIVISION, IN ADDITION TO WHATEVER REQUIREMENTS IT SHALL ESTABLISH BY
27 REGULATION, SHALL REQUIRE THAT:

28 A. THE CITIZEN OR GROUP FILE AN APPLICATION FOR A PERMIT TO CONDUCT A
29 PROTEST IN THE VICINITY OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR
30 PROCESSION OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE
31 UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA, WITH THE DIVISION,
32 IN THE MANNER AND FORM AS MAY BE REQUIRED BY THE DIVISION PURSUANT TO
33 REGULATION, NOT LESS THAN SEVEN BUSINESS DAYS PRIOR TO THE DATE OF THE
34 PROTEST;

35 B. THE CITIZEN OR GROUP FILING SUCH APPLICATION, SHALL AT THE TIME OF
36 THE FILING OF SUCH APPLICATION, ALSO POST A PUBLIC SECURITY BOND WITH
37 THE DIVISION, IN THE MANNER AND FORM AS MAY BE REQUIRED BY THE DIVISION
38 PURSUANT TO REGULATION, IN THE AMOUNT AS FOLLOWS:

39 (I) FOR A PROTEST WITH ONE TO FIVE PERSONS, FIVE THOUSAND DOLLARS;

40 (II) FOR A PROTEST WITH SIX TO TEN PERSONS, SEVEN THOUSAND FIVE
41 HUNDRED DOLLARS;

42 (III) FOR A PROTEST WITH ELEVEN TO TWENTY-FIVE PERSONS, TEN THOUSAND
43 DOLLARS;

44 (IV) FOR A PROTEST WITH TWENTY-SIX TO FIFTY PERSONS, FIFTEEN THOUSAND
45 DOLLARS;

46 (V) FOR A PROTEST WITH FIFTY-ONE TO SEVENTY-FIVE PERSONS, TWENTY THOU-
47 SAND DOLLARS;

48 (VI) FOR A PROTEST WITH SEVENTY-FIVE TO ONE HUNDRED PERSONS,
49 TWENTY-FIVE THOUSAND DOLLARS; AND

50 (VII) FOR A PROTEST WITH OVER ONE HUNDRED PERSONS, TWENTY-FIVE THOU-
51 SAND DOLLARS PLUS AN ADDITIONAL AMOUNT PER PROTESTOR AS SHALL BE ESTAB-
52 LISHED PURSUANT TO REGULATION BY THE DIVISION;

53 C. WITHIN THREE BUSINESS DAYS OF THE FILING OF AN APPLICATION PURSUANT
54 TO PARAGRAPH A OF THIS SUBDIVISION, TOGETHER WITH THE POSTING OF THE
55 REQUIRED SECURITY BOND PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, THE
56 DIVISION SHALL REVIEW SUCH APPLICATION AND SECURITY BOND, AND IF SUCH
S. 3901

3

1 APPLICATION AND BOND SATISFY ALL THE REQUIREMENTS OF THIS SECTION, AS
2 WELL AS ALL THE REQUIREMENTS THAT THE DIVISION MAY FURTHER IMPOSE BY
3 REGULATION, THEN THE DIVISION SHALL ISSUE TO THE APPLICANT, A PERMIT TO
4 CONDUCT SUCH PROTEST, AND SUCH PERMIT SHALL EXPRESSLY, AND IN DETAIL,
5 SET FORTH THE TIME, PLACE AND MANNER OF RESTRICTIONS OF THE PROTEST AS
6 ALLOWABLE BY LAW;

7 D. UPON ISSUING A PERMIT TO CONDUCT A PROTEST UNDER THIS SECTION, THE
8 DIVISION SHALL ALSO TRANSMIT A COPY OF THE PERMIT, TOGETHER WITH THE
9 APPLICATION FOR THE SAME, TO THE LOCALITY IN WHICH THE APPLICANT SEEKS
10 TO CONDUCT THE PROTEST;

11 E. UPON RECEIVING A PERMIT FROM THE DIVISION, AND NOT LESS THAN
12 FORTY-EIGHT HOURS PRIOR TO THE CONDUCT OF THE PROTESTS, THE APPLICANT
13 SHALL ALSO FILE WITH EACH CITY, TOWN, VILLAGE, AND COUNTY, IN WHICH THE
14 PROTEST IS AUTHORIZED TO OCCUR, A COPY OF THE PERMIT ISSUED BY THE DIVI-
15 SION;

16 F. THE PERMIT ISSUED BY THE DIVISION SHALL PROVIDE THAT THE PROTEST,
17 FOR WHICH A PERMIT WAS ISSUED BY THE DIVISION, AND FOR WHICH A SECURITY
18 BOND WAS FILED, SHALL BE CONDUCTED EXCLUSIVELY IN THE MANNER, PLACE AND
19 TIME, AS SPECIFIED AND AUTHORIZED IN THE PERMIT;

20 G. IN NO EVENT SHALL ANY PROTEST EVER BE CONDUCTED, NOR SHALL THE
21 DIVISION EVER ISSUE A PERMIT FOR THE CONDUCT OF ANY PROTEST, WITHIN FIVE
22 HUNDRED FEET OF ANY FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL, OR PROC-
23 ESSION TO OR FROM THE SAME, OF A MEMBER OF THE ACTIVE MILITARY SERVICE
24 OF THE UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA;

25 H. WITHIN THIRTY DAYS OF THE DATE OF THE PROTEST FOR WHICH THE PERMIT

26 WAS ISSUED BY THE DIVISION, THE GOVERNING BODY OF THE LOCALITY IN WHICH
 27 SUCH PROTEST WAS HELD, BY A MAJORITY VOTE OF THE MEMBERS OF SUCH GOVERN-
 28 ING BODY, SHALL MAKE A DETERMINATION AS TO WHETHER SUCH PROTEST COMPLIED
 29 IN ALL RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, AND SHALL THERE-
 30 UPON NOTIFY THE DIVISION OF SUCH DETERMINATION;

31 I. UPON THE NOTIFICATION BY A LOCALITY THAT A PROTEST WAS HELD WHICH
 32 COMPLIED IN ALL RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, THE
 33 DIVISION SHALL, WITHIN THIRTY DAYS, RELEASE AND REFUND THE SECURITY BOND
 34 FILED BACK TO THE APPLICANT, UNLESS REQUIRED TO DO OTHERWISE BY A COURT
 35 OF COMPETENT JURISDICTION;

36 J. IN THE EVENT THAT AN APPLICANT FILES A SECURITY BOND WITH THE DIVI-
 37 SION, AND THEREAFTER FILES A WITHDRAWAL OF THE APPLICATION, DUE EITHER
 38 TO THE FACT THAT THE PROTEST NEVER OCCURRED OR THAT THE APPLICANT NO
 39 LONGER DESIRED TO HOLD A PROTEST, THE DIVISION, UPON FINDING THAT SUCH
 40 APPLICATION FOR WITHDRAWAL IS MERITORIOUS, SHALL, WITHIN THIRTY DAYS,
 41 RELEASE AND REFUND THE SECURITY BOND FILED BACK TO THE APPLICANT, UNLESS
 42 REQUIRED TO DO OTHERWISE BY A COURT OF COMPETENT JURISDICTION;

43 K. IN THE EVENT THAT THE GOVERNING BODY OF THE LOCALITY IN WHICH SUCH
 44 PROTEST WAS HELD MAKES A DETERMINATION, BY A MAJORITY VOTE OF THE
 45 MEMBERS OF SUCH GOVERNING BODY, THAT SUCH PROTEST DID NOT COMPLY IN ALL
 46 RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, THEN THE DIVISION,
 47 PURSUANT TO REGULATIONS, SHALL CONDUCT A HEARING, WHEREUPON IT SHALL
 48 MAKE A DETERMINATION AS TO WHETHER THE APPLICANT SHALL FORFEIT ALL OR
 49 ANY PART OF THE BOND, WITH THE PROCEEDS OF THE BOND BEING AWARDED TO:

50 (I) THE LOCALITY;

51 (II) A PERSON OR PERSONS CONNECTED WITH THE FUNERAL, MEMORIAL SERVICE,
 52 WAKE, BURIAL OR PROCESSION WHICH WAS THE SUBJECT OF THE PROTEST;

53 (III) THE APPLICANT; OR

54 (IV) ANY COMBINATION OF THE ABOVE; AND

55 L. IN THE EVENT THAT THE DIVISION MAKES A DETERMINATION THAT ALL OR
 56 ANY PART OF THE SECURITY BOND SHALL NOT BE RETURNED AND REFUNDED TO THE
 S. 3901

4

1 APPLICANT, THE DIVISION SHALL MAKE PAYMENT TO THOSE PARTIES THAT IT
 2 DETERMINED SHOULD RECEIVE THE PROCEEDS OF SUCH SECURITY BOND, WITHIN
 3 THIRTY DAYS OF MAKING SUCH DETERMINATION, UNLESS REQUIRED TO DO OTHER-
 4 WISE BY A COURT OF COMPETENT JURISDICTION.

5 3. THE DIVISION, AND ANY LOCALITY, SHALL NOT REQUIRE A PERMIT, OR
 6 SECURITY BOND, FOR ANY PROTEST OF ANY FUNERAL, MEMORIAL SERVICE, WAKE,
 7 BURIAL, OR PROCESSION TO OR FROM THE SAME, OF A MEMBER OF THE ACTIVE
 8 MILITARY SERVICE OF THE UNITED STATES OR THE FORCE OF THE ORGANIZED
 9 MILITIA, WHERE SUCH PROTEST IS CONDUCTED EXCLUSIVELY AT A DISTANCE OF
 10 MORE THAN TWO THOUSAND FIVE HUNDRED FEET FROM ANY SUCH FUNERAL, MEMORIAL
 11 SERVICE, WAKE, BURIAL, OR PROCESSION TO OR FROM THE SAME.

12 4. VIOLATIONS OF MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM.
 13 ANY CITY, TOWN, VILLAGE OR COUNTY, WHICH HAS BY LOCAL LAW, ESTABLISHED A
 14 MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM, WHEREBY SUCH LOCALI-
 15 TY HAS REQUIRED THAT ANY CITIZEN OR GROUP THAT CONDUCTS A PROTEST IN THE
 16 VICINITY OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL, OR PROCESSION TO
 17 OR FROM THE SAME, OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF
 18 THE UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA, MUST FIRST
 19 OBTAIN A PERMIT FROM THE DIVISION, IN ORDER TO CONDUCT SUCH A PROTEST,
 20 UPON RECEIVING A PERMIT, UNDER THIS SECTION TO CONDUCT SUCH A PROTEST,
 21 MAY POST A POLICE OFFICER FROM SUCH CITY, TOWN, VILLAGE OR COUNTY, AT
 22 THE SITE OF THE PROTEST, IN ORDER TO ASSURE THE MAINTENANCE OF CIVIL
 23 OBEDIENCE AND THE PUBLIC PEACE. IN THE EVENT THAT AFTER THE CONDUCT OF
 24 SUCH PROTEST, A COURT OF THE CITY, TOWN, VILLAGE OR COUNTY DETERMINES
 25 THAT THE PROTEST WAS EITHER INTENTIONALLY OR UNINTENTIONALLY NOT
 26 CONDUCTED IN EXPRESS ACCORDANCE WITH THE PERMIT ISSUED BY THE DIVISION,

27 THEN SUCH COURT MAY IMPOSE A CIVIL PENALTY UPON EACH AND EVERY PROTESTER
28 WHO PARTICIPATED IN ANY PROTEST FOUND TO BE IN VIOLATION OF THE PERMIT
29 ISSUED BY THE DIVISION. THE AMOUNT OF SUCH CIVIL PENALTY SHALL NOT
30 EXCEED FIVE HUNDRED DOLLARS. THE INTENTIONAL VIOLATION BY A PROTESTER,
31 OF A PERMIT ISSUED BY THE DIVISION, SHALL BE A CLASS A MISDEMEANOR.
32 S 2. This act shall take effect immediately.

[Go to top](#)

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Page display time = 0.0204 sec



Friday, April 8, 2011

[Back](#) | [New York State Bill Search](#) | [Assembly Home](#)

Bill No.: A. 6285


 [Summary](#)
 [Actions](#)
 [Votes](#)
 [Memo](#)
 [Text](#)
A. 6285 Summary:

BILL NO A06285

SAME AS Same as S 3901

SPONSOR Murray (MS)

COSPNSR Castelli, Curran, Graf, Malliotakis, Ra, Saladino, Tenney, Thiele, Weisenberg, Conte, McDonough, Calhoun, Raia, Goodell, Montesano, Butler, Blankenbush, Palmesano, McKeivitt, Miller J, Finch, Miller D

MLTSPNSR Ceretto, Duprey, Oaks, Sayward

Add S255, Mil L

Regulates protests at funerals of deceased military members.

[Go to top](#)**A. 6285 Text:**

STATE OF NEW YORK

6285

2011-2012 Regular Sessions

IN ASSEMBLY

March 11, 2011

Introduced by M. of A. MURRAY, CASTELLI, CURRAN, GRAF, MALLIOTAKIS, RA, SALADINO, TENNEY, THIELE, WEISENBERG -- read once and referred to the Committee on Veterans' Affairs

AN ACT to amend the military law, in relation to the regulation of protests at military funerals

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The military law is amended by adding a new section 255 to
2 read as follows:

3 S 255. REGULATION OF PROTESTS AT MILITARY FUNERALS. 1. LEGISLATIVE
4 INTENT. THE LEGISLATURE FINDS AND DETERMINES THAT ALTHOUGH IT IS IMPOR-
5 TANT FOR OUR STATE'S CITIZENS TO BE ABLE TO EXERCISE THEIR CONSTITU-
6 TIONALLY PROTECTED RIGHT TO FREE SPEECH, THERE IS ALSO A COMPELLING
7 STATE INTEREST IN PRESERVING AND PROTECTING THE FAMILIES AND FRIENDS OF
8 DECEASED MILITARY PERSONNEL, ESPECIALLY AT SUCH A SOLEMN TIME AS THE
9 DECEASED MILITARY PERSONNEL'S FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR
10 PROCESSION TO OR FROM THE SAME.

11 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ORDER TO BALANCE
12 THE CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH, AND THE COMPELLING
13 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
14 FRIENDS OF DECEASED MILITARY PERSONNEL, THE STATE POLICE POWERS, AND
15 THOSE OF ITS LOCALITIES, MAY BE EMPLOYED TO PROVIDE SUFFICIENT
16 PROTECTION OF THE FAMILIES AND FRIENDS OF SUCH DECEASED MILITARY PERSON-
17 NEL, AT SUCH A SOLEMN TIME AS THE DECEASED MILITARY PERSONNEL'S FUNERAL,
18 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME.

19 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IN ADDITION TO ANY
20 STATE PROHIBITION WHICH MAY BE IMPOSED UNDER THE PENAL LAW, WITH RESPECT
21 TO THE EXERCISE OF FREE SPEECH WITHIN A CERTAIN DISTANCE FROM A FUNERAL,
22 MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION TO OR FROM THE SAME, THAT
23 THERE IS ALSO A COMPELLING STATE INTEREST IN PROVIDING FOR A SAFETY AND
24 PROTECTION BUFFER ZONE, WITHIN WHICH THE EXPRESSION OF SUCH FREE SPEECH

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

LBD10109-02-1

A. 6285

2

1 RIGHTS MAY ONLY BE EXERCISED, PURSUANT TO A CONTROLLED, REGULATED,
2 PERMITTED SYSTEM, IN ORDER THAT THE PUBLIC PEACE AND SAFETY OF THE MOUR-
3 NERS, PROTESTERS, AND THE GENERAL PUBLIC CAN BE EFFECTIVELY MAINTAINED.

4 THE LEGISLATURE FURTHER FINDS AND DETERMINES THAT IT IS THE INTENT OF
5 THIS LEGISLATION TO PROVIDE FOR THE STANDARDS OF SUCH SAFETY AND
6 PROTECTION BUFFER ZONES, AND THAT IN SO DOING, SEEKS TO ESTABLISH THE
7 REQUIRED BALANCE BETWEEN THE ABILITY OF OUR STATE'S CITIZENS TO EXERCISE
8 THEIR CONSTITUTIONALLY PROTECTED RIGHT TO FREE SPEECH AND THE COMPELLING
9 STATE INTEREST IN PRESERVING AND PROTECTING THE MOURNING FAMILIES AND
10 FRIENDS OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE
11 UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA.

12 2. MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM. ANY CITY, TOWN,
13 VILLAGE OR COUNTY, MAY, BY LOCAL LAW, ESTABLISH A MILITARY FUNERAL BUFF-
14 ER ZONE PUBLIC SAFETY PROGRAM. SUCH PROGRAM SHALL REQUIRE THAT ANY
15 CITIZEN OR GROUP THAT CONDUCTS A PROTEST WITHIN TWO THOUSAND FIVE
16 HUNDRED FEET OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR PROCESSION
17 OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE UNITED STATES
18 OR THE FORCE OF THE ORGANIZED MILITIA, MAY DO SO ONLY AFTER FIRST
19 OBTAINING A PERMIT FROM THE NEW YORK STATE DIVISION OF MILITARY AND
20 NAVAL AFFAIRS (HEREINAFTER "DIVISION"). UPON THE ISSUANCE OF A PERMIT
21 UNDER THIS SUBDIVISION TO CONDUCT SUCH A PROTEST IN A LOCALITY, THE
22 DIVISION, IN ADDITION TO WHATEVER REQUIREMENTS IT SHALL ESTABLISH BY
23 REGULATION, SHALL REQUIRE THAT:

24 A. THE CITIZEN OR GROUP FILE AN APPLICATION FOR A PERMIT TO CONDUCT A
25 PROTEST IN THE VICINITY OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL OR
26 PROCESSION OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF THE

27 UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA, WITH THE DIVISION,
28 IN THE MANNER AND FORM AS MAY BE REQUIRED BY THE DIVISION PURSUANT TO
29 REGULATION, NOT LESS THAN SEVEN BUSINESS DAYS PRIOR TO THE DATE OF THE
30 PROTEST;

31 B. THE CITIZEN OR GROUP FILING SUCH APPLICATION, SHALL AT THE TIME OF
32 THE FILING OF SUCH APPLICATION, ALSO POST A PUBLIC SECURITY BOND WITH
33 THE DIVISION, IN THE MANNER AND FORM AS MAY BE REQUIRED BY THE DIVISION
34 PURSUANT TO REGULATION, IN THE AMOUNT AS FOLLOWS:

35 (I) FOR A PROTEST WITH ONE TO FIVE PERSONS, FIVE THOUSAND DOLLARS;

36 (II) FOR A PROTEST WITH SIX TO TEN PERSONS, SEVEN THOUSAND FIVE
37 HUNDRED DOLLARS;

38 (III) FOR A PROTEST WITH ELEVEN TO TWENTY-FIVE PERSONS, TEN THOUSAND
39 DOLLARS;

40 (IV) FOR A PROTEST WITH TWENTY-SIX TO FIFTY PERSONS, FIFTEEN THOUSAND
41 DOLLARS;

42 (V) FOR A PROTEST WITH FIFTY-ONE TO SEVENTY-FIVE PERSONS, TWENTY THOU-
43 SAND DOLLARS;

44 (VI) FOR A PROTEST WITH SEVENTY-FIVE TO ONE HUNDRED PERSONS,
45 TWENTY-FIVE THOUSAND DOLLARS; AND

46 (VII) FOR A PROTEST WITH OVER ONE HUNDRED PERSONS, TWENTY-FIVE THOU-
47 SAND DOLLARS PLUS AN ADDITIONAL AMOUNT PER PROTESTOR AS SHALL BE ESTAB-
48 LISHED PURSUANT TO REGULATION BY THE DIVISION;

49 C. WITHIN THREE BUSINESS DAYS OF THE FILING OF AN APPLICATION PURSUANT
50 TO PARAGRAPH A OF THIS SUBDIVISION, TOGETHER WITH THE POSTING OF THE
51 REQUIRED SECURITY BOND PURSUANT TO PARAGRAPH B OF THIS SUBDIVISION, THE
52 DIVISION SHALL REVIEW SUCH APPLICATION AND SECURITY BOND, AND IF SUCH
53 APPLICATION AND BOND SATISFY ALL THE REQUIREMENTS OF THIS SECTION, AS
54 WELL AS ALL THE REQUIREMENTS THAT THE DIVISION MAY FURTHER IMPOSE BY
55 REGULATION, THEN THE DIVISION SHALL ISSUE TO THE APPLICANT, A PERMIT TO
56 CONDUCT SUCH PROTEST, AND SUCH PERMIT SHALL EXPRESSLY, AND IN DETAIL,
A. 6285

3

1 SET FORTH THE TIME, PLACE AND MANNER OF RESTRICTIONS OF THE PROTEST AS
2 ALLOWABLE BY LAW;

3 D. UPON ISSUING A PERMIT TO CONDUCT A PROTEST UNDER THIS SECTION, THE
4 DIVISION SHALL ALSO TRANSMIT A COPY OF THE PERMIT, TOGETHER WITH THE
5 APPLICATION FOR THE SAME, TO THE LOCALITY IN WHICH THE APPLICANT SEEKS
6 TO CONDUCT THE PROTEST;

7 E. UPON RECEIVING A PERMIT FROM THE DIVISION, AND NOT LESS THAN
8 FORTY-EIGHT HOURS PRIOR TO THE CONDUCT OF THE PROTESTS, THE APPLICANT
9 SHALL ALSO FILE WITH EACH CITY, TOWN, VILLAGE, AND COUNTY, IN WHICH THE
10 PROTEST IS AUTHORIZED TO OCCUR, A COPY OF THE PERMIT ISSUED BY THE DIVI-
11 SION;

12 F. THE PERMIT ISSUED BY THE DIVISION SHALL PROVIDE THAT THE PROTEST,
13 FOR WHICH A PERMIT WAS ISSUED BY THE DIVISION, AND FOR WHICH A SECURITY
14 BOND WAS FILED, SHALL BE CONDUCTED EXCLUSIVELY IN THE MANNER, PLACE AND
15 TIME, AS SPECIFIED AND AUTHORIZED IN THE PERMIT;

16 G. IN NO EVENT SHALL ANY PROTEST EVER BE CONDUCTED, NOR SHALL THE
17 DIVISION EVER ISSUE A PERMIT FOR THE CONDUCT OF ANY PROTEST, WITHIN FIVE
18 HUNDRED FEET OF ANY FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL, OR PROC-
19 ESSION TO OR FROM THE SAME, OF A MEMBER OF THE ACTIVE MILITARY SERVICE
20 OF THE UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA;

21 H. WITHIN THIRTY DAYS OF THE DATE OF THE PROTEST FOR WHICH THE PERMIT
22 WAS ISSUED BY THE DIVISION, THE GOVERNING BODY OF THE LOCALITY IN WHICH
23 SUCH PROTEST WAS HELD, BY A MAJORITY VOTE OF THE MEMBERS OF SUCH GOVERN-
24 ING BODY, SHALL MAKE A DETERMINATION AS TO WHETHER SUCH PROTEST COMPLIED
25 IN ALL RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, AND SHALL THER-
26 EUPON NOTIFY THE DIVISION OF SUCH DETERMINATION;

27 I. UPON THE NOTIFICATION BY A LOCALITY THAT A PROTEST WAS HELD WHICH

28 COMPLIED IN ALL RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, THE
 29 DIVISION SHALL, WITHIN THIRTY DAYS, RELEASE AND REFUND THE SECURITY BOND
 30 FILED BACK TO THE APPLICANT, UNLESS REQUIRED TO DO OTHERWISE BY A COURT
 31 OF COMPETENT JURISDICTION;

32 J. IN THE EVENT THAT AN APPLICANT FILES A SECURITY BOND WITH THE DIVI-
 33 SION, AND THEREAFTER FILES A WITHDRAWAL OF THE APPLICATION, DUE EITHER
 34 TO THE FACT THAT THE PROTEST NEVER OCCURRED OR THAT THE APPLICANT NO
 35 LONGER DESIRED TO HOLD A PROTEST, THE DIVISION, UPON FINDING THAT SUCH
 36 APPLICATION FOR WITHDRAWAL IS MERITORIOUS, SHALL, WITHIN THIRTY DAYS,
 37 RELEASE AND REFUND THE SECURITY BOND FILED BACK TO THE APPLICANT, UNLESS
 38 REQUIRED TO DO OTHERWISE BY A COURT OF COMPETENT JURISDICTION;

39 K. IN THE EVENT THAT THE GOVERNING BODY OF THE LOCALITY IN WHICH SUCH
 40 PROTEST WAS HELD MAKES A DETERMINATION, BY A MAJORITY VOTE OF THE
 41 MEMBERS OF SUCH GOVERNING BODY, THAT SUCH PROTEST DID NOT COMPLY IN ALL
 42 RESPECTS WITH ALL THE REQUIREMENTS OF THE PERMIT, THEN THE DIVISION,
 43 PURSUANT TO REGULATIONS, SHALL CONDUCT A HEARING, WHEREUPON IT SHALL
 44 MAKE A DETERMINATION AS TO WHETHER THE APPLICANT SHALL FORFEIT ALL OR
 45 ANY PART OF THE BOND, WITH THE PROCEEDS OF THE BOND BEING AWARDED TO:

46 (I) THE LOCALITY;

47 (II) A PERSON OR PERSONS CONNECTED WITH THE FUNERAL, MEMORIAL SERVICE,
 48 WAKE, BURIAL OR PROCESSION WHICH WAS THE SUBJECT OF THE PROTEST;

49 (III) THE APPLICANT; OR

50 (IV) ANY COMBINATION OF THE ABOVE; AND

51 L. IN THE EVENT THAT THE DIVISION MAKES A DETERMINATION THAT ALL OR
 52 ANY PART OF THE SECURITY BOND SHALL NOT BE RETURNED AND REFUNDED TO THE
 53 APPLICANT, THE DIVISION SHALL MAKE PAYMENT TO THOSE PARTIES THAT IT
 54 DETERMINED SHOULD RECEIVE THE PROCEEDS OF SUCH SECURITY BOND, WITHIN
 55 THIRTY DAYS OF MAKING SUCH DETERMINATION, UNLESS REQUIRED TO DO OTHER-
 56 WISE BY A COURT OF COMPETENT JURISDICTION.

A. 6285

4

1 3. THE DIVISION, AND ANY LOCALITY, SHALL NOT REQUIRE A PERMIT, OR
 2 SECURITY BOND, FOR ANY PROTEST OF ANY FUNERAL, MEMORIAL SERVICE, WAKE,
 3 BURIAL, OR PROCESSION TO OR FROM THE SAME, OF A MEMBER OF THE ACTIVE
 4 MILITARY SERVICE OF THE UNITED STATES OR THE FORCE OF THE ORGANIZED
 5 MILITIA, WHERE SUCH PROTEST IS CONDUCTED EXCLUSIVELY AT A DISTANCE OF
 6 MORE THAN TWO THOUSAND FIVE HUNDRED FEET FROM ANY SUCH FUNERAL, MEMORIAL
 7 SERVICE, WAKE, BURIAL, OR PROCESSION TO OR FROM THE SAME.

8 4. VIOLATIONS OF MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM.
 9 ANY CITY, TOWN, VILLAGE OR COUNTY, WHICH HAS BY LOCAL LAW, ESTABLISHED A
 10 MILITARY FUNERAL BUFFER ZONE PUBLIC SAFETY PROGRAM, WHEREBY SUCH LOCALI-
 11 TY HAS REQUIRED THAT ANY CITIZEN OR GROUP THAT CONDUCTS A PROTEST IN THE
 12 VICINITY OF A FUNERAL, MEMORIAL SERVICE, WAKE, BURIAL, OR PROCESSION TO
 13 OR FROM THE SAME, OF A DECEASED MEMBER OF THE ACTIVE MILITARY SERVICE OF
 14 THE UNITED STATES OR THE FORCE OF THE ORGANIZED MILITIA, MUST FIRST
 15 OBTAIN A PERMIT FROM THE DIVISION, IN ORDER TO CONDUCT SUCH A PROTEST,
 16 UPON RECEIVING A PERMIT, UNDER THIS SECTION TO CONDUCT SUCH A PROTEST,
 17 MAY POST A POLICE OFFICER FROM SUCH CITY, TOWN, VILLAGE OR COUNTY, AT
 18 THE SITE OF THE PROTEST, IN ORDER TO ASSURE THE MAINTENANCE OF CIVIL
 19 OBEDIENCE AND THE PUBLIC PEACE. IN THE EVENT THAT AFTER THE CONDUCT OF
 20 SUCH PROTEST, A COURT OF THE CITY, TOWN, VILLAGE OR COUNTY DETERMINES
 21 THAT THE PROTEST WAS EITHER INTENTIONALLY OR UNINTENTIONALLY NOT
 22 CONDUCTED IN EXPRESS ACCORDANCE WITH THE PERMIT ISSUED BY THE DIVISION,
 23 THEN SUCH COURT MAY IMPOSE A CIVIL PENALTY UPON EACH AND EVERY PROTESTER
 24 WHO PARTICIPATED IN ANY PROTEST FOUND TO BE IN VIOLATION OF THE PERMIT
 25 ISSUED BY THE DIVISION. THE AMOUNT OF SUCH CIVIL PENALTY SHALL NOT
 26 EXCEED FIVE HUNDRED DOLLARS. THE INTENTIONAL VIOLATION BY A PROTESTER,
 27 OF A PERMIT ISSUED BY THE DIVISION, SHALL BE A CLASS A MISDEMEANOR.

28 S 2. This act shall take effect immediately.