

**S 3900** GRIFFO Same as [A 6617](#) Roberts  
 ON FILE: 03/09/11 Military Law  
 TITLE....Creates the crimes of criminal  
 interference with a funeral service in the first and  
 second degrees  
 03/09/11REFERRED TO VETERANS,  
 HOMELAND SECURITY AND  
 MILITARY AFFAIRS  
 03/14/11REPORTED AND COMMITTED TO  
 RULES  
 03/14/11ORDERED TO THIRD READING  
 CAL.205  
 03/14/11PASSED SENATE  
 03/14/11DELIVERED TO ASSEMBLY  
 03/14/11referred to codes

**A6617** Roberts Same as [S 3900](#) GRIFFO  
 Military Law  
 TITLE....Creates the crimes of criminal interference  
 with a funeral service in the first and second degrees  
 03/23/11 referred to codes

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**SUMMARY:**

GRIFFO, 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

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.

CRIMINAL SANCTION IMPACT.

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**VOTING:**

[03/14/11](#)            S3900            Senate Vote            Aye: 60            Nay: 0

**Floor Votes:**

03/14/11 S3900 Senate Vote Aye: 60 Nay: 0

<b>Exc</b> Adams	<b>Aye</b> Addabbo	<b>Aye</b> Alesi	<b>Aye</b> Avella
<b>Aye</b> Ball	<b>Aye</b> Bonacic	<b>Aye</b> Breslin	<b>Aye</b> Carlucci
<b>Aye</b> DeFrancisco	<b>Aye</b> Diaz	<b>Aye</b> Dilan	<b>Aye</b> Duane
<b>Aye</b> Espaillet	<b>Aye</b> Farley	<b>Aye</b> Flanagan	<b>Aye</b> Fuschillo
<b>Aye</b> Gallivan	<b>Aye</b> Gianaris	<b>Aye</b> Golden	<b>Aye</b> Griffo
<b>Aye</b> Grisanti	<b>Aye</b> Hannon	<b>Aye</b> Hassell- Thompson	<b>Aye</b> Huntley
<b>Aye</b> Johnson	<b>Aye</b> Kennedy	<b>Aye</b> Klein	<b>Aye</b> Krueger

<b>Aye</b> Kruger	<b>Aye</b> Lanza	<b>Aye</b> Larkin	<b>Aye</b> LaValle
<b>Aye</b> Libous	<b>Aye</b> Little	<b>Aye</b> Marcellino	<b>Aye</b> Martins
<b>Exc</b> Maziarz	<b>Aye</b> McDonald	<b>Aye</b> Montgomery	<b>Aye</b> Nozzolio
<b>Aye</b> O'Mara	<b>Aye</b> Oppenheimer	<b>Aye</b> Parker	<b>Aye</b> Peralta
<b>Aye</b> Perkins	<b>Aye</b> Ranzenhofer	<b>Aye</b> Ritchie	<b>Aye</b> Rivera
<b>Aye</b> Robach	<b>Aye</b> Saland	<b>Aye</b> Sampson	<b>Aye</b> Savino
<b>Aye</b> Serrano	<b>Aye</b> Seward	<b>Aye</b> Skelos	<b>Aye</b> Smith
<b>Aye</b> Squadron	<b>Aye</b> Stavisky	<b>Aye</b> Stewart-Cousins	<b>Aye</b> Valesky
<b>Aye</b> Young	<b>Aye</b> Zeldin		

**Same-As History:**

Bill Version	Same-As Bill
<a href="#">S 3900</a>	<a href="#">A 6617</a>
Current Same-As	
S 3900	A 6617

**BILL 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 § 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-

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

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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 § 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 fune-  
54 ral or memorial service for a deceased person; or  
55 (3) distributes literature or any other item.

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1 Criminal interference with health care services, funeral services, or  
2 religious worship in the second degree is a class A misdemeanor.  
3 § 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 § 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 § 4. This act shall take effect immediately.

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**SPONSORS MEMO:**

**NEW YORK STATE SENATE  
INTRODUCER'S MEMORANDUM IN SUPPORT  
submitted in accordance with Senate Rule VI. Sec 1**

**BILL NUMBER:** S3900

**SPONSOR:** GRIFFO

**TITLE OF BILL:**

An act to amend the military law and the penal law, in relation to criminal interference with funeral services

**PURPOSE:**

This bill seeks to afford the same legal protections from disruption and harassment to funeral services that are now offered under New York State Penal law to reproductive services clinics and religious assemblies.

**SUMMARY OF SPECIFIC PROVISIONS:**

Section One of this bill would add a new section 255 to the military law, to establish a legislative intent for the compelling state interest in protecting the mourners at military funerals, and to require that the Division of Military and Naval Affairs provide and make available an informational guide which details the public protections and protest restrictions concerning the funerals, memorial services, wakes, burials and processions of military personnel.

Section Two of this bill would amend Section 240.70 of the Penal Law to afford the same protections to funerals as are now given to health care services clinics and religious assemblies. Specifically, funeral services for purposes of this section would include any funeral, funeral procession, wake, memorial service, burial or burial plot Accordingly, this section would prohibit disruptive behavior within 500 feet of a funeral service and classifies a first conviction of such as a class A misdemeanor.

Section Three of this bill would amend Section 240.71 of the Penal Law to establish that a second or subsequent offense of disrupting a funeral service would be a class E felony.

Section Four of this bill would provide for an immediate effective date.

**JUSTIFICATION:**

On March 2, 2011, the Supreme Court of the United States decided the case of *Snyder v. Phelps*, 562 U.S. \_\_\_ (2011), Slip Opinion - No.09-751. In such case, the Court found that people who protest at funerals of military personnel, do have constitutionally protected free speech rights, but that states also have a compelling state interest to protect the family and friends of such deceased military personnel during their mourning at such events. Indeed, in the decision, the Court acknowledges a Maryland law, enacted after the case at issue, which establishes time, place and manner restrictions on the protesting of military funerals, and prohibits protests within a specific distance of such events.

Indeed the *Snyder* case specifically references the similarity of establishing such buffer zones for health care services clinics. This bill would accordingly, amend Section 240.70 and 240.71 of the Penal Law, which presently establish such a buffer zone to protect a health care services clinics and religious assemblies from attempts to injure, intimidate or interfere with another person because such person was or

is seeking to exercise the right of religious freedom at a place of religious worship, to also include funeral services.

As the Synder case points out, there are individuals and groups who seek to use military funerals as a protest vehicle to advance their ideology. The Syder court has held that as long as the First Amendment remains in force, the right of Americans to express even the most loathsome ideas is constitutionally protected, but can be limited by states, with respect to time, place and manner.

This bill would enact the buffer protection zone enumerated by the court to prevent the protesting of such a military funeral within 500 feet of the funeral, the burial, wake, memorial service, or procession of such deceased military personnel member. In the event a person violates this law by conducting such a protest within the 500 foot buffer protection zone, pursuant to this bill, they would be guilty of a class A misdemeanor on the first offense, and a class E felony on the second or later offense.

**LEGISLATIVE HISTORY:**

This is a new bill.

**FISCAL IMPLICATIONS:**

None noted.

**EFFECTIVE DATE:**

This act would take effect immediately.