



NEW YORK STATE SENATOR

Patrick M. Gallivan

State Senate Passes Legislation To Limit Protests at Military Funerals

PATRICK M. GALLIVAN March 16, 2011

| ISSUE: **MILITARY AFFAIRS**



Senator Patrick M. Gallivan (R,C,I – 59th District) announced today that the New York State Senate passed two pieces of legislation that would limit the impact of protesters at military funerals. Collectively, the two bills would prohibit protests within a 500 foot radius of a military funeral, and force protest organizers to post a bond to the local municipality and receive a permit from the New York State Department of Military and Naval Affairs to

conduct a protest within 2500 feet of a military funeral.

“Nothing is more sacred in America than honoring those who have paid the ultimate sacrifice and respecting the rights of their families, communities, and country to mourn their passing in a dignified manner. This legislation loudly reaffirms our commitment and respect to all those who have served our nation,” said Gallivan, a co-sponsor of both pieces of legislation.

S.3900 creates the crimes of criminal interference with a funeral service in the first and second degrees, making a repeat offense a class E felony. This legislation prohibits disruptive behavior within 500 feet of a funeral service and is modeled from existing state law which provides reproductive services clinics and religious assemblies specific protections from disruptions and harassment.

S.3901 extends this protection by creating a Military funeral buffer zone program. The program would permit local municipalities to require that any citizen or group wishing to conduct a protest in the vicinity of a military funeral must apply for an authorizing permit from the New York State Department of Military and Naval Affairs. Further, the applying protesters would also be required to post a public security bond in an amount between \$5,000 and \$25,000. The “buffer zone” would extend to 2,500 feet surrounding a military funeral.

Both measures are a direct response to a recent Supreme Court decision, *Snyder v. Phelps*, which recognized protesting at a military funeral as a form of protected speech under the First Amendment, but maintained that states have a compelling state interest to protect mourners at military funerals.

“This legislation balances the right to free speech and expression, no matter how heinous, with the right of military families to peacefully mourn,” said Gallivan.

Massachusetts has already enacted “buffer zone” legislation to prevent disturbances by protesters at funerals.

Senator Patrick M. Gallivan represents the 59th Senate District which includes parts of Erie, Livingston and Ontario Counties, and all of Wyoming County.