



NEW YORK STATE SENATOR

John J. Flanagan

Senator Flanagan Supports Senator Zeldin's Act To Limit Protests At Military Funerals

JOHN J. FLANAGAN March 17, 2011

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Senator John Flanagan (2nd Senate District) today voted in favor of legislation sponsored by Senator Lee Zeldin (3rd Senate District) that would limit protests at military funerals. Called "The Specialist Thomas Wilwerth Military Dignity Act," the proposed law is named for an Iraq War Veteran who lost his life in combat in 2006.

The legislation, which is now awaiting passage in the New York State Assembly where it is sponsored by Assemblyman Dean Murray (3rd Assembly District), prohibits protests within 2,500 feet of military services, funerals, and processions of deceased service members unless the protest organizers post a bond to the local municipality to defray the increased security costs associated with demonstrations that occur closer to these funeral activities. Protestors would also not be permitted within 500 feet of funeral activities and would have to apply for a permit with the New York State Division of Veterans' Affairs under this measure.

"This legislation will protect the rights of families of our veterans to bury their loved ones in a dignified manner while also protecting the constitution that these very men and women are fighting for. I applaud Senator Zeldin for taking the lead on this important issue and hope this provides some comfort to the families whose loved ones pay the ultimate price for our freedom," stated Senator Flanagan.

"This legislation takes into consideration the free speech rights of those who choose to protest military funerals with hateful rhetoric and tactics," Senator Zeldin said. "We must balance that right with the need to protect our Gold Star families and allow them to peacefully mourn the loss of their military hero and loved one. With its passage today, I call upon the State Assembly to take action on this bill so we can deliver it to Governor Cuomo for his signature."

Massachusetts has a similar law that enforces a buffer zone around funerals to prevent disruptions by protestors.

“I would like to issue a real challenge to the people who want to protest the funerals of our fallen heroes. Our soldiers fight at home and abroad for our freedoms. If the protestors can give me one reason why they should be protesting instead of kissing and thanking our heroes, then I’ll listen,” said Terry Wilwerth, Father of Specialist Thomas Wilwerth.

This legislation was part of a package of Veterans bills that Senator Flanagan supported during a recent Senate session. Other components of the Veterans’ package included:

- Requiring that absentee or military ballots of any active duty service member be counted even if such service member dies before the date of the election for which it was cast.
- Establishing the New York State Veterans Cemetery Act and provides the mechanism for the establishment of a New York State Veterans Cemetery Program;
- Extending provisions establishing a recruitment incentive and retention program in the form of a tuition reimbursement for certain active members of the New York Army National Guard, Air National Guard and Naval Militia;
- Creating the crime of “Cemetery Desecration of a Veteran” and also allow community service to be provided for desecrated cemeteries as a condition for probation or conditional release;
- Prohibiting the unauthorized sale of veterans’ commemorative property, including artifacts, statues or other physical memorabilia from a cemetery, in order to preserve history and provide for the continued reverence of those who faithfully served our country;
- Directing the Adjutant General to present a United States flag to the family of deceased veterans of the National Guard, Air National Guard or Naval Militia who have been honorably discharged; and,
- Allowing the state Department of Environmental Conservation to organize fishing events that provide physical or emotional rehabilitation for veterans or active duty members of the armed forces without the need for veterans or active duty members to obtain fishing licenses.

In addition to these efforts, Senator Flanagan recently supported legislation that will ensure that special elections in New York State provide more time for military absentee ballots to be mailed and counted.

Under current state law, special elections are held between 30 and 40 days from their announcement by the Governor. The new measure will more than double that timeframe to between 70 and 80 days and give county boards of elections adequate time prior to special elections for absentee ballots for military voters to be mailed and counted in compliance with federal law.

New York Governor Andrew Cuomo recently noted that the current state law fails to provide adequate time for state and county boards of elections to adhere to federal law requiring elections officials

to finalize and transmit the final ballot to military voters overseas within 45 days of a special election.

“How can we deny the right to vote to the very people who are dedicating their lives protecting that right for the rest of us? Special elections are just as important to the governance of our state as general elections and we must do the right thing to protect the ability of our servicemen and women to participate in this essential American right and privilege,” concluded Senator Flanagan.