

STATE OF NEW YORK

7992

IN SENATE

March 16, 2018

Introduced by Sen. GALLIVAN -- (at request of the Office of Victim Services) -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law and the surrogate's court procedure act, in relation to burial expenses

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Subdivision 2 of section 630 of the executive law, as
2 amended by section 21 of part A1 of chapter 56 of the laws of 2010, is
3 amended to read as follows:

4 2. Notwithstanding the provisions of [~~section six hundred twenty-seven~~
5 ~~of this article, local crime victim service programs shall be authorized~~
6 ~~to provide emergency awards to crime victims for essential personal~~
7 ~~property, medical treatment, shelter costs, security services, coun-~~
8 ~~seling and transportation the total amount of such emergency awards not~~
9 ~~to exceed five hundred dollars. These programs shall be reimbursed by~~
10 ~~the office, pursuant to the provisions of this article, if it is subse-~~
11 ~~quently determined that the victim is an eligible claimant. Local crime~~
12 ~~victim service programs shall be authorized to establish special~~
13 ~~accounts for this purpose. The office shall initiate a program to assist~~
14 ~~local crime victim service programs in establishing special accounts to~~
15 ~~provide emergency awards, within amounts designated for that purpose.]~~

16 subdivision one of this section, if the crime upon which the claim is
17 based resulted in the death of the victim, and it appears to the office
18 that such claim is one with respect to which an award probably will be
19 made, and undue hardship will result to the claimant if immediate
20 payment is not made, the office may make one or more emergency awards to
21 the claimant for reasonable burial expenses pending a final decision of
22 the office or payment of an award in the case; provided, however, that
23 the total amount of an emergency award or awards for reasonable burial
24 expenses shall not exceed three thousand dollars. The amount of such
25 emergency award or awards shall be deducted from any final award made to
26 the claimant, and the excess of the amount of any such award or awards
27 over the amount of the final award, of the full amount of an emergency

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

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1 award or awards if no final award is made, shall be repaid by the claim-
2 ant to the office.

3 § 2. Subdivision 2 of section 631 of the executive law, as amended by
4 section 3 of part H of chapter 55 of the laws of 2017, is amended to
5 read as follows:

6 2. Any award made pursuant to this article shall be in an amount not
7 exceeding out-of-pocket expenses, including indebtedness reasonably
8 incurred for medical or other services necessary as a result of the
9 injury upon which the claim is based; loss of earnings or support
10 resulting from such injury not to exceed thirty thousand dollars; loss
11 of savings not to exceed thirty thousand dollars; burial expenses not
12 exceeding six thousand dollars of a victim who died on or after November
13 first, nineteen ninety-six as a direct result of a crime; the costs of
14 crime scene cleanup and securing of a crime scene not exceeding twenty-
15 five hundred dollars; reasonable relocation expenses not exceeding twen-
16 ty-five hundred dollars; and the unreimbursed cost of repair or replace-
17 ment of articles of essential personal property lost, damaged or
18 destroyed as a direct result of the crime. An award for loss of earnings
19 shall include earnings lost by a parent or guardian as a result of the
20 hospitalization of a child victim under age eighteen for injuries
21 sustained as a direct result of a crime. In addition to the medical or
22 other services necessary as a result of the injury upon which the claim
23 is based, an award may be made for rehabilitative occupational training
24 for the purpose of job retraining or similar employment-oriented rehabi-
25 litative services based upon the claimant's medical and employment
26 history. For the purpose of this subdivision, rehabilitative occupa-
27 tional training shall include but not be limited to educational training
28 and expenses. An award for rehabilitative occupational training may be
29 made to a victim, or to a family member of a victim where necessary as a
30 direct result of a crime.

31 § 3. Subdivision 5 of section 631 of the executive law is amended by
32 adding a new paragraph (g) to read as follows:

33 (g) Notwithstanding the provisions of paragraph (a) of this subdivi-
34 sion, if the crime upon which the claim is based resulted in the death
35 of the victim, the office shall determine whether, because of his or her
36 conduct, the victim of such crime contributed to the infliction of his
37 or her injury, and the office may reduce the amount of the award by no
38 more than fifty percent, in accordance with such determination.

39 § 4. Section 634 of the executive law is amended by adding a new
40 subdivision 2-a to read as follows:

41 2-a. To the extent the office has made an award pursuant to this arti-
42 cle for burial expenses, such amount shall be considered among reason-
43 able funeral expenses of the decedent pursuant to subdivision one of
44 section eighteen hundred eleven of the surrogate's court procedure act,
45 to be recovered by the office, provided, however, that if a beneficiary
46 of the victim's estate is also a person eligible to receive an award
47 pursuant to section six hundred twenty-four of this article, the office
48 shall recover such amounts pursuant to subdivision two of this section
49 to the extent an award has been made to such person, prior to pursuing
50 recovery from the victim's estate. Any recovery from a victim's estate
51 under this subdivision shall reduce the state's lien under this section
52 to the extent of the recovery by the office.

53 § 5. Subdivision 22 of section 103 of the surrogate's court procedure
54 act, as amended by chapter 503 of the laws of 1980, is amended to read
55 as follows:

1 22. Funeral expense. Includes reasonable expense of a funeral, suit-
2 able church or other services as an integral part thereof, expense of
3 interment or other disposition of the body, a burial lot and suitable
4 monumental work thereon and a reasonable expenditure for perpetual care
5 of a burial lot of the decedent. For the purpose of subdivision one of
6 section eighteen hundred eleven of this act, funeral expense shall also
7 include burial expenses awarded pursuant to article twenty-two of the
8 executive law.

9 § 6. This act shall take effect on the one hundred eightieth day after
10 it shall have become a law and shall apply to all claims filed on or
11 after such effective date.