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

7717

2009-2010 Regular Sessions

I N A S S E M B L Y

April 22, 2009

Introduced by M. of A. WEISENBERG, MAYERSOHN, KOON -- Multi-Sponsored by -- M. of A. GALEF, MAGEE, McDONOUGH, MORELLE, SWEENEY -- read once and referred to the Committee on Judiciary

AN ACT to amend the general obligations law, in relation to exoneration of certain crime victims and good samaritans from certain tort liabilities

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

Section 1. Article 3 of the general obligations law is amended by adding a new title 7 to read as follows:

TITLE 7

EXONERATION OF CERTAIN CRIME VICTIMS AND GOOD SAMARITANS

SECTION 3-701. WHEN CRIME VICTIMS AND GOOD SAMARITANS MAY BE EXONERATED FROM CERTAIN TORT LIABILITIES.

S 3-701. WHEN CRIME VICTIMS AND GOOD SAMARITANS MAY BE EXONERATED FROM CERTAIN TORT LIABILITIES. 1. IN ANY TORT ACTION FOR DAMAGES BASED UPON PERSONAL INJURY SUSTAINED BY THE PLAINTIFF WHERE THE DEFENDANT SHALL FURNISH PROOF BY A PREPONDERANCE OF EVIDENCE THAT: (I) THE INJURY SUSTAINED BY THE PLAINTIFF AROSE DURING THE COMMISSION OR ATTEMPTED COMMISSION BY THE PLAINTIFF OF A MURDER, ROBBERY, BURGLARY, ARSON, FORCIBLE RAPE OR CRIMINAL SEXUAL ACT, OR KIDNAPPING IN THE FIRST DEGREE; AND (II) THE CONDUCT OF THE DEFENDANT WAS JUSTIFIED PURSUANT TO APPLICABLE PROVISIONS OF ARTICLE THIRTY-FIVE OF THE PENAL LAW; THEN THE PLAINTIFF SHALL BE DEEMED TO HAVE ASSUMED ALL RISKS OF INJURY ARISING FROM THE ENCOUNTER WITH ANY VICTIM OR GOOD SAMARITAN DURING THE COMMISSION OR ATTEMPTED COMMISSION OF SUCH CRIME, AND SUCH PROOF SHALL CONSTITUTE A COMPLETE DEFENSE TO THE ACTION.

2. FOR THE PURPOSES OF THIS TITLE THE TERM: (A) "CRIME VICTIM" MEANS THE VICTIM OF THE OFFENSE OR THEIR REPRESENTATIVE; AND (B) "GOOD SAMARITAN" SHALL MEAN A PERSON WHO ACTS IN GOOD FAITH (I) TO APPREHEND A

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

LBD11145-01-9

PERSON WHO HAS COMMITTED A CRIME IN HIS OR HER PRESENCE OR WHO HAS IN FACT COMMITTED A FELONY, (II) TO PREVENT A CRIME OR AN ATTEMPTED CRIME FROM OCCURRING, OR (III) TO AID A LAW ENFORCEMENT OFFICER IN EFFECTING AN ARREST.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law.