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

521

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. DESTITO -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the executive law, in relation to establishing a crime victim's ombudsman and providing for such ombudsman's functions, powers and duties

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

Section 1. The executive law is amended by adding a new article 24-A to read as follows:

ARTICLE 24-A

CRIME VICTIM'S OMBUDSMAN

SECTION 656. DEFINITIONS.
656-A. CRIME VICTIM'S OMBUDSMAN.
656-B. POWERS AND DUTIES.
656-C. TOLL-FREE TELEPHONE SERVICE.
656-D. PROCEDURES.
656-E. AUTHORITY TO INVESTIGATE.
656-F. FINDINGS AND RECOMMENDATIONS.
656-G. TESTIMONY.
656-H. REPORTING REQUIREMENTS.

S 656. DEFINITIONS. FOR THE PURPOSES OF THIS ARTICLE:

1. "OMBUDSMAN" SHALL MEAN THE PERSON APPOINTED TO SERVE IN THE CAPACITY OF CRIME VICTIM'S OMBUDSMAN.

2. "COMMISSIONER" SHALL MEAN THE COMMISSIONER OF THE DIVISION OF CRIMINAL JUSTICE SERVICES.

S 656-A. CRIME VICTIM'S OMBUDSMAN. THERE IS HEREBY ESTABLISHED WITHIN THE DIVISION OF CRIMINAL JUSTICE SERVICES AN OFFICE OF THE CRIME VICTIM'S OMBUDSMAN. THE OMBUDSMAN SHALL BE APPOINTED BY THE COMMISSIONER WITH THE ADVICE OF THE ADVISORY COUNCIL OF THE CRIME VICTIMS BOARD AND SHALL SERVE IN THE UNCLASSIFIED SERVICE OF THE COMMISSIONER.

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

LBD03439-01-9

S 656-B. POWERS AND DUTIES. THE OMBUDSMAN SHALL ACT AS A LIAISON AND ADVOCATE FOR CRIME VICTIMS TO ASSIST THEM IN OBTAINING NECESSARY SERVICES AND COMPENSATION. THE CRIME VICTIM'S OMBUDSMAN SHALL INVESTIGATE COMPLAINTS BROUGHT BY OR ON BEHALF OF CRIME VICTIMS CONCERNING SPECIFIC INSTANCES OF MISTREATMENT, MALFEASANCE OR VIOLATION OF LAW, RULE OR REGULATION BY MEMBERS OR EMPLOYEES OF VICTIM ASSISTANCE PROGRAMS, THE CRIME VICTIMS BOARD, THE DIVISION OF CRIMINAL JUSTICE SERVICES, DISTRICT ATTORNEY, THE JUDICIARY, THE LAW ENFORCEMENT COMMUNITY OR ANY PERSON APPOINTED TO OR EMPLOYED BY A CRIME VICTIM-RELATED AGENCY AS DEFINED IN SECTION SIX HUNDRED FORTY-THREE OF THIS CHAPTER. THE OMBUDSMAN MAY REQUEST AND THE COMMISSIONER MAY APPOINT STAFF AND EMPLOYEES OF THE DIVISION OF CRIMINAL JUSTICE SERVICES TO SUPPORT THE ADMINISTRATION OF THE OFFICE OF THE CRIME VICTIM'S OMBUDSMAN.

S 656-C. TOLL-FREE TELEPHONE SERVICE. THE OMBUDSMAN SHALL ESTABLISH A TOLL-FREE TELEPHONE NUMBER TO BE USED ONLY TO RECEIVE COMPLAINTS AND ANSWER QUESTIONS CONCERNING THE PROVISION OF ASSISTANCE TO CRIME VICTIMS. TO THE GREATEST EXTENT POSSIBLE, THIS TELEPHONE NUMBER SHALL BE ANSWERED BY THE OMBUDSMAN OR A PROPERLY TRAINED PERSON AS DIRECTED BY THE OMBUDSMAN.

S 656-D. PROCEDURES. THE OMBUDSMAN SHALL ESTABLISH A PROCEDURE FOR REFERRING CRIME VICTIMS TO CRIME VICTIM CRISIS CENTERS, THE CRIME VICTIMS BOARD, OR OTHER VICTIM ASSISTANCE PROGRAMS WHEN ASSISTANCE IS REQUESTED BY A CRIME VICTIM OR IS DEEMED NECESSARY BY THE OMBUDSMAN.

S 656-E. AUTHORITY TO INVESTIGATE. THE OMBUDSMAN MAY REQUEST AND SHALL BE GIVEN ACCESS TO ALL INFORMATION PERTAINING TO THE INVESTIGATION OF A COMPLAINT. IN THE COURSE OF AN INVESTIGATION THE OMBUDSMAN, SUBJECT TO CONSTITUTIONAL OR OTHER STATUTORY LIMITATION, SHALL HAVE THE AUTHORITY TO TAKE OR CAUSE TO BE TAKEN AFFIDAVITS OR DEPOSITIONS WITHIN OR WITHOUT THE STATE, ADMINISTER OATHS OR AFFIRMATIONS, EXAMINE ANY PERSON UNDER OATH OR AFFIRMATION AND ISSUE SUBPOENAS REQUIRING THE ATTENDANCE AND GIVING OF TESTIMONY OF WITNESSES AND REQUIRE THE PRODUCTION OF ANY BOOKS, PAPERS, DOCUMENTARY OR OTHER EVIDENCE.

S 656-F. FINDINGS AND RECOMMENDATIONS. 1. UPON COMPLETING AN INVESTIGATION OF A COMPLAINT, THE OMBUDSMAN SHALL INFORM THE COMPLAINANT, ANY INVESTIGATED PERSON OR ENTITY, AND ANY OTHER APPROPRIATE AUTHORITIES INCLUDING THE ATTORNEY GENERAL, OF ANY FINDINGS AND RECOMMENDATIONS FOR FURTHER ACTION. IF THE COMPLAINT INVOLVED THE CONDUCT OF A MEMBER OR EMPLOYEE OF THE JUDICIARY IN RELATION TO A CRIMINAL OR CIVIL PROCEEDING, THE OMBUDSMAN'S FINDINGS SHALL BE FORWARDED TO THE COURT WHERE THE PROCEEDING OCCURRED.

2. WHERE THE OMBUDSMAN MAKES A RECOMMENDATION TO AN AGENCY OR AUTHORITY AS THE RESULT OF AN INVESTIGATION, THE APPROPRIATE AUTHORITY SHALL, WITHIN A REASONABLE PERIOD OF TIME, INFORM THE OMBUDSMAN ABOUT ANY ACTION TAKEN BASED UPON THE RECOMMENDATION OR THE REASONING FOR NOT COMPLYING WITH THE RECOMMENDATION.

S 656-G. TESTIMONY. UNLESS REQUIRED BY A VALID COURT ORDER, NEITHER THE OMBUDSMAN NOR ANY MEMBER OF THE OMBUDSMAN'S STAFF MAY BE COMPELLED TO TESTIFY IN ANY COURT WITH RESPECT TO MATTERS INVOLVING THE EXERCISE OF OFFICIAL DUTIES IN THE INVESTIGATION OF INDIVIDUAL COMPLAINTS EXCEPT AS MAY BE NECESSARY TO ENFORCE THE PROVISIONS OF THIS SECTION.

S 656-H. REPORTING REQUIREMENTS. THE OMBUDSMAN SHALL REPORT TO THE COMMISSIONER ANNUALLY ON ALL ACTIVITIES RELATED TO FULFILLING THE OBLIGATIONS OF THE OFFICE OF THE CRIME VICTIM'S OMBUDSMAN. THE COMMISSIONER SHALL INCLUDE THE UNEDITED TEXT OF THE OMBUDSMAN'S REPORT WITHIN ANNUAL REPORTS SUBMITTED BY THE DIVISION TO THE GOVERNOR AND THE LEGISLATURE.

S 2. This act shall take effect on the one hundred eightieth day after it shall have become a law provided that the commissioner of the division of criminal justice services shall appoint a crime victim's ombudsman and further provided that the commissioner of the division of criminal justice services, in consultation with such ombudsman, shall promulgate any rules and regulations necessary to implement this act prior to such date.