

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

4201--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 2, 2011

Introduced by M. of A. ORTIZ, HOOPER, ENGLEBRIGHT -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to the definition of necessary court appearances for purposes of determining crime victim's award

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

1 Section 1. Subdivisions 8, 10 and 12 of section 631 of the executive
2 law, subdivision 8 as amended by chapter 391 of the laws of 2003, subdivi-
3 sion 10 as added by chapter 197 of the laws of 1983, and subdivision
4 12 as amended by chapter 534 of the laws of 2011, are amended to read as
5 follows:
6 8. Notwithstanding the provisions of subdivisions one, two and three
7 of this section, an elderly or disabled victim who has not been phys-
8 ically injured as a direct result of a crime, shall only be eligible for
9 an award that includes the unreimbursed cost of repair or replacement of
10 essential personal property that has been lost, damaged or destroyed as
11 a direct result of a crime, transportation expenses incurred for neces-
12 sary court appearances in connection with the prosecution of such crimes
13 and the unreimbursed cost of counselling provided to the elderly or
14 disabled victim on account of mental or emotional stress or financial
15 counselling provided to the elderly or disabled victim on account of
16 financial difficulty resulting from the incident in which the crime
17 occurred if such counselling or financial counselling is commenced with-
18 in one year from the date of the incident. FOR PURPOSES OF THIS SUBDI-
19 VISION, "NECESSARY COURT APPEARANCES" SHALL INCLUDE, BUT NOT BE LIMITED
20 TO, ANY PART OF TRIAL FROM ARRAIGNMENT THROUGH SENTENCING, PRE AND POST
21 TRIAL HEARINGS, GRAND JURY HEARINGS AND PAROLE HEARINGS FOR THE PURPOSES

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

LBD08803-03-2

1 OF FULFILLING THE RIGHTS ACCORDED TO VICTIMS PURSUANT TO SECTION 440.50
2 OF THE CRIMINAL PROCEDURE LAW.

3 10. Notwithstanding any contrary provision of law, an award shall
4 include reasonable transportation expenses incurred for necessary court
5 appearances in connection with the prosecution of such crimes upon which
6 the claim is based. FOR PURPOSES OF THIS SUBDIVISION, "NECESSARY COURT
7 APPEARANCES" SHALL INCLUDE BUT NOT BE LIMITED TO ANY PART OF A PROCEED-
8 ING FROM ARRAIGNMENT THROUGH SENTENCING, PRE AND POST TRIAL HEARINGS,
9 GRAND JURY AND PAROLE HEARINGS FOR THE PURPOSES OF FULFILLING THE RIGHTS
10 ACCORDED TO VICTIMS PURSUANT TO SECTION 440.50 OF THE CRIMINAL PROCEDURE
11 LAW.

12 12. Notwithstanding the provisions of subdivisions one, two and three
13 of this section, an individual who was a victim of either the crime of
14 menacing in the second degree as defined in subdivision two or three of
15 section 120.14 of the penal law, menacing in the first degree as defined
16 in section 120.13 of the penal law, criminal obstruction of breathing or
17 blood circulation as defined in section 121.11 of the penal law, harass-
18 ment in the second degree as defined in subdivision two or three of
19 section 240.26 of the penal law, harassment in the first degree as
20 defined in section 240.25 of the penal law, aggravated harassment in the
21 second degree as defined in subdivision four of section 240.30 of the
22 penal law, aggravated harassment in the first degree as defined in
23 subdivision two of section 240.31 of the penal law, criminal contempt in
24 the first degree as defined in paragraph (ii) or (iv) of subdivision (b)
25 or subdivision (c) of section 215.51 of the penal law, or stalking in
26 the fourth, third, second or first degree as defined in sections 120.45,
27 120.50, 120.55 and 120.60 of the penal law, respectively, who has not
28 been physically injured as a direct result of such crime shall only be
29 eligible for an award that includes loss of earning or support, the
30 unreimbursed cost of repair or replacement of essential personal proper-
31 ty that has been lost, damaged or destroyed as a direct result of such
32 crime, the unreimbursed cost for security devices to enhance the
33 personal protection of such victim, transportation expenses incurred for
34 necessary court [expenses] APPEARANCES in connection with the prose-
35 cution of such crime, the unreimbursed costs of counseling provided to
36 such victim on account of mental or emotional stress resulting from the
37 incident in which the crime occurred, reasonable relocation expenses,
38 and for occupational or job training. FOR PURPOSES OF THIS SUBDIVISION,
39 "NECESSARY COURT APPEARANCES" SHALL INCLUDE, BUT NOT BE LIMITED TO, ANY
40 PART OF TRIAL FROM ARRAIGNMENT THROUGH SENTENCING, PRE AND POST TRIAL
41 HEARINGS, GRAND JURY HEARINGS AND PAROLE HEARINGS FOR THE PURPOSES OF
42 FULFILLING RIGHTS ACCORDED TO VICTIMS PURSUANT TO SECTION 440.50 OF THE
43 CRIMINAL PROCEDURE LAW.

44 S 2. This act shall take effect immediately.