STATE OF NEW YORK

8451

2019-2020 Regular Sessions

IN ASSEMBLY

July 8, 2019

Introduced by M. of A. HEVESI -- read once and referred to the Committee on Social Services

AN ACT to amend the social services law, in relation to a civil cause of action for human trafficking

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

Section 1. Subdivision (c) of section 483-bb of the social services law, as amended by chapter 189 of the laws of 2018, is amended to read as follows:

(c) **(i)** An individual who is a victim of the conduct prohibited by section 230.33, 230.34, 230.34-a, 135.35 or 135.37 of the penal law may bring a civil action against the perpetrator or whoever knowingly advances or profits from, or whoever should have known he or she was advancing or profiting from, an act in violation of section 230.33, 230.34, 230.34-a, 135.35 or 135.37 of the penal law to recover **actual, compensatory and punitive** damages [~~and~~]**, injunctive relief, any combination of those or any other appropriate relief, as well as** reasonable attorney's fees.

(ii) An action brought pursuant to this subdivision shall be commenced within seven years of the date on which the trafficking victim was freed from the trafficking situation or, if the victim was a minor when the act of human trafficking against the victim occurred, within ten years after the date the victim attains the age of majority.

(iii) If a person entitled to sue is under a disability at the time the cause of action accrues so that it is impossible or impracticable for him or her to bring an action under this subdivision, the time of the disability is not part of the time limited for the commencement of the action. Disability will toll the running of the statute of limitations for this action.

(A) Disability includes being a minor, lacking legal capacity to make decisions, imprisonment, or other incapacity or incompetence.

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

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(B) The statute of limitations shall not run against a victim who is a minor or who lacks the legal competence to make decisions simply because a guardian ad litem has been appointed. A guardian ad litem's failure to bring a victim's action within the applicable limitation period will not prejudice the victim's right to do so after his or her disability ceases.

(C) The perpetrator is estopped from asserting a defense of the statute of limitations when the expiration of the statute is due to conduct by such perpetrator inducing the victim to delay the filing of the action, or due to threats made by the perpetrator causing duress upon the victim.

(D) The suspension of the statute of limitations due to disability, lack of knowledge, or estoppel applies to all other related claims arising out of the trafficking situation.

(E) The running of the statute of limitations is postponed during the pendency of criminal proceedings against the victim.

(iv) The running of the statute of limitations may be suspended if a person entitled to sue could not have reasonably discovered the cause of action due to circumstances resulting from the trafficking situation, such as psychological trauma, cultural and linguistic isolation, and the inability to access services.

(v) A prevailing victim may also be awarded reasonable attorney's fees and litigation costs including, but not limited to, expert witness fees and expenses as part of the costs.

(vi) Restitution paid by the perpetrator to the victim shall be credited against a judgment, award, or settlement obtained pursuant to an action under this subdivision.

(vii) A civil action filed under this subdivision shall be stayed during the pendency of any criminal action arising out of the same occurrence in which the claimant is the victim. As used in this subdivision, a "criminal action" includes investigation and prosecution, and is pending until a final adjudication in the trial court or dismissal.

§ 2. This act shall take effect immediately.