

STATE OF NEW YORK

8152--A

IN SENATE

January 26, 2022

Introduced by Sens. HOYLMAN, BAILEY, BIAGGI, BRISPORT, CLEARE, GIANARIS, MAYER, MYRIE, SEPULVEDA, THOMAS -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law and the labor law, in relation to enacting the crash victims bill of rights

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

1 Section 1. This act shall be known and may be cited as the "crash
2 victims bill of rights".

3 § 2. The vehicle and traffic law is amended by adding a new section
4 607 to read as follows:

5 § 607. Reports; injured or killed persons. 1. Any report of an acci-
6 dent required under this article or under the rules and regulations of
7 the commissioner, in which any person is killed or injured shall be
8 provided, free of charge:

9 (a) to all persons injured as a result of such accident;

10 (b) to the next of kin of all persons killed or seriously injured as a
11 result of such accident; and

12 (c) to the parent or guardian of all persons under the age of eighteen
13 injured as a result of such accident.

14 2. Reports provided pursuant to this section shall be made available
15 electronically.

16 3. Reports provided pursuant to this section shall be provided within
17 twenty-four hours of processing by the department.

18 4. The commissioner shall promulgate such rules and regulations as are
19 necessary to effectuate the provisions of this section.

20 § 3. Section 606 of the vehicle and traffic law, as added by chapter
21 429 of the laws of 2015, is amended to read as follows:

22 § 606. Processing of required reports. The commissioner, when process-
23 ing reports of accidents filed pursuant to this article, and when
24 distributing reports pursuant to section six hundred seven of this arti-
25 cle, shall give priority to reports involving persons under the age of

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

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1 eighteen, serious physical injury (as defined in subdivision ten of
2 section 10.00 of the penal law), or death.

3 § 4. Subdivision 1 of section 227 of the vehicle and traffic law, as
4 amended by chapter 337 of the laws of 1970, is amended to read as
5 follows:

6 1. a. Every hearing for the adjudication of a traffic infraction, as
7 provided by this article, shall be held before a hearing officer
8 appointed by the commissioner. The burden of proof shall be upon the
9 people, and no charge may be established except by clear and convincing
10 evidence. The commissioner may prescribe, by rule or regulation, the
11 procedures for the conduct of such hearings.

12 b. The commissioner shall prescribe, by rule or regulation, procedures
13 for presentation of victim impact statements by individuals injured
14 during the course of a traffic infraction, or in the case of a death
15 resulting from such traffic infraction, from the deceased's next of kin,
16 at hearings for the adjudication of a traffic infraction under this
17 section.

18 § 5. The labor law is amended by adding a new section 202-n to read as
19 follows:

20 § 202-n. Leave of absence for traffic hearings; impact statements. 1.
21 For the purposes of this section, the following terms shall have the
22 following meanings:

23 (a) "Employee" means a person who performs services for hire for an
24 employer, for an average of twenty or more hours per week, and includes
25 all individuals employed at any site owned or operated by an employer,
26 but shall not include an independent contractor.

27 (b) "Employer" means a person or entity that employs twenty or more
28 employees on at least one site and includes an individual, corporation,
29 partnership, association, nonprofit organization, group of persons,
30 county, town, city, school district, public authority or other govern-
31 mental subdivision of any kind.

32 2. An employer shall grant a leave of absence to an employee providing
33 an impact statement at a traffic infraction adjudication hearing under
34 section two hundred twenty-seven of the vehicle and traffic law, and who
35 is eligible to do so pursuant to rules and regulations promulgated
36 pursuant to paragraph b of subdivision one of such section. The length
37 of such leave shall not exceed four work hours, unless otherwise agreed
38 to by such employer.

39 3. An employer shall not retaliate against an employee for requesting
40 or obtaining a leave of absence as provided by this section for the
41 purpose of providing a victim impact statement at a traffic infraction
42 adjudication hearing under section two hundred twenty-seven of the vehi-
43 cle and traffic law.

44 4. The provisions of this section shall not prevent an employer from
45 granting a leave of absence to an employee providing a victim impact
46 statement at a traffic infraction adjudication hearing under section two
47 hundred twenty-seven of the vehicle and traffic law in addition to leave
48 allowed under any other provision of law. The provisions of this section
49 shall not affect an employee's rights with respect to any other employee
50 benefit otherwise provided by law.

51 § 6. 1. The superintendent of financial services is hereby authorized
52 and directed to conduct a study and prepare a report examining the unmet
53 resource needs facing persons injured in automobile crashes and next of
54 kin to persons killed in automobile crashes within the past three years
55 for which data and information is available. The superintendent of
56 financial services may request, and shall receive upon request, data and

1 information from insurers that provide no-fault or liability auto cover-
2 age, health insurance coverage, and from any other entities and relevant
3 sources to meet the purposes of the study. Such data and information
4 shall include but not be limited to:

5 (a) The number of persons injured in an automobile crash that filed a
6 no-fault claim;

7 (b) The number of persons injured in an automobile crash that filed
8 for a liability claim;

9 (c) The number of persons injured in an automobile crash that received
10 a no-fault award;

11 (d) The number of persons injured in an automobile crash that received
12 a liability award;

13 (e) The number of persons who filed for a no-fault death benefit on
14 behalf of a person killed in an automobile crash;

15 (f) The number of persons who filed a liability claim on behalf of a
16 person killed in an automobile crash;

17 (g) The number of persons who received a no-fault award on behalf of a
18 person killed in an automobile crash;

19 (h) The number of persons who received a liability award on behalf of
20 a person killed in an automobile crash;

21 (i) Aggregate data on no-fault and liability awards paid to persons
22 injured in an automobile crash, or to awards paid to persons on behalf
23 of a person killed in an automobile crash; and

24 (j) Any other data and information the superintendent of financial
25 services deems relevant to meet the purposes of the study required to be
26 completed under this section.

27 2. The report required to be prepared under subdivision one of this
28 section shall be submitted to the governor, the temporary president of
29 the senate and the speaker of the assembly on or before December 31,
30 2022. The superintendent of financial services shall include in such
31 report an extrapolation of any discernable trends in collected data, and
32 any recommendations he or she believes would improve access to resources
33 for automobile crash victims and their families.

34 3. The superintendent of financial services may consult with any state
35 or local office, agency, or department and request information from any
36 such entity that is relevant and material to the completion of the study
37 and report required to be completed under this section.

38 § 7. This act shall take effect on the one hundred eightieth day after
39 it shall have become a law.