

# 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.