STATE OF NEW YORK

8900

IN SENATE

April 27, 2022

Introduced by Sen. MARTUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Crime Victims, Crime and Correction

AN ACT to amend the executive law, in relation to requiring a defendant who causes the death of a person with children due to driving while intoxicated or impaired to pay for child support

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

Section 1. Subdivision 5 and 11 of section 621 of the executive law, subdivision 5 as amended by chapter 189 of the laws of 2018 and subdivision 11 as amended by chapter 178 of the laws of 2019, are amended to read as follows:

5. "Victim" shall mean (a) a person who suffers personal physical injury as a direct result of a crime; (b) a person who is the victim of either the crime of (1) unlawful imprisonment in the first degree as defined in section 135.10 of the penal law, (2) kidnapping in the second degree as defined in section 135.20 of the penal law, (3) kidnapping in the first degree as defined in section 135.25 of the penal law, (4) menacing in the first degree as defined in section 120.13 of the penal law, (5) criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, (6) harassment in the second degree as defined in section 240.26 of the penal law, (7) harassment in the first degree as defined in section 240.25 of the penal law, (8) aggravated harassment in the second degree as defined in subdivision three or five of section 240.30 of the penal law, (9) aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, (10) criminal contempt in the first degree as defined in subdivision (b) or subdivision (c) of section 215.51 of the penal law, (11) stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, (12) labor trafficking as defined in section 135.35 of the penal law, (13) sex trafficking as defined in section 230.34 of the penal law; or (14) sex trafficking of a child as defined in section 230.34-a of the penal law; a vulnerable elderly person or an incompetent or physically

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

LBD15524-01-2

disabled person as defined in section 260.31 of the penal law who incurs a loss of savings as defined in subdivision twenty-four of this section; or a person who has had a frivolous lawsuit filed against them**; (c) a child victim of a person or persons who died as a direct result of either the crime of (1) vehicular manslaughter in the second degree as defined in section 125.12 of the penal law, (2) vehicular manslaughter in the first degree as defined in section 125.13 of the penal law, or (3) aggravated vehicular homicide as defined in section 125.14 of the penal law**.

11. For purposes of this article "child victim" shall mean a person less than eighteen years of age who suffers physical, mental or emotional injury, or loss or damage, as a direct result of a crime or any violation listed in subdivision twelve of section six hundred thirty-one of this article, or as a result of witnessing a crime or any violation listed in subdivision twelve of section six hundred thirty-one of this article**, or a child of a victim of a crime listed in paragraph (c) of subdivision five of this section**.

§ 2. Subdivision 2 of section 631 of the executive law, as amended by chapter 233 of the laws of 2020, is amended and a new subdivision 19 is added to read as follows:

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; loss of savings not to exceed thirty thousand dollars; burial expenses not exceeding six thousand dollars of a victim who died on or after November first, nineteen ninety-six as a direct result of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; reasonable employment-related transportation expenses, not exceeding twenty-five hundred dollars [~~and~~]**;** the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime**; and child support for a child victim pursuant to paragraph (c) of subdivision five of section six hundred twenty-one of this article until such child reaches the age of eighteen**. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime. An award for employment-related transportation expenses shall be limited to the time period necessary due to the personal physical injuries sustained as a direct result of the crime upon which the claim is based, as determined by the medical information collected during the investigation of the claim.

19. Notwithstanding any inconsistent provisions of this article, where a child victim has lost a parent or parents as a result of a crime listed in paragraph (c) of subdivision five of section six hundred twenty-

one of this article the claimant shall be eligible of an award of child support which shall be paid monthly to the child victim's other parent or legal guardian until such child victim reaches the age of eighteen. Such award of child support shall be determined by the office after taking into consideration the claimant's financial resources.

§ 3. Subdivision 1 of section 632 of the executive law, as amended by chapter 287 of the laws of 1972, is amended to read as follows:

1. The award shall be paid in a lump sum, except that in the case of death or protracted disability the award shall provide for periodic payments to compensate for loss of earnings or support; or in the case of a child victim pursuant to paragraph (c) of subdivision five of section six hundred twenty-one of this article the award of child support shall be paid monthly until such child victim reaches the age of eighteen. No award made pursuant to this article shall be subject to execution or attachment other than for expenses resulting from the injury which is the basis for the claim.

§ 4. This act shall take effect immediately.