

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:

1 Section 1. Subdivision 5 and 11 of section 621 of the executive law,
2 subdivision 5 as amended by chapter 189 of the laws of 2018 and subdivi-
3 sion 11 as amended by chapter 178 of the laws of 2019, are amended to
4 read as follows:
5 5. "Victim" shall mean (a) a person who suffers personal physical
6 injury as a direct result of a crime; (b) a person who is the victim of
7 either the crime of (1) unlawful imprisonment in the first degree as
8 defined in section 135.10 of the penal law, (2) kidnapping in the second
9 degree as defined in section 135.20 of the penal law, (3) kidnapping in
10 the first degree as defined in section 135.25 of the penal law, (4)
11 menacing in the first degree as defined in section 120.13 of the penal
12 law, (5) criminal obstruction of breathing or blood circulation as
13 defined in section 121.11 of the penal law, (6) harassment in the second
14 degree as defined in section 240.26 of the penal law, (7) harassment in
15 the first degree as defined in section 240.25 of the penal law, (8)
16 aggravated harassment in the second degree as defined in subdivision
17 three or five of section 240.30 of the penal law, (9) aggravated harass-
18 ment in the first degree as defined in subdivision two of section 240.31
19 of the penal law, (10) criminal contempt in the first degree as defined
20 in subdivision (b) or subdivision (c) of section 215.51 of the penal
21 law, (11) stalking in the fourth, third, second or first degree as
22 defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law,
23 (12) labor trafficking as defined in section 135.35 of the penal law,
24 (13) sex trafficking as defined in section 230.34 of the penal law; or
25 (14) sex trafficking of a child as defined in section 230.34-a of the
26 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.

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

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

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

21 2. Any award made pursuant to this article shall be in an amount not
22 exceeding out-of-pocket expenses, including indebtedness reasonably
23 incurred for medical or other services necessary as a result of the
24 injury upon which the claim is based; loss of earnings or support
25 resulting from such injury not to exceed thirty thousand dollars; loss
26 of savings not to exceed thirty thousand dollars; burial expenses not
27 exceeding six thousand dollars of a victim who died on or after November
28 first, nineteen ninety-six as a direct result of a crime; the costs of
29 crime scene cleanup and securing of a crime scene not exceeding twenty-
30 five hundred dollars; reasonable relocation expenses not exceeding twen-
31 ty-five hundred dollars; reasonable employment-related transportation
32 expenses, not exceeding twenty-five hundred dollars ~~and~~; the unreim-
33 bursed cost of repair or replacement of articles of essential personal
34 property lost, damaged or destroyed as a direct result of the crime; and
35 child support for a child victim pursuant to paragraph (c) of subdivi-
36 sion five of section six hundred twenty-one of this article until such
37 child reaches the age of eighteen. An award for loss of earnings shall
38 include earnings lost by a parent or guardian as a result of the hospi-
39 talization of a child victim under age eighteen for injuries sustained
40 as a direct result of a crime. In addition to the medical or other
41 services necessary as a result of the injury upon which the claim is
42 based, an award may be made for rehabilitative occupational training for
43 the purpose of job retraining or similar employment-oriented rehabilita-
44 tive services based upon the claimant's medical and employment history.
45 For the purpose of this subdivision, rehabilitative occupational train-
46 ing shall include but not be limited to educational training and
47 expenses. An award for rehabilitative occupational training may be made
48 to a victim, or to a family member of a victim where necessary as a
49 direct result of a crime. An award for employment-related transporta-
50 tion expenses shall be limited to the time period necessary due to the
51 personal physical injuries sustained as a direct result of the crime
52 upon which the claim is based, as determined by the medical information
53 collected during the investigation of the claim.

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

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

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

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

17 § 4. This act shall take effect immediately.