

STATE OF NEW YORK

8619--B

IN ASSEMBLY

January 10, 2022

Introduced by M. of A. MEEKS, KELLES, CRUZ, TAYLOR, GONZALEZ-ROJAS, CLARK, SIMON, GOTTFRIED, JACKSON, JEAN-PIERRE, QUART, GALLAGHER, HEVESI, ZINERMAN, DARLING, GIBBS, PAULIN, FALL, FERNANDEZ, DE LOS SANTOS, GALEF, BURGOS, FORREST, L. ROSENTHAL, ABINANTI, NIOU, McMAHON, CUNNINGHAM, WALKER, STIRPE, ANDERSON, DICKENS, CARROLL, WEPRIN, BICHOTTE HERMELYN, AUBRY -- read once and referred to the Committee on Governmental Operations -- recommitted to the Committee on Governmental Operations in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the executive law, in relation to expanding eligibility for victims and survivors of crime to access victim compensation funds by removing the mandatory law enforcement reporting requirement and providing alternative forms of evidence that would show that a qualifying crime was committed

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

Section 1. Paragraph (a) of subdivision 3 of section 621 of the executive law, as amended by chapter 710 of the laws of 1996, is amended to read as follows:

(a) an act committed in New York state which would, if committed by a mentally competent criminally responsible adult, who has no legal exemption or defense, constitute a crime as defined in and proscribed by law, regardless of whether any suspect was arrested, charged, apprehended or prosecuted for the commission of the act or whether the claimant has interacted with a criminal justice agency investigating such act; or

§ 2. Subdivision 2 of section 625 of the executive law, as amended by section 10 of part A-1 of chapter 56 of the laws of 2010, is amended to read as follows:

2. A claim must be filed by the claimant not later than [~~one-year~~] three years after the occurrence or discovery of the crime upon which

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

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1 such claim is based, [~~one-year~~] three years after a court finds a
2 lawsuit to be frivolous, or not later than [~~one-year~~] three years after
3 the death of the victim, provided, however, that upon good cause shown,
4 the office may extend the time for filing. The office shall extend the
5 time for filing where the claimant received no notice pursuant to
6 section six hundred twenty-five-a of this article and had no knowledge
7 of eligibility pursuant to section six hundred twenty-four of this arti-
8 cle.

9 § 3. Paragraph (c) of subdivision 1 of section 627 of the executive
10 law, as added by section 18 of part A-1 of chapter 56 of the laws of
11 2010, is amended to read as follows:

12 (c) the investigation and determination of claims regardless of wheth-
13 er the alleged criminal has been arrested, charged, apprehended or pros-
14 ecuted for or convicted of any crime based upon the same incident, or
15 has been acquitted, or found not guilty of the crime in question owing
16 to criminal irresponsibility or other legal exemption;

17 § 4. Subdivision 1 of section 631 of the executive law, as separately
18 amended by chapters 189 and 295 of the laws of 2018, is amended to read
19 as follows:

20 1. No award shall be made unless the office finds that: (a) a crime
21 was committed[7]; (b) such crime directly resulted in personal physical
22 injury to or the exacerbation of a preexisting disability, or condition,
23 or death of, the victim[7]; and (c) either: (i) criminal justice agency
24 records show that such crime was [~~promptly~~] reported to the proper
25 authorities[~~; and in no case may an award be made where the criminal~~
26 ~~justice agency records show that such report was made more than one week~~
27 ~~after the occurrence of such crime unless the office, for good cause~~
28 ~~shown, finds the delay to have been justified. Notwithstanding the fore-~~
29 ~~going provisions of this subdivision, in cases involving an alleged sex~~
30 ~~offense as contained in article one hundred thirty of the penal law or~~
31 ~~incest as defined in section 255.25, 255.26 or 255.27 of the penal law~~
32 ~~or labor trafficking as defined in section 135.35 of the penal law or~~
33 ~~sex trafficking as defined in sections 230.34 and 230.34-a of the penal~~
34 ~~law or an offense chargeable as a family offense as described in section~~
35 ~~eight hundred twelve of the family court act or section 530.11 of the~~
36 ~~criminal procedure law, the criminal justice agency report need only be~~
37 ~~made~~] within a reasonable time considering all the circumstances,
38 including the victim's physical, emotional and mental condition and
39 family situation[7]; or (ii) satisfactory evidence is provided to show
40 that such crime occurred. Such evidence may include, but is not limited
41 to, one or more of the following:

42 (A) a written statement provided by a victim services provider who has
43 provided services to the victim of the crime, or other eligible claim-
44 ants as identified in section six hundred twenty-four of this article,
45 in response to the impact of the qualifying crime;

46 (B) a statement provided by a witness to the qualifying crime;

47 (C) a statement from the victim attesting to the victim's personal
48 physical injury or the exacerbation of a preexisting disability, or
49 condition provided that the office shall not require the disclosure of
50 confidential information relating to such physical injury;

51 (D) a temporary or permanent restraining order or protective order
52 issued by a court to protect or separate the victim, or other eligible
53 claimants as identified in section six hundred twenty-four of this arti-
54 cle, from the person who is responsible for the qualifying crime;

55 (E) a statement from a licensed medical provider, physician's assist-
56 ant, nurse practitioner or other person licensed to provide medical or

1 mental health care documenting that the victim experienced physical
2 injury or the exacerbation of a preexisting disability, or condition as
3 a result of the qualifying crime; or
4 (F) a video, audio, or photographic recording of the commission of the
5 qualifying crime.

6 For the purposes of this subdivision, "criminal justice agency" shall
7 include, but not be limited to, a police department, a district attor-
8 ney's office, and any other governmental agency having responsibility
9 for the enforcement of the criminal laws of the state provided, however,
10 that in cases involving such sex offense or family offense a criminal
11 justice agency shall also mean a family court, a governmental agency
12 responsible for child and/or adult protective services pursuant to title
13 six of article six of the social services law and/or title one of arti-
14 cle nine-B of the social services law, and any medical facility estab-
15 lished under the laws of the state that provides a forensic physical
16 examination for victims of rape and sexual assault.

17 § 5. This act shall take effect immediately.