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:

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

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

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

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

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

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

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

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

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

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

§ 606. Processing of required reports. The commissioner, when processing reports of accidents filed pursuant to this article, **and when distributing reports pursuant to section six hundred seven of this article,** 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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eighteen, serious physical injury (as defined in subdivision ten of section 10.00 of the penal law), or death.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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