

STATE OF NEW YORK

8071

IN SENATE

January 5, 2024

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the executive law, in relation to expanding eligibility for victims and survivors of crime to access victim compensation funds; and to amend a chapter of the laws of 2023 amending the executive law relating to expanding eligibility for victims and survivors of crime to access victim compensation funds by removing the mandatory law enforcement reporting requirement, providing alternative forms of evidence that would show that a qualifying crime was committed and the confidentiality of certain records, as proposed in legislative bills numbers S. 214-A and A. 2105-A, in relation to the effectiveness thereof

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

Section 1. Subdivision 1 of section 631 of the executive law, as amended by a chapter of the laws of 2023 amending the executive law relating to expanding eligibility for victims and survivors of crime to access victim compensation funds by removing the mandatory law enforcement reporting requirement, providing alternative forms of evidence that would show that a qualifying crime was committed and the confidentiality of certain records, as proposed in legislative bills numbers S. 214-A and A. 2105-A, is amended and two new subdivisions 1-b and 1-c are added to read as follows:

1. (a) No award shall be made unless the office finds that: ~~[(a)]~~ (i) a crime ~~[has occurred as]~~ was indicated by the ~~[applicant's record or supporting documentation]~~ records of a support agency for survivors of crime or the records of a criminal justice agency; ~~[(b)]~~ (ii) such crime directly resulted in personal physical injury to or the exacerbation of a preexisting disability, or condition, or death of, the victim; and ~~[(c) either: (i) criminal justice agency]~~ (iii) the records of a support agency for survivors of crime or the records of a criminal justice agency show that such crime was reported ~~[to the proper authorities within a reasonable time considering all the circumstances, including the victim's physical, emotional and mental condition and family situation,~~

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

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~~or (ii) evidence is provided to show that such crime occurred. Such evidence shall include, but is not limited to, one or more of the following:~~

~~(A) a written statement provided by a city or state contracted victim services provider who has provided services to the victim of the crime, or other eligible claimants as identified in section six hundred twenty-four of this article, in response to the impact of the qualifying crime; or~~

~~(B) a temporary or permanent restraining order or protective order issued by a court to protect or separate the victim, or other eligible claimants as identified in section six hundred twenty-four of this article, from the person who is responsible for the qualifying crime].~~

(b) For the purposes of this subdivision, "criminal justice agency" shall include, but not be limited to, a police department, a district attorney's office, and any other governmental agency having responsibility for the enforcement of the criminal laws of the state [provided, however, that in cases involving such sex offense or family offense a criminal justice agency shall also mean a family court, a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault].

(c) For the purposes of this subdivision a "support agency for survivors of crime" or any derivative term thereof shall include:

(i) a governmental agency responsible for child and/or adult protective services pursuant to title six of article six of the social services law and/or title one of article nine-B of the social services law, and any medical facility established under the laws of the state that provides a forensic physical examination for victims of rape and sexual assault; or

(ii) in cases involving any sex offense or family offense a support agency for survivors of crime shall also include a family court; or

(iii) in cases where a physically injured claimant and/or victim is unable to report to or otherwise cooperate with a criminal justice agency because of the victim's age, physical condition, psychological state, cultural or linguistic barriers, or any other health or safety concern that jeopardizes the victim's wellbeing, a support agency for survivors of crime shall also include:

(A) a court which issued a temporary or permanent restraining order or protective order against the party or parties alleged to have committed the crime against the victim, or

(B) a "victim services provider" which shall mean a city or state contracted victim service provider who has provided services to the victim of the crime, or other eligible claimants as identified in section six hundred twenty-four of this article, or a licensed medical or mental health services provider providing care to a victim of crime within their licensed discipline and who can attest that the victim of a crime suffered a personal physical injury related to or connected to the crime upon which the claim is based.

1-b. Where supporting evidence under subdivision one of this section is provided by any victim services provider, pursuant to clause (B) of subparagraph (iii) of paragraph (c) of subdivision one of this section, (a) a provider which is a city or state contracted victim service provider shall attest that (i) such provider and any entity associated with such provider does not have a pecuniary interest in the outcome of

1 the claim, but if so, (ii) a referral shall be made from such provider
2 and any entity associated with such provider immediately upon the deci-
3 sion of the office, and (iii) it is understood that no contractual
4 reimbursements or other payments shall be made by the office to the
5 provider and any entity associated with such provider for any crime
6 related services provided to that victim after such decision by the
7 office, and (b) all victim services providers, pursuant to clause (B) of
8 subparagraph (iii) of paragraph (c) of subdivision one of this section
9 shall also attest that the victim's injuries are the result of a crime.

10 1-c. In the event that inconsistent reports among two or more support
11 agencies for survivors of crime exist for the same incident, the office
12 shall consider the totality of the circumstances among all reports in
13 the light most favorable to the victim and/or claimant, in order to
14 accomplish the purpose of this article.

15 § 2. Subdivision 4 of section 625 of the executive law, as amended by
16 a chapter of the laws of 2023 amending the executive law relating to
17 expanding eligibility for victims and survivors of crime to access
18 victim compensation funds by removing the mandatory law enforcement
19 reporting requirement, providing alternative forms of evidence that
20 would show that a qualifying crime was committed and the confidentiality
21 of certain records, as proposed in legislative bills numbers S. 214-A
22 and A. 2105-A, is amended to read as follows:

23 4. Upon the filing of a claim pursuant to this article, the office
24 shall promptly notify the district attorney of the county wherein the
25 crime is alleged to have occurred ~~[, Except in cases where the alleged~~
26 ~~crime was not reported to a criminal justice agency, as indicated in~~
27 ~~subdivision one of section six hundred thirty one of this article].~~
28 provided however, that in such cases in which the crime victim reported
29 to a support agency that is also a victim services provider as defined
30 in clause (B) of subparagraph (iii) of paragraph (c) of subdivision one
31 of section six hundred thirty-one of this article, the office shall not
32 make any such notification. If, within ten days after such notification,
33 such district attorney advises the office that a criminal prosecution is
34 pending upon the same alleged crime and requests that action by the
35 office be deferred, the office shall defer all proceedings under this
36 article until such time as such criminal prosecution has been concluded
37 and shall so notify such district attorney and the claimant. When such
38 criminal prosecution has been concluded, such district attorney shall
39 promptly so notify the office. Nothing in this section shall limit the
40 authority of the office to grant emergency awards pursuant to section
41 six hundred thirty of this article.

42 § 3. Paragraph (a) of subdivision 1 of section 633 of the executive
43 law, as amended by a chapter of the laws of 2023 amending the executive
44 law relating to expanding eligibility for victims and survivors of crime
45 to access victim compensation funds by removing the mandatory law
46 enforcement reporting requirement, providing alternative forms of
47 evidence that would show that a qualifying crime was committed and the
48 confidentiality of certain records, as proposed in legislative bills
49 numbers S. 214-A and A. 2105-A, is amended to read as follows:

50 (a) requests for information based on legitimate criminal justice
51 purposes ~~[as determined by the agency, provided that, in such case, the~~
52 ~~office shall furnish only that portion of the information that is legal-~~
53 ~~ly required]~~ provided that, in such cases in which the crime victim
54 reported to a support agency that is also a victim services provider as
55 defined in clause (B) of subparagraph (iii) of paragraph (c) of subdivi-
56 sion one of section six hundred thirty-one of this article, the office

1 shall not provide any personally identifying information or information
2 tending to identify the victim or claimant;

3 § 4. Section 7 of a chapter of the laws of 2023 amending the executive
4 law relating to expanding eligibility for victims and survivors of crime
5 to access victim compensation funds by removing the mandatory law
6 enforcement reporting requirement, providing alternative forms of
7 evidence that would show that a qualifying crime was committed and the
8 confidentiality of certain records, as proposed in legislative bills
9 numbers S. 214-A and A. 2105-A, is amended to read as follows:

10 § 7. This act shall take effect [~~one year after it shall have become a~~
11 ~~law~~] December 31, 2025 and shall apply to all claims filed on or after
12 such effective date.

13 § 5. This act shall take effect immediately; provided, however, that
14 sections one, two and three of this act shall take effect on the same
15 date and in the same manner as a chapter of the laws of 2023 amending
16 the executive law relating to expanding eligibility for victims and
17 survivors of crime to access victim compensation funds by removing the
18 mandatory law enforcement reporting requirement, providing alternative
19 forms of evidence that would show that a qualifying crime was committed
20 and the confidentiality of certain records, as proposed in legislative
21 bills numbers S. 214-A and A. 2105-A, takes effect.