

STATE OF NEW YORK

2105--A

2023-2024 Regular Sessions

IN ASSEMBLY

January 23, 2023

Introduced by M. of A. MEEKS, KELLES, CRUZ, TAYLOR, GONZALEZ-ROJAS, CLARK, SIMON, JACKSON, JEAN-PIERRE, GALLAGHER, HEVESI, ZINERMAN, DARLING, GIBBS, PAULIN, FALL, DE LOS SANTOS, BURGOS, L. ROSENTHAL, McMAHON, CUNNINGHAM, WALKER, STIRPE, ANDERSON, DICKENS, CARROLL, WEPRIN, BICHOTTE HERMELYN, AUBRY, REYES, LUCAS, RIVERA, PRETLOW, OTIS, PEOPLES-STOKES, KIM, BENEDETTO, ARDILA, BORES, LAVINE, O'DONNELL, EPSTEIN, RAGA, SIMONE, GLICK, STECK, SEAWRIGHT, FORREST, SHRESTHA, SHIMSKY, BURDICK, ZEBROWSKI, THIELE, SEPTIMO, ZACCARO, EACHUS -- Multi-Sponsored by -- M. of A. HYNDMAN -- read once and referred to the Committee on Governmental Operations -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, 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, providing alternative forms of evidence that would show that a qualifying crime was committed and the confidentiality of certain records

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

1 Section 1. Paragraph (a) of subdivision 3 of section 621 of the execu-
2 tive law, as amended by chapter 710 of the laws of 1996, is amended to
3 read as follows:
4 (a) an act committed in New York state which would, if committed by a
5 mentally competent criminally responsible adult, who has no legal
6 exemption or defense, constitute a crime as defined in and proscribed by
7 law, regardless of whether any suspect was arrested, charged, appre-
8 hended or prosecuted for the commission of the act or whether the claim-
9 ant has interacted with a criminal justice agency investigating such
10 act; or

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

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

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

14 § 3. Paragraph (c) of subdivision 1 of section 627 of the executive
15 law, as added by section 18 of part A-1 of chapter 56 of the laws of
16 2010, is amended to read as follows:

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

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

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

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

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

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

12 § 5. Subdivision 4 of section 625 of the executive law, as amended by
13 section 10 of part A-1 of chapter 56 of the laws of 2010, is amended to
14 read as follows:

15 4. Upon the filing of a claim pursuant to this article, the office
16 shall promptly notify the district attorney of the county wherein the
17 crime is alleged to have occurred. Except in cases where the alleged
18 crime was not reported to a criminal justice agency, as indicated in
19 subdivision one of section six hundred thirty-one of this article. If,
20 within ten days after such notification, such district attorney advises
21 the office that a criminal prosecution is pending upon the same alleged
22 crime and requests that action by the office be deferred, the office
23 shall defer all proceedings under this article until such time as such
24 criminal prosecution has been concluded and shall so notify such
25 district attorney and the claimant. When such criminal prosecution has
26 been concluded, such district attorney shall promptly so notify the
27 office. Nothing in this section shall limit the authority of the office
28 to grant emergency awards pursuant to section six hundred thirty of this
29 article.

30 § 6. Subdivision 1 of section 633 of the executive law, as amended by
31 section 25 of part A-1 of chapter 56 of the laws of 2010, is amended to
32 read as follows:

33 1. Records maintained by the office and proceedings by the office
34 based thereon regarding a claim submitted by a victim or a claimant
35 shall be deemed confidential and shall not be shared with any government
36 or private entity, with the following exceptions:

37 (a) requests for information based [~~upon~~] on legitimate criminal
38 justice purposes as determined by the agency, provided that, in such
39 case, the office shall furnish only that portion of the information that
40 is legally required;

41 (b) judicial subpoenas;

42 (c) requests for information by the victim or claimant or his or her
43 authorized representative; or

44 (d) for purposes necessary and proper for the administration of this
45 article.

46 § 7. This act shall take effect one year after it shall have become a
47 law.