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:

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

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

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

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

(c) the investigation and determination of claims regardless of whether the alleged criminal has been **arrested, charged,** apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption;

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

1. No award shall be made unless the office finds that**:** (a) a crime [~~was committed,~~] **has occurred as indicated by the applicant's record or supporting documentation;** (b) 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 records show that such crime was [~~promptly~~] reported to the proper authorities[~~; and in no case may an award be made where the criminal justice agency records show that such report was made more than one week after the occurrence of such crime unless the office, for good cause shown, finds the delay to have been justified. Notwithstanding the foregoing provisions of this subdivision, in cases involving an alleged sex offense as contained in article one hundred thirty of the penal law or incest as defined in section 255.25, 255.26 or 255.27 of the penal law or labor trafficking as defined in section 135.35 of the penal law or sex trafficking as defined in sections 230.34 and 230.34-a of the penal law or an offense chargeable as a family offense as described in section eight hundred twelve of the family court act or section 530.11 of the criminal procedure law, the criminal justice agency report need only be made~~] within a reasonable time considering all the circumstances, including the victim's physical, emotional and mental condition and family situation[~~.~~]**; 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.

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.

§ 5. Subdivision 4 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:

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

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

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

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

(b) judicial subpoenas;

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

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

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