STATE OF NEW YORK

7796

2023-2024 Regular Sessions

IN SENATE

December 8, 2023

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

AN ACT to amend the civil practice law and rules, the general municipal law and the court of claims act, in relation to the tolling of statute of limitations for individuals in state custody

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

Section 1. The civil practice law and rules is amended by adding a new section 208-a to read as follows:

§ 208-a. In custody at time of cause of action. Notwithstanding any provisions of law that impose a period of limitation to the contrary or any provisions of any other law pertaining to the filing of a notice of claim or a notice of intention to file a claim as a condition precedent to commencement of an action or special proceeding, with respect to all civil claims or causes of action brought by any person to recover damages for physical, psychological, or other injury or condition suffered, while in the care and custody or supervision of: the state department of corrections and community supervision, a hospital as defined in subdivision two of section four hundred of the correction law, a correctional facility as defined in subdivision three of section forty of the correction law, a local correctional facility as defined in subdivision two of section forty of the correction law, a police officer, peace officer, or other law enforcement official, is a resident or inpatient of a residential facility operated, licensed or certified by (a) the office of mental health; (b) the office for people with developmental disabilities; or (c) the office of addiction services and supports, or otherwise being held pursuant to article nine of the mental hygiene law or being held pretrial, at the time in which the cause of action occurs, the time in which such action must commence shall be extended to three years after such person is released from such custody.

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

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§ 2. Subdivision 8 of section 50-e of the general municipal law is amended by adding a new paragraph (c) to read as follows:

(c) Notwithstanding any provision of law to the contrary, this section shall not apply to any civil claims or causes of action brought by any person to recover damages for physical, psychological, or other injury or condition suffered while in custody pursuant to section two hundred eight-a of the civil practice law and rules, at the time the cause of action occurred when such person was in custody pursuant to such section.

§ 3. Section 50-i of the general municipal law is amended by adding a new subdivision 6 to read as follows:

6. Notwithstanding any provision of law to the contrary, this section shall not apply to any civil claims or causes of action made against a city, county, town, village, fire district or school district brought by any person to recover damages for physical, psychological, or other injury or condition suffered while in custody pursuant to section two hundred eight-a of the civil practice law and rules, at the time when such cause of action occurs.

§ 4. Subdivision 2 of section 50-e of the general municipal law, as amended by chapter 62 of the laws of 1983, is amended to read as follows:

2. Form of notice; contents. The notice shall be in writing, sworn to by or on behalf of the claimant, and shall set forth: (1) the name and post-office address of each claimant, and of his attorney, if any; (2) the nature of the claim; (3) **to the best of the claimant's knowledge and belief,** the time when, the place where and the manner in which the claim arose; and (4) the items of damage or injuries claimed to have been sustained so far as then practicable but a notice with respect to a claim against a municipal corporation other than a city with a population of one million or more persons shall not state the amount of damages to which the claimant deems himself entitled, provided, however, that the municipal corporation, other than a city with a population of one million or more persons, may at any time request a supplemental claim setting forth the total damages to which the claimant deems himself entitled. A supplemental claim shall be provided by the claimant within fifteen days of the request. In the event the supplemental demand is not served within fifteen days, the court, on motion, may order that it be provided by the claimant.

§ 5. Section 10 of the court of claims act is amended by adding a new subdivision 11 to read as follows:

11. Notwithstanding any provision of law to the contrary, this section shall not apply to any civil claims or causes of action made against a city, county, town, village, fire district or school district brought by any person to recover damages for physical, psychological, or other injury or condition suffered while in custody pursuant to section two hundred eight-a of the civil practice law and rules.

§ 6. Subdivision b of section 11 of the court of claims act, as amended by chapter 606 of the laws of 2007, is amended to read as follows:

b. The claim shall state the time when and place where**, to the best of the claimant's knowledge and belief,** such claim arose **which shall be produced in the claim**, the nature of same, the items of damage or injuries claimed to have been sustained and, except in an action to recover damages for personal injury, medical, dental or podiatric malpractice or wrongful death, the total sum claimed. A claim for the appropriation by the state of lands, or any right, title or interest in or to lands shall

include an inventory or itemized statement of fixtures, if any, for which compensation is claimed. The notice of intention to file a claim shall set forth the same matters except that the items of damage or injuries and the sum claimed need not be stated. The claim and notice of intention to file a claim shall be verified in the same manner as a complaint in an action in the supreme court.

§ 7. This act shall take effect immediately.