§ 631. Awards. 1. (a) No award shall be made unless the office finds that: (i) a crime was indicated by the records of a support agency for survivors of crime or the records of a criminal justice agency; (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 (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.

(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.

(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-a. No award shall be made for a frivolous lawsuit unless the office finds that the victim has been awarded costs pursuant to section eighty-three hundred three-a of the civil practice law and rules and the individual responsible for the payment of costs is unable to pay such costs provided, however, that in no event shall the amount of such costs exceed two thousand five hundred dollars.

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

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

2. Any award made pursuant to this article shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services necessary as a result of the injury upon which the claim is based; loss of earnings or support resulting from such injury not to exceed thirty thousand dollars; loss

of savings not to exceed thirty thousand dollars; burial expenses not exceeding twelve thousand dollars of a victim who died on or after November first, nineteen ninety-six as a direct result of a crime; the costs of crime scene cleanup and securing of a crime scene not exceeding twenty-five hundred dollars; reasonable relocation expenses not exceeding twenty-five hundred dollars; reasonable employment-related transportation expenses, not exceeding twenty-five hundred dollars and the unreimbursed cost of repair or replacement of articles of essential personal property lost, damaged or destroyed as a direct result of the crime. An award for loss of earnings shall include earnings lost by a parent or guardian as a result of the hospitalization of a child victim under age eighteen for injuries sustained as a direct result of a crime. In addition to the medical or other services necessary as a result of the injury upon which the claim is based, an award may be made for rehabilitative occupational training for the purpose of job retraining or similar employment-oriented rehabilitative services based upon the claimant's medical and employment history. For the purpose of this subdivision, rehabilitative occupational training shall include but not be limited to educational training and expenses. An award for rehabilitative occupational training may be made to a victim, or to a family member of a victim where necessary as a direct result of a crime. An award for employment-related transportation expenses shall be limited to the time period necessary due to the personal physical injuries sustained as a direct result of the crime upon which the claim is based, as determined by the medical information collected during the investigation of the claim.

3. Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained, provided, however, that no such award shall exceed six hundred dollars for each week of lost earnings or support. Awards with respect to livery operator victims pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted in the amount and in the manner provided therein. The aggregate award for all such losses pursuant to this subdivision, including any awards made pursuant to paragraphs (f) and (g) of subdivision one of section six hundred

twenty-seven of this article, shall not exceed thirty thousand dollars. If there are two or more persons entitled to an award as a result of the death of a person which is the direct result of a crime, the award shall be apportioned by the office among the claimants.

3-a. Any award made for loss of savings shall, unless reduced pursuant to other provisions of this article, be in an amount equal to the actual loss sustained.

4. Any award made pursuant to this article shall be reduced by the amount of any payments received or to be received by the claimant as a result of the injury (a) from or on behalf of the person who committed the crime, (b) under insurance programs mandated by law, (c) from public funds, (d) under any contract of insurance wherein the claimant is the insured or beneficiary, (e) as an emergency award pursuant to section six hundred thirty of this article. Notwithstanding the foregoing, where the person injured is a livery operator victim, because undue hardship may result to the claimant if immediate payment is not made, any award pursuant to paragraphs (f) and (g) of subdivision one of section six hundred twenty-seven of this article shall be granted without reduction for workers' compensation benefits to be received, if any.

5. (a) Except as provided in paragraph (g) of this subdivision, in determining the amount of an award, the office shall determine whether, because of such victim's conduct, the victim of such crime contributed to the infliction of such victim's injury, and the office shall reduce the amount of the award or reject the claim altogether, in accordance with such determination.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for such victim's own injury where the record shows that the person injured was acting as a good samaritan, as defined in this article.

(c) Notwithstanding any inconsistent provision of this article, where the person injured acted as a good samaritan, the office may, without regard to the financial difficulty of the claimant, make an award for out-of-pocket losses. Such award may also include compensation for any

loss of property up to five thousand dollars suffered by the victim during the course of such victim's actions as a good samaritan.

(d) Notwithstanding any inconsistent provision of this article, where a person acted as a good samaritan, and was killed as a direct result of the crime, the office may, without regard to the financial difficulty of the claimant, make a lump sum award to such claimant for actual loss of support not to exceed thirty thousand dollars.

(e) Notwithstanding any inconsistent provision of this article, where a police officer or firefighter, both paid and volunteer, dies from injuries received in the line of duty as a direct result of a crime, the office may, without regard to the financial difficulty of the claimant, make an award for the unreimbursed counseling expenses of the eligible spouse, domestic partner, parents, siblings or children of such victim, and/or the reasonable burial expenses incurred by the claimant.

(f) Notwithstanding the provisions of paragraph (a) of this subdivision, the office shall disregard for this purpose the responsibility of the victim for such victim's own loss of savings.

(g) Notwithstanding the provisions of paragraph (a) of this subdivision, when determining a claim made by a person eligible under paragraph (b), (c) or (d) of subdivision one of section six hundred twenty-four of this article, if the crime upon which the claim is based resulted in the death of the victim, the office shall not consider whether, because of their conduct, the victim of such crime contributed to their death.

6. (a) Claims may be approved only if the office finds that unless the claimant's award is approved he or she will suffer financial difficulty. However, no finding of financial difficulty is required for a claim for an emergency award or an award less than ten thousand dollars. In determining financial difficulty, the office shall consider all relevant factors, including but not limited to:

(1) the number of claimant's dependents;

(2) reasonable living expenses of the claimant and his family;

(3) any special health, rehabilitative or educational needs of the claimant and his dependents;

(4) the claimant's employment situation including income and potential earning capacity;

(5) the claimant's net financial resources after authorized deduction as provided in paragraphs (b) and (c) of this subdivision;

(6) whether claimant's financial resources will become exhausted during his lifetime; and

(7) the nature and the amount of claimant's total debt and liabilities, including the amount of debt incurred or to be incurred to pay for losses and expenses of the crime, and the extent to which claimant's essential assets will have to be liquidated.

(b) Claimant's net financial resources do not include the present value of future earnings, and shall be determined by the office by deducting from his total financial resources the value, within reasonable limits, of the following items:

(1) a homestead, not exceeding five hundred thousand dollars, or a total of ten years' rent for a renter;

(2) personal property consisting of clothing and strictly personal effects;

(3) household furniture, appliances and equipment;

(4) tools and equipment necessary for the claimant's trade, occupation or business;

(5) a family automobile;

(6) life insurance, except in death claims; and

(7) retirement, education and health plans or contributions to a retirement or pension program including but not limited to contributions to: (i) employee profit sharing plans, (ii) employee money purchase plans, (iii) 401 (k) plans, (iv) simplified employee pensions (SEP), (v) individual retirement accounts (IRA), (vi) 403 (b) plans, (vii) 457 plans, (viii) Keogh plans, (self employed), and (ix) any other plan or account for which contributions are made primarily for retirement purposes.

(c) The office, after taking into consideration the claimant's financial resources, may exempt that portion of the victim's or claimant's annual income required to meet reasonable living expenses and the value of inventory or other property necessary for the claimant's business or occupation or the production of income required to meet reasonable living expenses. In no event shall the aggregate value of exemptions under this paragraph exceed one hundred thousand dollars.

(d) Nothing contained in this subdivision shall be construed to mean

that the office must maintain the same standard of living enjoyed by the claimant prior to the death or injury.

(e) The director shall promulgate such rules and regulations as are necessary for the implementation of this section.

7. Notwithstanding the provisions of subdivision six of this section, an award shall include out-of-pocket expenses, including indebtedness reasonably incurred by the victim of a sex offense or the person responsible for the victim of such sex offense, as such sex offense is defined in article one hundred thirty of the penal law, for a hospital or medical examination in connection with the investigation or prosecution of any such offense.

8. Notwithstanding the provisions of subdivisions one, two and three of this section, an elderly or disabled victim who has not been physically injured as a direct result of a crime, shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of a crime, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes and the unreimbursed cost of counselling provided to the elderly or disabled victim on account of mental or emotional stress or financial counselling provided to the elderly or disabled victim on account of financial difficulty resulting from the incident in which the crime occurred if such counselling or financial counselling is commenced within one year from the date of the incident. For purposes of this subdivision, "necessary court appearances" shall include, but not be limited to, any part of trial from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

8-a. Notwithstanding the provisions of subdivision one of this section, a vulnerable elderly person or an incompetent or physically disabled person, as defined in section 260.31 of the penal law, who has not been physically injured as a direct result of a crime, shall be eligible for an award that includes loss of savings.

9. (a) Any award made for the cost of repair or replacement of

essential personal property, including cash losses of essential personal property, shall be limited to an amount of twenty-five hundred dollars, except that all cash losses of essential personal property shall be limited to the amount of one hundred dollars. In the case of medically necessary life-sustaining equipment which was lost or damaged as the direct result of a crime, the award shall be limited to the amount of ten thousand dollars.

(b) Notwithstanding the provisions of paragraph (a) of this subdivision, in the case of cash losses which were the result of an act or series of acts of larceny as defined in article one hundred fifty-five of the penal law, perpetrated by the same actor indicated by a report or reports obtained from a criminal justice agency as defined in subdivision one of this section, and a receipt, receipts or similar documentation is provided showing such cash loss or losses, a single claim may be filed and an award may be made for cash losses of essential personal property for each act up to a cumulative amount of no more than twenty-five hundred dollars.

10. Notwithstanding any contrary provision of law, an award shall include reasonable transportation expenses incurred for necessary court appearances in connection with the prosecution of such crimes upon which the claim is based. For purposes of this subdivision, "necessary court appearances" shall include but not be limited to any part of a proceeding from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

11. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of: menacing in the second degree as defined in subdivision one of section 120.14 of the penal law; menacing in the third degree as defined in section 120.15 of the penal law; reckless endangerment in the second degree as defined in section 120.20 of the penal law; reckless endangerment in the first degree as defined in section 120.25 of the penal law; unlawful imprisonment in the first degree as defined in section 135.10 of the penal law; kidnapping in the second degree as defined in section 135.20 of the penal law; kidnapping in the first degree as defined in section 135.25 of the penal law; criminal mischief

in the fourth degree as defined in subdivision four of section 145.00 of the penal law; robbery in the third degree as defined in section 160.05 of the penal law; robbery in the second degree as defined in subdivision one, paragraph (b) of subdivision two or subdivision three of section 160.10 of the penal law; robbery in the first degree as defined in subdivisions two, three and four of section 160.15 of the penal law; unlawful surveillance in the second degree as defined in section 250.45 of the penal law; or unlawful surveillance in the first degree as defined in section 250.50 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earnings, the unreimbursed cost of crime scene cleanup and securing a crime scene, and the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred.

12. Notwithstanding the provisions of subdivisions one, two and three of this section, an individual who was a victim of either the crime of menacing in the second degree as defined in subdivision two or three of section 120.14 of the penal law, menacing in the first degree as defined in section 120.13 of the penal law, criminal obstruction of breathing or blood circulation as defined in section 121.11 of the penal law, harassment in the second degree as defined in section 240.26 of the penal law, harassment in the first degree as defined in section 240.25 of the penal law, aggravated harassment in the second degree as defined in subdivision three or five of section 240.30 of the penal law, aggravated harassment in the first degree as defined in subdivision two of section 240.31 of the penal law, criminal contempt in the first degree as defined in subdivision (b) or subdivision (c) of section 215.51 of the penal law, or stalking in the fourth, third, second or first degree as defined in sections 120.45, 120.50, 120.55 and 120.60 of the penal law, respectively, or unlawful dissemination or publication of an intimate image as defined in section 245.15 of the penal law, or dissemination of an unlawful surveillance image in the second or first degree as defined in sections 250.55 and 250.60 of the penal law, respectively, or a hate crime as defined in section 485.05 of the penal law who has not been physically injured as a direct result of such crime shall only be eligible for an award that includes loss of earning or

support, the unreimbursed cost of repair or replacement of essential personal property that has been lost, damaged or destroyed as a direct result of such crime, the unreimbursed cost for security devices to enhance the personal protection of such victim, the cost of residing at or utilizing services provided by shelters for battered spouses and children as provided in subdivision one of section six hundred twenty-six of this article, transportation expenses incurred for necessary court appearances in connection with the prosecution of such crime, the unreimbursed costs of counseling provided to such victim on account of mental or emotional stress resulting from the incident in which the crime occurred, the unreimbursed cost of crime scene cleanup and securing a crime scene, reasonable relocation expenses, and for occupational or job training. For purposes of this subdivision, "necessary court appearances" shall include, but not be limited to, any part of trial from arraignment through sentencing, pre and post trial hearings and grand jury hearings.

13. * (a) Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and any necessary related laboratory tests or pharmaceuticals based upon the department of health's Medicaid reimbursement rates; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (c) of subdivision one of section twenty-eight hundred five-i of the public health law. The office, in consultation with the department of health, shall also generate the necessary forms for the

direct reimbursement procedure and regulations setting the usual and customary rates for the itemized charges related to an exam of a sexual assault survivor.

* NB Effective until May 9, 2027

* (a) Notwithstanding any other provision of law, rule, or regulation to the contrary, when any New York state accredited hospital, accredited sexual assault examiner program, or licensed health care provider furnishes services to any sexual assault survivor, including but not limited to a health care forensic examination in accordance with the sex offense evidence collection protocol and standards established by the department of health, such hospital, sexual assault examiner program, or licensed healthcare provider shall provide such services to the person without charge and shall bill the office directly. The office, in consultation with the department of health, shall define the specific services to be covered by the sexual assault forensic exam reimbursement fee, which must include at a minimum forensic examiner services, hospital or healthcare facility services related to the exam, and any necessary related laboratory tests or pharmaceuticals based upon the department of health's Medicaid reimbursement rates; including but not limited to HIV post-exposure prophylaxis provided by a hospital emergency room at the time of the forensic rape examination pursuant to paragraph (f) of subdivision one of section twenty-eight hundred five-i of the public health law. The office, in consultation with the department of health, shall also generate the necessary forms for the direct reimbursement procedure and regulations setting the usual and customary rates for the itemized charges related to an exam of a sexual assault survivor.

* NB Effective May 9, 2027

(b) The rate for reimbursement shall be the amount of itemized charges, to be reimbursed at the usual and customary rates as established pursuant to this subdivision and which shall cumulatively not exceed (1) eight hundred dollars for an exam of a sexual assault survivor where no sexual offense evidence collection kit is used; (2) one thousand two hundred dollars for an exam of a sexual assault survivor where a sexual offense evidence collection kit is used; and (3) two thousand five hundred dollars for an exam of a sexual assault survivor, with or without the use of a sexual offense evidence

collection kit, and with the provision of the full regimen of necessary HIV post-exposure prophylaxis. The hospital, sexual assault examiner program, or licensed health care provider must accept this fee as payment in full for these specified services. No additional billing of the survivor for said services is permissible. A sexual assault survivor may voluntarily assign any private insurance benefits to which they are entitled for the healthcare forensic examination, in which case the hospital or healthcare provider may not charge the office; provided, however, in the event the sexual assault survivor assigns any private health insurance benefit, such coverage shall not be subject to annual deductibles or coinsurance or balance billing by the hospital, sexual assault examiner program or licensed health care provider. A hospital, sexual assault examiner program or licensed health care provider shall, at the time of the initial visit, request assignment of any private health insurance benefits to which the sexual assault survivor is entitled on a form prescribed by the office; provided, however, such sexual assault survivor shall be advised orally and in writing that they may decline to provide such information regarding private health insurance benefits if they believe that the provision of such information would substantially interfere with their personal privacy or safety and in such event, the sexual assault forensic exam fee shall be paid by the office. Such sexual assault survivor shall also be advised that providing such information may provide additional resources to pay for services to other sexual assault victims. Such sexual assault survivor shall also be advised that the direct reimbursement program established by this subdivision does not automatically make them eligible for any other compensation benefits available from the office including, but not limited to, reimbursement for mental health counseling expenses, relocation expenses, and loss of earnings, and that such compensation benefits may only be made available to them should the sexual assault survivor or other person eligible to file pursuant to section six hundred twenty-four of this article, file a compensation application with the office. If such sexual assault survivor declines to provide such health insurance information, they shall indicate such decision on the form provided by the hospital, sexual assault examiner program or licensed health care provider, which form shall be prescribed by the office.

14. Notwithstanding any inconsistent provision of this article, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred for the cost of counseling for the eligible spouse, grandparents, parents, stepparents, guardians, brothers, sisters, stepbrothers, stepsisters, children, or stepchildren of such victim. Any award for such expense incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

15. Notwithstanding any inconsistent provision of this article, where a victim is injured as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award for the unreimbursed and unreimbursable expense or indebtedness reasonably incurred by the claimant for medical care or counseling services necessary as a result of such injury. Any award for such expense or indebtedness incurred on or before December thirty-first, two thousand seven, shall be made without regard to the financial difficulty of the claimant.

16. Notwithstanding any inconsistent provision of this article, and without regard to the financial difficulty of the claimant, where a victim dies from injuries received as a direct result of the World Trade Center terrorist attacks on September eleventh, two thousand one, the office may make an award of reasonable burial expenses for such victim.

17. Notwithstanding the provisions of subdivision one of this section, where a child victim has not been physically injured as a direct result of a crime or any violation listed in subdivision twelve of this section, or has witnessed a crime or any violation listed in subdivision twelve of this section in which no physical injury occurred, the claimant shall only be eligible for an award that includes the unreimbursed cost of repair or replacement of essential personal property of the child victim that has been lost, damaged or destroyed as a direct result of a crime or any violation listed in subdivision twelve

of this section, transportation expenses incurred by the claimant for necessary court appearances of the child victim in connection with the prosecution of such crimes, and, if counseling is commenced within one year from the date of the incident or its discovery, (1) the unreimbursed cost of counseling provided to the child victim on account of mental or emotional stress resulting from the incident in which the crime or any violation listed in subdivision twelve of this section occurred, and/or (2) the unreimbursed cost of counseling provided to the claimant eligible under paragraph (h) of subdivision one of section six hundred twenty-four of this article and resulting from the incident in which the crime or any violation listed in subdivision twelve of this section occurred.

18. Notwithstanding any inconsistent provision of this article and subject to any applicable maximum award limitations contained in this section, where a victim has died as a direct result of the crime upon which the claim is based and the crime occurred in the residence of a person eligible pursuant to paragraphs (k) and (l) of subdivision one of section six hundred twenty-four of this article, the office may make no more than one award for crime scene clean-up related to such residence.