



Legislation Text

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Int. No. 853

By The Speaker (Council Member Vallone) and Council Members Warden, Carrion, Malave-Dilan, Fisher, Freed, Henry, Marshall, Michels, Moskowitz, Robles, Spigner, Provenzano, The Public Advocate (Mr. Green), Abel, Golden, Oddo, (in conjunction with the Mayor); also Council Members Eisland, Foster, Koslowitz, Linares, McCaffrey, Nelson, O'Donovan, Wooten and Lasher.

A Local Law to amend the administrative code of the city of New York to protect individuals who are the victims of violent crime.

Be it enacted by the Council as follows:

Section 1. A new chapter 4 is hereby added to title 10 of the administrative code of the city of New York to read as follows:

CHAPTER FOUR

ACTIONS BY VICTIMS OF VIOLENT CRIME

§ 10-401 Short Title. This local law shall be known as the "Victims of Violent Crime Protection Act".

§ 10-402 Definition. For purposes of this chapter:

a. "Crime of violence" means an act or series of acts that would constitute a misdemeanor or felony against the person as defined in state or federal law or that would constitute a misdemeanor or felony against property as defined in state or federal law if the conduct presents a serious risk of physical injury to another, whether or not those acts have actually resulted in criminal charges, prosecution, or conviction.

§ 10-403 Civil Cause of Action. Except as otherwise provided by law, any person claiming to be injured by an individual who commits a crime of violence as defined in section 10-402 of this chapter, shall have a cause of action against such individual in any court of competent jurisdiction for any or all of the following relief:

1. compensatory and punitive damages;
2. injunctive and declaratory relief;
3. attorneys' fees and costs;
4. such other relief as a court may deem appropriate.

§ 10-404 Limitations. a. A civil action under this chapter must be commenced within six years after the alleged crime of violence as defined in section 10-402 of this chapter occurred. If, however, due to injury or disability resulting from an act or acts giving rise to a cause of action under this chapter, or due to infancy as defined in the civil procedure law and rules, a person entitled to commence an action under this chapter is unable to do so at the time such cause of action accrues, then the time within which the action must be commenced shall be extended to six years after the inability to commence the action ceases.

b. Nothing in this section requires a prior criminal complaint, prosecution or conviction to establish the elements of a cause of action under this chapter.

§ 10-405 Burden of Proof. Conviction of a crime arising out of the same transaction, occurrence or event giving rise to a cause of action under this chapter shall be considered conclusive proof of the underlying facts of that crime for purposes of an action brought under this chapter. That such crime was a crime of violence must be proved by a preponderance of the evidence.

§ 10-406 Severability. If any section, subsection, sentence, clause, phrase or other portion of this local law is, for any reason, declared unconstitutional or invalid, in whole or in part, by any court of competent jurisdiction such portion shall be deemed severable, and such unconstitutionality or invalidity shall not affect the validity of the remaining portions of this law, which remaining portions shall continue in full force and effect.

§ 2. This local law shall take effect immediately after its enactment into law.

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