

STATE OF NEW YORK

8736

IN SENATE

May 10, 2018

Introduced by Sens. YOUNG, LANZA, PHILLIPS, AMEDORE, FELDER, FUNKE, GALLIVAN, GRIFFO, HELMING, JACOBS, LITTLE, MARCELLINO, MURPHY, ORTT, RANZENHOFER, RITCHIE, ROBACH, SERINO, SEWARD -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

AN ACT to amend the state finance law, in relation to establishing the New York child victim reconciliation and compensation fund; to amend the criminal procedure law, in relation to the statute of limitations for sex offenses committed against a child; to amend the social services law, in relation to the reporting of child abuse; to amend the business corporation law, the not-for-profit corporation law, the religious corporations law and the cooperative corporations law, in relation to child protection and criminal history searches; and to amend part J of chapter 62 of the laws of 2003 amending the county law and other laws relating to fees collected, in relation to providing for the reimbursement of not-for-profit corporations for fees collected for criminal history searches by the office of court administration

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

1 Section 1. Legislative findings. The Legislature hereby finds that a
2 number of individuals within the state have been unable to seek redress
3 for sexual abuse suffered as a child. Due to the unique nature of child
4 sexual abuse and fears of reprisal, child victims often suffer for years
5 in silence and are often unable to comprehend the fact that they have
6 been victimized. This can lead to repression of the abuse and often
7 results in the victim's confusion, anger and associated difficulties
8 later in life. Due to the nature of abuse a victim has been subject to,
9 and their perceived or actual inability to pursue legal action at the
10 time of the abuse, many victims have been psychologically unable to file
11 a civil litigation claim within the requisite statute of limitations.
12 Due to the amount of time that may have transpired since the instance or
13 instances of abuse, the claim may no longer be pursued through typical
14 litigation. In some instances, the sexual abuser may now be impover-
15 ished, unavailable, unable to be located, or may have passed away,

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

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1 making it impossible or impractical for the victim to seek redress
2 through the court system. In order to afford those victims an opportu-
3 nity to seek the redress due to them, the legislature hereby establishes
4 a New York child victim reconciliation and compensation fund, which is
5 intended to provide assistance to those who were sexually abused as
6 children.

7 § 2. The state finance law is amended by adding a new article 17 to
8 read as follows:

9 ARTICLE 17

10 NEW YORK CHILD VICTIM RECONCILIATION AND COMPENSATION FUND

11 Section 300. Purpose.

12 301. Definitions.

13 302. New York child victim reconciliation and compensation fund.

14 303. Filing of claim.

15 304. Hearing officers; powers and duties.

16 305. Claims administrator review.

17 306. Payments to eligible individuals.

18 307. Regulations.

19 § 300. Purpose. It is the purpose of this article to provide compen-
20 sation and assistance to any individual who has incurred physical and
21 psychological damages based upon the result of childhood sexual abuse
22 who has not previously been compensated for such alleged abuse and is
23 now barred from pursuing a civil action for damages against the abuser.

24 § 301. Definitions. For the purposes of this article, the following
25 terms shall have the following meanings:

26 1. "claimant" means any individual who:

27 (a) suffered sexual abuse as defined in subdivision five of this
28 section; and

29 (b) such abuse occurred prior to the claimant's eighteenth birthday;
30 and

31 (c) such individual is barred by article two of the civil practice law
32 and rules from instituting a civil action or proceeding; and

33 (d) such individual has not otherwise received compensation for
34 damages resulting from, or on account of, such sexual abuse by civil
35 settlement, judgment or other private method, including but not limited
36 to arbitration; and

37 (e) no other individual on behalf of the claimant during the period of
38 the claimant's minority has received compensation for the same claim.

39 2. "economic loss" means any identifiable pecuniary loss from employ-
40 ment, medical expenses, loss of business, loss of economic opportunities
41 to the extent that such loss would be recoverable had the statute of
42 limitations not expired and for which the claimant has not previously
43 received compensation;

44 3. "eligible individual" means an individual determined to be eligible
45 for compensation pursuant to section three hundred five of this article;

46 4. "noneconomic losses" means losses for physical and emotional pain,
47 suffering inconvenience, physical impairment, mental anguish, disfigure-
48 ment, loss of enjoyment of life, loss of society and companionship, loss
49 of consortium (other than loss of domestic service), hedonic damages,
50 injury to reputation, and all other nonpecuniary losses of any kind of
51 nature; and

52 5. "sexual abuse" means acts proscribed under article one hundred
53 thirty of the penal law.

54 § 302. New York child victim reconciliation and compensation fund. 1.
55 There is hereby created in the joint custody of the state comptroller
56 and a chief administrator, who shall be appointed as provided in subdi-

1 vision three of this section, a special fund to be known as the "New
2 York child victim reconciliation and compensation fund."

3 2. (a) Such fund shall consist of three hundred million dollars trans-
4 ferred from the state asset forfeiture funds and funds secured by
5 payments associated with state sanctioned deferred prosecution agree-
6 ments currently held on deposit with the office of the Manhattan
7 district attorney.

8 (b) The office of the Manhattan district attorney shall additionally
9 remit five percent of the total of any future state asset forfeiture
10 funds which have been secured by such district attorney by January first
11 of the subsequent year.

12 (c) The chief administrator is authorized to accept such amounts as
13 may be contributed by individuals, business concerns, or other entities
14 to carry out the purposes of this article.

15 3. (a) The chief administrator shall be selected by the state comp-
16 troller in consultation with the leaders of the senate and assembly.

17 (b) The chief administrator shall be qualified by previous experience,
18 training and education to administer such a fund. The chief administra-
19 tor shall be subject to removal pursuant to the public officers law and
20 shall be subject to the jurisdiction of the joint commission on public
21 ethics for all disciplinary matters. No bond shall be required before
22 entering into service.

23 (c) Prior to entering into service, the chief administrator shall be
24 required to file a long form ethics filing with the joint commission on
25 public ethics.

26 4. The chief administrator shall appoint a claims administrator. The
27 claims administrator, in consultation with the chief administrator,
28 shall promulgate procedural and substantive rules for the administration
29 of the fund.

30 5. (a) The chief administrator shall appoint hearing officers who have
31 a record of substantive experience in the investigation, prosecution and
32 defense of child sexual abuse allegations. Such hearing officers shall
33 receive the same remuneration as hearing officers in a comparable agen-
34 cy.

35 (b) The chief administrator shall have the power to appoint and pay
36 such experts as sought by hearing officers in aid of the determination.

37 6. The chief administrator shall have the power to appoint administra-
38 tive personnel to administer the provisions of this section pursuant to
39 a hiring plan approved by the state comptroller.

40 7. The claims administrator, in conjunction with the state comp-
41 troller, shall be responsible for the administration of funds deposited
42 in the New York child victim reconciliation and compensation fund estab-
43 lished pursuant to this section.

44 § 303. Filing of claim. 1. The claims administrator shall develop a
45 claim form that claimants shall use when submitting claims under this
46 section and shall ensure that such form may be submitted electronically
47 if determined to be practicable.

48 2. A claimant may file a claim for compensation under this article
49 with the claims administrator. The claim shall state the factual basis
50 for eligibility for compensation and the amount of compensation sought.

51 3. The form required under subdivision one of this section shall be
52 under oath and shall provide the following information:

53 (a) a narrative of the events containing information from the claimant
54 concerning the identity of the alleged abuser, the physical or mental
55 harm that the claimant suffered, is suffering from, and/or may reason-
56 ably be expected to suffer in the future.

1 (b) information from the claimant concerning any possible economic
2 losses that the claimant has suffered or is expected to suffer as the
3 result of sexual abuse.

4 (c) information regarding collateral sources of compensation the
5 claimant has received or is entitled to receive as a result of such
6 abuse.

7 (d) any other material that the claimant wishes to present in aid of
8 the determination of the claim.

9 § 304. Hearing officers; powers and duties. 1. Proceedings conducted
10 pursuant to this article shall be presided over by a hearing officer who
11 shall have substantial experience relating to the litigation, investi-
12 gation, prosecution or defense of child sexual abuse claims.

13 2. The hearing officer shall set the time and place of any hearing and
14 shall give reasonable notice to the parties.

15 3. The hearing officer shall conduct a fair and impartial hearing and
16 take all action necessary to avoid delay in the disposition of
17 proceedings and to maintain order. The hearing officer shall have all
18 powers necessary to those ends, including, but not limited to, the power
19 to:

20 (a) administer oaths and affirmations;

21 (b) cause subpoenas to be issued as authorized by law;

22 (c) rule upon offers of proof and receive evidence;

23 (d) order or limit discovery as the interests of justice may require;

24 (e) regulate the course of the hearing and the conduct of the parties
25 and their counsel;

26 (f) hold conferences for the settlement or simplification of the
27 issues by consent of the parties;

28 (g) consider and rule upon all procedural and other motions appropri-
29 ate in adjudicative proceedings;

30 (h) take notice of any material fact not appearing in evidence in the
31 record that is properly a matter of judicial notice;

32 (i) make and file determinations to the claims administrator; and

33 (j) exercise such other authority as is necessary to carry out the
34 responsibilities of the hearing officer under this section.

35 4. Claimants and defendants taking part in a proceeding under this
36 section shall have:

37 (a) the right to be represented by an attorney, and upon a showing of
38 indigence, may obtain appointed counsel;

39 (b) the right to present evidence, including the presentation of
40 witnesses and documents, expert testimony; and

41 (c) any other due process rights deemed appropriate by the claims
42 administrator.

43 § 305. Claims administrator review. 1. The claims administrator shall
44 review all findings made by a hearing officer in each case submitted
45 under this section and shall determine:

46 (a) whether the defendant is responsible for the conduct alleged by
47 the claimant; and

48 (b) whether the claimant is an eligible individual under this section.

49 2. A claimant shall be deemed an eligible individual under this
50 section when the claim administrator determines the claimant:

51 (a) was a victim of the alleged conduct;

52 (b) is an individual who has suffered economic or noneconomic loss as
53 a result of sexual abuse which occurred within the state; and

54 (c) the individual has been unable to pursue a civil claim for damages
55 resulting from the loss described in paragraph (b) of this subdivision

1 due to the failure to file a judicial claim for damages resulting from
2 such abuse within the requisite statute of limitations.

3 3. The following factors shall be considered in determining the amount
4 of compensation to be paid to such eligible individuals:

5 (a) the nature, extent and frequency of the sexual abuse that was
6 found to have occurred;

7 (b) the extent of the harm to the claimant, including any economic and
8 noneconomic loss; and

9 (c) the extent to which aggravating circumstances are alleged, such
10 as:

11 (i) the age of the claimant;

12 (ii) the severity of the abuse;

13 (iii) the location of the abuse;

14 (iv) threats of physical harm and/or retaliation;

15 (v) significant, verifiable and life altering psychological damage;
16 and/or

17 (vi) any other significant information relevant to the claim or the
18 defense of the claim.

19 4. No later than ninety days after that date on which a claim is filed
20 under section three hundred three of this article, unless good cause can
21 be demonstrated, the claim administrator shall complete a review, make a
22 determination, and provide written notice to the claimant, with respect
23 to the matters that were the subject of the claim under review. Such a
24 determination shall be final and not subject to judicial review.

25 5. The claims administrator may not include punitive damages in any
26 compensation paid under a claim under this article.

27 6. The claims administrator shall reduce the amount of compensation
28 determined under this section solely by the amount of any collateral
29 compensation the claimant has received or is entitled to receive as a
30 result of such sexual abuse.

31 § 306. Payments to eligible individuals. No later than twenty days
32 after the date on which a determination is made by the claims adminis-
33 trator regarding the amount of compensation due a claimant under this
34 article, the claims administrator shall authorize payment to such claim-
35 ant of the amount determined with respect to such claimant.

36 § 307. Regulations. No later than ninety days after the effective date
37 of this article, the chief administrator, in consultation with the state
38 comptroller and the claims administrator, shall promulgate regulations
39 to carry out this article, including regulations prescribing:

40 1. forms to be used in submitting claims under this article;

41 2. the information to be included in such forms;

42 3. procedures for hearings and the presentation of evidence;

43 4. procedures to assist an individual in filing and pursuing claims
44 under this article; and

45 5. other matters determined by the chief administrator and approved by
46 the state comptroller necessary to carry out the purposes of this arti-
47 cle.

48 § 3. Paragraph (f) of subdivision 3 of section 30.10 of the criminal
49 procedure law, as separately amended by chapters 3 and 320 of the laws
50 of 2006, is amended to read as follows:

51 (f) ~~[For purposes of a]~~ A prosecution involving a sexual offense as
52 defined in article one hundred thirty of the penal law, other than a
53 sexual offense delineated in paragraph (a) of subdivision two of this
54 section, committed against a child less than eighteen years of age,
55 incest in the first, second or third degree as defined in sections
56 255.27, 255.26 and 255.25 of the penal law committed against a child

1 less than eighteen years of age, or use of a child in a sexual perform-
2 ance as defined in section 263.05 of the penal law, [~~the period of limi-~~
3 ~~tation shall not begin to run until the child has reached the age of~~
4 ~~eighteen or the offense is reported to a law enforcement agency or~~
5 ~~statewide central register of child abuse and maltreatment, whichever~~
6 ~~occurs earlier~~] may be commenced at any time.

7 § 4. Paragraph (a) of subdivision 1 of section 413 of the social
8 services law, as amended by section 7 of part C of chapter 57 of the
9 laws of 2018, is amended to read as follows:

10 (a) The following persons and officials are required to report or
11 cause a report to be made in accordance with this title when they have
12 reasonable cause to suspect that a child coming before them in their
13 professional or official capacity is an abused or maltreated child, or
14 when they have reasonable cause to suspect that a child is an abused or
15 maltreated child where the parent, guardian, custodian or other person
16 legally responsible for such child comes before them in their profes-
17 sional or official capacity and states from personal knowledge facts,
18 conditions or circumstances which, if correct, would render the child an
19 abused or maltreated child: any physician; registered physician assist-
20 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
21 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
22 psychologist; registered nurse; social worker; emergency medical techni-
23 cian; licensed creative arts therapist; licensed marriage and family
24 therapist; licensed mental health counselor; licensed psychoanalyst;
25 licensed behavior analyst; certified behavior analyst assistant; hospi-
26 tal personnel engaged in the admission, examination, care or treatment
27 of persons; member of the clergy; a Christian Science practitioner;
28 school official, which includes but is not limited to school teacher,
29 school guidance counselor, school psychologist, school social worker,
30 school nurse, school administrator or other school personnel required to
31 hold a teaching or administrative license or certificate; full or part-
32 time compensated school employee required to hold a temporary coaching
33 license or professional coaching certificate; social services worker;
34 employee of a publicly-funded emergency shelter for families with chil-
35 dren; director of a children's overnight camp, summer day camp or trav-
36 eling summer day camp, as such camps are defined in section thirteen
37 hundred ninety-two of the public health law; day care center worker;
38 school-age child care worker; provider of family or group family day
39 care; employee or volunteer in a residential care facility for children
40 that is licensed, certified or operated by the office of children and
41 family services; or any other child care or foster care worker; mental
42 health professional; substance abuse counselor; alcoholism counselor;
43 all persons credentialed by the office of alcoholism and substance abuse
44 services; employees, who are expected to have regular and substantial
45 contact with children, of a health home or health home care management
46 agency contracting with a health home as designated by the department of
47 health and authorized under section three hundred sixty-five-1 of this
48 chapter or such employees who provide home and community based services
49 under a demonstration program pursuant to section eleven hundred fifteen
50 of the federal social security act who are expected to have regular and
51 substantial contact with children; peace officer; police officer;
52 district attorney or assistant district attorney; investigator employed
53 in the office of a district attorney; or other law enforcement official.

54 § 5. Subdivision 1 of section 413 of the social services law is
55 amended by adding five new paragraphs (e), (f), (g), (h) and (i) to read
56 as follows:

(e) Unless the person confessing or confiding waives the privilege, a member of the clergy, or other minister of any religion or duly accredited Christian Science practitioner, shall not be required to make a report as required by paragraph (a) of this subdivision if the confession or confidence was made to him or her in his or her professional character as spiritual advisor.

(f) When a member of the clergy has reasonable cause to suspect that a child is an abused or maltreated child based upon any information received other than through a confession or confidence made pursuant to paragraph (e) of this subdivision, then such member of the clergy shall promptly make a report as required by paragraph (a) of this subdivision notwithstanding the fact that he or she may have also received a report of abuse or maltreatment through a confession or confidence made pursuant to paragraph (e) of this subdivision.

(g) The provisions of paragraph (e) of this subdivision shall not be deemed to exempt a member of the clergy from any other requirements of law to prevent the perpetrator from committing additional acts of abuse.

(h) For the purposes of this subdivision the term "member of the clergy" shall have the same definition as the term "clergyman" as set forth in section two of the religious corporations law and shall also include any person responsible for supervising a member of the clergy of a religious institution or responsible for the administration of a religious institution.

(i) For the purposes of this subdivision the term "religious institution" shall mean a religious corporation created to enable its members to meet for divine worship or other religious observances or a congregation, society, or other assemblage of persons who are accustomed to statedly meet for divine worship or other religious observances, without having been incorporated for that purpose, as provided in section two of the religious corporations law.

§ 6. Article 6 of the social services law is amended by adding a new title 6-B to read as follows:

TITLE 6-B

REPORTS OF CHILD ABUSE TO LAW ENFORCEMENT

Section 429-a. Persons and officials required to report cases of suspected child abuse to appropriate law enforcement agency.

429-b. Penalties for failure to report.

429-c. Immunity from liability.

429-d. Review of existing records for allegations that a child is an abused child; district attorney; penalty.

§ 429-a. Persons and officials required to report cases of suspected child abuse to appropriate law enforcement agency. 1. (a) The following persons and officials are required to report or cause a report to be made to an appropriate law enforcement agency when they have reasonable cause to suspect in their professional or official capacity that a child is an abused child: any physician; registered physician assistant; surgeon; medical examiner; coroner; dentist; dental hygienist; osteopath; optometrist; chiropractor; podiatrist; resident; intern; psychologist; registered nurse; emergency medical technician; hospital personnel engaged in the admission, examination, care or treatment of persons; member of the clergy; a Christian Science practitioner; school official; social services worker; day care center worker; provider of family or group family day care; employee or volunteer in a residential care facility or any other child care or foster care worker; mental health professional; substance abuse counselor; alcoholism counselor; peace

1 officer; police officer; district attorney or assistant district attor-
2 ney; investigator employed in the office of a district attorney; or
3 other law enforcement official.

4 (b) For the purposes of this section the term "abused child" shall
5 mean a child under the age of eighteen years upon whom a person eighteen
6 years of age or more who is defined in paragraph (a) of this subdivision
7 and who is not the parent or other person legally responsible for such
8 child's care:

9 (i) intentionally or recklessly inflicts physical injury, serious
10 physical injury or death, or

11 (ii) intentionally or recklessly engages in conduct which creates a
12 substantial risk of such physical injury, serious physical injury or
13 death, or

14 (iii) commits or attempts to commit against a child the crime of
15 disseminating indecent materials to minors pursuant to article two
16 hundred thirty-five of the penal law, or

17 (iv) engages in any conduct prohibited by article one hundred thirty
18 or two hundred sixty-three of the penal law.

19 (c) For the purposes of this section the term "law enforcement author-
20 ities" shall mean a municipal police department, sheriff's department,
21 the division of state police or any officer thereof or a district attor-
22 ney or assistant district attorney. Notwithstanding any other provision
23 of law, law enforcement authorities shall not include any child protec-
24 tive service or any society for the prevention of cruelty to children as
25 such terms are defined in section four hundred twenty-three of this
26 article.

27 (d) For the purposes of this section the term "member of the clergy"
28 shall have the same definition as the term "clergyman" as set forth in
29 section two of the religious corporations law and shall also include any
30 person responsible for supervising a member of the clergy of a religious
31 institution or responsible for the administration of a religious insti-
32 tution.

33 (e) For the purposes of this section the term "religious institution"
34 shall mean a religious corporation created to enable its members to meet
35 for divine worship or other religious observances or a congregation,
36 society, or other assemblage of persons who are accustomed to statedly
37 meet for divine worship or other religious observances, without having
38 been incorporated for that purpose, as provided in section two of the
39 religious corporations law.

40 2. (a) Unless the person confessing or confiding waives the privilege,
41 a member of the clergy, or other minister of any religion or duly
42 accredited Christian Science practitioner, shall not be required to make
43 a report as required by paragraph (a) of subdivision one of this section
44 if the confession or confidence was made to him or her in his or her
45 professional character as spiritual advisor.

46 (b) When a member of the clergy has reasonable cause to suspect that a
47 child is an abused child based upon any information received other than
48 through a confession or confidence made pursuant to paragraph (a) of
49 this subdivision, then such member of the clergy shall promptly make a
50 report as required by paragraph (a) of subdivision one of this section
51 notwithstanding the fact that he or she may have also received a report
52 of abuse through a confession or confidence made pursuant to paragraph
53 (a) of this subdivision.

54 (c) The provisions of paragraph (a) of this subdivision shall not be
55 deemed to exempt a member of the clergy from any other requirements of
56 law to prevent the perpetrator from committing additional acts of abuse.

1 3. Nothing in this title shall be construed to require the report of
2 information by a person required to report herein when such information
3 is otherwise privileged from disclosure by law.

4 § 429-b. Penalties for failure to report. 1. Any person required by
5 this title to report a case of suspected child abuse who willfully fails
6 to do so shall be guilty of a class A misdemeanor.

7 2. Any person required by this title to report a case of suspected
8 child abuse who knowingly and willfully fails to do so shall be civilly
9 liable for the damages proximately caused by such failure.

10 § 429-c. Immunity from liability. 1. Any person who in good faith
11 makes a report of allegations of child abuse as required by this title,
12 including those who in good faith make a report to the wrong recipient,
13 shall have immunity from criminal liability which might otherwise result
14 by reason of such actions.

15 2. Any person who reasonably and in good faith makes a report of alle-
16 gations of child abuse as required by this title, shall have immunity
17 from civil liability which might otherwise result by reason of such
18 actions.

19 § 429-d. Review of existing records for allegations that a child is an
20 abused child; district attorney; penalty. 1. Within three months of the
21 effective date of this section, all members of the clergy shall: (a)
22 review all institutional records within their control and any other
23 information they have obtained regarding allegations that a child is an
24 abused child by a member of the clergy within twenty years prior to the
25 effective date of this section; and (b) review whether they are aware of
26 any other allegations that a child is an abused child alleged to have
27 been abused by a member of the clergy who remains actively in the
28 service of a religious institution, regardless of the date on which such
29 allegation was made; and where such information or records raise reason-
30 able cause to suspect that a child is an abused child, report such alle-
31 gation to the district attorney. This section shall not apply to infor-
32 mation obtained through confidential communications with clergy and
33 privileged under law and no report need be made of allegations against a
34 deceased individual.

35 2. The willful failure of an individual defined in paragraph (a) of
36 subdivision one of section four hundred twenty-nine-a of this title to
37 review existing records and information and report allegations contained
38 therein, as provided by this section, shall be a class A misdemeanor.

39 § 7. The commissioner of the office of children and family services
40 shall review the reporting form used to report suspected child abuse
41 pursuant to section 429-a of the social services law, as added by
42 section six of this act, and, if necessary, shall revise such form to
43 make it appropriate for reporting to law enforcement agencies.

44 § 8. The business corporation law is amended by adding a new section
45 113 to read as follows:

46 § 113. Child protection and criminal history searches.

47 Any corporation as defined by section one hundred two of this article
48 shall perform a criminal history search on all individuals that may work
49 or otherwise have reason in their duties to be engaged in unsupervised
50 activities with children under the age of eighteen; or individuals that
51 may participate in activities with children under the age of eighteen in
52 a setting without constant agency or parental oversight.

53 § 9. The not-for-profit corporation law is amended by adding a new
54 section 116 to read as follows:

55 § 116. Child protection and criminal history searches.

1 Any corporation as defined by section one hundred two of this article
2 shall perform a criminal history search on all individuals that may work
3 or otherwise have reason in their duties to be engaged in unsupervised
4 activities with children under the age of eighteen; or individuals that
5 may participate in activities with children under the age of eighteen in
6 a setting without constant agency or parental oversight.

7 § 10. The religious corporations law is amended by adding a new
8 section 28 to read as follows:

9 § 28. Child protection and criminal history searches. Any religious
10 corporation as defined by section two of this chapter shall perform a
11 criminal history search on all individuals that may work or otherwise
12 have reason in their duties to be engaged in unsupervised activities
13 with children under the age of eighteen; or individuals that may partic-
14 ipate in activities with children under the age of eighteen in a setting
15 without constant agency or parental oversight.

16 § 11. The cooperative corporations law is amended by adding a new
17 section 6 to read as follows:

18 § 6. Child protection and criminal history searches. Any cooperative
19 corporation as defined by section three of this article shall perform a
20 criminal history search on all individuals that may work or otherwise
21 have reason in their duties to be engaged in unsupervised activities
22 with children under the age of eighteen; or individuals that may partic-
23 ipate in activities with children under the age of eighteen in a setting
24 without constant agency or parental oversight.

25 § 12. Section 14 of part J of chapter 62 of the laws of 2003 amending
26 the county law and other laws relating to fees collected, as amended by
27 section 7 of part K of chapter 56 of the laws of 2010, is amended to
28 read as follows:

29 § 14. Notwithstanding the provisions of any other law: (a) the fee
30 collected by the office of court administration for the provision of
31 criminal history searches and other searches for data kept electron-
32 ically by the unified court system shall be sixty-five dollars; (b)
33 thirty-five dollars of each such fee collected shall be deposited in the
34 indigent legal services fund established by section 98-b of the state
35 finance law, as added by section twelve of this act, (c) nine dollars of
36 each such fee collected shall be deposited in the legal services assist-
37 ance fund established by section 98-c of the state finance law, as added
38 by section nineteen of this act, (d) sixteen dollars of each such fee
39 collected shall be deposited to the judiciary data processing offset
40 fund established by section 94-b of the state finance law, ~~and~~ (e) the
41 remainder shall be deposited in the general fund~~[-]~~, and (f) provided,
42 however, if a criminal history search or other searches for data kept
43 electronically by the unified court system is being requested by or on
44 the behalf of a not-for-profit corporation, to perform a criminal histo-
45 ry search on an individual that would be working with children under the
46 age of eighteen, the office of court administration shall, subject to
47 the approval of the director of the budget, establish protocols to reim-
48 burse the not-for-profit corporation for searches conducted and such
49 reimbursement shall come from the general fund. The division of budget
50 shall also promulgate regulations to prevent not-for-profit corporations
51 from over utilizing this reimbursement mechanism and to assure that all
52 reimbursed search fees are used for criminal history searches of posi-
53 tions that would have direct interaction with children.

54 § 13. The provisions of this act shall be severable, and if any
55 clause, sentence, paragraph, subdivision or part of this act shall be
56 adjudged by any court of competent jurisdiction to be invalid, such

1 judgment shall not affect, impair, or invalidate the remainder thereof,
2 but shall be confined in its operation to the clause, sentence, para-
3 graph, subdivision or part thereof directly involved in the controversy
4 in which such judgment shall have been rendered.
5 § 14. This act shall take effect on the one hundred eightieth day
6 after it shall have become a law.