

7975

I N S E N A T E

June 1, 2016

Introduced by Sens. LANZA, RITCHIE, BOYLE -- read twice and ordered printed, and when printed to be committed to the Committee on Codes

AN ACT to amend the criminal procedure law, in relation to the statute of limitations for sex offenses committed against a child; to amend the civil practice law and rules, the general municipal law, the court of claims act and the education law, in relation to the timeliness for commencing certain civil actions related to sex offenses; 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. This act shall be known and may be cited as the "New York
2 State Child Protection Act of 2016".
3 S 2. Paragraph (f) of subdivision 3 of section 30.10 of the criminal
4 procedure law, as separately amended by chapters 3 and 320 of the laws
5 of 2006, is amended to read as follows:
6 (f) [For purposes of a] A prosecution involving a sexual offense as
7 defined in article one hundred thirty of the penal law, other than a
8 sexual offense delineated in paragraph (a) of subdivision two of this
9 section, committed against a child less than eighteen years of age,
10 incest in the first, second or third degree as defined in sections
11 255.27, 255.26 and 255.25 of the penal law committed against a child
12 less than eighteen years of age, or use of a child in a sexual perform-
13 ance as defined in section 263.05 of the penal law, [the period of limi-
14 tation shall not begin to run until the child has reached the age of
15 eighteen or the offense is reported to a law enforcement agency or

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

LBD14671-01-6

1 statewide central register of child abuse and maltreatment, whichever
2 occurs earlier] MAY BE COMMENCED AT ANY TIME.

3 S 3. The opening paragraph of section 208 of the civil practice law
4 and rules is designated subdivision (a) and a new subdivision (b) is
5 added to read as follows:

6 (B) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION (A) OF THIS SECTION,
7 WITH RESPECT TO ALL CIVIL CLAIMS OR CAUSES OF ACTION BROUGHT BY ANY
8 PERSON FOR PHYSICAL, PSYCHOLOGICAL OR OTHER INJURY OR CONDITION SUFFERED
9 AS A RESULT OF CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL
10 OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW
11 COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS
12 DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED
13 AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD
14 IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW,
15 OR A PREDECESSOR STATUTE THAT PROHIBITED SUCH CONDUCT AT THE TIME OF THE
16 ACT, WHICH CONDUCT WAS COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
17 YEARS OF AGE, THE TIME WITHIN WHICH THE ACTION MUST BE COMMENCED SHALL
18 BE EXTENDED TO FIVE YEARS AFTER THE PERSON REACHES THE AGE OF
19 TWENTY-THREE YEARS.

20 S 4. Subdivision 8 of section 50-e of the general municipal law, as
21 amended by chapter 24 of the laws of 1988, is amended to read as
22 follows:

23 8. Inapplicability of section. (A) This section shall not apply to
24 claims arising under the provisions of the workers' compensation law,
25 the volunteer firefighters' benefit law, or the volunteer ambulance
26 workers' benefit law or to claims against public corporations by their
27 own infant wards.

28 (B) THIS SECTION SHALL NOT APPLY TO ANY CLAIM MADE FOR PHYSICAL,
29 PSYCHOLOGICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF
30 CONDUCT OF A DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS
31 DEFINED IN ARTICLE ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST
32 A CHILD LESS THAN EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION
33 255.25, 255.26 OR 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS
34 THAN EIGHTEEN YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORM-
35 ANCE AS DEFINED IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A
36 CHILD LESS THAN EIGHTEEN YEARS OF AGE.

37 S 5. Section 50-i of the general municipal law is amended by adding a
38 new subdivision 5 to read as follows:

39 5. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
40 SHALL NOT APPLY TO ANY CLAIM MADE AGAINST A CITY, COUNTY, TOWN, VILLAGE,
41 FIRE DISTRICT OR SCHOOL DISTRICT FOR PHYSICAL, PSYCHOLOGICAL, OR OTHER
42 INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A DEFENDANT WHICH
43 WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE HUNDRED
44 THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
45 YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR 255.27 OF
46 THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN YEARS OF AGE,
47 OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED IN SECTION
48 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
49 YEARS OF AGE.

50 S 6. Section 10 of the court of claims act is amended by adding a new
51 subdivision 10 to read as follows:

52 10. NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, THIS SECTION
53 SHALL NOT APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOG-
54 ICAL, OR OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A
55 DEFENDANT WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE
56 ONE HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN

1 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR
2 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
3 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
4 IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
5 EIGHTEEN YEARS OF AGE.

6 S 7. Subdivision 2 of section 3813 of the education law, as amended by
7 chapter 346 of the laws of 1978, is amended to read as follows:

8 2. Notwithstanding anything to the contrary hereinbefore contained in
9 this section, no action or special proceeding founded upon tort shall be
10 prosecuted or maintained against any of the parties named in this
11 section or against any teacher or member of the supervisory or adminis-
12 trative staff or employee where the alleged tort was committed by such
13 teacher or member or employee acting in the discharge of his duties
14 within the scope of his employment and/or under the direction of the
15 board of education, trustee or trustees, or governing body of the school
16 unless a notice of claim shall have been made and served in compliance
17 with section fifty-e of the general municipal law. Every such action
18 shall be commenced pursuant to the provisions of section fifty-i of the
19 general municipal law, PROVIDED, HOWEVER, THAT THIS SECTION SHALL NOT
20 APPLY TO ANY CLAIM TO RECOVER DAMAGES FOR PHYSICAL, PSYCHOLOGICAL, OR
21 OTHER INJURY OR CONDITION SUFFERED AS A RESULT OF CONDUCT OF A DEFENDANT
22 WHICH WOULD CONSTITUTE A SEXUAL OFFENSE AS DEFINED IN ARTICLE ONE
23 HUNDRED THIRTY OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
24 EIGHTEEN YEARS OF AGE, INCEST AS DEFINED IN SECTION 255.25, 255.26 OR
25 255.27 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN EIGHTEEN
26 YEARS OF AGE, OR THE USE OF A CHILD IN A SEXUAL PERFORMANCE AS DEFINED
27 IN SECTION 263.05 OF THE PENAL LAW COMMITTED AGAINST A CHILD LESS THAN
28 EIGHTEEN YEARS OF AGE.

29 S 8. Paragraph (a) of subdivision 1 of section 413 of the social
30 services law, as separately amended by chapters 126 and 205 of the laws
31 of 2014, is amended to read as follows:

32 (a) The following persons and officials are required to report or
33 cause a report to be made in accordance with this title when they have
34 reasonable cause to suspect that a child coming before them in their
35 professional or official capacity is an abused or maltreated child, or
36 when they have reasonable cause to suspect that a child is an abused or
37 maltreated child where the parent, guardian, custodian or other person
38 legally responsible for such child comes before them in their profes-
39 sional or official capacity and states from personal knowledge facts,
40 conditions or circumstances which, if correct, would render the child an
41 abused or maltreated child: any physician; registered physician assist-
42 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
43 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
44 psychologist; registered nurse; social worker; emergency medical techni-
45 cian; licensed creative arts therapist; licensed marriage and family
46 therapist; licensed mental health counselor; licensed psychoanalyst;
47 licensed behavior analyst; certified behavior analyst assistant; hospi-
48 tal personnel engaged in the admission, examination, care or treatment
49 of persons; MEMBER OF THE CLERGY; a Christian Science practitioner;
50 school official, which includes but is not limited to school teacher,
51 school guidance counselor, school psychologist, school social worker,
52 school nurse, school administrator or other school personnel required to
53 hold a teaching or administrative license or certificate; full or part-
54 time compensated school employee required to hold a temporary coaching
55 license or professional coaching certificate; social services worker;
56 director of a children's overnight camp, summer day camp or traveling

1 summer day camp, as such camps are defined in section thirteen hundred
2 ninety-two of the public health law; day care center worker; school-age
3 child care worker; provider of family or group family day care; employee
4 or volunteer in a residential care facility for children that is
5 licensed, certified or operated by the office of children and family
6 services; or any other child care or foster care worker; mental health
7 professional; substance abuse counselor; alcoholism counselor; all
8 persons credentialed by the office of alcoholism and substance abuse
9 services; peace officer; police officer; district attorney or assistant
10 district attorney; investigator employed in the office of a district
11 attorney; or other law enforcement official.

12 S 9. Subdivision 1 of section 413 of the social services law is
13 amended by adding five new paragraphs (e), (f), (g), (h) and (i) to read
14 as follows:

15 (E) UNLESS THE PERSON CONFESSING OR CONFIDING WAIVES THE PRIVILEGE, A
16 MEMBER OF THE CLERGY, OR OTHER MINISTER OF ANY RELIGION OR DULY ACCRED-
17 ITED CHRISTIAN SCIENCE PRACTITIONER, SHALL NOT BE REQUIRED TO MAKE A
18 REPORT AS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION IF THE
19 CONFESSION OR CONFIDENCE WAS MADE TO HIM OR HER IN HIS OR HER PROFES-
20 SIONAL CHARACTER AS SPIRITUAL ADVISOR.

21 (F) WHEN A MEMBER OF THE CLERGY HAS REASONABLE CAUSE TO SUSPECT THAT A
22 CHILD IS AN ABUSED OR MALTREATED CHILD BASED UPON ANY INFORMATION
23 RECEIVED OTHER THAN THROUGH A CONFESSION OR CONFIDENCE MADE PURSUANT TO
24 PARAGRAPH (E) OF THIS SUBDIVISION, THEN SUCH MEMBER OF THE CLERGY SHALL
25 PROMPTLY MAKE A REPORT AS REQUIRED BY PARAGRAPH (A) OF THIS SUBDIVISION
26 NOTWITHSTANDING THE FACT THAT HE OR SHE MAY HAVE ALSO RECEIVED A REPORT
27 OF ABUSE OR MALTREATMENT THROUGH A CONFESSION OR CONFIDENCE MADE PURSU-
28 ANT TO PARAGRAPH (E) OF THIS SUBDIVISION.

29 (G) THE PROVISIONS OF PARAGRAPH (E) OF THIS SUBDIVISION SHALL NOT BE
30 DEEMED TO EXEMPT A MEMBER OF THE CLERGY FROM ANY OTHER REQUIREMENTS OF
31 LAW TO PREVENT THE PERPETRATOR FROM COMMITTING ADDITIONAL ACTS OF ABUSE.

32 (H) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "MEMBER OF THE CLER-
33 GY" SHALL HAVE THE SAME DEFINITION AS THE TERM "CLERGYMAN" AS SET FORTH
34 IN SECTION TWO OF THE RELIGIOUS CORPORATIONS LAW AND SHALL ALSO INCLUDE
35 ANY PERSON RESPONSIBLE FOR SUPERVISING A MEMBER OF THE CLERGY OF A RELI-
36 GIOUS INSTITUTION OR RESPONSIBLE FOR THE ADMINISTRATION OF A RELIGIOUS
37 INSTITUTION.

38 (I) FOR THE PURPOSES OF THIS SUBDIVISION THE TERM "RELIGIOUS INSTITU-
39 TION" SHALL MEAN A RELIGIOUS CORPORATION CREATED TO ENABLE ITS MEMBERS
40 TO MEET FOR DIVINE WORSHIP OR OTHER RELIGIOUS OBSERVANCES OR A CONGRE-
41 GATION, SOCIETY, OR OTHER ASSEMBLAGE OF PERSONS WHO ARE ACCUSTOMED TO
42 STATEDLY MEET FOR DIVINE WORSHIP OR OTHER RELIGIOUS OBSERVANCES, WITHOUT
43 HAVING BEEN INCORPORATED FOR THAT PURPOSE, AS PROVIDED IN SECTION TWO OF
44 THE RELIGIOUS CORPORATIONS LAW.

45 S 10. Article 6 of the social services law is amended by adding a new
46 title 6-B to read as follows:

47 TITLE 6-B

48 REPORTS OF CHILD ABUSE TO LAW ENFORCEMENT

49 SECTION 429-A. PERSONS AND OFFICIALS REQUIRED TO REPORT CASES OF
50 SUSPECTED CHILD ABUSE TO APPROPRIATE LAW ENFORCEMENT
51 AGENCY.

52 429-B. PENALTIES FOR FAILURE TO REPORT.

53 429-C. IMMUNITY FROM LIABILITY.

54 429-D. REVIEW OF EXISTING RECORDS FOR ALLEGATIONS THAT A CHILD
55 IS AN ABUSED CHILD; DISTRICT ATTORNEY; PENALTY.

1 S 429-A. PERSONS AND OFFICIALS REQUIRED TO REPORT CASES OF SUSPECTED
2 CHILD ABUSE TO APPROPRIATE LAW ENFORCEMENT AGENCY. 1. (A) THE FOLLOWING
3 PERSONS AND OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE
4 MADE TO AN APPROPRIATE LAW ENFORCEMENT AGENCY WHEN THEY HAVE REASONABLE
5 CAUSE TO SUSPECT IN THEIR PROFESSIONAL OR OFFICIAL CAPACITY THAT A CHILD
6 IS AN ABUSED CHILD: ANY PHYSICIAN; REGISTERED PHYSICIAN ASSISTANT;
7 SURGEON; MEDICAL EXAMINER; CORONER; DENTIST; DENTAL HYGIENIST; OSTEO-
8 PATH; OPTOMETRIST; CHIROPRACTOR; PODIATRIST; RESIDENT; INTERN; PSYCHOL-
9 OGIST; REGISTERED NURSE; EMERGENCY MEDICAL TECHNICIAN; HOSPITAL PERSON-
10 NEL ENGAGED IN THE ADMISSION, EXAMINATION, CARE OR TREATMENT OF PERSONS;
11 MEMBER OF THE CLERGY; A CHRISTIAN SCIENCE PRACTITIONER; SCHOOL OFFICIAL;
12 SOCIAL SERVICES WORKER; DAY CARE CENTER WORKER; PROVIDER OF FAMILY OR
13 GROUP FAMILY DAY CARE; EMPLOYEE OR VOLUNTEER IN A RESIDENTIAL CARE
14 FACILITY OR ANY OTHER CHILD CARE OR FOSTER CARE WORKER; MENTAL HEALTH
15 PROFESSIONAL; SUBSTANCE ABUSE COUNSELOR; ALCOHOLISM COUNSELOR; PEACE
16 OFFICER; POLICE OFFICER; DISTRICT ATTORNEY OR ASSISTANT DISTRICT ATTOR-
17 NEY; INVESTIGATOR EMPLOYED IN THE OFFICE OF A DISTRICT ATTORNEY; OR
18 OTHER LAW ENFORCEMENT OFFICIAL.

19 (B) FOR THE PURPOSES OF THIS SECTION THE TERM "ABUSED CHILD" SHALL
20 MEAN A CHILD UNDER THE AGE OF EIGHTEEN YEARS UPON WHOM A PERSON EIGHTEEN
21 YEARS OF AGE OR MORE WHO IS DEFINED IN PARAGRAPH (A) OF THIS SUBDIVISION
22 AND WHO IS NOT THE PARENT OR OTHER PERSON LEGALLY RESPONSIBLE FOR SUCH
23 CHILD'S CARE:

24 (I) INTENTIONALLY OR RECKLESSLY INFLICTS PHYSICAL INJURY, SERIOUS
25 PHYSICAL INJURY OR DEATH, OR

26 (II) INTENTIONALLY OR RECKLESSLY ENGAGES IN CONDUCT WHICH CREATES A
27 SUBSTANTIAL RISK OF SUCH PHYSICAL INJURY, SERIOUS PHYSICAL INJURY OR
28 DEATH, OR

29 (III) COMMITS OR ATTEMPTS TO COMMIT AGAINST A CHILD THE CRIME OF
30 DISSEMINATING INDECENT MATERIALS TO MINORS PURSUANT TO ARTICLE TWO
31 HUNDRED THIRTY-FIVE OF THE PENAL LAW, OR

32 (IV) ENGAGES IN ANY CONDUCT PROHIBITED BY ARTICLE ONE HUNDRED THIRTY
33 OR TWO HUNDRED SIXTY-THREE OF THE PENAL LAW.

34 (C) FOR THE PURPOSES OF THIS SECTION THE TERM "LAW ENFORCEMENT AUTHOR-
35 ITIES" SHALL MEAN A MUNICIPAL POLICE DEPARTMENT, SHERIFF'S DEPARTMENT,
36 THE DIVISION OF STATE POLICE OR ANY OFFICER THEREOF OR A DISTRICT ATTOR-
37 NEY OR ASSISTANT DISTRICT ATTORNEY. NOTWITHSTANDING ANY OTHER PROVISION
38 OF LAW, LAW ENFORCEMENT AUTHORITIES SHALL NOT INCLUDE ANY CHILD PROTEC-
39 TIVE SERVICE OR ANY SOCIETY FOR THE PREVENTION OF CRUELTY TO CHILDREN AS
40 SUCH TERMS ARE DEFINED IN SECTION FOUR HUNDRED TWENTY-THREE OF THIS
41 ARTICLE.

42 (D) FOR THE PURPOSES OF THIS SECTION THE TERM "MEMBER OF THE CLERGY"
43 SHALL HAVE THE SAME DEFINITION AS THE TERM "CLERGYMAN" AS SET FORTH IN
44 SECTION TWO OF THE RELIGIOUS CORPORATIONS LAW AND SHALL ALSO INCLUDE ANY
45 PERSON RESPONSIBLE FOR SUPERVISING A MEMBER OF THE CLERGY OF A RELIGIOUS
46 INSTITUTION OR RESPONSIBLE FOR THE ADMINISTRATION OF A RELIGIOUS INSTI-
47 TUTION.

48 (E) FOR THE PURPOSES OF THIS SECTION THE TERM "RELIGIOUS INSTITUTION"
49 SHALL MEAN A RELIGIOUS CORPORATION CREATED TO ENABLE ITS MEMBERS TO MEET
50 FOR DIVINE WORSHIP OR OTHER RELIGIOUS OBSERVANCES OR A CONGREGATION,
51 SOCIETY, OR OTHER ASSEMBLAGE OF PERSONS WHO ARE ACCUSTOMED TO STATEDLY
52 MEET FOR DIVINE WORSHIP OR OTHER RELIGIOUS OBSERVANCES, WITHOUT HAVING
53 BEEN INCORPORATED FOR THAT PURPOSE, AS PROVIDED IN SECTION TWO OF THE
54 RELIGIOUS CORPORATIONS LAW.

55 2. (A) UNLESS THE PERSON CONFESSING OR CONFIDING WAIVES THE PRIVILEGE,
56 A MEMBER OF THE CLERGY, OR OTHER MINISTER OF ANY RELIGION OR DULY

1 ACCREDITED CHRISTIAN SCIENCE PRACTITIONER, SHALL NOT BE REQUIRED TO MAKE
2 A REPORT AS REQUIRED BY PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION
3 IF THE CONFESSION OR CONFIDENCE WAS MADE TO HIM OR HER IN HIS OR HER
4 PROFESSIONAL CHARACTER AS SPIRITUAL ADVISOR.

5 (B) WHEN A MEMBER OF THE CLERGY HAS REASONABLE CAUSE TO SUSPECT THAT A
6 CHILD IS AN ABUSED CHILD BASED UPON ANY INFORMATION RECEIVED OTHER THAN
7 THROUGH A CONFESSION OR CONFIDENCE MADE PURSUANT TO PARAGRAPH (A) OF
8 THIS SUBDIVISION, THEN SUCH MEMBER OF THE CLERGY SHALL PROMPTLY MAKE A
9 REPORT AS REQUIRED BY PARAGRAPH (A) OF SUBDIVISION ONE OF THIS SECTION
10 NOTWITHSTANDING THE FACT THAT HE OR SHE MAY HAVE ALSO RECEIVED A REPORT
11 OF ABUSE THROUGH A CONFESSION OR CONFIDENCE MADE PURSUANT TO PARAGRAPH
12 (A) OF THIS SUBDIVISION.

13 (C) THE PROVISIONS OF PARAGRAPH (A) OF THIS SUBDIVISION SHALL NOT BE
14 DEEMED TO EXEMPT A MEMBER OF THE CLERGY FROM ANY OTHER REQUIREMENTS OF
15 LAW TO PREVENT THE PERPETRATOR FROM COMMITTING ADDITIONAL ACTS OF ABUSE.

16 3. NOTHING IN THIS TITLE SHALL BE CONSTRUED TO REQUIRE THE REPORT OF
17 INFORMATION BY A PERSON REQUIRED TO REPORT HEREIN WHEN SUCH INFORMATION
18 IS OTHERWISE PRIVILEGED FROM DISCLOSURE BY LAW.

19 S 429-B. PENALTIES FOR FAILURE TO REPORT. 1. ANY PERSON REQUIRED BY
20 THIS TITLE TO REPORT A CASE OF SUSPECTED CHILD ABUSE WHO WILLFULLY FAILS
21 TO DO SO SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

22 2. ANY PERSON REQUIRED BY THIS TITLE TO REPORT A CASE OF SUSPECTED
23 CHILD ABUSE WHO KNOWINGLY AND WILLFULLY FAILS TO DO SO SHALL BE CIVILLY
24 LIABLE FOR THE DAMAGES PROXIMATELY CAUSED BY SUCH FAILURE.

25 S 429-C. IMMUNITY FROM LIABILITY. 1. ANY PERSON WHO IN GOOD FAITH
26 MAKES A REPORT OF ALLEGATIONS OF CHILD ABUSE AS REQUIRED BY THIS TITLE,
27 INCLUDING THOSE WHO IN GOOD FAITH MAKE A REPORT TO THE WRONG RECIPIENT,
28 SHALL HAVE IMMUNITY FROM CRIMINAL LIABILITY WHICH MIGHT OTHERWISE RESULT
29 BY REASON OF SUCH ACTIONS.

30 2. ANY PERSON WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OF ALLE-
31 GATIONS OF CHILD ABUSE AS REQUIRED BY THIS TITLE, SHALL HAVE IMMUNITY
32 FROM CIVIL LIABILITY WHICH MIGHT OTHERWISE RESULT BY REASON OF SUCH
33 ACTIONS.

34 S 429-D. REVIEW OF EXISTING RECORDS FOR ALLEGATIONS THAT A CHILD IS AN
35 ABUSED CHILD; DISTRICT ATTORNEY; PENALTY. 1. WITHIN THREE MONTHS OF THE
36 EFFECTIVE DATE OF THIS SECTION, ALL MEMBERS OF THE CLERGY SHALL: (A)
37 REVIEW ALL INSTITUTIONAL RECORDS WITHIN THEIR CONTROL AND ANY OTHER
38 INFORMATION THEY HAVE OBTAINED REGARDING ALLEGATIONS THAT A CHILD IS AN
39 ABUSED CHILD BY A MEMBER OF THE CLERGY WITHIN TWENTY YEARS PRIOR TO THE
40 EFFECTIVE DATE OF THIS SECTION; AND (B) REVIEW WHETHER THEY ARE AWARE OF
41 ANY OTHER ALLEGATIONS THAT A CHILD IS AN ABUSED CHILD ALLEGED TO HAVE
42 BEEN ABUSED BY A MEMBER OF THE CLERGY WHO REMAINS ACTIVELY IN THE
43 SERVICE OF A RELIGIOUS INSTITUTION, REGARDLESS OF THE DATE ON WHICH SUCH
44 ALLEGATION WAS MADE; AND WHERE SUCH INFORMATION OR RECORDS RAISE REASON-
45 ABLE CAUSE TO SUSPECT THAT A CHILD IS AN ABUSED CHILD, REPORT SUCH ALLE-
46 GATION TO THE DISTRICT ATTORNEY. THIS SECTION SHALL NOT APPLY TO INFOR-
47 MATION OBTAINED THROUGH CONFIDENTIAL COMMUNICATIONS WITH CLERGY AND
48 PRIVILEGED UNDER LAW AND NO REPORT NEED BE MADE OF ALLEGATIONS AGAINST A
49 DECEASED INDIVIDUAL.

50 2. THE WILLFUL FAILURE OF AN INDIVIDUAL DEFINED IN PARAGRAPH (A) OF
51 SUBDIVISION ONE OF SECTION FOUR HUNDRED TWENTY-NINE-A OF THIS TITLE TO
52 REVIEW EXISTING RECORDS AND INFORMATION AND REPORT ALLEGATIONS CONTAINED
53 THEREIN, AS PROVIDED BY THIS SECTION, SHALL BE A CLASS A MISDEMEANOR.

54 S 11. The commissioner of the office of children and family services
55 shall review the reporting form used to report suspected child abuse
56 pursuant to section 429-a of the social services law and, if necessary,

1 shall revise such form to make it appropriate for reporting to law
2 enforcement agencies.

3 S 12. The business corporation law is amended by adding a new section
4 113 to read as follows:

5 S 113. CHILD PROTECTION AND CRIMINAL HISTORY SEARCHES.

6 ANY CORPORATION AS DEFINED BY SECTION ONE HUNDRED TWO OF THIS ARTICLE
7 SHALL PERFORM A CRIMINAL HISTORY SEARCH ON ALL INDIVIDUALS THAT MAY WORK
8 OR OTHERWISE HAVE REASON IN THEIR DUTIES TO BE ENGAGED IN UNSUPERVISED
9 ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN; OR INDIVIDUALS THAT
10 MAY PARTICIPATE IN ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN IN
11 A SETTING WITHOUT CONSTANT AGENCY OR PARENTAL OVERSIGHT.

12 S 13. The not-for-profit corporation law is amended by adding a new
13 section 116 to read as follows:

14 S 116. CHILD PROTECTION AND CRIMINAL HISTORY SEARCHES.

15 ANY CORPORATION AS DEFINED BY SECTION ONE HUNDRED TWO OF THIS ARTICLE
16 SHALL PERFORM A CRIMINAL HISTORY SEARCH ON ALL INDIVIDUALS THAT MAY WORK
17 OR OTHERWISE HAVE REASON IN THEIR DUTIES TO BE ENGAGED IN UNSUPERVISED
18 ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN; OR INDIVIDUALS THAT
19 MAY PARTICIPATE IN ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN IN
20 A SETTING WITHOUT CONSTANT AGENCY OR PARENTAL OVERSIGHT.

21 S 14. The religious corporations law is amended by adding a new
22 section 28 to read as follows:

23 S 28. CHILD PROTECTION AND CRIMINAL HISTORY SEARCHES. ANY RELIGIOUS
24 CORPORATION AS DEFINED BY SECTION TWO OF THIS CHAPTER SHALL PERFORM A
25 CRIMINAL HISTORY SEARCH ON ALL INDIVIDUALS THAT MAY WORK OR OTHERWISE
26 HAVE REASON IN THEIR DUTIES TO BE ENGAGED IN UNSUPERVISED ACTIVITIES
27 WITH CHILDREN UNDER THE AGE OF EIGHTEEN; OR INDIVIDUALS THAT MAY PARTIC-
28 IPATE IN ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN IN A SETTING
29 WITHOUT CONSTANT AGENCY OR PARENTAL OVERSIGHT.

30 S 15. The cooperative corporations law is amended by adding a new
31 section 6 to read as follows:

32 S 6. CHILD PROTECTION AND CRIMINAL HISTORY SEARCHES. ANY COOPERATIVE
33 CORPORATION AS DEFINED BY SECTION THREE OF THIS ARTICLE SHALL PERFORM A
34 CRIMINAL HISTORY SEARCH ON ALL INDIVIDUALS THAT MAY WORK OR OTHERWISE
35 HAVE REASON IN THEIR DUTIES TO BE ENGAGED IN UNSUPERVISED ACTIVITIES
36 WITH CHILDREN UNDER THE AGE OF EIGHTEEN; OR INDIVIDUALS THAT MAY PARTIC-
37 IPATE IN ACTIVITIES WITH CHILDREN UNDER THE AGE OF EIGHTEEN IN A SETTING
38 WITHOUT CONSTANT AGENCY OR PARENTAL OVERSIGHT.

39 S 16. Section 14 of part J of chapter 62 of the laws of 2003 amending
40 the county law and other laws relating to fees collected, as amended by
41 section 7 of part K of chapter 56 of the laws of 2010, is amended to
42 read as follows:

43 S 14. Notwithstanding the provisions of any other law: (a) the fee
44 collected by the office of court administration for the provision of
45 criminal history searches and other searches for data kept electron-
46 ically by the unified court system shall be sixty-five dollars; (b)
47 thirty-five dollars of each such fee collected shall be deposited in the
48 indigent legal services fund established by section 98-b of the state
49 finance law, as added by section twelve of this act, (c) nine dollars of
50 each such fee collected shall be deposited in the legal services assist-
51 ance fund established by section 98-c of the state finance law, as added
52 by section nineteen of this act, (d) sixteen dollars of each such fee
53 collected shall be deposited to the judiciary data processing offset
54 fund established by section 94-b of the state finance law, [and] (e) the
55 remainder shall be deposited in the general fund[.], AND (F) PROVIDED,
56 HOWEVER, IF A CRIMINAL HISTORY SEARCH OR OTHER SEARCHES FOR DATA KEPT

1 ELECTRONICALLY BY THE UNIFIED COURT SYSTEM IS BEING REQUESTED BY OR ON
2 THE BEHALF OF A NOT-FOR-PROFIT CORPORATION, TO PERFORM A CRIMINAL HISTO-
3 RY SEARCH ON AN INDIVIDUAL THAT WOULD BE WORKING WITH CHILDREN UNDER THE
4 AGE OF EIGHTEEN, THE OFFICE OF COURT ADMINISTRATION SHALL, SUBJECT TO
5 THE APPROVAL OF THE DIRECTOR OF THE BUDGET, ESTABLISH PROTOCOLS TO REIM-
6 BURSE THE NOT-FOR-PROFIT CORPORATION FOR SEARCHES CONDUCTED AND SUCH
7 REIMBURSEMENT SHALL COME FROM THE GENERAL FUND. THE DIVISION OF BUDGET
8 SHALL ALSO PROMULGATE REGULATIONS TO PREVENT NOT-FOR-PROFIT CORPORATIONS
9 FROM OVER UTILIZING THIS REIMBURSEMENT MECHANISM AND TO ASSURE THAT ALL
10 REIMBURSED SEARCH FEES ARE USED FOR CRIMINAL HISTORY SEARCHES OF POSI-
11 TIONS THAT WOULD HAVE DIRECT INTERACTION WITH CHILDREN.

12 S 17. The provisions of this act shall be severable, and if any
13 clause, sentence, paragraph, subdivision or part of this act shall be
14 adjudged by any court of competent jurisdiction to be invalid, such
15 judgment shall not affect, impair, or invalidate the remainder thereof,
16 but shall be confined in its operation to the clause, sentence, para-
17 graph, subdivision or part thereof directly involved in the controversy
18 in which such judgment shall have been rendered.

19 S 18. This act shall take effect on the sixtieth day after it shall
20 have become a law.