STATE OF NEW YORK

10158

IN ASSEMBLY

March 24, 2020

Introduced by M. of A. TAYLOR -- read once and referred to the Committee on Governmental Operations

AN ACT to amend the arts and cultural affairs law, in relation to enacting the New York civil rights cold case records collection act

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

Section 1. The arts and cultural affairs law is amended by adding a new article 57-C to read as follows:

ARTICLE 57-C
NEW YORK CIVIL RIGHTS
COLD CASE RECORDS COLLECTION ACT

Section 57.60. Definitions.
57.61. Civil rights cold case records collection.
57.62. Grounds for postponement of public disclosure.
57.63. Civil rights cold case records review board; establishment and powers.

§ 57.60. Definitions. For the purposes of this article, the following terms shall have the following meanings: 1. "Civil rights cold case" means any unsolved case occurring within a jurisdiction in New York state arising out of events which occurred during the period beginning on January first, nineteen hundred forty and ending on December thirty-first, nineteen hundred seventy-nine, and involving:

(a) conspiracy against rights under 18 USC § 241;

(b) deprivation of rights under color of law under 18 USC § 242;

(c) federally protected activities under 18 USC § 245;

(d) peonage and involuntary servitude under 18 USC § 1581 and 18 USC § 1584; or

(e) the Fair Housing Act under 42 U.S.C. 3631.

2. "Civil rights cold case record" means a New York state record that:

(a) is related to a civil rights cold case;

(b) was created or made available for use by, obtained by, or otherwise came into the possession of the New York state archives or any state agency; and

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

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(c) any New York state local government, or component thereof, that provided support or assistance or performed work in connection with a federal inquiry into a civil rights cold case.

3. "The archivist" means the state archivist of the New York state archives.

4. "The collection" means the civil rights cold case records collection established under section 57.61 of this article.

5. "Official investigation" means the review of a civil rights cold case conducted by any entity of the federal government, a New York state agency, or any local government in New York state.

6. "Public interest" means the compelling interest in the prompt public disclosure of civil rights cold case records for historical and governmental purposes and for the purpose of fully informing the people of New York.

7. "Review board" means the civil rights cold case records review board established under section 57.63 of this article.

8. "State agency" means any state board, body, bureau, commission, council, department, executive agency, public authority, public corporation, division, office, or other governmental entity performing a governmental or proprietary function for the state, but shall not include the state legislature.

§ 57.61. Civil rights cold case records collection. 1. Establishment. Not later than ninety days following the effective date of this article, the archivist shall:

(a) commence establishing a collection of civil rights cold case records to be known as the "New York state civil rights cold case records collection" that shall ensure the physical integrity and original provenance of all records in such collection;

(b) commence preparing and publishing a subject guidebook and index to the collection; and

(c) establish criteria for state agencies to follow when transmitting copies of civil rights cold case records to the archivist.

2. Contents. The collection shall include:

(a) a copy of each civil rights cold case record:

(i) transmitted to the archivist; or

(ii) that has been disclosed to the public in an unredacted form before the effective date of this article; and

(b) all review board records, as required under this article.

3. Disclosure of records. All civil rights cold case records transmitted to the archivist for disclosure to the public shall be:

(a) available to the public for inspection and copying at the New York state archives not later than sixty days after the transmission of the record to the archivist; and

(b) prioritized for digitization by the New York state archives.

4. Fees for copying. The archivist shall:

(a) use efficient electronic means when possible;

(b) charge reasonable fees for copying civil rights cold case records; and

(c) grant waivers of such fees when the archivist shall deem appropriate.

5. Security of records. The archivist shall ensure the security of civil rights cold case records in the collection for which disclosure is postponed.

6. Digitization of records. Each state agency shall make text-searchable documents available to the review board upon request of such board. Not later than seven days before a civil rights cold case record is

publicly disclosed, the state agency releasing such civil rights cold case record shall take all reasonable efforts to provide such civil rights cold case record to the victims of the events to which such civil rights cold case record relates, or to their next of kin.

7. Additional policies. The archivist, in consultation with the attorney general, shall develop and implement any policies not enumerated in this article that he or she shall deem necessary for the implementation of this article.

§ 57.62. Grounds for postponement of public disclosure. Disclosure of civil rights cold case records or particular information within a civil rights cold case record to the public may be postponed subject to policy developed by the state attorney general, in consultation with the archivist, to promote justice and to protect innocent parties.

§ 57.63. Civil rights cold case records review board; establishment and powers. 1. Establishment. There is hereby established a board to be known as the "New York civil rights cold case records review board".

2. Appointment. The commission shall consist of thirteen members, to be appointed as follows: (a) seven members to be appointed by the governor, one of whom the governor shall appoint as the chair; (b) two members shall be appointed by the temporary president of the senate; (c) one member shall be appointed by the senate minority leader; (d) two members shall be appointed by the speaker of the assembly; and (e) one member shall be appointed by the assembly minority leader.

3. Compensation. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties under this article. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amounts made available by appropriation therefor.

4. Powers. The review board shall have the power and authority to act in any manner prescribed under this article including, but not limited to, the power and authority to:

(a) obtain access to civil rights cold case records that have been identified and organized by a state agency;

(b) direct a state agency to make available to the review board, and if necessary to investigate the facts surrounding, additional information, records, or testimony from individuals, that the review board deems necessary to fulfill its functions and responsibilities under this article;

(c) subpoena private persons to compel the production of documents or other records necessary for the fulfillment of its responsibilities under this article;

(d) receive information from the public regarding the identification and public disclosure of civil rights cold case records; and

(e) hold hearings, administer oaths, and subpoena documents and other records.

5. Enforcement of subpoenas. Any subpoena issued under this section shall be enforced by any appropriate court acting pursuant to a lawful request of the review board.

6. Advisory committees. The review board shall create any advisory committees it deems necessary to fulfill its responsibilities under this article.

7. Termination. (a) The review board shall terminate not later than four years after the date of the appointment of its members.

(b) Before its termination, the review board shall submit reports to the governor, the temporary president of the senate, and the speaker of the assembly, including a complete and accurate accounting of expenditures made during its existence, and shall complete all other reporting requirements under this article.

(c) Upon termination, the review board shall transfer all of its records to the archivist for inclusion in the collection.

(d) The records of the review board shall not be destroyed, except that the archivist may destroy routine administrative records covered by a general records schedule following notification in the state register and after considering comments.

§ 2. This act shall take effect immediately.