

STATE OF NEW YORK

952

2019-2020 Regular Sessions

IN SENATE

January 9, 2019

Introduced by Sens. YOUNG, AMEDORE, FELDER, FUNKE, GALLIVAN, GRIFFO, HELMING, JACOBS, LANZA, LITTLE, ORTT, RANZENHOFER, RITCHIE, ROBACH, SERINO, SEWARD, TEDISCO -- 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

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

LBD04024-01-9

1 instances of abuse, the claim may no longer be pursued through typical
 2 litigation. In some instances, the sexual abuser may now be impover-
 3 ished, unavailable, unable to be located, or may have passed away,
 4 making it impossible or impractical for the victim to seek redress
 5 through the court system. In order to afford those victims an opportu-
 6 nity to seek the redress due to them, the legislature hereby establishes
 7 a New York child victim reconciliation and compensation fund, which is
 8 intended to provide assistance to those who were sexually abused as
 9 children.

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

12 ARTICLE 17

13 NEW YORK CHILD VICTIM RECONCILIATION AND COMPENSATION FUND

14 Section 300. Purpose.

15 301. Definitions.

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

17 303. Filing of claim.

18 304. Hearing officers; powers and duties.

19 305. Claims administrator review.

20 306. Payments to eligible individuals.

21 307. Regulations.

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

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

29 1. "claimant" means any individual who:

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

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

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

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

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

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

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

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

55 5. "sexual abuse" means acts proscribed under article one hundred
 56 thirty of the penal law, acts constituting incest as defined in section

1 255.27, 255.26 or 255.25 of the penal law, or acts including the indi-
2 vidual in a sexual performance as defined in section 263.05 of the penal
3 law, or a predecessor statute that prohibited such conduct at the time
4 of the act.

5 § 302. New York child victim reconciliation and compensation fund. 1.
6 There is hereby created in the joint custody of the state comptroller
7 and a chief administrator, who shall be appointed as provided in subdi-
8 vision three of this section, a special fund to be known as the "New
9 York child victim reconciliation and compensation fund."

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

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

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

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

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

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

33 4. The chief administrator shall appoint a claims administrator. The
34 claims administrator, in consultation with the chief administrator,
35 shall promulgate procedural and substantive rules for the administration
36 of the fund.

37 5. (a) The chief administrator shall appoint hearing officers who have
38 a record of substantive experience in the investigation, prosecution and
39 defense of child sexual abuse allegations. Such hearing officers shall
40 receive the same remuneration as hearing officers in a comparable agen-
41 cy.

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

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

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

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

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

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

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

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

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

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

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

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

24 3. The hearing officer shall conduct a fair and impartial hearing and
25 take all action necessary to avoid delay in the disposition of
26 proceedings and to maintain order. The hearing officer shall have all
27 powers necessary to those ends, including, but not limited to, the power
28 to:

29 (a) administer oaths and affirmations;

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

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

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

33 (e) regulate the course of the hearing and the conduct of the parties
34 and their counsel;

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

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

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

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

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

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

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

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

50 (c) any other due process rights deemed appropriate by the claims
51 administrator.

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

55 (a) whether the defendant is responsible for the conduct alleged by
56 the claimant; and

1 (b) whether the claimant is an eligible individual under this section.
2 2. A claimant shall be deemed an eligible individual under this
3 section when the claim administrator determines the claimant:

4 (a) was a victim of the alleged conduct;
5 (b) is an individual who has suffered economic or noneconomic loss as
6 a result of sexual abuse which occurred within the state; and
7 (c) the individual has been unable to pursue a civil claim for damages
8 resulting from the loss described in paragraph (b) of this subdivision
9 due to the failure to file a judicial claim for damages resulting from
10 such abuse within the requisite statute of limitations.

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

13 (a) the nature, extent and frequency of the sexual abuse that was
14 found to have occurred;
15 (b) the extent of the harm to the claimant, including any economic and
16 noneconomic loss; and
17 (c) the extent to which aggravating circumstances are alleged, such
18 as:
19 (i) the age of the claimant;
20 (ii) the severity of the abuse;
21 (iii) the location of the abuse;
22 (iv) threats of physical harm and/or retaliation;
23 (v) significant, verifiable and life altering psychological damage;
24 and/or
25 (vi) any other significant information relevant to the claim or the
26 defense of the claim.

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

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

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

39 § 306. Payments to eligible individuals. 1. No later than twenty days
40 after the date on which a determination is made by the claims adminis-
41 trator regarding the amount of compensation due a claimant under this
42 article, the claims administrator shall authorize payment to such claim-
43 ant of the amount determined with respect to such claimant.

44 2. The chief administrator shall maintain a publicly accessible
45 website which lists the name of the perpetrator of the abuse which was
46 found to have occurred, and which also includes the approximate date or
47 dates the abuse occurred and the approximate geographic location of each
48 instance of abuse, as well as any other identifying information deemed
49 by the chief administrator to be appropriate.

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

54 1. forms to be used in submitting claims under this article;
55 2. the information to be included in such forms;
56 3. procedures for hearings and the presentation of evidence;

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

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

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

9 (f) [~~For purposes of a~~] A prosecution involving a sexual offense as
10 defined in article one hundred thirty of the penal law, other than a
11 sexual offense delineated in paragraph (a) of subdivision two of this
12 section, committed against a child less than eighteen years of age,
13 incest in the first, second or third degree as defined in sections
14 255.27, 255.26 and 255.25 of the penal law committed against a child
15 less than eighteen years of age, or use of a child in a sexual perform-
16 ance as defined in section 263.05 of the penal law, [~~the period of limi-~~
17 ~~tation shall not begin to run until the child has reached the age of~~
18 ~~eighteen or the offense is reported to a law enforcement agency or~~
19 ~~statewide central register of child abuse and maltreatment, whichever~~
20 ~~occurs earlier~~] may be commenced at any time.

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

24 (a) The following persons and officials are required to report or
25 cause a report to be made in accordance with this title when they have
26 reasonable cause to suspect that a child coming before them in their
27 professional or official capacity is an abused or maltreated child, or
28 when they have reasonable cause to suspect that a child is an abused or
29 maltreated child where the parent, guardian, custodian or other person
30 legally responsible for such child comes before them in their profes-
31 sional or official capacity and states from personal knowledge facts,
32 conditions or circumstances which, if correct, would render the child an
33 abused or maltreated child: any physician; registered physician assist-
34 ant; surgeon; medical examiner; coroner; dentist; dental hygienist;
35 osteopath; optometrist; chiropractor; podiatrist; resident; intern;
36 psychologist; registered nurse; social worker; emergency medical techni-
37 cian; licensed creative arts therapist; licensed marriage and family
38 therapist; licensed mental health counselor; licensed psychoanalyst;
39 licensed behavior analyst; certified behavior analyst assistant; hospi-
40 tal personnel engaged in the admission, examination, care or treatment
41 of persons; member of the clergy; a Christian Science practitioner;
42 school official, which includes but is not limited to school teacher,
43 school guidance counselor, school psychologist, school social worker,
44 school nurse, school administrator or other school personnel required to
45 hold a teaching or administrative license or certificate; full or part-
46 time compensated school employee required to hold a temporary coaching
47 license or professional coaching certificate; social services worker;
48 employee of a publicly-funded emergency shelter for families with chil-
49 dren; director of a children's overnight camp, summer day camp or trav-
50 eling summer day camp, as such camps are defined in section thirteen
51 hundred ninety-two of the public health law; day care center worker;
52 school-age child care worker; provider of family or group family day
53 care; employee or volunteer in a residential care facility for children
54 that is licensed, certified or operated by the office of children and
55 family services; or any other child care or foster care worker; mental
56 health professional; substance abuse counselor; alcoholism counselor;

1 all persons credentialed by the office of alcoholism and substance abuse
2 services; employees, who are expected to have regular and substantial
3 contact with children, of a health home or health home care management
4 agency contracting with a health home as designated by the department of
5 health and authorized under section three hundred sixty-five-1 of this
6 chapter or such employees who provide home and community based services
7 under a demonstration program pursuant to section eleven hundred fifteen
8 of the federal social security act who are expected to have regular and
9 substantial contact with children; peace officer; police officer;
10 district attorney or assistant district attorney; investigator employed
11 in the office of a district attorney; or other law enforcement official.

12 § 5. 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 congreg-
41 ation, 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 § 6. 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 § 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 § 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 § 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 § 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 § 7. 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, as added by

1 section six of this act, and, if necessary, shall revise such form to
2 make it appropriate for reporting to law enforcement agencies.

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

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

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

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

32 § 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 § 12. 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 § 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 § 13. 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 § 14. This act shall take effect on the one hundred eightieth day
20 after it shall have become a law.