S T A T E O F N E W Y O R K

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2013-2014 Regular Sessions

I N S E N A T E

April 3, 2013

Introduced by Sens. FLANAGAN, FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the fingerprinting of applicants as school district employees

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Paragraph (a) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(a) The commissioner, in cooperation with the division of criminal justice services and in accordance with all applicable provisions of law, shall promulgate rules and regulations to require the fingerprinting of prospective employees, as defined in section eleven hundred twenty-five of this chapter, of school districts, charter schools and boards of cooperative educational services and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT

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

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ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. The commissioner shall also establish a form for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more.

S 2. Subparagraph (i) of paragraph (b) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(i) inform the prospective employee that the commissioner is required or authorized to request his or her criminal history information from the division of criminal justice services and the federal bureau of investigation and review such information pursuant to this section, and provide a description of the manner in which his or her [fingerprint cards] FINGERPRINTS will be TAKEN AND used upon submission to the division of criminal justice services;

S 3. Paragraph a of subdivision 39 of section 1604 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE

DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 4. Paragraph a of subdivision 39 of section 1709 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 5. Paragraph a of subdivision 9 of section 1804 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. The board of education shall, for purposes of a criminal history record check, require the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR

SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 6. Subparagraph a of paragraph ll of subdivision 4 of section 1950 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 7. Paragraph a of subdivision 18 of section 2503 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF

THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 8. Paragraph a of subdivision 25 of section 2554 of the education law, as amended by chapter 91 of the laws of 2002, is amended to read as follows:

a. Shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section 2854 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

(i) The board of trustees of a charter school shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to initiating the fingerprinting process, the prospective employer shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED

PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 10. Subdivision 1 of section 3004-b of the education law, as separately amended by chapters 147 and 380 of the laws of 2001, is amended to read as follows:

1. Criminal history records search. Upon receipt of an application for certification as a superintendent of schools, teacher, administrator or supervisor, teaching assistant or school personnel required to hold a teaching or administrative license or certificate, the commissioner shall, subject to the rules and regulations of the division of criminal justice services, initiate a criminal history records search of the person making application, except that nothing in this section shall be construed to require a criminal history record check of an individual who holds a valid provisional certificate on the effective date of this section and applies for permanent certification in the same certificate title, or of an individual who applies for a temporary license to serve in the city school district of the city of New York and has been cleared for licensure and/or employment by such city school district pursuant to subdivision twenty of section twenty-five hundred ninety-h of this chapter. Prior to initiating the fingerprinting process, the commissioner shall furnish the applicant with the form described in paragraph (c) of subdivision thirty of section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. APPLICANTS SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. The commissioner shall obtain from each applicant two sets of fingerprints and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The commissioner shall promptly transmit such fingerprints and fees to the division of criminal justice services for its full search and retain processing. The division of criminal justice services is authorized to submit the fingerprints and the appropriate fee to the federal bureau of investigation for a national criminal history record check. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the

purposes of this section the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. In addition, upon request from an applicant who has applied for employment with the city school district of the city of New York, the commissioner shall have the authority to forward a copy of such criminal history record to the city school district of the city of New York by the most expeditious means available. Furthermore, upon notification that such applicant is employed by the city school district of the city of New York, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the city school district of the city of New York. Upon request from an applicant who has already been cleared for licensure and/or employment by the city school district of the city of New York, such school district shall have the authority to forward a copy of the applicant's criminal history record to the commissioner, by the most expeditious means available, for the purposes of this section. Furthermore, upon notification that such applicant has been certified, the division of criminal justice services shall have the authority to provide subsequent criminal history notifications directly to the commissioner. All such criminal history records processed and sent pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law. No cause of action against the department or the division of criminal justice services for damages related to the dissemination of criminal history records pursuant to this subdivision shall exist when the department or division of criminal justice services has reasonably and in good faith relied upon the accuracy and completeness of criminal history information furnished to it by qualified agencies. The provision of such criminal history record by the division of criminal justice services shall be subject to the provisions of subdivision sixteen of section two hundred ninety-six of the executive law. The commissioner shall consider such criminal history record pursuant to article twenty-three-A of the correction law.

S 11. This act shall take effect immediately; provided, however, that the amendments made to subdivision 39 of section 1604 of the education law by section three of this act, subdivision 39 of section 1709 of the education law by section four of this act, subdivision 9 of section 1804 of the education law by section five of this act, paragraph ll of subdivision 4 of section 1950 of the education law by section six of this act, subdivision 18 of section 2503 of the education law by section seven of this act, subdivision 25 of section 2554 of the education law by section eight of this act, paragraph (a-2) of subdivision 3 of section 2854 of the education law by section nine of this act, and subdivision 1 of section 3004-b of the education law by section ten of this act, shall not affect the expirations of such paragraphs or subdivisions and shall expire and be deemed repealed therewith.