

4492--A

2013-2014 Regular Sessions

I N S E N A T E

April 3, 2013

Introduced by Sens. FLANAGAN, FUSCHILLO, BOYLE, DeFRANCISCO, FELDER, LARKIN, LAVALLE, MARTINS, MAZIARZ, YOUNG, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

1 Section 1. Paragraph (a) of subdivision 30 of section 305 of the
2 education law, as amended by chapter 630 of the laws of 2006, is amended
3 to read as follows:
4 (a) The commissioner, in cooperation with the division of criminal
5 justice services and in accordance with all applicable provisions of
6 law, shall promulgate rules and regulations to require the fingerprint-
7 ing of prospective employees, as defined in section eleven hundred twen-
8 ty-five of this chapter, of school districts, charter schools and boards
9 of cooperative educational services and authorizing the fingerprinting
10 of prospective employees of nonpublic and private elementary and second-
11 ary schools, and for the use of information derived from searches of the
12 records of the division of criminal justice services and the federal
13 bureau of investigation based on the use of such fingerprints. The
14 commissioner shall also develop a form for use by school districts,
15 charter schools, boards of cooperative educational services, and nonpub-
16 lic and private elementary and secondary schools in connection with the
17 submission of fingerprints that contains the specific job title sought
18 and any other information that may be relevant to consideration of the
19 applicant. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRON-
20 IC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
21 PRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE
22 FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A

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

LBD10119-06-3

1 PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
2 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND ATTESTING
3 TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN. SUCH LANGUAGE
4 SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I HEREBY CERTIFY
5 AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE INFORMATION AND
6 STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION FOR EMPLOYMENT
7 AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN CONJUNCTION WITH THE
8 EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE." THE PROSPECTIVE EMPLOY-
9 EE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN
10 OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERI-
11 FIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHOR-
12 IZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN
13 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHOR-
14 IZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT
15 ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED,
16 WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE
17 WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE
18 RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS
19 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
20 DURATION OF THE INDIVIDUAL'S EMPLOYMENT. The commissioner shall also
21 establish a form for the recordation of allegations of child abuse in an
22 educational setting, as required pursuant to section eleven hundred
23 twenty-six of this chapter. No person who has been fingerprinted pursu-
24 ant to section three thousand four-b of this chapter or pursuant to
25 section five hundred nine-cc or twelve hundred twenty-nine-d of the
26 vehicle and traffic law and whose fingerprints remain on file with the
27 division of criminal justice services shall be required to undergo fing-
28 erprinting for purposes of a new criminal history record check. This
29 subdivision and the rules and regulations promulgated pursuant thereto
30 shall not apply to a school district within a city with a population of
31 one million or more.

32 S 2. Subparagraph (i) of paragraph (b) of subdivision 30 of section
33 305 of the education law, as amended by chapter 630 of the laws of 2006,
34 is amended to read as follows:

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

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

45 a. Shall require, for purposes of a criminal history record check, the
46 fingerprinting of all prospective employees pursuant to section three
47 thousand thirty-five of this chapter, who do not hold valid clearance
48 pursuant to such section or pursuant to section three thousand four-b of
49 this chapter or section five hundred nine-cc or twelve hundred twenty-
50 nine-d of the vehicle and traffic law. Prior to initiating the finger-
51 printing process, the prospective employer shall furnish the applicant
52 with the form described in paragraph (c) of subdivision thirty of
53 section three hundred five of this chapter and shall obtain the appli-
54 cant's consent to the criminal history records search. PROSPECTIVE
55 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
56 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY

1 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
2 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN
3 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE
4 EMPLOYEE'S IDENTITY AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION
5 CONTAINED THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO
6 THE FOLLOWING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM
7 TO BE, THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING
8 MY APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED
9 BY ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND
10 COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFI-
11 CATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDEN-
12 TIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE
13 EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE
14 PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE
15 FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT
16 PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO
17 IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE
18 FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGU-
19 LATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE
20 DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION
21 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT.
22 Every set of fingerprints taken pursuant to this subdivision shall be
23 promptly submitted to the commissioner for purposes of clearance for
24 employment.

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

28 a. Shall require, for purposes of a criminal history record check, the
29 fingerprinting of all prospective employees pursuant to section three
30 thousand thirty-five of this chapter, who do not hold valid clearance
31 pursuant to such section or pursuant to section three thousand four-b of
32 this chapter or section five hundred nine-cc or twelve hundred twenty-
33 nine-d of the vehicle and traffic law. Prior to initiating the finger-
34 printing process, the prospective employer shall furnish the applicant
35 with the form described in paragraph (c) of subdivision thirty of
36 section three hundred five of this chapter and shall obtain the appli-
37 cant's consent to the criminal history records search. PROSPECTIVE
38 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
39 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
40 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
41 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
42 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
43 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
44 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
45 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
46 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
47 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
48 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
49 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
50 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
51 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
52 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
53 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
54 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
55 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
56 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS

CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT. 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 ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL 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. THESE RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT. 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 11 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 appli-

1 cant's consent to the criminal history records search. PROSPECTIVE
2 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
3 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
4 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
5 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
6 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
7 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
8 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
9 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
10 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
11 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
12 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
13 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
14 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
15 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
16 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
17 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
18 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
19 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
20 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
21 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
22 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
23 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
24 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
25 this paragraph shall be promptly submitted to the commissioner for
26 purposes of clearance for employment.

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

30 a. Shall require, for purposes of a criminal history record check, the
31 fingerprinting of all prospective employees pursuant to section three
32 thousand thirty-five of this chapter, who do not hold valid clearance
33 pursuant to such section or pursuant to section three thousand four-b of
34 this chapter or section five hundred nine-cc or twelve hundred twenty-
35 nine-d of the vehicle and traffic law. Prior to initiating the finger-
36 printing process, the prospective employer shall furnish the applicant
37 with the form described in paragraph (c) of subdivision thirty of
38 section three hundred five of this chapter and shall obtain the appli-
39 cant's consent to the criminal history records search. PROSPECTIVE
40 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
41 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
42 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
43 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
44 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
45 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
46 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
47 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
48 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
49 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
50 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
51 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
52 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
53 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
54 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
55 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
56 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING

1 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
2 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
3 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
4 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
5 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
6 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
7 this subdivision shall be promptly submitted to the commissioner for
8 purposes of clearance for employment.

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

12 a. Shall require, for purposes of a criminal history record check, the
13 fingerprinting of all prospective employees pursuant to section three
14 thousand thirty-five of this chapter, who do not hold valid clearance
15 pursuant to such section or pursuant to section three thousand four-b of
16 this chapter or section five hundred nine-cc or twelve hundred twenty-
17 nine-d of the vehicle and traffic law. Prior to initiating the finger-
18 printing process, the prospective employer shall furnish the applicant
19 with the form described in paragraph (c) of subdivision thirty of
20 section three hundred five of this chapter and shall obtain the appli-
21 cant's consent to the criminal history records search. PROSPECTIVE
22 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY
23 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY
24 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
25 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN
26 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY
27 AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN.
28 SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I
29 HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE
30 INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION
31 FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN
32 CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE."
33 THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE
34 OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION
35 CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN
36 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN
37 STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED
38 PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING
39 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
40 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
41 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
42 SHALL BE RETAINED BY THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN
43 SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF
44 THE INDIVIDUAL'S EMPLOYMENT. Every set of fingerprints taken pursuant to
45 this subdivision shall be promptly submitted to the commissioner for
46 purposes of clearance for employment.

47 S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
48 2854 of the education law, as amended by chapter 147 of the laws of
49 2001, is amended to read as follows:

50 (i) The board of trustees of a charter school shall require, for
51 purposes of a criminal history record check, the fingerprinting of all
52 prospective employees pursuant to section three thousand thirty-five of
53 this chapter, who do not hold valid clearance pursuant to such section
54 or pursuant to section three thousand four-b of this chapter or section
55 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and
56 traffic law. Prior to initiating the fingerprinting process, the

1 prospective employer shall furnish the applicant with the form described
2 in paragraph (c) of subdivision thirty of section three hundred five of
3 this chapter and shall obtain the applicant's consent to the criminal
4 history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED
5 USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIG-
6 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO
7 INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED
8 PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE
9 DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND ATTESTING TO THE
10 TRUTHFULNESS OF THE INFORMATION CONTAINED THEREIN. SUCH LANGUAGE SHALL
11 INCLUDE, BUT NOT BE LIMITED TO THE FOLLOWING: "I HEREBY CERTIFY AND
12 ATTEST THAT I AM THE PERSON I CLAIM TO BE, THAT THE INFORMATION AND
13 STATEMENTS MADE ON THIS FORM, INCLUDING MY APPLICATION FOR EMPLOYMENT
14 AND, ANY AND ALL FORMS AND PAPERS PREPARED BY ME IN CONJUNCTION WITH THE
15 EMPLOYMENT I AM SEEKING, ARE TRUE AND COMPLETE." THE PROSPECTIVE EMPLOY-
16 EE SHALL PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN
17 OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERI-
18 FIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSON-
19 NEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON
20 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
21 SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE
22 VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND
23 PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES
24 AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY
25 THE DEPARTMENT AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
26 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
27 EMPLOYMENT. Every set of fingerprints taken pursuant to this paragraph
28 shall be promptly submitted to the commissioner for purposes of clear-
29 ance for employment.

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

33 1. Criminal history records search. Upon receipt of an application for
34 certification as a superintendent of schools, teacher, administrator or
35 supervisor, teaching assistant or school personnel required to hold a
36 teaching or administrative license or certificate, the commissioner
37 shall, subject to the rules and regulations of the division of criminal
38 justice services, initiate a criminal history records search of the
39 person making application, except that nothing in this section shall be
40 construed to require a criminal history record check of an individual
41 who holds a valid provisional certificate on the effective date of this
42 section and applies for permanent certification in the same certificate
43 title, or of an individual who applies for a temporary license to serve
44 in the city school district of the city of New York and has been cleared
45 for licensure and/or employment by such city school district pursuant to
46 subdivision twenty of section twenty-five hundred ninety-h of this chap-
47 ter. Prior to initiating the fingerprinting process, the commissioner
48 shall furnish the applicant with the form described in paragraph (c) of
49 subdivision thirty of section three hundred five of this chapter and
50 shall obtain the applicant's consent to the criminal history records
51 search. APPLICANTS SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING
52 TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES
53 APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROC-
54 ESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN
55 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S
56 IDENTITY AND ATTESTING TO THE TRUTHFULNESS OF THE INFORMATION CONTAINED

1 THEREIN. SUCH LANGUAGE SHALL INCLUDE, BUT NOT BE LIMITED TO THE FOLLOW-
2 ING: "I HEREBY CERTIFY AND ATTEST THAT I AM THE PERSON I CLAIM TO BE,
3 THAT THE INFORMATION AND STATEMENTS MADE ON THIS FORM, INCLUDING MY
4 APPLICATION FOR EMPLOYMENT AND, ANY AND ALL FORMS AND PAPERS PREPARED BY
5 ME IN CONJUNCTION WITH THE EMPLOYMENT I AM SEEKING, ARE TRUE AND
6 COMPLETE." THE PROSPECTIVE EMPLOYEE SHALL PRESENT TWO FORMS OF IDENTIFI-
7 CATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDEN-
8 TIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE APPLICANT
9 SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S
10 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
11 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPART-
12 MENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION
13 PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN
14 ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE
15 DEPARTMENT. THESE RECORDS SHALL BE RETAINED BY THE DEPARTMENT AS BUSI-
16 NESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE
17 PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT. The commis-
18 sioner shall obtain from each applicant two sets of fingerprints and the
19 division of criminal justice services processing fee imposed pursuant to
20 subdivision eight-a of section eight hundred thirty-seven of the execu-
21 tive law and any fee imposed by the federal bureau of investigation. The
22 commissioner shall promptly transmit such fingerprints and fees to the
23 division of criminal justice services for its full search and retain
24 processing. The division of criminal justice services is authorized to
25 submit the fingerprints and the appropriate fee to the federal bureau of
26 investigation for a national criminal history record check. The division
27 of criminal justice services and the federal bureau of investigation
28 shall forward such criminal history record to the commissioner in a
29 timely manner. For the purposes of this section the term "criminal
30 history record" shall mean a record of all convictions of crimes and any
31 pending criminal charges maintained on an individual by the division of
32 criminal justice services and the federal bureau of investigation. In
33 addition, upon request from an applicant who has applied for employment
34 with the city school district of the city of New York, the commissioner
35 shall have the authority to forward a copy of such criminal history
36 record to the city school district of the city of New York by the most
37 expeditious means available. Furthermore, upon notification that such
38 applicant is employed by the city school district of the city of New
39 York, the division of criminal justice services shall have the authority
40 to provide subsequent criminal history notifications directly to the
41 city school district of the city of New York. Upon request from an
42 applicant who has already been cleared for licensure and/or employment
43 by the city school district of the city of New York, such school
44 district shall have the authority to forward a copy of the applicant's
45 criminal history record to the commissioner, by the most expeditious
46 means available, for the purposes of this section. Furthermore, upon
47 notification that such applicant has been certified, the division of
48 criminal justice services shall have the authority to provide subsequent
49 criminal history notifications directly to the commissioner. All such
50 criminal history records processed and sent pursuant to this subdivision
51 shall be confidential pursuant to the applicable federal and state laws,
52 rules and regulations, and shall not be published or in any way
53 disclosed to persons other than the commissioner, unless otherwise
54 authorized by law. No cause of action against the department or the
55 division of criminal justice services for damages related to the dissem-
56 ination of criminal history records pursuant to this subdivision shall

1 exist when the department or division of criminal justice services has
2 reasonably and in good faith relied upon the accuracy and completeness
3 of criminal history information furnished to it by qualified agencies.
4 The provision of such criminal history record by the division of crimi-
5 nal justice services shall be subject to the provisions of subdivision
6 sixteen of section two hundred ninety-six of the executive law. The
7 commissioner shall consider such criminal history record pursuant to
8 article twenty-three-A of the correction law.

9 S 11. Subdivision 4 of section 1950 of the education law is amended by
10 adding a new paragraph oo to read as follows:

11 OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD
12 CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY
13 SCHOOLS AND CHARTER SCHOOLS PURSUANT TO SUBDIVISION THIRTY OF SECTION
14 THREE HUNDRED FIVE OF THIS CHAPTER AND TO ENTER CONTRACTS WITH SUCH
15 SCHOOLS FOR SUCH PURPOSE, AND TO PROCESS FINGERPRINTS FOR CRIMINAL
16 HISTORY RECORDS SEARCHES PURSUANT TO SECTION THREE THOUSAND THIRTY-FIVE
17 OF THIS CHAPTER FOR APPLICANTS FOR TEACHER CERTIFICATION AND FOR APPLI-
18 CANTS FOR A CHARTER AS A CHARTER SCHOOL PURSUANT TO SUBDIVISION FOUR OF
19 SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS TITLE. SUCH PROCESSING
20 SERVICES SHALL BE PROVIDED AT COST AND THE BOARD OF COOPERATIVE EDUCA-
21 TIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN
22 PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF
23 COOPERATIVE EDUCATIONAL SERVICES IS HEREBY AUTHORIZED TO DO AND PERFORM
24 ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF
25 SUCH SERVICES.

26 S 12. This act shall take effect immediately; provided, however, that
27 the amendments made to subdivision 39 of section 1604 of the education
28 law by section three of this act, subdivision 39 of section 1709 of the
29 education law by section four of this act, subdivision 9 of section 1804
30 of the education law by section five of this act, paragraph 11 of subdi-
31 vision 4 of section 1950 of the education law by section six of this
32 act, subdivision 18 of section 2503 of the education law by section
33 seven of this act, subdivision 25 of section 2554 of the education law
34 by section eight of this act, paragraph (a-2) of subdivision 3 of
35 section 2854 of the education law by section nine of this act, and
36 subdivision 1 of section 3004-b of the education law by section ten of
37 this act, shall not affect the expirations of such paragraphs or subdi-
38 visions and shall expire and be deemed repealed therewith.