

5827

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

Introduced by Sens. FLANAGAN, FUSCHILLO, BOYLE, DeFRANCISCO, FELDER, HANNON, LANZA, LARKIN, LAVALLE, MARTINS, MAZIARZ, RANZENHOFER, YOUNG, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to requiring the fingerprinting of prospective employees of certain schools, phasing-in a requirement that all fingerprints submitted by prospective employees and applicants for certification be electronically submitted, authorizing boards of cooperative educational services to conduct fingerprinting for non-component districts, special education schools, and applicants for certification, strengthening identification verification practices at fingerprinting sites for the purpose of conducting criminal history record checks and enhancing existing statutory mechanisms to expedite the removal of persons who commit fingerprint fraud; and to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to making permanent certain provisions relating to conditional clearances for employment

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

1 Section 1. Paragraphs (a) and (b) of subdivision 30 of section 305 of
2 the education law, paragraph (a) and the opening paragraph and subpara-
3 graph (i) of paragraph (b) as amended by chapter 630 of the laws of
4 2006, paragraph (b) as added by chapter 180 of the laws of 2000, are
5 amended to read as follows:
6 (a) The commissioner, in cooperation with the division of criminal
7 justice services and in accordance with all applicable provisions of
8 law, shall promulgate rules and regulations to require the fingerprint-
9 ing of prospective employees, as defined in section eleven hundred twen-
10 ty-five of this chapter, of school districts, charter schools and boards
11 of cooperative educational services and authorizing the fingerprinting

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

LBD10119-13-3

1 of prospective employees of nonpublic and private elementary and second-
2 ary schools, and for the use of information derived from searches of the
3 records of the division of criminal justice services and the federal
4 bureau of investigation based on the use of such fingerprints. The
5 commissioner shall also develop a form for use by school districts,
6 charter schools, boards of cooperative educational services, and nonpub-
7 lic and private elementary and secondary schools in connection with the
8 submission of fingerprints that contains the specific job title sought
9 and any other information that may be relevant to consideration of the
10 applicant. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO
11 THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL
12 AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING
13 ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
14 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
15 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
16 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
17 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
18 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
19 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL
20 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
21 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
22 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
23 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
24 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
25 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
26 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
27 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
28 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
29 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
30 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
31 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
32 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
33 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
34 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
35 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
36 COMMISSIONER. The commissioner shall also establish a form for the
37 recordation of allegations of child abuse in an educational setting, as
38 required pursuant to section eleven hundred twenty-six of this chapter.
39 No person who has been fingerprinted pursuant to section three thousand
40 four-b of this chapter or pursuant to section five hundred nine-cc or
41 twelve hundred twenty-nine-d of the vehicle and traffic law and whose
42 fingerprints remain on file with the division of criminal justice
43 services shall be required to undergo fingerprinting for purposes of a
44 new criminal history record check. This subdivision and the rules and
45 regulations promulgated pursuant thereto shall not apply to a school
46 district within a city with a population of one million or more.

47 (b) The commissioner, in cooperation with the division of criminal
48 justice services, shall promulgate a form to be provided to all such
49 prospective employees of school districts, charter schools, boards of
50 cooperative educational services, and nonpublic and private elementary
51 and secondary schools that elect to fingerprint and seek clearance for
52 prospective employees that shall:

53 (i) inform the prospective employee that the commissioner is required
54 or authorized to request his or her criminal history information from
55 the division of criminal justice services and the federal bureau of
56 investigation and review such information pursuant to this section, and

1 provide a description of the manner in which his or her [fingerprint
2 cards] FINGERPRINTS will be TAKEN AND used upon submission to the divi-
3 sion of criminal justice services;

4 (ii) inform the prospective employee that he or she has the right to
5 obtain, review and seek correction of his or her criminal history infor-
6 mation pursuant to regulations and procedures established by the divi-
7 sion of criminal justice services.

8 S 2. Paragraph a of subdivision 39 of section 1604 of the education
9 law, as amended by chapter 147 of the laws of 2001, is amended to read
10 as follows:

11 a. Shall require, for purposes of a criminal history record check, the
12 fingerprinting of all prospective employees pursuant to section three
13 thousand thirty-five of this chapter, who do not hold valid clearance
14 pursuant to such section or pursuant to section three thousand four-b of
15 this chapter or section five hundred nine-cc or twelve hundred twenty-
16 nine-d of the vehicle and traffic law. Prior to initiating the finger-
17 printing process, the prospective employer shall furnish the applicant
18 with the form described in paragraph (c) of subdivision thirty of
19 section three hundred five of this chapter and shall obtain the appli-
20 cant's consent to the criminal history records search. PROSPECTIVE
21 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
22 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
23 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING
24 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-
25 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
26 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-
27 PRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION
28 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH
29 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE
30 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS
31 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING
32 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,
33 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
34 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO
35 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT
36 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF
37 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND
38 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON
39 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
40 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING
41 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
42 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
43 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
44 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
45 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
46 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of
47 fingerprints taken pursuant to this subdivision shall be promptly
48 submitted to the commissioner for purposes of clearance for employment.

49 S 3. Paragraph a of subdivision 39 of section 1709 of the education
50 law, as amended by chapter 147 of the laws of 2001, is amended to read
51 as follows:

52 a. Shall require, for purposes of a criminal history record check, the
53 fingerprinting of all prospective employees pursuant to section three
54 thousand thirty-five of this chapter, who do not hold valid clearance
55 pursuant to such section or pursuant to section three thousand four-b of
56 this chapter or section five hundred nine-cc or twelve hundred twenty-

1 nine-d of the vehicle and traffic law. Prior to initiating the finger-
2 printing process, the prospective employer shall furnish the applicant
3 with the form described in paragraph (c) of subdivision thirty of
4 section three hundred five of this chapter and shall obtain the appli-
5 cant's consent to the criminal history records search. PROSPECTIVE
6 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
7 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
8 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING
9 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-
10 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
11 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-
12 PRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION
13 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH
14 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE
15 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS
16 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING
17 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,
18 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
19 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO
20 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT
21 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF
22 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND
23 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON
24 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
25 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING
26 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
27 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
28 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
29 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
30 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
31 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of
32 fingerprints taken pursuant to this subdivision shall be promptly
33 submitted to the commissioner for purposes of clearance for employment.

34 S 4. Paragraph a of subdivision 9 of section 1804 of the education
35 law, as amended by chapter 147 of the laws of 2001, is amended to read
36 as follows:

37 a. The board of education shall, for purposes of a criminal history
38 record check, require the fingerprinting of all prospective employees
39 pursuant to section three thousand thirty-five of this chapter, who do
40 not hold valid clearance pursuant to such section or pursuant to section
41 three thousand four-b of this chapter or section five hundred nine-cc or
42 twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to
43 initiating the fingerprinting process, the prospective employer shall
44 furnish the applicant with the form described in paragraph (c) of subdi-
45 vision thirty of section three hundred five of this chapter and shall
46 obtain the applicant's consent to the criminal history records search.
47 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT
48 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-
49 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-
50 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
51 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
52 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
53 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
54 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
55 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
56 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL

1 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
2 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
3 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
4 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
5 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
6 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
7 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
8 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
9 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
10 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
11 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
12 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
13 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
14 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
15 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
16 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
17 COMMISSIONER. Every set of fingerprints taken pursuant to this subdivi-
18 sion shall be promptly submitted to the commissioner for purposes of
19 clearance for employment.

20 S 5. Subparagraph a of paragraph 11 of subdivision 4 of section 1950
21 of the education law, as amended by chapter 147 of the laws of 2001, is
22 amended to read as follows:

23 a. Shall require, for purposes of a criminal history record check, the
24 fingerprinting of all prospective employees pursuant to section three
25 thousand thirty-five of this chapter, who do not hold valid clearance
26 pursuant to such section or pursuant to section three thousand four-b of
27 this chapter or section five hundred nine-cc or twelve hundred twenty-
28 nine-d of the vehicle and traffic law. Prior to initiating the finger-
29 printing process, the prospective employer shall furnish the applicant
30 with the form described in paragraph (c) of subdivision thirty of
31 section three hundred five of this chapter and shall obtain the appli-
32 cant's consent to the criminal history records search. PROSPECTIVE
33 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
34 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
35 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING
36 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-
37 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
38 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBPARAGRAPH SHALL BE FING-
39 ERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN
40 ADDITION TO THE REQUIREMENTS OF THIS SUBPARAGRAPH, THE COMMISSIONER
41 SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION
42 VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE
43 THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER.
44 PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF
45 AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATE-
46 MENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S
47 IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE
48 AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING
49 VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY
50 AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED,
51 SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE
52 AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY
53 THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFI-
54 CATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS
55 IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE
56 DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS

DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 6. Subdivision 4 of section 1950 of the education law is amended by adding a new paragraph oo to read as follows:

OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY SCHOOLS, NON-COMPONENT SCHOOL DISTRICTS AND CHARTER SCHOOLS PURSUANT TO SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER AND TO ENTER CONTRACTS WITH SUCH SCHOOLS FOR SUCH PURPOSE, AND TO PROCESS FINGERPRINTS FOR CRIMINAL HISTORY RECORDS SEARCHES PURSUANT TO SECTION THREE THOUSAND THIRTY-FIVE OF THIS CHAPTER FOR APPLICANTS FOR TEACHER CERTIFICATION AND FOR APPLICANTS FOR A CHARTER AS A CHARTER SCHOOL PURSUANT TO SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS CHAPTER. SUCH PROCESSING SERVICES SHALL BE PROVIDED AT COST AND THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF SUCH SERVICES.

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. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. 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,

1 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
2 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
3 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
4 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
5 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
6 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
7 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
8 COMMISSIONER.

9 S 8. Paragraph a of subdivision 25 of section 2554 of the education
10 law, as amended by section 2 of chapter 91 of the laws of 2002, is
11 amended to read as 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. Every set of
22 fingerprints taken pursuant to this subdivision shall be promptly
23 submitted to the commissioner for purposes of clearance for employment.
24 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT
25 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-
26 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-
27 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
28 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-
29 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH
30 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE
31 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-
32 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
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34 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-
35 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-
36 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN
37 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-
38 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH
39 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF
40 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN
41 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
42 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
43 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
44 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
45 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
46 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
47 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
48 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
49 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
50 COMMISSIONER.

51 S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
52 2854 of the education law, as amended by chapter 147 of the laws of
53 2001, is amended to read as follows:

54 (i) The board of trustees of a charter school shall require, for
55 purposes of a criminal history record check, the fingerprinting of all
56 prospective employees pursuant to section three thousand thirty-five of

1 this chapter, who do not hold valid clearance pursuant to such section
2 or pursuant to section three thousand four-b of this chapter or section
3 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and
4 traffic law. Prior to initiating the fingerprinting process, the
5 prospective employer shall furnish the applicant with the form described
6 in paragraph (c) of subdivision thirty of section three hundred five of
7 this chapter and shall obtain the applicant's consent to the criminal
8 history records search. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE
9 APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHOR-
10 IZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE
11 DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPART-
12 MENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS
13 AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF
14 THIS SUBPARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOY-
15 MENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS SUBPARA-
16 GRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES
17 FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES,
18 WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF
19 THE COMMISSIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN
20 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN
21 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE
22 EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF
23 WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPA-
24 BLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE
25 TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S
26 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,
27 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED
28 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-
29 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-
30 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF
31 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS
32 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
33 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
34 COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph
35 shall be promptly submitted to the commissioner for purposes of clear-
36 ance for employment.

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

40 1. Criminal history records search. Upon receipt of an application for
41 certification as a superintendent of schools, teacher, administrator or
42 supervisor, teaching assistant or school personnel required to hold a
43 teaching or administrative license or certificate, the commissioner
44 shall, subject to the rules and regulations of the division of criminal
45 justice services, initiate a criminal history records search of the
46 person making application, except that nothing in this section shall be
47 construed to require a criminal history record check of an individual
48 who holds a valid provisional certificate on the effective date of this
49 section and applies for permanent certification in the same certificate
50 title, or of an individual who applies for a temporary license to serve
51 in the city school district of the city of New York and has been cleared
52 for licensure and/or employment by such city school district pursuant to
53 subdivision twenty of section twenty-five hundred ninety-h of this chap-
54 ter. Prior to initiating the fingerprinting process, the commissioner
55 shall furnish the applicant with the form described in paragraph (c) of
56 subdivision thirty of section three hundred five of this chapter and

1 shall obtain the applicant's consent to the criminal history records
2 search. APPLICANTS FOR CERTIFICATION, WHO ARE REQUIRED TO BE FINGER-
3 PRINTED UNDER THIS SECTION, INCLUDING OUT-OF-STATE APPLICANTS TO THE
4 EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT
5 DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING
6 ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE
7 APPLICANTS WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELEC-
8 TRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION SHALL BE
9 FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN
10 ADDITION TO THE REQUIREMENTS OF THIS SUBDIVISION, THE COMMISSIONER SHALL
11 ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICA-
12 TION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE
13 REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR
14 TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHOR-
15 IZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY
16 THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS
17 OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED
18 PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE
19 APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE
20 APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGER-
21 PRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A
22 FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED
23 THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROC-
24 ESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND
25 REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSI-
26 NESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE
27 PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER
28 PRESCRIBED BY THE COMMISSIONER. The commissioner shall obtain from each
29 applicant ONE SET, OR WHERE NECESSARY, two sets of fingerprints and the
30 division of criminal justice services processing fee imposed pursuant to
31 subdivision eight-a of section eight hundred thirty-seven of the execu-
32 tive law and any fee imposed by the federal bureau of investigation. The
33 commissioner shall promptly transmit such fingerprints and fees to the
34 division of criminal justice services for its full search and retain
35 processing. The division of criminal justice services is authorized to
36 submit the fingerprints and the appropriate fee to the federal bureau of
37 investigation for a national criminal history record check. The division
38 of criminal justice services and the federal bureau of investigation
39 shall forward such criminal history record to the commissioner in a
40 timely manner. For the purposes of this section the term "criminal
41 history record" shall mean a record of all convictions of crimes and any
42 pending criminal charges maintained on an individual by the division of
43 criminal justice services and the federal bureau of investigation. In
44 addition, upon request from an applicant who has applied for employment
45 with the city school district of the city of New York, the commissioner
46 shall have the authority to forward a copy of such criminal history
47 record to the city school district of the city of New York by the most
48 expeditious means available. Furthermore, upon notification that such
49 applicant is employed by the city school district of the city of New
50 York, the division of criminal justice services shall have the authority
51 to provide subsequent criminal history notifications directly to the
52 city school district of the city of New York. Upon request from an
53 applicant who has already been cleared for licensure and/or employment
54 by the city school district of the city of New York, such school
55 district shall have the authority to forward a copy of the applicant's
56 criminal history record to the commissioner, by the most expeditious

1 means available, for the purposes of this section. Furthermore, upon
2 notification that such applicant has been certified, the division of
3 criminal justice services shall have the authority to provide subsequent
4 criminal history notifications directly to the commissioner. All such
5 criminal history records processed and sent pursuant to this subdivision
6 shall be confidential pursuant to the applicable federal and state laws,
7 rules and regulations, and shall not be published or in any way
8 disclosed to persons other than the commissioner, unless otherwise
9 authorized by law. No cause of action against the department or the
10 division of criminal justice services for damages related to the dissem-
11 ination of criminal history records pursuant to this subdivision shall
12 exist when the department or division of criminal justice services has
13 reasonably and in good faith relied upon the accuracy and completeness
14 of criminal history information furnished to it by qualified agencies.
15 The provision of such criminal history record by the division of crimi-
16 nal justice services shall be subject to the provisions of subdivision
17 sixteen of section two hundred ninety-six of the executive law. The
18 commissioner shall consider such criminal history record pursuant to
19 article twenty-three-A of the correction law.

20 S 11. Subdivision 1 of section 3035 of the education law, as amended
21 by chapter 630 of the laws of 2006, is amended to read as follows:

22 1. The commissioner shall submit to the division of criminal justice
23 services ONE SET OR WHERE NECESSARY, two sets of fingerprints of
24 prospective employees as defined in subdivision three of section eleven
25 hundred twenty-five of this chapter received from a school district,
26 charter school or board of cooperative educational services and of
27 prospective employees received from nonpublic and private elementary and
28 secondary schools pursuant to title two of this chapter, and the divi-
29 sion of criminal justice services processing fee imposed pursuant to
30 subdivision eight-a of section eight hundred thirty-seven of the execu-
31 tive law and any fee imposed by the federal bureau of investigation. The
32 division of criminal justice services and the federal bureau of investi-
33 gation shall forward such criminal history record to the commissioner in
34 a timely manner. For the purposes of this section, the term "criminal
35 history record" shall mean a record of all convictions of crimes and any
36 pending criminal charges maintained on an individual by the division of
37 criminal justice services and the federal bureau of investigation. All
38 such criminal history records sent to the commissioner pursuant to this
39 subdivision shall be confidential pursuant to the applicable federal and
40 state laws, rules and regulations, and shall not be published or in any
41 way disclosed to persons other than the commissioner, unless otherwise
42 authorized by law.

43 S 12. The commissioner of education, in consultation with the depart-
44 ment of criminal justice, shall conduct a study or studies (1) of the
45 feasibility and desirability of aligning the fingerprinting process used
46 for criminal history records checks for employment in school districts
47 and boards of cooperative educational services and for certification as
48 a teacher or administrator, to the statewide vendor managed network
49 administered by the division of criminal justice services, and (2)
50 establishing a new fingerprinting process using the statewide vendor
51 managed network administered by the division of criminal justice
52 services for criminal history records checks for licensed professionals
53 under title VIII of the education law. The commissioner of education
54 shall submit a report to the board of regents, the governor and the
55 legislature by no later than January 15, 2014, with recommendations,
56 including appropriate actions that would need to be taken to align the

1 existing fingerprinting process and to establish a new fingerprinting
2 process for licensed professionals under title VIII of the education law
3 with the statewide system and any estimated costs and/or savings associ-
4 ated with movement to the statewide system.

5 S 13. The commissioner of education is authorized to promulgate any
6 and all rules and regulations and take any other measures necessary to
7 implement the provisions of this act on its effective date on or before
8 such date.

9 S 14. This act shall take effect on the one hundred eightieth day
10 after it shall have become a law.