

STATE OF NEW YORK

2087

2017-2018 Regular Sessions

IN ASSEMBLY

January 17, 2017

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the fingerprinting of prospective employees

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

1 Section 1. Subdivision 1 of section 3035 of the education law, as
2 amended by chapter 630 of the laws of 2006, is amended to read as
3 follows:

4 1. (a) The commissioner shall submit to the division of criminal
5 justice services two sets of fingerprints of prospective employees as
6 defined in subdivision three of section eleven hundred twenty-five of
7 this chapter received from a school district, charter school or board of
8 cooperative educational services and of prospective employees received
9 from nonpublic and private elementary and secondary schools pursuant to
10 title two of this chapter, and the division of criminal justice services
11 processing fee imposed pursuant to subdivision eight-a of section eight
12 hundred thirty-seven of the executive law and any fee imposed by the
13 federal bureau of investigation. The division of criminal justice
14 services and the federal bureau of investigation shall forward such
15 criminal history record to the commissioner in a timely manner. For the
16 purposes of this section, the term "criminal history record" shall mean
17 a record of all convictions of crimes and any pending criminal charges
18 maintained on an individual by the division of criminal justice services
19 and the federal bureau of investigation. All such criminal history
20 records sent to the commissioner pursuant to this subdivision shall be
21 confidential pursuant to the applicable federal and state laws, rules
22 and regulations, and shall not be published or in any way disclosed to
23 persons other than the commissioner, unless otherwise authorized by law.

24 (b) Each prospective employee, including a person who has been previ-
25 ously employed by a different school district, regardless of whether

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

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1 such person has been fingerprinted pursuant to section three thousand
2 four-b of this chapter or pursuant to section five hundred nine-cc or
3 twelve hundred twenty-nine-d of the vehicle and traffic law and whose
4 fingerprints remain on file with the division of criminal justice
5 services, of any school district, charter school or board of cooperative
6 educational services, and of nonpublic and private elementary and
7 secondary schools pursuant to title two of this chapter, shall be
8 required to submit to a criminal history check as required by paragraph
9 (a) of this subdivision in order to qualify for clearance of employment.

10 § 2. Paragraph (a) of subdivision 30 of section 305 of the education
11 law, as amended by chapter 630 of the laws of 2006, is amended to read
12 as follows:

13 (a) The commissioner, in cooperation with the division of criminal
14 justice services and in accordance with all applicable provisions of
15 law, shall promulgate rules and regulations to require the fingerprint-
16 ing of prospective employees, as defined in section eleven hundred twen-
17 ty-five of this chapter, and including such persons who have been fing-
18 erprinted pursuant to section three thousand four-b of this chapter or
19 pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d
20 of the vehicle and traffic law and whose fingerprints remain on file
21 with the division of criminal justice services, of school districts,
22 charter schools and boards of cooperative educational services and
23 authorizing the fingerprinting of prospective employees of nonpublic and
24 private elementary and secondary schools, and for the use of information
25 derived from searches of the records of the division of criminal justice
26 services and the federal bureau of investigation based on the use of
27 such fingerprints. The commissioner shall also develop a form for use by
28 school districts, charter schools, boards of cooperative educational
29 services, and nonpublic and private elementary and secondary schools in
30 connection with the submission of fingerprints that contains the specif-
31 ic job title sought and any other information that may be relevant to
32 consideration of the applicant. The commissioner shall also establish a
33 form for the recordation of allegations of child abuse in an educational
34 setting, as required pursuant to section eleven hundred twenty-six of
35 this chapter. [~~No person who has been fingerprinted pursuant to section~~
36 ~~three thousand four b of this chapter or pursuant to section five~~
37 ~~hundred nine cc or twelve hundred twenty nine d of the vehicle and traf-~~
38 ~~fic law and whose fingerprints remain on file with the division of crim-~~
39 ~~inal justice services shall be required to undergo fingerprinting for~~
40 ~~purposes of a new criminal history record check.~~] This subdivision and
41 the rules and regulations promulgated pursuant thereto shall not apply
42 to a school district within a city with a population of one million or
43 more.

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

47 a. Shall require, for purposes of a criminal history record check, the
48 fingerprinting of all prospective employees pursuant to section three
49 thousand thirty-five of this chapter[, ~~who do not hold valid clearance~~
50 ~~pursuant to such section or pursuant to section three thousand four b of~~
51 ~~this chapter or section five hundred nine-cc or twelve hundred twenty-~~
52 ~~nine-d of the vehicle and traffic law~~]. Prior to initiating the finger-
53 printing process, the prospective employer shall furnish the applicant
54 with the form described in paragraph (c) of subdivision thirty of
55 section three hundred five of this chapter and shall obtain the appli-
56 cant's consent to the criminal history records search. Every set of

1 fingerprints taken pursuant to this subdivision shall be promptly
2 submitted to the commissioner for purposes of clearance for employment.

3 § 4. Subdivision 39 of section 1604 of the education law, as added by
4 chapter 180 of the laws of 2000, is amended to read as follows:

5 39. Shall require, for purposes of a criminal history record check,
6 the fingerprinting of all prospective employees pursuant to section
7 three thousand thirty-five of this chapter~~[, who do not hold valid~~
8 ~~clearance pursuant to such section or pursuant to section three thousand~~
9 ~~four-b of this chapter or section five hundred nine-cc or twelve hundred~~
10 ~~twenty-nine-d of the vehicle and traffic law]~~. Prior to initiating the

11 fingerprinting process, the prospective employer shall furnish the
12 applicant with the form described in paragraph (c) of subdivision thirty
13 of section three hundred five of this chapter and shall obtain the
14 applicant's consent to the criminal history records search. Every set of
15 fingerprints taken pursuant to this subdivision shall be promptly
16 submitted to the commissioner for purposes of clearance for employment.

17 § 5. Paragraph a of subdivision 39 of section 1709 of the education
18 law, as amended by chapter 147 of the laws of 2001, is amended to read
19 as follows:

20 a. Shall require, for purposes of a criminal history record check, the
21 fingerprinting of all prospective employees pursuant to section three
22 thousand thirty-five of this chapter~~[, who do not hold valid clearance~~
23 ~~pursuant to such section or pursuant to section three thousand four-b of~~
24 ~~this chapter or section five hundred nine-cc or twelve hundred twenty-~~
25 ~~nine-d of the vehicle and traffic law]~~. Prior to initiating the finger-
26 printing process, the prospective employer shall furnish the applicant
27 with the form described in paragraph (c) of subdivision thirty of
28 section three hundred five of this chapter and shall obtain the appli-
29 cant's consent to the criminal history records search. Every set of
30 fingerprints taken pursuant to this subdivision shall be promptly
31 submitted to the commissioner for purposes of clearance for employment.

32 § 6. Subdivision 39 of section 1709 of the education law, as added by
33 chapter 180 of the laws of 2000, is amended to read as follows:

34 39. Shall require, for purposes of a criminal history record check,
35 the fingerprinting of all prospective employees pursuant to section
36 three thousand thirty-five of this chapter~~[, who do not hold valid~~
37 ~~clearance pursuant to such section or pursuant to section three thousand~~
38 ~~four-b of this chapter or section five hundred nine-cc or twelve hundred~~
39 ~~twenty-nine-d of the vehicle and traffic law]~~. Prior to initiating the

40 fingerprinting process, the prospective employer shall furnish the
41 applicant with the form described in paragraph (c) of subdivision thirty
42 of section three hundred five of this chapter and shall obtain the
43 applicant's consent to the criminal history records search. Every set of
44 fingerprints taken pursuant to this subdivision shall be promptly
45 submitted to the commissioner for purposes of clearance for employment.

46 § 7. Paragraph a of subdivision 9 of section 1804 of the education
47 law, as amended by chapter 147 of the laws of 2001, is amended to read
48 as follows:

49 a. The board of education shall, for purposes of a criminal history
50 record check, require the fingerprinting of all prospective employees
51 pursuant to section three thousand thirty-five of this chapter~~[, who do~~
52 ~~not hold valid clearance pursuant to such section or pursuant to section~~
53 ~~three thousand four-b of this chapter or section five hundred nine-cc or~~
54 ~~twelve hundred twenty-nine-d of the vehicle and traffic law]~~. Prior to
55 initiating the fingerprinting process, the prospective employer shall
56 furnish the applicant with the form described in paragraph (c) of subdi-

1 vision thirty of section three hundred five of this chapter and shall
2 obtain the applicant's consent to the criminal history records search.
3 Every set of fingerprints taken pursuant to this subdivision shall be
4 promptly submitted to the commissioner for purposes of clearance for
5 employment.

6 § 8. Subdivision 9 of section 1804 of the education law, as added by
7 chapter 180 of the laws of 2000, is amended to read as follows:

8 9. The board of education shall, for purposes of a criminal history
9 record check, require the fingerprinting of all prospective employees
10 pursuant to section three thousand thirty-five of this chapter[~~, who do~~
11 ~~not hold valid clearance pursuant to such section or pursuant to section~~
12 ~~three thousand four b of this chapter or section five hundred nine cc or~~
13 ~~twelve hundred twenty-nine d of the vehicle and traffic law~~]. Prior to
14 initiating the fingerprinting process, the prospective employer shall
15 furnish the applicant with the form described in paragraph (c) of subdi-
16 vision thirty of section three hundred five of this chapter and shall
17 obtain the applicant's consent to the criminal history records search.
18 Every set of fingerprints taken pursuant to this subdivision shall be
19 promptly submitted to the commissioner for purposes of clearance for
20 employment.

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

24 a. Shall require, for purposes of a criminal history record check, the
25 fingerprinting of all prospective employees pursuant to section three
26 thousand thirty-five of this chapter[~~, who do not hold valid clearance~~
27 ~~pursuant to such section or pursuant to section three thousand four b of~~
28 ~~this chapter or section five hundred nine cc or twelve hundred twenty-~~
29 ~~nine d of the vehicle and traffic law~~]. Prior to initiating the finger-
30 printing process, the prospective employer shall furnish the applicant
31 with the form described in paragraph (c) of subdivision thirty of
32 section three hundred five of this chapter and shall obtain the appli-
33 cant's consent to the criminal history records search. Every set of
34 fingerprints taken pursuant to this paragraph shall be promptly submit-
35 ted to the commissioner for purposes of clearance for employment.

36 § 10. Paragraph 11 of subdivision 4 of section 1950 of the education
37 law, as added by chapter 180 of the laws of 2000, is amended to read as
38 follows:

39 11. Shall require, for purposes of a criminal history record check,
40 the fingerprinting of all prospective employees pursuant to section
41 three thousand thirty-five of this chapter[~~, who do not hold valid~~
42 ~~clearance pursuant to such section or pursuant to section three thousand~~
43 ~~four b of this chapter or section five hundred nine cc or twelve hundred~~
44 ~~twenty-nine d of the vehicle and traffic law~~]. Prior to initiating the
45 fingerprinting process, the prospective employer shall furnish the
46 applicant with the form described in paragraph (c) of subdivision thirty
47 of section three hundred five of this chapter and shall obtain the
48 applicant's consent to the criminal history records search. Every set of
49 fingerprints taken pursuant to this paragraph shall be promptly submit-
50 ted to the commissioner for purposes of clearance for employment.

51 § 11. Paragraph a of subdivision 18 of section 2503 of the education
52 law, as amended by chapter 147 of the laws of 2001, is amended to read
53 as follows:

54 a. Shall require, for purposes of a criminal history record check, the
55 fingerprinting of all prospective employees pursuant to section three
56 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.

§ 12. Subdivision 18 of section 2503 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

18. 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.

§ 13. Paragraph a of subdivision 25 of section 2554 of the education law, as amended by section 2 of 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. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

§ 14. Subdivision 25 of section 2554 of the education law, as amended by section 4 of chapter 91 of the laws of 2002, is amended to read as follows:

25. 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.

§ 15. Subdivision 25 of section 2554 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

25. Shall require, for purposes of a criminal history record check, except in the city school district of the city of New York, 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.

§ 16. 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. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

§ 17. Paragraph (a-2) of subdivision 3 of section 2854 of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

(a-2) 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. Every set of fingerprints taken pursuant to this paragraph shall be promptly submitted to the commissioner for purposes of clearance for employment.

§ 18. Subdivision 2 of section 3001-d of the education law, as added by chapter 630 of the laws of 2006, is amended to read as follows:

2. Any nonpublic or private elementary or secondary school may require, for the purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this article~~[, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four b of this article 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

1 section three hundred five of this chapter and shall obtain the appli-
2 cant's consent to the criminal history record search. Every set of fing-
3 erprints taken pursuant to this section shall be promptly submitted to
4 the commissioner for the purposes of clearance for employment.

5 § 19. This act shall take effect immediately, provided that:

6 (a) the amendments to subdivision 39 of section 1604 of the education
7 law made by section three of this act shall be subject to the expiration
8 and reversion of such subdivision pursuant to section 12 of chapter 147
9 of the laws of 2001, as amended, when upon such date the provisions of
10 section four of this act shall take effect;

11 (b) the amendments to subdivision 39 of section 1709 of the education
12 law made by section five of this act shall be subject to the expiration
13 and reversion of such subdivision pursuant to section 12 of chapter 147
14 of the laws of 2001, as amended, when upon such date the provisions of
15 section six of this act shall take effect;

16 (c) the amendments to subdivision 9 of section 1804 of the education
17 law made by section seven of this act shall be subject to the expiration
18 and reversion of such subdivision pursuant to section 12 of chapter 147
19 of the laws of 2001, as amended, when upon such date the provisions of
20 section eight of this act shall take effect;

21 (d) the amendments to subdivision 4 of section 1950 of the education
22 law made by section nine of this act shall be subject to the expiration
23 and reversion of such subdivision pursuant to section 12 of chapter 147
24 of the laws of 2001, as amended, when upon such date the provisions of
25 section ten of this act shall take effect;

26 (e) the amendments to subdivision 18 of section 2503 of the education
27 law made by section eleven of this act shall be subject to the expira-
28 tion and reversion of such subdivision pursuant to section 12 of chapter
29 147 of the laws of 2001, as amended, when upon such date the provisions
30 of section twelve of this act shall take effect;

31 (f) the amendments to subdivision 25 of section 2554 of the education
32 law made by section thirteen of this act shall be subject to the expira-
33 tion and reversion of such subdivision pursuant to section 12 of chapter
34 147 of the laws of 2001, as amended, when upon such date the provisions
35 of section fourteen of this act shall take effect;

36 (g) the amendments to subdivision 25 of section 2554 of the education
37 law made by section fourteen of this act shall be subject to the expira-
38 tion and reversion of such subdivision pursuant to section 34 of chapter
39 91 of the laws of 2002, as amended, when upon such date the provisions
40 of section fifteen of this act shall take effect; and

41 (h) the amendments to subdivision 3 of section 2854 of the education
42 law made by section sixteen of this act shall be subject to the expira-
43 tion and reversion of such subdivision pursuant to section 12 of chapter
44 147 of the laws of 2001, as amended, when upon such date the provisions
45 of section seventeen of this act shall take effect.