

1634--A

2009-2010 Regular Sessions

I N S E N A T E

February 3, 2009

Introduced by Sen. SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the child abuse reporting requirements in educational settings; to amend chapter 91 of the laws of 2002, amending the education law and other laws relating to the reorganization of the New York city school construction authority, board of education and community boards, in relation to making a technical correction thereto; and to amend the vehicle and traffic law, in relation to qualifications for school bus drivers

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

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

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1 and any other information that may be relevant to consideration of the
2 applicant. The commissioner shall also establish a form for the recorda-
3 tion of allegations of child abuse in an educational setting, as
4 required pursuant to section eleven hundred twenty-six of this chapter.
5 No person who has been fingerprinted pursuant to section three thousand
6 four-b of this chapter [or pursuant to section five hundred nine-cc or
7 twelve hundred twenty-nine-d of the vehicle and traffic law] and whose
8 fingerprints remain on file with the division of criminal justice
9 services shall be required to undergo fingerprinting for purposes of a
10 new criminal history record check. This subdivision and the rules and
11 regulations promulgated pursuant thereto shall not apply to a school
12 district within a city with a population of one million or more.

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

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

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

30 39. Shall require, for purposes of a criminal history record check,
31 the fingerprinting of all prospective employees pursuant to section
32 three thousand thirty-five of this chapter, who do not hold valid clear-
33 ance pursuant to such section or pursuant to section three thousand
34 four-b of this chapter [or section five hundred nine-cc or twelve
35 hundred twenty-nine-d of the vehicle and traffic law]. Prior to initiat-
36 ing the fingerprinting process, the prospective employer shall furnish
37 the applicant with the form described in paragraph (c) of subdivision
38 thirty of section three hundred five of this chapter and shall obtain
39 the applicant's consent to the criminal history records search. Every
40 set of fingerprints taken pursuant to this subdivision shall be promptly
41 submitted to the commissioner for purposes of clearance for employment.

42 S. 4. Paragraph a of subdivision 39 of section 1709 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. Every set of
55 fingerprints taken pursuant to this subdivision shall be promptly
56 submitted to the commissioner for purposes of clearance for employment.

1 S 5. Subdivision 39 of section 1709 of the education law, as added by
2 chapter 180 of the laws of 2000, is amended to read as follows:

3 39. Shall require, for purposes of a criminal history record check,
4 the fingerprinting of all prospective employees pursuant to section
5 three thousand thirty-five of this chapter, who do not hold valid clear-
6 ance pursuant to such section or pursuant to section three thousand
7 four-b of this chapter [or section five hundred nine-cc or twelve
8 hundred twenty-nine-d of the vehicle and traffic law]. Prior to initiat-
9 ing the fingerprinting process, the prospective employer shall furnish
10 the applicant with the form described in paragraph (c) of subdivision
11 thirty of section three hundred five of this chapter and shall obtain
12 the applicant's consent to the criminal history records search. Every
13 set of fingerprints taken pursuant to this subdivision shall be promptly
14 submitted to the commissioner for purposes of clearance for employment.

15 S 6. Paragraph a of subdivision 9 of section 1804 of the education
16 law, as amended by chapter 147 of the laws of 2001, is amended to read
17 as follows:

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

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

33 9. The board of education shall, for purposes of a criminal history
34 record check, require the fingerprinting of all prospective employees
35 pursuant to section three thousand thirty-five of this chapter, who do
36 not hold valid clearance pursuant to such section or pursuant to section
37 three thousand four-b of this chapter [or section five hundred nine-cc
38 or twelve hundred twenty-nine-d of the vehicle and traffic law]. Prior
39 to initiating the fingerprinting process, the prospective employer shall
40 furnish the applicant with the form described in paragraph (c) of subdi-
41 vision thirty of section three hundred five of this chapter and shall
42 obtain the applicant's consent to the criminal history records search.
43 Every set of fingerprints taken pursuant to this subdivision shall be
44 promptly submitted to the commissioner for purposes of clearance for
45 employment.

46 S 8. Subparagraph a of paragraph 11 of subdivision 4 of section 1950
47 of the education law, as amended by chapter 147 of the laws of 2001, is
48 amended to read as follows:

49 a. Shall require, for purposes of a criminal history record check, the
50 fingerprinting of all prospective employees pursuant to section three
51 thousand thirty-five of this chapter, who do not hold valid clearance
52 pursuant to such section or pursuant to section three thousand four-b of
53 this chapter [or section five hundred nine-cc or twelve hundred twenty-
54 nine-d of the vehicle and traffic law]. Prior to initiating the finger-
55 printing process, the prospective employer shall furnish the applicant
56 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 records search. Every set of
3 fingerprints taken pursuant to this paragraph shall be promptly submit-
4 ted to the commissioner for purposes of clearance for employment.

5 S 9. Paragraph 11 of subdivision 4 of section 1950 of the education
6 law, as added by chapter 180 of the laws of 2000, is amended to read as
7 follows:

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

20 S 10. Paragraph a of subdivision 18 of section 2503 of the education
21 law, as amended by chapter 147 of the laws of 2001, is amended to read
22 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. Every set of
33 fingerprints taken pursuant to this subdivision shall be promptly
34 submitted to the commissioner for purposes of clearance for employment.

35 S 11. Subdivision 18 of section 2503 of the education law, as added by
36 chapter 180 of the laws of 2000, is amended to read as follows:

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

49 S 12. Paragraph a of subdivision 25 of section 2554 of the education
50 law, as amended by section 2 of chapter 91 of the laws of 2002, is
51 amended to read 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. Every set of
6 fingerprints taken pursuant to this subdivision shall be promptly
7 submitted to the commissioner for purposes of clearance for employment.

8 S 13. Subdivision 25 of section 2554 of the education law, as amended
9 by section 4 of chapter 91 of the laws of 2002, is amended to read as
10 follows:

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

23 S 14. Section 34 of chapter 91 of the laws of 2002, amending the
24 education law and other laws relating to the reorganization of the New
25 York city school construction authority, board of education and communi-
26 ty boards, as amended by chapter 345 of the laws of 2009, is amended to
27 read as follows:

28 S 34. This act shall take effect July 1, 2002; provided, that sections
29 one, THREE AND FIVE through twenty, twenty-four, and twenty-six through
30 thirty of this act shall expire and be deemed repealed June 30, 2015;
31 provided, further, that notwithstanding any provision of article 5 of
32 the general construction law, on June 30, 2015 the provisions of subdivi-
33 sions 3, 5, and 8, paragraph b of subdivision 13, subdivision 14,
34 paragraphs b, d, and e of subdivision 15, and subdivisions 17 and 21 of
35 section 2554 of the education law as repealed by section three of this
36 act, subdivision 1 of section 2590-b of the education law as repealed by
37 section six of this act, paragraph (a) of subdivision 2 of section
38 2590-b of the education law as repealed by section seven of this act,
39 section 2590-c of the education law as repealed by section eight of this
40 act, paragraph c of subdivision 2 of section 2590-d of the education law
41 as repealed by section twenty-six of this act, subdivision 1 of section
42 2590-e of the education law as repealed by section twenty-seven of this
43 act, subdivision 28 of section 2590-h of the education law as repealed
44 by section twenty-eight of this act, subdivision 30 of section 2590-h of
45 the education law as repealed by section twenty-nine of this act, subdivi-
46 sion 30-a of section 2590-h of the education law as repealed by
47 section thirty of this act shall be revived and be read as such
48 provisions existed in law on the date immediately preceding the effec-
49 tive date of this act; provided, however, that sections seven and eight
50 of this act shall take effect on November 30, 2003; provided further
51 that the amendments to subdivision 25 of section 2554 of the education
52 law made by section two of this act shall be subject to the expiration
53 and reversion of such subdivision pursuant to section 12 of chapter 147
54 of the laws of 2001, as amended, when upon such date the provisions of
55 section four of this act shall take effect.

1 S 15. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
2 2854 of the education law, as amended by chapter 147 of the laws of
3 2001, is amended to read as follows:

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

17 S 16. Paragraph (a-2) of subdivision 3 of section 2854 of the educa-
18 tion law, as added by chapter 180 of the laws of 2000, is amended to
19 read as follows:

20 (a-2) The board of trustees of a charter school shall require, for
21 purposes of a criminal history record check, the fingerprinting of all
22 prospective employees pursuant to section three thousand thirty-five of
23 this chapter, who do not hold valid clearance pursuant to such section
24 or pursuant to section three thousand four-b of this chapter [or section
25 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and
26 traffic law]. Prior to initiating the fingerprinting process, the
27 prospective employer shall furnish the applicant with the form described
28 in paragraph (c) of subdivision thirty of section three hundred five of
29 this chapter and shall obtain the applicant's consent to the criminal
30 history records search. Every set of fingerprints taken pursuant to this
31 paragraph shall be promptly submitted to the commissioner for purposes
32 of clearance for employment.

33 S 17. Section 1125 of the education law is amended by adding a new
34 subdivision 1-a to read as follows:

35 1-A. "SEXUAL ABUSE BY A STUDENT" SHALL MEAN AN ACT COMMITTED IN AN
36 EDUCATIONAL SETTING BY A CHILD AGAINST ANOTHER CHILD WHICH IS DEFINED AS
37 CHILD SEXUAL ABUSE IN THIS SECTION.

38 S 18. The education law is amended by adding a new section 1126-a to
39 read as follows:

40 S 1126-A. DUTIES OF EMPLOYEES NOT SPECIFICALLY ENUMERATED IN SECTION
41 ELEVEN HUNDRED TWENTY-SIX OF THIS ARTICLE UPON RECEIPT OF AN ALLEGATION
42 OR DIRECT OBSERVATION OF CHILD ABUSE OR SEXUAL ABUSE BY A STUDENT IN AN
43 EDUCATIONAL SETTING. 1. IN ANY CASE WHERE CHILD ABUSE IS OBSERVED OR
44 WHEN AN ORAL OR WRITTEN ALLEGATION IS MADE TO AN EMPLOYEE, AS DEFINED IN
45 SUBDIVISION THREE OF SECTION ELEVEN HUNDRED TWENTY-FIVE OF THIS ARTICLE
46 WHO IS NOT ENUMERATED IN SECTION ELEVEN HUNDRED TWENTY-SIX OF THIS ARTI-
47 CLE, THAT A CHILD HAS BEEN SUBJECTED TO CHILD ABUSE BY AN EMPLOYEE OR A
48 VOLUNTEER IN AN EDUCATIONAL SETTING, OR SEXUAL ABUSE BY A STUDENT IN AN
49 EDUCATIONAL SETTING, SUCH PERSON SHALL UPON RECEIPT OF SUCH ALLEGATION
50 PROMPTLY INFORM THE SCHOOL ADMINISTRATOR OR HIS OR HER DESIGNATED AGENT.

51 2. THE COMMISSIONER SHALL DEVELOP A FORM FOR USE BY SCHOOL DISTRICTS,
52 CHARTER SCHOOLS, AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES THAT
53 CONTAINS, FOR RECORDATION ANY INFORMATION THAT IS RELEVANT TO THE
54 ALLEGED ACT OF CHILD ABUSE BY A CHILD IN AN EDUCATIONAL SETTING.

55 3. THE DESIGNATED AGENT OF THE SCHOOL ADMINISTRATOR SHALL BE RESPONSI-
56 BLE FOR COMPLIANCE WITH THE PROCEDURES SET FORTH IN THIS ARTICLE.

1 4. ANY EMPLOYEE WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OF
2 ALLEGATIONS OF CHILD ABUSE OR SEXUAL ABUSE BY A STUDENT IN AN EDUCA-
3 TIONAL SETTING TO THE SCHOOL ADMINISTRATOR OR HIS OR HER DESIGNATED
4 AGENT IN A MANNER DESCRIBED IN THIS SECTION, SHALL HAVE IMMUNITY FROM
5 CIVIL LIABILITY WHICH MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS.

6 5. ANY OTHER PERSON WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OF
7 CHILD ABUSE OR SEXUAL ABUSE BY A STUDENT IN AN EDUCATIONAL SETTING TO A
8 SCHOOL EMPLOYEE IN A MANNER DESCRIBED IN THIS SECTION SHALL HAVE IMMUNI-
9 TY FROM CIVIL LIABILITY WHICH MIGHT OTHERWISE RESULT BY REASON OF SUCH
10 ACTIONS.

11 S 19. Sections 1126, 1127 and 1128 of the education law, as added by
12 chapter 180 of the laws of 2000, are amended to read as follows:

13 S 1126. Duties of employees specifically enumerated in this section
14 upon receipt of an allegation OR DIRECT OBSERVATION of child abuse OR
15 SEXUAL ABUSE BY A STUDENT in an educational setting. 1. In any case
16 where an oral or written allegation is made to a teacher, school nurse,
17 school guidance counselor, school psychologist, school social worker,
18 school administrator, school board member or other school personnel
19 required to hold a teaching or administrative license or certificate,
20 that a child has been subjected to SEXUAL ABUSE BY A STUDENT OR TO child
21 abuse by an employee or volunteer in an educational setting, such person
22 shall upon receipt of such allegation:

23 (a) promptly complete a written report of such allegation including
24 the full name of the child alleged to be abused; the name of the child's
25 parent; the identity of the person making the allegation and their
26 relationship to the alleged child victim; the name of the employee [or],
27 volunteer OR STUDENT against whom the allegation was made; and a listing
28 of the specific allegations of child abuse OR SEXUAL ABUSE BY A STUDENT
29 in an educational setting. Such written report shall be upon a form as
30 prescribed in section eleven hundred thirty-two of this article.

31 (b) except where the school administrator DIRECTLY OBSERVES OR is the
32 person receiving such oral or written allegation, promptly personally
33 deliver a copy of such written report to the school administrator of the
34 school in which the child abuse OR SEXUAL ABUSE BY A STUDENT allegedly
35 occurred.

36 2. In any case where it is alleged that a child was abused by an
37 employee [or], volunteer OR STUDENT of a school other than a school
38 within the school district of the child's attendance, the report of such
39 allegations shall be promptly forwarded to the superintendent of schools
40 of the school district of the child's attendance and the school district
41 where the abuse allegedly occurred, whereupon both school superinten-
42 dents shall comply with sections eleven hundred twenty-eight and eleven
43 hundred twenty-eight-a of this article.

44 3. Any employee or volunteer who reasonably and in good faith makes a
45 report of allegations of child abuse OR SEXUAL ABUSE BY A STUDENT in an
46 educational setting to a person and in a manner described in this
47 section shall have immunity from civil liability which might otherwise
48 result by reason of such actions.

49 S 1127. Confidentiality of records. Reports and other written material
50 submitted pursuant to this article, and photographs taken concerning
51 such reports in the possession of any person authorized to receive such
52 information, pursuant to this article, shall be confidential and shall
53 not be redisclosed except to law enforcement authorities involved in an
54 investigation of child abuse OR SEXUAL ABUSE BY A STUDENT in an educa-
55 tional setting or as expressly authorized by law or pursuant to a court-
56 ordered subpoena. A school administrator or a school superintendent

1 shall exercise reasonable care in preventing such unauthorized disclo-
2 sure. Willful disclosure of a written record required to be kept confi-
3 dential pursuant to this section to a person not authorized to receive
4 or review such record is a class A misdemeanor.

5 S 1128. Duties of school administrators and superintendents upon
6 receipt of a written report alleging child abuse OR SEXUAL ABUSE BY A
7 STUDENT in an educational setting. Upon receipt of a written report
8 described in paragraph (a) of subdivision one of section eleven hundred
9 twenty-six of this article alleging that a child has been abused in an
10 educational setting, a school administrator or superintendent shall
11 where there is a reasonable suspicion to believe that an act of child
12 abuse OR SEXUAL ABUSE BY A STUDENT has occurred:

13 1. Where the subject child has made the allegation: (a) promptly noti-
14 fy the parent of such child that an allegation of child abuse OR SEXUAL
15 ABUSE BY A STUDENT in an educational setting has been made regarding
16 such child and promptly provide the parent with a written statement
17 prepared pursuant to regulations of the commissioner setting forth
18 parental rights, responsibilities and procedures under this article; (b)
19 where a school administrator receives a written report, promptly provide
20 a copy of such report to the superintendent; and (c) promptly forward
21 such report to appropriate law enforcement authorities. In no event
22 shall reporting to law enforcement be delayed by reason of an inability
23 to contact the superintendent.

24 2. Where a parent of the child has made the allegation: (a) promptly
25 provide the parent of such child with a written statement prepared
26 pursuant to regulations of the commissioner setting forth parental
27 rights, responsibilities and procedures under this article; (b) where a
28 school administrator receives a written report, promptly provide a copy
29 of such report to the superintendent; and (c) promptly forward such
30 report to appropriate law enforcement authorities. In no event shall
31 reporting to law enforcement be delayed by reason of an inability to
32 contact the superintendent.

33 3. Where a person other than the subject child or the parent of a
34 subject child has made the allegation: (a) promptly notify the parent of
35 the subject child that an allegation of child abuse OR SEXUAL ABUSE BY A
36 STUDENT in an educational setting has been made regarding his or her
37 child and promptly provide the parent with a written statement prepared
38 pursuant to regulations of the commissioner setting forth parental
39 rights, responsibilities and procedures under this article; (b) ascer-
40 tain from the person making such report the source and basis for such
41 allegation; (c) where a school administrator receives a written report,
42 promptly provide a copy of such report to the superintendent; and (d)
43 promptly forward such report to appropriate law enforcement authorities.
44 In no event shall reporting to law enforcement be delayed by reason of
45 an inability to contact the superintendent.

46 4. Any school administrator or superintendent who reasonably and in
47 good faith makes a report of allegations of child abuse OR SEXUAL ABUSE
48 BY A STUDENT in an educational setting or reasonably and in good faith
49 transmits such a report to a person or agency as required by this arti-
50 cle and in a manner described in section eleven hundred twenty-six of
51 this article and this section shall have immunity from civil liability
52 which might otherwise result by reason of such actions.

53 S 20. Section 1129 of the education law is amended by adding a new
54 subdivision 3 to read as follows:

55 3. THE WILLFUL FAILURE OF AN EMPLOYEE HAVING DIRECTLY OBSERVED OR
56 HAVING RECEIVED AN ALLEGATION OF CHILD ABUSE OR SEXUAL ABUSE BY A

1 STUDENT IN AN EDUCATIONAL SETTING TO INFORM THE SCHOOL ADMINISTRATOR OR
2 HIS OR HER DESIGNATED AGENT OF SUCH OBSERVATION OR ALLEGATION, AS SET
3 FORTH IN THIS SECTION, SHALL BE A CLASS A MISDEMEANOR.

4 S 21. Section 1130 of the education law, as added by chapter 180 of
5 the laws of 2000, is amended to read as follows:

6 S 1130. Notification by district attorney. Where a criminal investi-
7 gation of an allegation of SEXUAL ABUSE BY A STUDENT OR child abuse by
8 an employee or volunteer is undertaken in response to a report forwarded
9 by a school administrator or superintendent to law enforcement authori-
10 ties pursuant to section eleven hundred twenty-eight of this article,
11 and where law enforcement authorities have provided such report to the
12 district attorney and have requested assistance, as soon as practicable,
13 it shall be the responsibility of the district attorney to notify the
14 superintendent of schools of the district where the acts of child abuse
15 OR SEXUAL ABUSE BY A STUDENT allegedly occurred and of the school
16 district where the child is attending, if different, of an indictment or
17 the filing of an accusatory instrument against the employee [or], volun-
18 teer OR STUDENT against whom an allegation of child abuse OR SEXUAL
19 ABUSE BY A STUDENT in an educational setting was made. The district
20 attorney shall notify the superintendent of schools of the district
21 where the acts of child abuse OR SEXUAL ABUSE BY A STUDENT allegedly
22 occurred and of the school district, if different, where the child is
23 attending of the disposition of the criminal case against such employee
24 [or], volunteer OR STUDENT or the suspension or termination of the crim-
25 inal investigation of such employee [or], volunteer OR STUDENT.

26 S 22. Section 1132 of the education law, as added by chapter 180 of
27 the laws of 2000, is amended to read as follows:

28 S 1132. Duties of the commissioner; child abuse OR SEXUAL ABUSE BY A
29 STUDENT in an educational setting. 1. The commissioner shall prepare a
30 form for the recording and transmitting of allegations of child abuse OR
31 SEXUAL ABUSE BY A STUDENT in an educational setting. Such form shall
32 include: (i) all definitions set out in section eleven hundred twenty-
33 five of this article; and (ii) adequate space for the inclusion of any
34 other information which the person making or filing the report believes
35 would be helpful in describing or explaining the circumstances surround-
36 ing an allegation of child abuse OR SEXUAL ABUSE BY A STUDENT in an
37 educational setting in accordance with the provisions of this article.

38 2. The commissioner shall promulgate rules and regulations for train-
39 ing necessary for the implementation of this article.

40 S 23. Section 509-cc of the vehicle and traffic law, as added by chap-
41 ter 675 of the laws of 1985, paragraph (c) of subdivision 1 and para-
42 graph (d) of subdivision 2 as added and paragraph (b) and subparagraph
43 (iv) of paragraph (c) of subdivision 2 and paragraph (b) of subdivision
44 4 as amended by chapter 360 of the laws of 1986, paragraphs (e) and (f)
45 of subdivision 1 and paragraphs (f) and (g) of subdivision 2 as added
46 and paragraph (d) of subdivision 1 and paragraph (e) of subdivision 2 as
47 amended by chapter 599 of the laws of 1993, paragraph (g) of subdivision
48 1 and paragraph (h) of subdivision 2 as added by chapter 475 of the laws
49 of 2001, subparagraph (v) of paragraph (c) of subdivision 2 and para-
50 graph (c) of subdivision 4 as amended by chapter 345 of the laws of
51 2007, paragraph (a) of subdivision 4 as amended by chapter 93 of the
52 laws of 2006, subdivision 5 as added by chapter 164 of the laws of 2003,
53 is amended to read as follows:

54 S 509-cc. Disqualification of drivers of school buses. (1) A person
55 employed as a driver of a school bus as defined in paragraph (a) of
56 subdivision one of section five hundred nine-a of this chapter [on

1 September fifteenth, nineteen hundred eighty-five and who was subject to
2 the provisions of this article as it existed immediately prior to
3 September fifteen, nineteen hundred eighty-five, and was employed in
4 this state as a driver of a school bus as defined in paragraph (a) of
5 subdivision one of section five hundred nine-a of this chapter at any
6 time during the first six months of nineteen hundred eighty-five,] shall
7 be disqualified from operating a school bus as follows:

8 (a) [permanently, if that person

9 (i) has been convicted of or forfeited bond or collateral which
10 forfeiture order has not been vacated or the subject of an order of
11 remission upon a violation committed prior to September fifteenth, nine-
12 teen hundred eighty-five, of section 130.30, 130.35, 130.45, 130.50,
13 130.60, or 130.65 of the penal law, or an offense committed under a
14 former section of the penal law which would constitute a violation of
15 the aforesaid sections of the penal law or any offense committed outside
16 of this state which would constitute a violation of the aforesaid
17 sections of the penal law, provided, however, the provisions of this
18 subparagraph shall not apply to convictions, suspensions or revocations
19 or forfeitures of bonds for collateral upon any of the charges listed in
20 this subparagraph for violations which occurred prior to September
21 first, nineteen hundred seventy-four committed by a person employed as a
22 bus driver on September first, nineteen hundred seventy-four. However,
23 such disqualification may be waived provided that five years have
24 expired since the applicant was discharged or released from a sentence
25 of imprisonment imposed pursuant to conviction of an offense that
26 requires disqualification under this paragraph and that the applicant
27 shall have been granted a certificate of relief from disabilities as
28 provided for in section seven hundred one of the correction law. When
29 the certificate is issued by a court for a conviction which occurred in
30 this state, it shall only be issued by the court having jurisdiction
31 over such conviction. Such certificate shall specifically indicate that
32 the authority granting such certificate has considered the bearing, if
33 any, the criminal offense or offenses for which the person was convicted
34 will have on the applicant's fitness or ability to operate a bus trans-
35 porting school children to the applicant's prospective employment, prior
36 to granting such a certificate; or

37 (ii) has been convicted of an offense listed in paragraph (a) of
38 subdivision four of this section that was committed on or after Septem-
39 ber fifteenth, nineteen hundred eighty-five. However, such disqualifica-
40 tion may be waived by the commissioner provided that five years have
41 expired since the applicant was discharged or released from a sentence
42 of imprisonment imposed pursuant to conviction of an offense that
43 requires disqualification under this paragraph and that the applicant
44 shall have been granted a certificate of relief from disabilities as
45 provided for in section seven hundred one of the correction law. When
46 the certificate is issued by a court for a conviction which occurred in
47 this state, it shall only be issued by the court having jurisdiction
48 over such conviction. Such certificate shall specifically indicate that
49 the authority granting such certificate has considered the bearing, if
50 any, the criminal offense or offenses for which the person was convicted
51 will have on the applicant's fitness or ability to operate a bus trans-
52 porting school children, prior to granting such a certificate; or

53 (iii) has been convicted of an offense listed in paragraph (b) of
54 subdivision four of this section that was committed on or after Septem-
55 ber fifteenth, nineteen hundred eighty-five. However, such disqualifica-
56 tion shall be waived provided that five years have expired since the

1 applicant discharged or released from a sentence of imprisonment imposed
2 pursuant to conviction of an offense that requires disqualification
3 under this paragraph and that the applicant shall have been granted a
4 certificate of relief from disabilities as provided for in section seven
5 hundred one of the correction law. When the certificate is issued by a
6 court for a conviction which occurred in this state, it shall only be
7 issued by the court having jurisdiction over such conviction. Such
8 certificate shall specifically indicate that the authority granting such
9 certificate has considered the bearing, if any, the criminal offense or
10 offenses for which the person was convicted will have on the applicant's
11 fitness or ability to operate a bus transporting school children, prior
12 to granting such a certificate. Provided, however, that at the
13 discretion of the commissioner, the certificate of relief from disabili-
14 ties may remove disqualification at any time; or

15 (b)] for a period of five years from the date of last conviction spec-
16 ified herein, if that person

17 (i) [has been convicted within the preceding five years of an offense
18 listed in paragraph (c) of subdivision four of this section that was
19 committed on or after September fifteenth, nineteen hundred eighty-five.
20 However, such disqualification shall be waived provided that the appli-
21 cant has been granted a certificate of relief from disabilities as
22 provided for in section seven hundred one of the correction law. When
23 the certificate is issued by a court for a conviction which occurred in
24 this state, it shall only be issued by the court having jurisdiction
25 over such conviction. Such certificate shall specifically indicate that
26 the authority granting such certificate has considered the bearing, if
27 any, the criminal offense or offenses for which the person was convicted
28 will have on the applicant's fitness or ability to operate a bus trans-
29 porting school children, prior to granting such a certificate;

30 (ii)] has been convicted of any violation of section eleven hundred
31 ninety-two of this chapter or an offense committed outside this state
32 which would constitute a violation of section eleven hundred ninety-two
33 of this chapter, and the offense was committed while the driver was
34 driving a bus in the employ of a motor carrier or in the furtherance of
35 a commercial enterprise in interstate, intrastate or foreign commerce;

36 [(iii)] (II) has been twice convicted of a violation of any subdivi-
37 sion of section eleven hundred ninety-two of this chapter or offenses
38 committed outside this state which would constitute a violation of
39 section eleven hundred ninety-two of this chapter, committed within the
40 preceding five year period;

41 [(iv)] (III) has been twice convicted of a violation of any subdivi-
42 sion of section eleven hundred ninety-two of this chapter, or an offense
43 committed outside of this state which would constitute a violation of
44 any subdivision of section [one thousand one] ELEVEN hundred ninety-two
45 of this chapter, committed within any ten year period after September
46 fifteenth, nineteen hundred eighty-five; or

47 [(v)] (IV) has been convicted of leaving the scene of an accident
48 which resulted in personal injury or death under section six hundred of
49 this chapter or an offense committed outside of this state which would
50 constitute a violation of section six hundred of this chapter.

51 [(c)] (B) for a period of five years from the date of last conviction,
52 if that person has been convicted of a violation of subdivision three of
53 section five hundred eleven of this [chapter] TITLE on or after Septem-
54 ber fifteenth, nineteen hundred eighty-five;

55 [(d)] (C) for a period of one year, if that person has accumulated
56 nine or more points on his or her driving record for acts that occurred

1 during an eighteen month period on or after September fifteenth, nine-
2 teen hundred eighty-five, provided, however, that the disqualification
3 shall terminate if the person has reduced the points to less than nine
4 through the successful completion of a motor vehicle accident prevention
5 course.

6 [(e)] (D) for a period of one year, if that person [or] was the opera-
7 tor of a motor vehicle involved in two or more accidents of a nature and
8 type set forth in section five hundred nine-a of this article, where
9 such accidents occurred within an eighteen-month period following a
10 reexamination conducted pursuant to section five hundred nine-bb of this
11 article, provided that accidents in which the driver was completely
12 without fault shall not be included in determining whether such disqual-
13 ification is required;

14 [(f)] (E) for a period of one year, if that person fails to pass a
15 road test administered pursuant to section five hundred nine-bb of this
16 article; provided, however, that such person shall be given the opportu-
17 nity to complete a motor vehicle accident prevention course approved by
18 the commissioner and to then undergo a second road test administered
19 pursuant to section five hundred nine-bb of this article, and such
20 disqualification shall cease if such person passes such second road
21 test.

22 [(g)] (F) for the period that such person's license is revoked or
23 suspended for violating section eleven hundred ninety-two of this chap-
24 ter or an offense committed outside of this state which would constitute
25 a violation of section eleven hundred ninety-two of this chapter. Such
26 disqualification shall be for not less than six months.

27 (2) [All other school bus drivers who are not subject to subdivision
28 one of this section shall be disqualified from operating a bus as
29 follows:

30 (a) permanently, if that person has been convicted of an offense list-
31 ed in paragraph (a) of subdivision four of this section. However, such
32 disqualification may be waived by the commissioner provided that five
33 years have expired since the applicant was discharged or released from a
34 sentence of imprisonment imposed pursuant to conviction of an offense
35 that requires disqualification under this paragraph and that the appli-
36 cant shall have been granted a certificate of relief from disabilities
37 as provided for in section seven hundred one of the correction law. When
38 the certificate is issued by a court for a conviction which occurred in
39 this state, it shall only be issued by the court having jurisdiction
40 over such conviction. Such certificate shall specifically indicate that
41 the authority granting such certificate has considered the bearing, if
42 any, the criminal offense or offenses for which the person was convicted
43 will have on the applicant's fitness or ability to operate a bus trans-
44 porting school children to the applicant's prospective employment, prior
45 to granting such a certificate.

46 (b) permanently, if that person has been convicted of an offense list-
47 ed in paragraph (b) of subdivision four of this section. However, such
48 disqualification shall be waived provided that five years have expired
49 since the applicant was incarcerated pursuant to a sentence of imprison-
50 ment imposed on conviction of an offense that requires disqualification
51 under this paragraph and that the applicant shall have been granted a
52 certificate of relief from disabilities as provided for in section seven
53 hundred one of the correction law. When the certificate is issued by a
54 court for a conviction which occurred in this state, it shall only be
55 issued by the court having jurisdiction over such conviction. Such
56 certificate shall specifically indicate that the authority granting such

1 certificate has considered the bearing, if any, the criminal offense or
2 offenses for which the person was convicted will have on the applicant's
3 fitness or ability to operate a bus transporting school children, prior
4 to granting such a certificate. Provided, however, that at the
5 discretion of the commissioner the certificate of relief from disabili-
6 ties may remove disqualification at any time.

7 (c) for a period of five years from the date of last conviction speci-
8 fied herein, if that person

9 (i) has been convicted within the preceding five years of an offense
10 listed in paragraph (c) of subdivision four of this section. However,
11 notwithstanding the provisions of subdivision three of section seven
12 hundred one of the correction law. Such disqualification shall be waived
13 provided that the applicant has been granted a certificate of relief
14 from disabilities as provided for in section seven hundred one-g of the
15 correction law. When the certificate is issued by a court for a
16 conviction which occurred in this state, it shall only be issued by the
17 court having jurisdiction over such conviction. Such certificate shall
18 specifically indicate that the authority granting such certificate has
19 considered the bearing, if any, the criminal offense or offenses for
20 which the person was convicted will have on the applicant's fitness or
21 ability to operate a bus transporting school children, prior to granting
22 such a certificate.

23 (ii) has been convicted of a violation of any subdivision of section
24 eleven hundred ninety-two of this chapter or an offense committed
25 outside of this state which would constitute a violation of section
26 eleven hundred ninety-two of this chapter, and the offense was committed
27 while the driver was driving a bus in the employ of a motor carrier or
28 in the furtherance of a commercial enterprise in interstate, intrastate
29 or foreign commerce;

30 (iii) has been twice convicted of a violation of any subdivision of
31 section eleven hundred ninety-two of this chapter or an offense commit-
32 ted outside of this state within any ten year period on or after Septem-
33 ber fifteenth, nineteen hundred eighty-five, which would constitute a
34 violation of section eleven hundred ninety-two of this chapter; or

35 (iv) has been convicted of leaving the scene of an accident which
36 resulted in personal injury or death under subdivision two of section
37 six hundred of this chapter or an offense committed outside of this
38 state which would constitute a violation of subdivision two of section
39 six hundred of this chapter; or

40 (v) has been convicted of a violation of section 120.04, 120.04-a,
41 125.13, 125.14 or 235.07 of the penal law.

42 (d) for a period of five years from the date of last conviction, if
43 that person has been convicted of a violation of subdivision three of
44 section five hundred eleven of this chapter on or after September
45 fifteenth, nineteen hundred eighty-five;

46 (e) for a period of one year, if that person accumulates nine or more
47 points on his or her driving record for acts occurring during an eigh-
48 teen month period, provided, however, that the disqualification shall
49 terminate if the person has reduced the points to less than nine through
50 the successful completion of a motor vehicle accident prevention course.

51 (f) for a period of one year, if that person was the operator of a
52 motor vehicle involved in two or more accidents of a nature and type set
53 forth in section five hundred nine-a of this article, where such acci-
54 dents occurred within an eighteen-month period following a reexamination
55 conducted pursuant to section five hundred nine-bb of this article,
56 provided that accidents in which the driver was completely without fault

1 shall not be included in determining whether such disqualification is
2 required;

3 (g) for a period of one year, if that person fails to pass a road test
4 administered pursuant to section five hundred nine-bb of this article;
5 provided, however, that such person shall be given the opportunity to
6 complete a motor vehicle accident prevention course approved by the
7 commissioner and to then undergo a second road test administered pursu-
8 ant to section five hundred nine-bb of this article, and such disquali-
9 fication shall cease if such person passes such second road test.

10 (h) for the period that such person's license is revoked or suspended
11 for violating section eleven hundred ninety-two of this chapter or an
12 offense committed outside of this state which would constitute a
13 violation of section eleven hundred ninety-two of this chapter. Such
14 disqualification shall be for not less than six months.

15 (3)] A person shall be disqualified from operating a school bus if
16 that person has had any license, permit, or privilege to operate a motor
17 vehicle suspended, revoked, withdrawn or denied and such license, permit
18 or privilege has not been reinstated by the authority which took such
19 action. Provided, however, that the provisions of this subdivision shall
20 not apply to a person whose (i) license, permit or privilege to operate
21 a motor vehicle cannot be reinstated because of non-residency in the
22 state in which the license was suspended, revoked, withdrawn or denied
23 or (ii) a person holds a conditional driver's license or a restricted
24 use license issued by the commissioner pursuant to the provisions of
25 article twenty-one or twenty-one-A of this chapter, and is not disquali-
26 fied under any other provision of this article.

27 [(4) (a) The offenses referred to in subparagraph (ii) of paragraph
28 (a) of subdivision one and paragraph (a) of subdivision two of this
29 section that result in permanent disqualification shall include a
30 conviction under sections 125.12, 125.20, 125.25, 125.26, 125.27,
31 130.30, 130.35, 130.45, 130.50, 130.70, 135.25, 150.20 of the penal law
32 or an attempt to commit any of the aforesaid offenses under section
33 110.00 of the penal law, or any offenses committed under a former
34 section of the penal law which would constitute violations of the afore-
35 said sections of the penal law, or any offenses committed outside this
36 state which would constitute violations of the aforesaid sections of the
37 penal law.

38 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
39 subdivision one and paragraph (b) of subdivision two of this section
40 that result in permanent disqualification shall include a conviction
41 under sections 100.13, 105.15, 105.17, 115.08, 125.10, 125.15, 130.40,
42 130.60, 130.65, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43,
43 260.00, 263.05, 263.10, 263.15, 265.04 of the penal law or an attempt to
44 commit any of the aforesaid offenses under section 110.00 of the penal
45 law, or any offenses committed under a former section of the penal law
46 which would constitute violations of the aforesaid sections of the penal
47 law, or any offenses committed outside this state which would constitute
48 violations of the aforesaid sections of the penal law.

49 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
50 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
51 of this section that result in disqualification for a period of five
52 years shall include a conviction under sections 100.10, 105.13, 115.05,
53 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 125.13, 125.14,
54 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55, 140.17, 140.25,
55 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09, 220.16,
56 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00, 230.05, 230.06,

1 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07, 235.21, 240.06,
2 245.00, 260.10, subdivision two of section 260.20 and sections 260.25,
3 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law
4 or an attempt to commit any of the aforesaid offenses under section
5 110.00 of the penal law, or any similar offenses committed under a
6 former section of the penal law, or any offenses committed under a
7 former section of the penal law which would constitute violations of the
8 aforesaid sections of the penal law, or any offenses committed outside
9 this state which would constitute violations of the aforesaid sections
10 of the penal law.

11 (5) As a part of such determination concerning whether an individual
12 is disqualified from operating a school bus pursuant to this section,
13 the department shall submit a prospective driver's fingerprints to the
14 division of criminal justice services for a state criminal history
15 record check, as defined in subdivision one of section three thousand
16 thirty-five of the education law, and may submit such fingerprints to
17 the federal bureau of investigation for a national criminal history
18 record check.] (3) THE DEPARTMENT SHALL SUBMIT TO THE DIVISION OF CRIMI-
19 NAL JUSTICE SERVICES TWO SETS OF FINGERPRINTS OF A PROSPECTIVE SCHOOL
20 BUS DRIVER AS DEFINED IN PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION
21 FIVE HUNDRED NINE-A OF THIS ARTICLE, AND THE DIVISION OF CRIMINAL
22 JUSTICE SERVICES PROCESSING FEE IMPOSED PURSUANT TO SUBDIVISION EIGHT-A
23 OF SECTION EIGHT HUNDRED THIRTY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE
24 IMPOSED BY THE FEDERAL BUREAU OF INVESTIGATION. THE DIVISION OF CRIMINAL
25 JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD
26 SUCH CRIMINAL HISTORY RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR
27 THE PURPOSES OF THIS SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL
28 MEAN A RECORD OF ALL CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL
29 CHARGES MAINTAINED ON AN INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE
30 SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION. THE PROVISION OF SUCH
31 INFORMATION BY THE DIVISION OF CRIMINAL JUSTICE SERVICES SHALL BE
32 SUBJECT TO THE PROVISIONS OF SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED
33 NINETY-SIX OF THE EXECUTIVE LAW. THE CONSIDERATION OF SUCH CRIMINAL
34 HISTORY RECORD BY THE DEPARTMENT SHALL BE SUBJECT TO ARTICLE
35 TWENTY-THREE-A OF THE CORRECTION LAW.

36 (4) AFTER RECEIPT OF A CRIMINAL HISTORY RECORD FROM THE DIVISION OF
37 CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION THE
38 DEPARTMENT SHALL PROMPTLY NOTIFY THE APPROPRIATE MOTOR CARRIER WHETHER
39 THE PROSPECTIVE SCHOOL BUS DRIVER TO WHICH THE REPORT RELATES IS QUALI-
40 FIED OR DISQUALIFIED FOR EMPLOYMENT BASED UPON HIS OR HER CRIMINAL
41 HISTORY. ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR EMPLOYMENT
42 PURSUANT TO THIS PARAGRAPH SHALL BE PERFORMED IN ACCORDANCE WITH SUBDI-
43 VISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW
44 AND ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW. WHEN THE DEPARTMENT
45 DENIES A PROSPECTIVE SCHOOL BUS DRIVER CLEARANCE FOR EMPLOYMENT, SUCH
46 PROSPECTIVE SCHOOL BUS DRIVER SHALL BE AFFORDED NOTICE AND THE RIGHT TO
47 BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORD-
48 ANCE WITH THE REGULATIONS OF THE DEPARTMENT AND PARAGRAPH (B) OF SUBDI-
49 VISION TWO OF SECTION FIVE HUNDRED NINE-D OF THIS ARTICLE.

50 (5) THE COMMISSIONER SHALL CONSULT WITH THE COMMISSIONER OF EDUCATION
51 TO DEVELOP PROCEDURES FOR THE APPLICATION OF THE DISQUALIFICATION CRITE-
52 RIA SET FORTH IN THIS SECTION.

53 S 24. Subdivision 2 of section 509-d of the vehicle and traffic law,
54 as added by chapter 675 of the laws of 1985 and paragraph (a) as amended
55 by chapter 164 of the laws of 2003, is amended to read as follows:

1 (2) Investigations and inquiries of drivers of school buses; mainte-
2 nance of file; availability to subsequent employer. (a) A motor carrier
3 shall request the department to initiate a criminal history RECORD check
4 for persons employed as drivers of school buses, as defined in paragraph
5 (a) of subdivision one of section five hundred nine-a of this [chapter,
6 on September fourteenth, nineteen hundred eighty-five by such motor
7 carrier,] ARTICLE in accordance with [regulations of the commissioner by
8 requiring such] THE REQUIREMENTS OF SUBDIVISION TWO OF SECTION FIVE
9 HUNDRED NINE-CC OF THIS ARTICLE WHICH REQUIRES school bus drivers to
10 submit to the mandated fingerprinting procedure. The department of motor
11 vehicles at the request of the motor carrier shall initiate a criminal
12 history check PURSUANT TO SECTION FIVE HUNDRED NINE-CC OF THIS ARTICLE
13 of all current school bus drivers of such motor carrier [as well as
14 those hired on or after September fifteenth, nineteen hundred eighty-
15 five by requiring such drivers and applicants to submit to the mandated
16 fingerprinting procedure as part of the school bus driver qualification
17 procedure. Such fingerprinting procedure and the related fee as well as
18 a procedure]. A PROCEDURE SHALL BE ESTABLISHED for the return of such
19 fingerprints upon application of a person who has terminated employment
20 as a school bus driver [shall be established] in accordance with regu-
21 lations of the commissioner in consultation with the commissioner of the
22 division of criminal justice services. [The fee to be paid by or on
23 behalf of the school bus driver or applicant shall be no more than five
24 dollars over the cost to the commissioner for the criminal history
25 check.] No cause of action against the department, the division of crim-
26 inal justice services, a motor carrier or political subdivision for
27 damages related to the dissemination of criminal history records pursu-
28 ant to this section shall exist when such department, division, motor
29 carrier or political subdivision has reasonably and in good faith relied
30 upon the accuracy and completeness of criminal history information
31 furnished to it by qualified agencies. [Fingerprints submitted to the
32 division of criminal justice services pursuant to this subdivision may
33 also be submitted to the federal bureau of investigation for a national
34 criminal history record check.]

35 (b) After a motor carrier has completed the procedures set forth in
36 paragraph (a) OF this [of] subdivision, it shall designate each new
37 school bus driver as a conditional school bus driver as defined in
38 section five hundred nine-h of this article, until the carrier is in
39 receipt of information of the new school bus driver's qualification from
40 the department and the required driving records from each appropriate
41 state agency. If the information received indicates that there is a
42 pending criminal offense or driving violation that would require
43 disqualification of a school bus driver under this article, the motor
44 carrier shall require the applicant to provide documentation evidencing
45 the disposition of such offense or violation in accordance with regu-
46 lations established by the commissioner. The department, upon notice of
47 disqualification to an applicant, shall include in such notice informa-
48 tion regarding the applicant's right to appeal and contest any claimed
49 ground for disqualification. Such notice shall also advise the applicant
50 of his or her right to obtain, examine, inspect and copy any information
51 used by the department in support of its determination of disqualifica-
52 tion. In the event the applicant contests the existence of a criminal
53 conviction in his or her name, such applicant may provide documentation
54 evidencing the disposition of such offense or violation in accordance
55 with regulations established by the commissioner.

1 S 25. Subdivision 2 of section 1229-d of the vehicle and traffic law,
2 as amended by chapter 164 of the laws of 2003, is amended to read as
3 follows:

4 (2) Screening of applicants for position of school bus attendant (a) a
5 school district, [pursuant to a policy statement or resolution adopted
6 by such district, may review the qualifications of] CHARTER SCHOOL OR
7 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL, FOR every applicant for
8 the position of school bus attendant on school buses operated by or
9 under contract to the district [and determine at its discretion whether
10 the applicant is suitable for qualification. In such cases, applicants
11 may be made the subject of a criminal history check. Upon receipt of the
12 fingerprints forwarded to them by such school district, the division of
13 criminal justice services shall forward to such school district the
14 criminal history review. A fee not to exceed the cost for the criminal
15 history review shall be charged by the division of criminal justice
16 services. Such fingerprints also may be submitted to the federal bureau
17 of investigation for a national criminal history record check.

18 (b) In determining the qualifications of school bus attendants, a
19 school district may use the criteria listed in subdivision two of
20 section five hundred nine-cc of this chapter relative to criminal
21 convictions], REQUIRE A CRIMINAL HISTORY REVIEW PURSUANT TO SECTION
22 THREE THOUSAND THIRTY-FIVE OF THE EDUCATION LAW.

23 [(c)] (B) All inquiries made, and the use of any criminal record
24 obtained, pursuant to this section shall be in accordance with section
25 two hundred ninety-six of the executive law. In addition, the secondary
26 dissemination of such information shall be limited to other authorized
27 agencies, by express agreement between the school district and the divi-
28 sion of criminal justice services, or as authorized pursuant to federal
29 law, and rules and regulations. No cause of action against the school
30 district or division of criminal justice services for damages related to
31 the dissemination of criminal history records pursuant to this section
32 shall exist when the school district or division of criminal justice
33 services has reasonably and in good faith relied upon the accuracy and
34 completeness of criminal history information furnished to it by quali-
35 fied agencies.

36 S 26. This act shall take effect July 1, 2011; provided, however that
37 section fourteen of this act shall take effect immediately; provided,
38 further that the amendments to sections 1604, 1709, 1804, 1950, 2503,
39 2554 and 2854 of the education law, made by sections two, four, six,
40 eight, ten, twelve and fifteen of this act shall be subject to the expi-
41 ration and reversion of such provisions pursuant to section 12 of chap-
42 ter 147 of the laws of 2001, as amended, when upon such date the
43 provisions of sections three, five, seven, nine, eleven, thirteen and
44 sixteen of this act shall take effect.