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

7352

2011-2012 Regular Sessions

I N A S S E M B L Y

May 2, 2011

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

AN ACT to amend the education law, in relation to pre-employment investigations for personnel employed in school districts

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

Section 1. The education law is amended by adding a new section 3001-e to read as follows:

S 3001-E. PRE-EMPLOYMENT INVESTIGATION OF PERSONNEL EMPLOYED IN SCHOOL DISTRICTS. 1. EVERY SCHOOL DISTRICT SHALL CONDUCT A PRE-EMPLOYMENT BACKGROUND INVESTIGATION FOR ALL PERSONNEL EMPLOYED IN THE DISTRICT.

2. EACH DISTRICT, IN COOPERATION WITH THE DIVISION OF CRIMINAL JUSTICE SERVICES, SHALL PROMULGATE REGULATIONS REQUIRING ALL PERSONNEL EMPLOYED IN SUCH SCHOOL DISTRICT TO SUBMIT TO MANDATORY BACKGROUND QUESTIONNAIRES AND TO SUCH OTHER TESTS FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS SHALL BE DETERMINED TO BE NECESSARY AND PROPER.

3. EVERY PERSON, AS A CONDITION OF EMPLOYMENT IN A SCHOOL DISTRICT, SHALL COMPLETE A BACKGROUND QUESTIONNAIRE, SUBMIT TO SUCH OTHER TESTS FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS SHALL BE DETERMINED TO BE NECESSARY AND PROPER AND SIGN A DECLARATION UNDER PENALTY OF PERJURY REGARDING ANY PRIOR CRIMINAL CONVICTIONS.

4. NO SCHOOL DISTRICT EMPLOYEE SHALL BE ASSIGNED TO WORK INVOLVING THE CARE, CUSTODY OR SUPERVISION OF A CHILD IF IT IS DETERMINED THAT SUCH PERSON HAS TESTED POSITIVE FOR THE PRESENCE OF A CONTROLLED SUBSTANCE OR COMMUNICABLE DISEASE.

5. FOR PURPOSES OF THIS SECTION, "COMMUNICABLE DISEASE" SHALL MEAN ANY DISEASE THAT THE COMMISSIONER OF HEALTH, IN THE REASONABLE EXERCISE OF HIS OR HER MEDICAL JUDGEMENT, DETERMINES TO BE COMMUNICABLE, RAPIDLY EMERGENT OR A SIGNIFICANT THREAT TO PUBLIC HEALTH. THE LIST OF DESIGNATED COMMUNICABLE DISEASES IS IN SECTION 201 OF TITLE TEN OF THE NEW YORK CODES, RULES AND REGULATIONS.

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

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S 2. Subdivision 20 of section 2590-h of the education law, as amended by chapter 345 of the laws of 2009, is amended to read as follows:

20. Ensure compliance with qualifications established for all personnel employed in the city district, including the taking of fingerprints, BACKGROUND QUESTIONNAIRES AND SUBMISSION TO SUCH OTHER TESTS FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS SHALL BE DETERMINED TO BE NECESSARY AND PROPER as a prerequisite for licensure and/or employment of such personnel. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. Furthermore, the division of criminal justice services is authorized to submit the fingerprints to the federal bureau of investigation for a national criminal history record check.

S 3. Subdivision 20 of section 2590-h of the education law, as amended by chapter 100 of the laws of 2003, is amended to read as follows:

20. Ensure compliance with qualifications established for all personnel employed in the city district, including the taking of fingerprints, BACKGROUND QUESTIONNAIRES AND SUBMISSION TO SUCH OTHER TESTS FOR THE PRESENCE OF CONTROLLED SUBSTANCES OR COMMUNICABLE DISEASES AS SHALL BE DETERMINED TO BE NECESSARY AND PROPER as a prerequisite for licensure and/or employment of such personnel. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the division of criminal justice services where it shall be appropriately processed. Furthermore, the division of criminal justice services is authorized to submit the fingerprints to the federal bureau of investigation for a national criminal history record check.

S 4. This act shall take effect on the ninetieth day after it shall have become a law; provided, however, that effective immediately, the addition, amendment and/or repeal of any rule and regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date; and provided, further, that the amendments to subdivision 20 of section 2590-h of the education law, made by section two of this act, shall not affect the expiration and reversion of such section and shall expire therewith, when upon such date section three of this act shall take effect.