

4873--B

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2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sens. SALAND, AVELLA -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

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 twenty-
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

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

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

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

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

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

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

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

46 a. Shall require, for purposes of a criminal history record check, the
47 fingerprinting of all prospective employees pursuant to section three
48 thousand thirty-five of this chapter, who do not hold valid clearance
49 pursuant to such section or pursuant to section three thousand four-b of
50 this chapter [or section five hundred nine-cc or twelve hundred twenty-
51 nine-d of the vehicle and traffic law]. Prior to initiating the finger-
52 printing process, the prospective employer shall furnish the applicant
53 with the form described in paragraph (c) of subdivision thirty of
54 section three hundred five of this chapter and shall obtain the appli-
55 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 S 5. Subdivision 39 of section 1709 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 clear-
8 ance pursuant to such section or pursuant to section three thousand
9 four-b of this chapter [or section five hundred nine-cc or twelve
10 hundred twenty-nine-d of the vehicle and traffic law]. Prior to initiat-
11 ing the fingerprinting process, the prospective employer shall furnish
12 the applicant with the form described in paragraph (c) of subdivision
13 thirty of section three hundred five of this chapter and shall obtain
14 the applicant's consent to the criminal history records search. Every
15 set of fingerprints taken pursuant to this subdivision shall be promptly
16 submitted to the commissioner for purposes of clearance for employment.

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

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

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

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

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

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

1 printing process, the prospective employer shall furnish the applicant
2 with the form described in paragraph (c) of subdivision thirty of
3 section three hundred five of this chapter and shall obtain the appli-
4 cant's consent to the criminal history records search. Every set of
5 fingerprints taken pursuant to this paragraph shall be promptly submit-
6 ted to the commissioner for purposes of clearance for employment.

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

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

22 S 10. Paragraph a of subdivision 18 of section 2503 of the education
23 law, as amended by chapter 147 of the laws of 2001, is amended to read
24 as follows:

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

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

39 18. 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 clear-
42 ance pursuant to such section or pursuant to section three thousand
43 four-b of this chapter [or section five hundred nine-cc or twelve
44 hundred twenty-nine-d of the vehicle and traffic law]. Prior to initiat-
45 ing the fingerprinting process, the prospective employer shall furnish
46 the applicant with the form described in paragraph (c) of subdivision
47 thirty of section three hundred five of this chapter and shall obtain
48 the applicant's consent to the criminal history records search. Every
49 set of fingerprints taken pursuant to this subdivision shall be promptly
50 submitted to the commissioner for purposes of clearance for employment.

51 S 12. Paragraph a of subdivision 25 of section 2554 of the education
52 law, as amended by section 2 of chapter 91 of the laws of 2002, is
53 amended to read 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

1 pursuant to such section or pursuant to section three thousand four-b of
2 this chapter [or section five hundred nine-cc or twelve hundred twenty-
3 nine-d of the vehicle and traffic law]. Prior to initiating the finger-
4 printing process, the prospective employer shall furnish the applicant
5 with the form described in paragraph (c) of subdivision thirty of
6 section three hundred five of this chapter and shall obtain the appli-
7 cant's consent to the criminal history records search. Every set of
8 fingerprints taken pursuant to this subdivision shall be promptly
9 submitted to the commissioner for purposes of clearance for employment.

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

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

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

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

1 of the laws of 2001, as amended, when upon such date the provisions of
2 section four of this act shall take effect.

3 S 15. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
4 2854 of the education law, as amended by chapter 147 of the laws of
5 2001, is amended to read as follows:

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

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

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

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

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

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

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

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

3. THE DESIGNATED AGENT OF THE SCHOOL ADMINISTRATOR SHALL BE RESPONSIBLE FOR COMPLIANCE WITH THE PROCEDURES SET FORTH IN THIS ARTICLE.

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

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

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

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

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

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

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

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

S 1127. Confidentiality of records. Reports and other written material submitted pursuant to this article, and photographs taken concerning such reports in the possession of any person authorized to receive such information, pursuant to this article, shall be confidential and shall not be redisclosed except to law enforcement authorities involved in an investigation of child abuse OR SEXUAL ABUSE BY A STUDENT in an educa-

1 tional setting or as expressly authorized by law or pursuant to a court-
2 ordered subpoena. A school administrator or a school superintendent
3 shall exercise reasonable care in preventing such unauthorized disclo-
4 sure. Willful disclosure of a written record required to be kept confi-
5 dential pursuant to this section to a person not authorized to receive
6 or review such record is a class A misdemeanor.

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

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

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

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

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

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

1 3. THE WILLFUL FAILURE OF AN EMPLOYEE HAVING DIRECTLY OBSERVED OR
2 HAVING RECEIVED AN ALLEGATION OF CHILD ABUSE OR SEXUAL ABUSE BY A
3 STUDENT IN AN EDUCATIONAL SETTING TO INFORM THE SCHOOL ADMINISTRATOR OR
4 HIS OR HER DESIGNATED AGENT OF SUCH OBSERVATION OR ALLEGATION, AS SET
5 FORTH IN THIS SECTION, SHALL BE A CLASS A MISDEMEANOR.

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

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

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

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

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

42 S 23. Section 509-cc of the vehicle and traffic law, as added by chap-
43 ter 675 of the laws of 1985, subparagraphs (i), (ii) and (iii) of para-
44 graph (a) and subparagraph (i) of paragraph (b) of subdivision 1 as
45 amended by section 27 and paragraphs (a), (b) and subparagraph (i) of
46 paragraph (c) of subdivision 2 as amended by section 28 of part LL of
47 chapter 56 of the laws of 2010, paragraph (c) of subdivision 1 and para-
48 graph (d) of subdivision 2 as added and subparagraph (iv) of paragraph
49 (c) of subdivision 2 as amended by chapter 360 of the laws of 1986,
50 paragraphs (e) and (f) of subdivision 1 and paragraphs (f) and (g) of
51 subdivision 2 as added and paragraph (d) of subdivision 1 and paragraph
52 (e) of subdivision 2 as amended by chapter 599 of the laws of 1993,
53 paragraph (g) of subdivision 1 and paragraph (h) of subdivision 2 as
54 added by chapter 475 of the laws of 2001, subparagraph (v) of paragraph
55 (c) of subdivision 2 as amended by chapter 345 of the laws of 2007,
56 subdivision 4 as amended by chapter 400 of the laws of 2011 and subdivi-

1 sion 5 as added by chapter 164 of the laws of 2003, is amended to read
2 as follows:

3 S 509-cc. Disqualification of drivers of school buses. (1) A person
4 employed as a driver of a school bus as defined in [paragraph (a) of
5 subdivision one of] section [five hundred nine-a] ONE HUNDRED FORTY-TWO
6 of this chapter [on September fifteenth, nineteen hundred eighty-five
7 and who was subject to the provisions of this article as it existed
8 immediately prior to September fifteen, nineteen hundred eighty-five,
9 and was employed in this state as a driver of a school bus as defined in
10 paragraph (a) of subdivision one of section five hundred nine-a of this
11 chapter at any time during the first six months of nineteen hundred
12 eighty-five,] shall be disqualified from operating a school bus as
13 follows:

14 (a) [permanently, if that person

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

43 (ii) has been convicted of an offense listed in paragraph (a) of
44 subdivision four of this section that was committed on or after Septem-
45 ber fifteenth, nineteen hundred eighty-five. However, such disqualifica-
46 tion may be waived by the commissioner provided that five years have
47 expired since the applicant was discharged or released from a sentence
48 of imprisonment imposed pursuant to conviction of an offense that
49 requires disqualification under this paragraph and that the applicant
50 shall have been granted a certificate of relief from disabilities or a
51 certificate of good conduct pursuant to article twenty-three of the
52 correction law. When the certificate is issued by a court for a
53 conviction which occurred in this state, it shall only be issued by the
54 court having jurisdiction over such conviction. Such certificate shall
55 specifically indicate that the authority granting such certificate has
56 considered the bearing, if any, the criminal offense or offenses for

1 which the person was convicted will have on the applicant's fitness or
2 ability to operate a bus transporting school children, prior to granting
3 such a certificate; or
4 (iii) has been convicted of an offense listed in paragraph (b) of
5 subdivision four of this section that was committed on or after Septem-
6 ber fifteenth, nineteen hundred eighty-five. However, such disqualifica-
7 tion shall be waived provided that five years have expired since the
8 applicant discharged or released from a sentence of imprisonment imposed
9 pursuant to conviction of an offense that requires disqualification
10 under this paragraph and that the applicant shall have been granted a
11 certificate of relief from disabilities or a certificate of good conduct
12 pursuant to article twenty-three of the correction law. When the
13 certificate is issued by a court for a conviction which occurred in this
14 state, it shall only be issued by the court having jurisdiction over
15 such conviction. Such certificate shall specifically indicate that the
16 authority granting such certificate has considered the bearing, if any,
17 the criminal offense or offenses for which the person was convicted will
18 have on the applicant's fitness or ability to operate a bus transporting
19 school children, prior to granting such a certificate. Provided, howev-
20 er, that at the discretion of the commissioner, the certificate of
21 relief from disabilities may remove disqualification at any time; or
22 (b)] for a period of five years from the date of last conviction spec-
23 ified herein, if that person
24 (i) [has been convicted within the preceding five years of an offense
25 listed in paragraph (c) of subdivision four of this section that was
26 committed on or after September fifteenth, nineteen hundred eighty-five.
27 However, such disqualification shall be waived provided that the appli-
28 cant has been granted a certificate of relief from disabilities or a
29 certificate of good conduct pursuant to article twenty-three of the
30 correction law. When the certificate is issued by a court for a
31 conviction which occurred in this state, it shall only be issued by the
32 court having jurisdiction over such conviction. Such certificate shall
33 specifically indicate that the authority granting such certificate has
34 considered the bearing, if any, the criminal offense or offenses for
35 which the person was convicted will have on the applicant's fitness or
36 ability to operate a bus transporting school children, prior to granting
37 such a certificate;
38 (ii)] has been convicted of any violation of section eleven hundred
39 ninety-two of this chapter or an offense committed outside this state
40 which would constitute a violation of section eleven hundred ninety-two
41 of this chapter, and the offense was committed while the driver was
42 driving a bus in the employ of a motor carrier or in the furtherance of
43 a commercial enterprise in interstate, intrastate or foreign commerce;
44 [(iii)] (II) has been twice convicted of a violation of any subdivi-
45 sion of section eleven hundred ninety-two of this chapter or offenses
46 committed outside this state which would constitute a violation of
47 section eleven hundred ninety-two of this chapter, committed within the
48 preceding five year period;
49 [(iv)] (III) has been twice convicted of a violation of any subdivi-
50 sion of section eleven hundred ninety-two of this chapter, or an offense
51 committed outside of this state which would constitute a violation of
52 any subdivision of section [one thousand one] ELEVEN hundred ninety-two
53 of this chapter, committed within any ten year period after September
54 fifteenth, nineteen hundred eighty-five; or
55 [(v)] (IV) has been convicted of leaving the scene of an accident
56 which resulted in personal injury or death under section six hundred of

1 this chapter or an offense committed outside of this state which would
2 constitute a violation of section six hundred of this chapter.

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

7 [(d)] (C) for a period of one year, if that person has accumulated
8 nine or more points on his or her driving record for acts that occurred
9 during an eighteen month period on or after September fifteenth, nine-
10 teen hundred eighty-five, provided, however, that the disqualification
11 shall terminate if the person has reduced the points to less than nine
12 through the successful completion of a motor vehicle accident prevention
13 course.

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

22 [(f)] (E) for a period of one year, if that person fails to pass a
23 road test administered pursuant to section five hundred nine-bb of this
24 article; provided, however, that such person shall be given the opportu-
25 nity to complete a motor vehicle accident prevention course approved by
26 the commissioner and to then undergo a second road test administered
27 pursuant to section five hundred nine-bb of this article, and such
28 disqualification shall cease if such person passes such second road
29 test.

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

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

38 (a) permanently, if that person has been convicted of an offense list-
39 ed in paragraph (a) of subdivision four of this section. However, such
40 disqualification may be waived by the commissioner provided that five
41 years have expired since the applicant was discharged or released from a
42 sentence of imprisonment imposed pursuant to conviction of an offense
43 that requires disqualification under this paragraph and that the appli-
44 cant shall have been granted a certificate of relief from disabilities
45 or a certificate of good conduct pursuant to article twenty-three of the
46 correction law. When the certificate is issued by a court for a
47 conviction which occurred in this state, it shall only be issued by the
48 court having jurisdiction over such conviction. Such certificate shall
49 specifically indicate that the authority granting such certificate has
50 considered the bearing, if any, the criminal offense or offenses for
51 which the person was convicted will have on the applicant's fitness or
52 ability to operate a bus transporting school children to the applicant's
53 prospective employment, prior to granting such a certificate.

54 (b) permanently, if that person has been convicted of an offense list-
55 ed in paragraph (b) of subdivision four of this section. However, such
56 disqualification shall be waived provided that five years have expired

1 since the applicant was incarcerated pursuant to a sentence of imprison-
2 ment imposed on 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 or a certificate of good conduct
5 pursuant to article twenty-three of the correction law. When the
6 certificate is issued by a court for a conviction which occurred in this
7 state, it shall only be issued by the court having jurisdiction over
8 such conviction. Such certificate shall specifically indicate that the
9 authority granting such certificate has considered the bearing, if any,
10 the criminal offense or offenses for which the person was convicted will
11 have on the applicant's fitness or ability to operate a bus transporting
12 school children, prior to granting such a certificate. Provided, howev-
13 er, that at the discretion of the commissioner the certificate of relief
14 from disabilities or a certificate of good conduct pursuant to article
15 twenty-three of the correction law may remove disqualification at any
16 time.

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

19 (i) has been convicted within the preceding five years of an offense
20 listed in paragraph (c) of subdivision four of this section. However,
21 notwithstanding the provisions of subdivision three of section seven
22 hundred one of the correction law. Such disqualification shall be waived
23 provided that the applicant has been granted a certificate of relief
24 from disabilities or a certificate of good conduct pursuant to article
25 twenty-three of the correction law. When the certificate is issued by a
26 court for a conviction which occurred in this state, it shall only be
27 issued by the court having jurisdiction over such conviction. Such
28 certificate shall specifically indicate that the authority granting such
29 certificate has considered the bearing, if any, the criminal offense or
30 offenses for which the person was convicted will have on the applicant's
31 fitness or ability to operate a bus transporting school children, prior
32 to granting such a certificate.

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

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

45 (iv) has been convicted of leaving the scene of an accident which
46 resulted in personal injury or death under subdivision two of section
47 six hundred of this chapter or an offense committed outside of this
48 state which would constitute a violation of subdivision two of section
49 six hundred of this chapter; or

50 (v) has been convicted of a violation of section 120.04, 120.04-a,
51 125.13, 125.14 or 235.07 of the penal law.

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

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

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

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

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

26 (3)] A person shall be disqualified from operating a school bus if
27 that person has had any license, permit, or privilege to operate a motor
28 vehicle suspended, revoked, withdrawn or denied and such license, permit
29 or privilege has not been reinstated by the authority which took such
30 action. Provided, however, that the provisions of this subdivision shall
31 not apply to a person whose (i) license, permit or privilege to operate
32 a motor vehicle cannot be reinstated because of non-residency in the
33 state in which the license was suspended, revoked, withdrawn or denied
34 or (ii) a person holds a conditional driver's license or a restricted
35 use license issued by the commissioner pursuant to the provisions of
36 article twenty-one or twenty-one-A of this [chapter] TITLE, and is not
37 disqualified under any other provision of this article.

38 [(4) (a) The offenses referred to in subparagraph (ii) of paragraph
39 (a) of subdivision one and paragraph (a) of subdivision two of this
40 section that result in permanent disqualification shall include a
41 conviction under sections 125.12, 125.13, 125.14, 125.15, 125.20,
42 125.21, 125.22, 125.25, 125.26, 125.27, 130.30, 130.35, 130.45, 130.50,
43 130.65, 130.66, 130.67, 130.70, 130.75, 130.80, 130.90, 130.95, 130.96,
44 135.25, 150.20, 230.30, 230.32, 230.34, 235.22, 263.05, 263.10, 263.11,
45 263.15, 263.16 of the penal law or an attempt to commit any of the afor-
46 esaid offenses under section 110.00 of the penal law, or any offenses
47 committed under a former section of the penal law which would constitute
48 violations of the aforesaid sections of the penal law, or any offenses
49 committed outside this state which would constitute violations of the
50 aforesaid sections of the penal law.

51 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
52 subdivision one and paragraph (b) of subdivision two of this section
53 that result in permanent disqualification shall include a conviction
54 under sections 100.13, 105.15, 105.17, 115.08, 120.12, 120.70, 125.10,
55 125.11, 130.40, 130.53, 130.60, 130.65-a, 135.20, 160.15, 220.18,
56 220.21, 220.39, 220.41, 220.43, 220.44, 230.25, 260.00, 265.04 of the

1 penal law or an attempt to commit any of the aforesaid offenses under
2 section 110.00 of the penal law, or any offenses committed under a
3 former section of the penal law which would constitute violations of the
4 aforesaid sections of the penal law, or any offenses committed outside
5 this state which would constitute violations of the aforesaid sections
6 of the penal law.

7 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
8 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
9 of this section that result in disqualification for a period of five
10 years shall include a conviction under sections 100.10, 105.13, 115.05,
11 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
12 125.40, 125.45, 130.20, 130.25, 130.52, 130.55, 135.10, 135.55, 140.17,
13 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06, 220.09,
14 220.16, 220.31, 220.34, 220.60, 220.65, 221.30, 221.50, 221.55, 230.00,
15 230.05, 230.06, 230.20, 235.05, 235.06, 235.07, 235.21, 240.06, 245.00,
16 260.10, subdivision two of section 260.20 and sections 260.25, 265.02,
17 265.03, 265.08, 265.09, 265.10, 265.12, 265.35 of the penal law or an
18 attempt to commit any of the aforesaid offenses under section 110.00 of
19 the penal law, or any similar offenses committed under a former section
20 of the penal law, or any offenses committed under a former section of
21 the penal law which would constitute violations of the aforesaid
22 sections of the penal law, or any offenses committed outside this state
23 which would constitute violations of the aforesaid sections of the penal
24 law.

25 (5) As a part of such determination concerning whether an individual
26 is disqualified from operating a school bus pursuant to this section,
27 the department shall submit a prospective driver's fingerprints to the
28 division of criminal justice services for a state criminal history
29 record check, as defined in subdivision one of section three thousand
30 thirty-five of the education law, and may submit such fingerprints to
31 the federal bureau of investigation for a national criminal history
32 record check.] (3) THE DEPARTMENT SHALL SUBMIT TO THE DIVISION OF CRIMI-
33 NAL JUSTICE SERVICES TWO SETS OF FINGERPRINTS OF A PROSPECTIVE DRIVER OF
34 A SCHOOL BUS AS DEFINED IN SECTION ONE HUNDRED FORTY-TWO OF THIS CHAP-
35 TER, AND THE DIVISION OF CRIMINAL JUSTICE SERVICES PROCESSING FEE
36 IMPOSED PURSUANT TO SUBDIVISION EIGHT-A OF SECTION EIGHT HUNDRED THIR-
37 TY-SEVEN OF THE EXECUTIVE LAW AND ANY FEE IMPOSED BY THE FEDERAL BUREAU
38 OF INVESTIGATION. THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE
39 FEDERAL BUREAU OF INVESTIGATION SHALL FORWARD SUCH CRIMINAL HISTORY
40 RECORD TO THE DEPARTMENT IN A TIMELY MANNER. FOR THE PURPOSES OF THIS
41 SECTION, THE TERM "CRIMINAL HISTORY RECORD" SHALL MEAN A RECORD OF ALL
42 CONVICTIONS OF CRIMES AND ANY PENDING CRIMINAL CHARGES MAINTAINED ON AN
43 INDIVIDUAL BY THE DIVISION OF CRIMINAL JUSTICE SERVICES AND THE FEDERAL
44 BUREAU OF INVESTIGATION. THE PROVISION OF SUCH INFORMATION BY THE DIVI-
45 SION OF CRIMINAL JUSTICE SERVICES SHALL BE SUBJECT TO THE PROVISIONS OF
46 SUBDIVISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE
47 LAW. THE CONSIDERATION OF SUCH CRIMINAL HISTORY RECORD BY THE DEPARTMENT
48 SHALL BE SUBJECT TO ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW.

49 (4) AFTER RECEIPT OF A CRIMINAL HISTORY RECORD FROM THE DIVISION OF
50 CRIMINAL JUSTICE SERVICES AND THE FEDERAL BUREAU OF INVESTIGATION THE
51 DEPARTMENT SHALL PROMPTLY NOTIFY THE APPROPRIATE MOTOR CARRIER WHETHER
52 THE PROSPECTIVE SCHOOL BUS DRIVER TO WHICH THE REPORT RELATES IS QUALI-
53 FIED OR DISQUALIFIED FOR EMPLOYMENT BASED UPON HIS OR HER CRIMINAL
54 HISTORY. ALL DETERMINATIONS TO GRANT OR DENY CLEARANCE FOR EMPLOYMENT
55 PURSUANT TO THIS PARAGRAPH SHALL BE PERFORMED IN ACCORDANCE WITH SUBDI-
56 VISION SIXTEEN OF SECTION TWO HUNDRED NINETY-SIX OF THE EXECUTIVE LAW

1 AND ARTICLE TWENTY-THREE-A OF THE CORRECTION LAW. WHEN THE DEPARTMENT
2 DENIES A PROSPECTIVE SCHOOL BUS DRIVER CLEARANCE FOR EMPLOYMENT, SUCH
3 PROSPECTIVE SCHOOL BUS DRIVER SHALL BE AFFORDED NOTICE AND THE RIGHT TO
4 BE HEARD AND OFFER PROOF IN OPPOSITION TO SUCH DETERMINATION IN ACCORD-
5 ANCE WITH THE REGULATIONS OF THE DEPARTMENT AND PARAGRAPH (B) OF SUBDI-
6 VISION TWO OF SECTION FIVE HUNDRED NINE-D OF THIS ARTICLE.

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

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

13 (2) Investigations and inquiries of drivers of school buses; mainte-
14 nance of file; availability to subsequent employer. (a) A motor carrier
15 shall request the department to initiate a criminal history RECORD check
16 for persons employed as drivers of school buses, as defined in [para-
17 graph (a) of subdivision one of] section [five hundred nine-a of this
18 chapter, on September fourteenth, nineteen hundred eighty-five by such
19 motor carrier,] ONE HUNDRED FORTY-TWO OF THIS CHAPTER in accordance with
20 [regulations of the commissioner by requiring such] THE REQUIREMENTS OF
21 SUBDIVISION THREE OF SECTION FIVE HUNDRED NINE-CC OF THIS ARTICLE WHICH
22 REQUIRES school bus drivers to submit to the mandated fingerprinting
23 procedure. The department of motor vehicles at the request of the motor
24 carrier shall initiate a criminal history check PURSUANT TO SECTION
25 FIVE HUNDRED NINE-CC OF THIS ARTICLE of all current school bus drivers
26 of such motor carrier [as well as those hired on or after September
27 fifteenth, nineteen hundred eighty-five by requiring such drivers and
28 applicants to submit to the mandated fingerprinting procedure as part of
29 the school bus driver qualification procedure. Such fingerprinting
30 procedure and the related fee as well as a procedure]. A PROCEDURE
31 SHALL BE ESTABLISHED for the return of such fingerprints upon applica-
32 tion of a person who has terminated employment as a school bus driver
33 [shall be established] in accordance with regulations of the commission-
34 er in consultation with the commissioner of the division of criminal
35 justice services. [The fee to be paid by or on behalf of the school bus
36 driver or applicant shall be no more than five dollars over the cost to
37 the commissioner for the criminal history check.] No cause of action
38 against the department, the division of criminal justice services, a
39 motor carrier or political subdivision for damages related to the
40 dissemination of criminal history records pursuant to this section shall
41 exist when such department, division, motor carrier or political subdivi-
42 sion has reasonably and in good faith relied upon the accuracy and
43 completeness of criminal history information furnished to it by quali-
44 fied agencies. [Fingerprints submitted to the division of criminal
45 justice services pursuant to this subdivision may also be submitted to
46 the federal bureau of investigation for a national criminal history
47 record check.]

48 (b) After a motor carrier has completed the procedures set forth in
49 paragraph (a) OF this [of] subdivision, it shall designate each new
50 school bus driver as a conditional school bus driver as defined in
51 section five hundred nine-h of this article, until the carrier is in
52 receipt of information of the new school bus driver's qualification from
53 the department and the required driving records from each appropriate
54 state agency. If the information received indicates that there is a
55 pending criminal offense or driving violation that would require
56 disqualification of a school bus driver under this article, the motor

1 carrier shall require the applicant to provide documentation evidencing
2 the disposition of such offense or violation in accordance with regu-
3 lations established by the commissioner. The department, upon notice of
4 disqualification to an applicant, shall include in such notice informa-
5 tion regarding the applicant's right to appeal and contest any claimed
6 ground for disqualification. Such notice shall also advise the applicant
7 of his or her right to obtain, examine, inspect and copy any information
8 used by the department in support of its determination of disqualifica-
9 tion. In the event the applicant contests the existence of a criminal
10 conviction in his or her name, such applicant may provide documentation
11 evidencing the disposition of such offense or violation in accordance
12 with regulations established by the commissioner.

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

16 (2) Screening of applicants for position of school bus attendant (a) a
17 school district, [pursuant to a policy statement or resolution adopted
18 by such district, may review the qualifications of] CHARTER SCHOOL OR
19 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL, FOR every applicant for
20 the position of school bus attendant on school buses operated by or
21 under contract to the district [and determine at its discretion whether
22 the applicant is suitable for qualification. In such cases, applicants
23 may be made the subject of a criminal history check. Upon receipt of the
24 fingerprints forwarded to them by such school district, the division of
25 criminal justice services shall forward to such school district the
26 criminal history review. A fee not to exceed the cost for the criminal
27 history review shall be charged by the division of criminal justice
28 services. Such fingerprints also may be submitted to the federal bureau
29 of investigation for a national criminal history record check.

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

35 [(c)] (B) All inquiries made, and the use of any criminal record
36 obtained, pursuant to this section shall be in accordance with section
37 two hundred ninety-six of the executive law. In addition, the secondary
38 dissemination of such information shall be limited to other authorized
39 agencies, by express agreement between the school district and the divi-
40 sion of criminal justice services, or as authorized pursuant to federal
41 law, and rules and regulations. No cause of action against the school
42 district or division of criminal justice services for damages related to
43 the dissemination of criminal history records pursuant to this section
44 shall exist when the school district or division of criminal justice
45 services has reasonably and in good faith relied upon the accuracy and
46 completeness of criminal history information furnished to it by quali-
47 fied agencies.

48 S 26. This act shall take effect July 1, 2013; provided, however that
49 section fourteen of this act shall take effect immediately; provided,
50 further that the amendments to sections 1604, 1709, 1804, 1950, 2503,
51 2554 and 2854 of the education law, made by sections two, four, six,
52 eight, ten, twelve and fifteen of this act shall be subject to the expi-
53 ration and reversion of such provisions pursuant to section 12 of chap-
54 ter 147 of the laws of 2001, as amended, when upon such date the
55 provisions of sections three, five, seven, nine, eleven, thirteen and
56 sixteen of this act shall take effect.