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

3642

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

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

AN ACT to amend the education law, in relation to the fingerprinting of school district volunteers who come in direct contact with students

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

Section 1. Paragraphs (a), (b) and (c) of subdivision 30 of section 305 of the education law, paragraphs (b) and (c) as added by chapter 180 of the laws of 2000, paragraph (a), the opening paragraph and subparagraph (i) of paragraph (b) and subparagraph (vii) of paragraph (c) as amended by chapter 630 of the laws of 2006, subparagraph (vi) of paragraph (c) as added and subparagraph (viii) of paragraph (c) as renumbered by chapter 182 of the laws of 2000, are amended to read as follows:

(a) The commissioner, in cooperation with the division of criminal justice services and in accordance with all applicable provisions of law, shall promulgate rules and regulations to require the fingerprinting of prospective employees, as defined in section eleven hundred twenty-five of this chapter AND VOLUNTEERS WHO HAVE DIRECT AND UNSUPERVISED CONTACT WITH STUDENTS, of school districts, charter schools and boards of cooperative educational services and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant OR VOLUNTEER. The commissioner shall also establish a form

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

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for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more.

(b) The commissioner, in cooperation with the division of criminal justice services, shall promulgate a form to be provided to all such prospective employees AND VOLUNTEERS WHO HAVE DIRECT AND UNSUPERVISED CONTACT WITH STUDENTS of school districts, charter schools, boards of cooperative educational services, and nonpublic and private elementary and secondary schools that elect to fingerprint and seek clearance for prospective employees that shall:

(i) inform the prospective employee OR VOLUNTEER that the commissioner is required or authorized to request his or her criminal history information from the division of criminal justice services and the federal bureau of investigation and review such information pursuant to this section, and provide a description of the manner in which his or her fingerprint cards will be used upon submission to the division of criminal justice services;

(ii) inform the prospective employee OR VOLUNTEER that he or she has the right to obtain, review and seek correction of his or her criminal history information pursuant to regulations and procedures established by the division of criminal justice services.

(c) The prospective employer shall obtain the signed, informed consent of the prospective employee OR VOLUNTEER on such form supplied by the commissioner which indicates that such person has:

(i) been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;

(ii) been informed of the reason for the request for his or her criminal history information;

(iii) consented to such request for a report;

(iv) supplied on the form a current mailing or home address for the prospective employee OR VOLUNTEER;

(v) been informed that he or she may withdraw his or her application for employment pursuant to this section, without prejudice, at any time before employment is offered or declined, regardless of whether the prospective employee OR VOLUNTEER or employer has reviewed such prospective employee's criminal history information;

(vi) where the applicant is to be fingerprinted pursuant to section three thousand thirty-five of this chapter, the process for seeking a waiver of the fees associated with conducting a criminal history records check, pursuant to paragraph (b) of subdivision four of section three thousand thirty-five of this chapter,

(vii) been informed that in the event his or her employment is terminated and such person has not become employed in the same or another school district, charter school, board of cooperative educational services, or nonpublic or private elementary or secondary school within twelve-months of such termination, the commissioner shall notify the division of criminal justice services of such termination, and the division of criminal justice services shall destroy the fingerprints of such

person. Such person may request that the commissioner notify the division of criminal justice services that his or her fingerprints shall be destroyed prior to the expiration of such twelve month period in which case the commissioner shall notify the division of criminal justice services and the division shall destroy the fingerprints of such person promptly upon receipt of the request; and

(viii) been informed of the manner in which he or she may submit to the commissioner any information that may be relevant to the consideration of his or her application for clearance including, where applicable, information in regard to his or her good conduct and rehabilitation.

S 2. This act shall take effect immediately.