

4873

2011-2012 Regular Sessions

I N S E N A T E

April 27, 2011

Introduced by Sen. SALAND -- read twice and ordered printed, and when printed to be committed to the Committee on Education

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
18 and any other information that may be relevant to consideration of the
19 applicant. The commissioner shall also establish a form for the recorda-
20 tion of allegations of child abuse in an educational setting, as

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

LBD05595-01-1

1 required pursuant to section eleven hundred twenty-six of this chapter.
2 No person who has been fingerprinted pursuant to section three thousand
3 four-b of this chapter [or pursuant to section five hundred nine-cc or
4 twelve hundred twenty-nine-d of the vehicle and traffic law] and whose
5 fingerprints remain on file with the division of criminal justice
6 services shall be required to undergo fingerprinting for purposes of a
7 new criminal history record check. This subdivision and the rules and
8 regulations promulgated pursuant thereto shall not apply to a school
9 district within a city with a population of one million or more.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 fingerprints taken pursuant to this paragraph shall be promptly submit-
2 ted to the commissioner for purposes of clearance for employment.

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

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

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

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

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

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

47 S 12. Paragraph a of subdivision 25 of section 2554 of the education
48 law, as amended by section 2 of chapter 91 of the laws of 2002, is
49 amended to read as follows:

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

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

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

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

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

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

54 S 15. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section
55 2854 of the education law, as amended by chapter 147 of the laws of
56 2001, is amended to read as follows:

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

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

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

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

32 1-A. "SEXUAL ABUSE BY A STUDENT" SHALL MEAN AN ACT COMMITTED IN AN
33 EDUCATIONAL SETTING BY A CHILD AGAINST ANOTHER CHILD WHICH IS DEFINED AS
34 CHILD SEXUAL ABUSE IN THIS SECTION.

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

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

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

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

54 4. ANY EMPLOYEE WHO REASONABLY AND IN GOOD FAITH MAKES A REPORT OF
55 ALLEGATIONS OF CHILD ABUSE OR SEXUAL ABUSE BY A STUDENT IN AN EDUCA-
56 TIONAL SETTING TO THE SCHOOL ADMINISTRATOR OR HIS OR HER DESIGNATED

1 AGENT IN A MANNER DESCRIBED IN THIS SECTION, SHALL HAVE IMMUNITY FROM
2 CIVIL LIABILITY WHICH MIGHT OTHERWISE RESULT BY REASON OF SUCH ACTIONS.

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

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

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

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

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

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

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

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

1 denial pursuant to this section to a person not authorized to receive
2 or review such record is a class A misdemeanor.

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

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

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

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

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

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

53 3. THE WILLFUL FAILURE OF AN EMPLOYEE HAVING DIRECTLY OBSERVED OR
54 HAVING RECEIVED AN ALLEGATION OF CHILD ABUSE OR SEXUAL ABUSE BY A
55 STUDENT IN AN EDUCATIONAL SETTING TO INFORM THE SCHOOL ADMINISTRATOR OR

1 HIS OR HER DESIGNATED AGENT OF SUCH OBSERVATION OR ALLEGATION, AS SET
2 FORTH IN THIS SECTION, SHALL BE A CLASS A MISDEMEANOR.

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

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

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

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

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

39 S 23. Section 509-cc of the vehicle and traffic law, as added by chap-
40 ter 675 of the laws of 1985, subparagraphs (i), (ii) and (iii) of para-
41 graph (a) and subparagraph (i) of paragraph (b) of subdivision 1 as
42 amended by section 27 and paragraphs (a), (b) and subparagraph (i) of
43 paragraph (c) of subdivision 2 as amended by section 28 of part LL of
44 chapter 56 of the laws of 2010, paragraph (c) of subdivision 1 and para-
45 graph (d) of subdivision 2 as added and paragraph (b) and subparagraph
46 (iv) of paragraph (c) of subdivision 2 and paragraph (b) of subdivision
47 4 as amended by chapter 360 of the laws of 1986, paragraphs (e) and (f)
48 of subdivision 1 and paragraphs (f) and (g) of subdivision 2 as added
49 and paragraph (d) of subdivision 1 and paragraph (e) of subdivision 2 as
50 amended by chapter 599 of the laws of 1993, paragraph (g) of subdivision
51 1 and paragraph (h) of subdivision 2 as added by chapter 475 of the laws
52 of 2001, subparagraph (v) of paragraph (c) of subdivision 2 as amended
53 by chapter 345 of the laws of 2007, paragraph (a) of subdivision 4 as
54 amended by chapter 93 of the laws of 2006, paragraph (c) of subdivision
55 4 as amended by chapter 405 of the laws of 2010, and subdivision 5 as
56 added by chapter 164 of the laws of 2003, is amended to read as follows:

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

11 (a) [permanently, if that person

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

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

1 (iii) has been convicted of an offense listed in paragraph (b) of
2 subdivision four of this section that was committed on or after Septem-
3 ber fifteenth, nineteen hundred eighty-five. However, such disqualifica-
4 tion shall be waived provided that five years have expired since the
5 applicant discharged or released from a sentence of imprisonment imposed
6 pursuant to conviction of an offense that requires disqualification
7 under this paragraph and that the applicant shall have been granted a
8 certificate of relief from disabilities or a certificate of good conduct
9 pursuant to article twenty-three of the correction law. When the
10 certificate is issued by a court for a conviction which occurred in this
11 state, it shall only be issued by the court having jurisdiction over
12 such conviction. Such certificate shall specifically indicate that the
13 authority granting such certificate has considered the bearing, if any,
14 the criminal offense or offenses for which the person was convicted will
15 have on the applicant's fitness or ability to operate a bus transporting
16 school children, prior to granting such a certificate. Provided, howev-
17 er, that at the discretion of the commissioner, the certificate of
18 relief from disabilities may remove disqualification at any time; or

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

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

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

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

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

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

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

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

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

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

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

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

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

52 (b) permanently, if that person has been convicted of an offense list-
53 ed in paragraph (b) of subdivision four of this section. However, such
54 disqualification shall be waived provided that five years have expired
55 since the applicant was incarcerated pursuant to a sentence of imprison-
56 ment imposed on conviction of an offense that requires disqualification

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

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

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

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

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

48 (v) has been convicted of a violation of section 120.04, 120.04-a,
49 125.13, 125.14 or 235.07 of the penal law.

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

54 (e) for a period of one year, if that person accumulates nine or more
55 points on his or her driving record for acts occurring during an eigh-
56 teen month period, provided, however, that the disqualification shall

1 terminate if the person has reduced the points to less than nine through
2 the successful completion of a motor vehicle accident prevention course.
3 (f) for a period of one year, if that person was the operator of a
4 motor vehicle involved in two or more accidents of a nature and type set
5 forth in section five hundred nine-a of this article, where such acci-
6 dents occurred within an eighteen-month period following a reexamination
7 conducted pursuant to section five hundred nine-bb of this article,
8 provided that accidents in which the driver was completely without fault
9 shall not be included in determining whether such disqualification is
10 required;

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

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

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

35 [(4) (a) The offenses referred to in subparagraph (ii) of paragraph
36 (a) of subdivision one and paragraph (a) of subdivision two of this
37 section that result in permanent disqualification shall include a
38 conviction under sections 125.12, 125.20, 125.25, 125.26, 125.27,
39 130.30, 130.35, 130.45, 130.50, 130.70, 135.25, 150.20 of the penal law
40 or an attempt to commit any of the aforesaid offenses under section
41 110.00 of the penal law, or any offenses committed under a former
42 section of the penal law which would constitute violations of the afore-
43 said sections of the penal law, or any offenses committed outside this
44 state which would constitute violations of the aforesaid sections of the
45 penal law.

46 (b) The offenses referred to in subparagraph (ii) of paragraph (a) of
47 subdivision one and paragraph (b) of subdivision two of this section
48 that result in permanent disqualification shall include a conviction
49 under sections 100.13, 105.15, 105.17, 115.08, 125.10, 125.15, 130.40,
50 130.60, 130.65, 135.20, 160.15, 220.18, 220.21, 220.39, 220.41, 220.43,
51 260.00, 263.05, 263.10, 263.15, 265.04 of the penal law or an attempt to
52 commit any of the aforesaid offenses under section 110.00 of the penal
53 law, or any offenses committed under a former section of the penal law
54 which would constitute violations of the aforesaid sections of the penal
55 law, or any offenses committed outside this state which would constitute
56 violations of the aforesaid sections of the penal law.

1 (c) The offenses referred to in subparagraph (i) of paragraph (b) of
2 subdivision one and subparagraph (i) of paragraph (c) of subdivision two
3 of this section that result in disqualification for a period of five
4 years shall include a conviction under sections 100.10, 105.13, 115.05,
5 120.03, 120.04, 120.04-a, 120.05, 120.10, 120.25, 121.12, 121.13,
6 125.13, 125.14, 125.40, 125.45, 130.20, 130.25, 130.55, 135.10, 135.55,
7 140.17, 140.25, 140.30, 145.12, 150.10, 150.15, 160.05, 160.10, 220.06,
8 220.09, 220.16, 220.31, 220.34, 220.60, 221.30, 221.50, 221.55, 230.00,
9 230.05, 230.06, 230.20, 230.25, 230.30, 230.32, 235.05, 235.06, 235.07,
10 235.21, 240.06, 245.00, 260.10, subdivision two of section 260.20 and
11 sections 260.25, 265.02, 265.03, 265.08, 265.09, 265.10, 265.12, 265.35
12 of the penal law or an attempt to commit any of the aforesaid offenses
13 under section 110.00 of the penal law, or any similar offenses committed
14 under a former section of the penal law, or any offenses committed under
15 a former section of the penal law which would constitute violations of
16 the aforesaid sections of the penal law, or any offenses committed
17 outside this state which would constitute violations of the aforesaid
18 sections of the penal law.

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

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

1 ANCE WITH THE REGULATIONS OF THE DEPARTMENT AND PARAGRAPH (B) OF SUBDI-
2 VISION TWO OF SECTION FIVE HUNDRED NINE-D OF THIS ARTICLE.

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

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

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

43 (b) After a motor carrier has completed the procedures set forth in
44 paragraph (a) OF this [of] subdivision, it shall designate each new
45 school bus driver as a conditional school bus driver as defined in
46 section five hundred nine-h of this article, until the carrier is in
47 receipt of information of the new school bus driver's qualification from
48 the department and the required driving records from each appropriate
49 state agency. If the information received indicates that there is a
50 pending criminal offense or driving violation that would require
51 disqualification of a school bus driver under this article, the motor
52 carrier shall require the applicant to provide documentation evidencing
53 the disposition of such offense or violation in accordance with regu-
54 lations established by the commissioner. The department, upon notice of
55 disqualification to an applicant, shall include in such notice informa-
56 tion regarding the applicant's right to appeal and contest any claimed

1 ground for disqualification. Such notice shall also advise the applicant
2 of his or her right to obtain, examine, inspect and copy any information
3 used by the department in support of its determination of disqualifica-
4 tion. In the event the applicant contests the existence of a criminal
5 conviction in his or her name, such applicant may provide documentation
6 evidencing the disposition of such offense or violation in accordance
7 with regulations established by the commissioner.

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

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

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

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

43 S 26. This act shall take effect July 1, 2012; provided, however that
44 section fourteen of this act shall take effect immediately; provided,
45 further that the amendments to sections 1604, 1709, 1804, 1950, 2503,
46 2554 and 2854 of the education law, made by sections two, four, six,
47 eight, ten, twelve and fifteen of this act shall be subject to the expi-
48 ration and reversion of such provisions pursuant to section 12 of chap-
49 ter 147 of the laws of 2001, as amended, when upon such date the
50 provisions of sections three, five, seven, nine, eleven, thirteen and
51 sixteen of this act shall take effect.