

6816--C

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 19, 2013

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Introduced by M. of A. NOLAN -- read once and referred to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to requiring the fingerprinting of prospective employees of certain schools, phasing-in a requirement that all fingerprints submitted by prospective employees and applicants for certification be electronically submitted, authorizing boards of cooperative educational services to conduct fingerprinting for non-component districts, and applicants for certification, strengthening identification verification practices at fingerprinting sites for the purpose of conducting criminal history record checks and enhancing existing statutory mechanisms to expedite the removal of persons who commit fingerprint fraud

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

1     Section 1. Paragraphs (a) and (b) of subdivision 30 of section 305 of  
2     the education law, paragraph (a) and the opening paragraph and subpara-  
3     graph (i) of paragraph (b) as amended by chapter 630 of the laws of  
4     2006, paragraph (b) as added by chapter 180 of the laws of 2000, are  
5     amended to read as follows:  
6     (a) The commissioner, in cooperation with the division of criminal  
7     justice services and in accordance with all applicable provisions of  
8     law, shall promulgate rules and regulations to require the fingerprint-  
9     ing of prospective employees, as defined in section eleven hundred twen-  
10    ty-five of this chapter, of school districts, charter schools and boards  
11    of cooperative educational services and authorizing the fingerprinting

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

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1 of prospective employees of nonpublic and private elementary and second-  
2 ary schools, and for the use of information derived from searches of the  
3 records of the division of criminal justice services and the federal  
4 bureau of investigation based on the use of such fingerprints. The  
5 commissioner shall also develop a form for use by school districts,  
6 charter schools, boards of cooperative educational services, and nonpub-  
7 lic and private elementary and secondary schools in connection with the  
8 submission of fingerprints that contains the specific job title sought  
9 and any other information that may be relevant to consideration of the  
10 applicant. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO  
11 THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL  
12 AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING  
13 ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
14 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-  
15 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH  
16 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE  
17 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-  
18 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-  
19 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL  
20 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-  
21 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-  
22 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN  
23 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-  
24 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH  
25 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF  
26 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN  
27 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
28 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
29 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
30 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-  
31 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-  
32 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF  
33 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS  
34 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
35 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
36 COMMISSIONER. The commissioner shall also establish a form for the  
37 recordation of allegations of child abuse in an educational setting, as  
38 required pursuant to section eleven hundred twenty-six of this chapter.  
39 No person who has been fingerprinted pursuant to section three thousand  
40 four-b of this chapter or pursuant to section five hundred nine-cc or  
41 twelve hundred twenty-nine-d of the vehicle and traffic law and whose  
42 fingerprints remain on file with the division of criminal justice  
43 services shall be required to undergo fingerprinting for purposes of a  
44 new criminal history record check. This subdivision and the rules and  
45 regulations promulgated pursuant thereto shall not apply to a school  
46 district within a city with a population of one million or more.

47 (b) The commissioner, in cooperation with the division of criminal  
48 justice services, shall promulgate a form to be provided to all such  
49 prospective employees of school districts, charter schools, boards of  
50 cooperative educational services, and nonpublic and private elementary  
51 and secondary schools that elect to fingerprint and seek clearance for  
52 prospective employees that shall:

53 (i) inform the prospective employee that the commissioner is required  
54 or authorized to request his or her criminal history information from  
55 the division of criminal justice services and the federal bureau of  
56 investigation and review such information pursuant to this section, and

1 provide a description of the manner in which his or her [fingerprint  
2 cards] FINGERPRINTS will be TAKEN AND used upon submission to the divi-  
3 sion of criminal justice services;

4 (ii) inform the prospective employee that he or she has the right to  
5 obtain, review and seek correction of his or her criminal history infor-  
6 mation pursuant to regulations and procedures established by the divi-  
7 sion of criminal justice services.

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

11 a. Shall require, for purposes of a criminal history record check, the  
12 fingerprinting of all prospective employees pursuant to section three  
13 thousand thirty-five of this chapter, who do not hold valid clearance  
14 pursuant to such section or pursuant to section three thousand four-b of  
15 this chapter or section five hundred nine-cc or twelve hundred twenty-  
16 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
17 printing process, the prospective employer shall furnish the applicant  
18 with the form described in paragraph (c) of subdivision thirty of  
19 section three hundred five of this chapter and shall obtain the appli-  
20 cant's consent to the criminal history records search. PROSPECTIVE  
21 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,  
22 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-  
23 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING  
24 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-  
25 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-  
26 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-  
27 PRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION  
28 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH  
29 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE  
30 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS  
31 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING  
32 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,  
33 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE  
34 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO  
35 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT  
36 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF  
37 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
38 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON  
39 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL  
40 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING  
41 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED  
42 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS  
43 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS  
44 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF  
45 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S  
46 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of  
47 fingerprints taken pursuant to this subdivision shall be promptly  
48 submitted to the commissioner for purposes of clearance for employment.

49 S 3. Paragraph a of subdivision 39 of section 1709 of the education  
50 law, as amended by chapter 147 of the laws of 2001, is amended to read  
51 as follows:

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

1 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
2 printing process, the prospective employer shall furnish the applicant  
3 with the form described in paragraph (c) of subdivision thirty of  
4 section three hundred five of this chapter and shall obtain the appli-  
5 cant's consent to the criminal history records search. PROSPECTIVE  
6 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,  
7 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-  
8 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING  
9 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-  
10 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-  
11 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-  
12 PRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN ADDITION  
13 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH  
14 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE  
15 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS  
16 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING  
17 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,  
18 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE  
19 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO  
20 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT  
21 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF  
22 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
23 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON  
24 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL  
25 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING  
26 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED  
27 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS  
28 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS  
29 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF  
30 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S  
31 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of  
32 fingerprints taken pursuant to this subdivision shall be promptly  
33 submitted to the commissioner for purposes of clearance for employment.

34 S 4. Paragraph a of subdivision 9 of section 1804 of the education  
35 law, as amended by chapter 147 of the laws of 2001, is amended to read  
36 as follows:

37 a. The board of education shall, for purposes of a criminal history  
38 record check, require the fingerprinting of all prospective employees  
39 pursuant to section three thousand thirty-five of this chapter, who do  
40 not hold valid clearance pursuant to such section or pursuant to section  
41 three thousand four-b of this chapter or section five hundred nine-cc or  
42 twelve hundred twenty-nine-d of the vehicle and traffic law. Prior to  
43 initiating the fingerprinting process, the prospective employer shall  
44 furnish the applicant with the form described in paragraph (c) of subdi-  
45 vision thirty of section three hundred five of this chapter and shall  
46 obtain the applicant's consent to the criminal history records search.  
47 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT  
48 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-  
49 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-  
50 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
51 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-  
52 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH  
53 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE  
54 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-  
55 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-  
56 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL

1 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-  
2 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-  
3 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN  
4 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-  
5 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH  
6 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF  
7 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN  
8 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
9 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
10 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
11 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-  
12 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-  
13 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF  
14 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS  
15 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
16 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
17 COMMISSIONER. Every set of fingerprints taken pursuant to this subdivi-  
18 sion shall be promptly submitted to the commissioner for purposes of  
19 clearance for employment.

20 S 5. Subparagraph a of paragraph 11 of subdivision 4 of section 1950  
21 of the education law, as amended by chapter 147 of the laws of 2001, is  
22 amended to read as follows:

23 a. Shall require, for purposes of a criminal history record check, the  
24 fingerprinting of all prospective employees pursuant to section three  
25 thousand thirty-five of this chapter, who do not hold valid clearance  
26 pursuant to such section or pursuant to section three thousand four-b of  
27 this chapter or section five hundred nine-cc or twelve hundred twenty-  
28 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
29 printing process, the prospective employer shall furnish the applicant  
30 with the form described in paragraph (c) of subdivision thirty of  
31 section three hundred five of this chapter and shall obtain the appli-  
32 cant's consent to the criminal history records search. PROSPECTIVE  
33 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,  
34 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-  
35 PRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELECTRONIC SCANNING  
36 TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE PROSPECTIVE EMPLOY-  
37 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-  
38 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBPARAGRAPH SHALL BE FING-  
39 ERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN  
40 ADDITION TO THE REQUIREMENTS OF THIS SUBPARAGRAPH, THE COMMISSIONER  
41 SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION  
42 VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE  
43 THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER.  
44 PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF  
45 AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATE-  
46 MENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S  
47 IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE  
48 AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING  
49 VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY  
50 AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED,  
51 SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE  
52 AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY  
53 THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFI-  
54 CATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS  
55 IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE  
56 DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS

1 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
2 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
3 COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph  
4 shall be promptly submitted to the commissioner for purposes of clear-  
5 ance for employment.

6 S 6. Subdivision 4 of section 1950 of the education law is amended by  
7 adding a new paragraph oo to read as follows:

8 OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD  
9 CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY  
10 SCHOOLS, NON-COMPONENT SCHOOL DISTRICTS AND CHARTER SCHOOLS PURSUANT TO  
11 SUBDIVISION THIRTY OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER AND TO  
12 ENTER CONTRACTS WITH SUCH SCHOOLS FOR SUCH PURPOSE, AND TO PROCESS FING-  
13 ERPRINTS FOR CRIMINAL HISTORY RECORDS SEARCHES PURSUANT TO SECTION THREE  
14 THOUSAND THIRTY-FIVE OF THIS CHAPTER FOR APPLICANTS FOR TEACHER CERTIF-  
15 ICATION AND FOR APPLICANTS FOR A CHARTER AS A CHARTER SCHOOL PURSUANT TO  
16 SUBDIVISION FOUR OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS CHAP-  
17 TER. SUCH PROCESSING SERVICES SHALL BE PROVIDED AT COST AND THE BOARD  
18 OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE  
19 ANY COSTS INCURRED IN PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL  
20 DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES ARE HEREBY  
21 AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS NECESSARY OR CONVENIENT IN  
22 RELATION TO THE PROVISION OF SUCH SERVICES.

23 S 7. Paragraph a of subdivision 18 of section 2503 of the education  
24 law, as amended by chapter 147 of the laws of 2001, is amended to read  
25 as follows:

26 a. Shall require, for purposes of a criminal history record check, the  
27 fingerprinting of all prospective employees pursuant to section three  
28 thousand thirty-five of this chapter, who do not hold valid clearance  
29 pursuant to such section or pursuant to section three thousand four-b of  
30 this chapter or section five hundred nine-cc or twelve hundred twenty-  
31 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
32 printing process, the prospective employer shall furnish the applicant  
33 with the form described in paragraph (c) of subdivision thirty of  
34 section three hundred five of this chapter and shall obtain the appli-  
35 cant's consent to the criminal history records search. Every set of  
36 fingerprints taken pursuant to this subdivision shall be promptly  
37 submitted to the commissioner for purposes of clearance for employment.  
38 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT  
39 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-  
40 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-  
41 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
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46 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-  
47 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL  
48 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-  
49 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-  
50 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN  
51 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-  
52 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH  
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54 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN  
55 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
56 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,

1 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
2 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-  
3 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-  
4 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF  
5 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS  
6 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
7 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
8 COMMISSIONER.

9 S 8. Paragraph a of subdivision 25 of section 2554 of the education  
10 law, as amended by section 2 of chapter 91 of the laws of 2002, is  
11 amended to read as follows:

12 a. Shall require, for purposes of a criminal history record check, the  
13 fingerprinting of all prospective employees pursuant to section three  
14 thousand thirty-five of this chapter, who do not hold valid clearance  
15 pursuant to such section or pursuant to section three thousand four-b of  
16 this chapter or section five hundred nine-cc or twelve hundred twenty-  
17 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
18 printing process, the prospective employer shall furnish the applicant  
19 with the form described in paragraph (c) of subdivision thirty of  
20 section three hundred five of this chapter and shall obtain the appli-  
21 cant's consent to the criminal history records search. Every set of  
22 fingerprints taken pursuant to this subdivision shall be promptly  
23 submitted to the commissioner for purposes of clearance for employment.  
24 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT  
25 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-  
26 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-  
27 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
28 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-  
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34 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-  
35 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-  
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39 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF  
40 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN  
41 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
42 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
43 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
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45 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-  
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47 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS  
48 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
49 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
50 COMMISSIONER.

51 S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section  
52 2854 of the education law, as amended by chapter 147 of the laws of  
53 2001, is amended to read as follows:

54 (i) The board of trustees of a charter school shall require, for  
55 purposes of a criminal history record check, the fingerprinting of all  
56 prospective employees pursuant to section three thousand thirty-five of

1 this chapter, who do not hold valid clearance pursuant to such section  
2 or pursuant to section three thousand four-b of this chapter or section  
3 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and  
4 traffic law. Prior to initiating the fingerprinting process, the  
5 prospective employer shall furnish the applicant with the form described  
6 in paragraph (c) of subdivision thirty of section three hundred five of  
7 this chapter and shall obtain the applicant's consent to the criminal  
8 history records search. PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE  
9 APPLICANTS TO THE EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHOR-  
10 IZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE  
11 DEPARTMENT, USING ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPART-  
12 MENT. OUT-OF-STATE PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS  
13 AND ARE NOT FINGERPRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF  
14 THIS SUBPARAGRAPH SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOY-  
15 MENT WITHIN THE STATE. IN ADDITION TO THE REQUIREMENTS OF THIS SUBPARA-  
16 GRAPH, THE COMMISSIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES  
17 FOR IDENTIFICATION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES,  
18 WHICH SHALL INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF  
19 THE COMMISSIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN  
20 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN  
21 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE  
22 EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF  
23 WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPA-  
24 BLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE  
25 TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
26 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
27 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
28 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-  
29 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-  
30 PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF  
31 THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS  
32 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE  
33 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE  
34 COMMISSIONER. Every set of fingerprints taken pursuant to this paragraph  
35 shall be promptly submitted to the commissioner for purposes of clear-  
36 ance for employment.

37 S 10. Subdivision 1 of section 3004-b of the education law, as sepa-  
38 rately amended by chapters 147 and 380 of the laws of 2001, is amended  
39 to read as follows:

40 1. Criminal history records search. Upon receipt of an application for  
41 certification as a superintendent of schools, teacher, administrator or  
42 supervisor, teaching assistant or school personnel required to hold a  
43 teaching or administrative license or certificate, the commissioner  
44 shall, subject to the rules and regulations of the division of criminal  
45 justice services, initiate a criminal history records search of the  
46 person making application, except that nothing in this section shall be  
47 construed to require a criminal history record check of an individual  
48 who holds a valid provisional certificate on the effective date of this  
49 section and applies for permanent certification in the same certificate  
50 title, or of an individual who applies for a temporary license to serve  
51 in the city school district of the city of New York and has been cleared  
52 for licensure and/or employment by such city school district pursuant to  
53 subdivision twenty of section twenty-five hundred ninety-h of this chap-  
54 ter. Prior to initiating the fingerprinting process, the commissioner  
55 shall furnish the applicant with the form described in paragraph (c) of  
56 subdivision thirty of section three hundred five of this chapter and



1 shall obtain the applicant's consent to the criminal history records  
2 search. APPLICANTS FOR CERTIFICATION, WHO ARE REQUIRED TO BE FINGER-  
3 PRINTED UNDER THIS SECTION, INCLUDING OUT-OF-STATE APPLICANTS TO THE  
4 EXTENT PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT  
5 DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING  
6 ELECTRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
7 APPLICANTS WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELEC-  
8 TRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBDIVISION SHALL BE  
9 FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN  
10 ADDITION TO THE REQUIREMENTS OF THIS SUBDIVISION, THE COMMISSIONER SHALL  
11 ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICA-  
12 TION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE  
13 REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR  
14 TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHOR-  
15 IZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY  
16 THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS  
17 OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED  
18 PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE  
19 APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE  
20 APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGER-  
21 PRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A  
22 FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED  
23 THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROC-  
24 ESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND  
25 REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSI-  
26 NESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE  
27 PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER  
28 PRESCRIBED BY THE COMMISSIONER. The commissioner shall obtain from each  
29 applicant ONE SET, OR WHERE NECESSARY, two sets of fingerprints and the  
30 division of criminal justice services processing fee imposed pursuant to  
31 subdivision eight-a of section eight hundred thirty-seven of the execu-  
32 tive law and any fee imposed by the federal bureau of investigation. The  
33 commissioner shall promptly transmit such fingerprints and fees to the  
34 division of criminal justice services for its full search and retain  
35 processing. The division of criminal justice services is authorized to  
36 submit the fingerprints and the appropriate fee to the federal bureau of  
37 investigation for a national criminal history record check. The division  
38 of criminal justice services and the federal bureau of investigation  
39 shall forward such criminal history record to the commissioner in a  
40 timely manner. For the purposes of this section the term "criminal  
41 history record" shall mean a record of all convictions of crimes and any  
42 pending criminal charges maintained on an individual by the division of  
43 criminal justice services and the federal bureau of investigation. In  
44 addition, upon request from an applicant who has applied for employment  
45 with the city school district of the city of New York, the commissioner  
46 shall have the authority to forward a copy of such criminal history  
47 record to the city school district of the city of New York by the most  
48 expeditious means available. Furthermore, upon notification that such  
49 applicant is employed by the city school district of the city of New  
50 York, the division of criminal justice services shall have the authority  
51 to provide subsequent criminal history notifications directly to the  
52 city school district of the city of New York. Upon request from an  
53 applicant who has already been cleared for licensure and/or employment  
54 by the city school district of the city of New York, such school  
55 district shall have the authority to forward a copy of the applicant's  
56 criminal history record to the commissioner, by the most expeditious

1 means available, for the purposes of this section. Furthermore, upon  
2 notification that such applicant has been certified, the division of  
3 criminal justice services shall have the authority to provide subsequent  
4 criminal history notifications directly to the commissioner. All such  
5 criminal history records processed and sent pursuant to this subdivision  
6 shall be confidential pursuant to the applicable federal and state laws,  
7 rules and regulations, and shall not be published or in any way  
8 disclosed to persons other than the commissioner, unless otherwise  
9 authorized by law. No cause of action against the department or the  
10 division of criminal justice services for damages related to the dissem-  
11 ination of criminal history records pursuant to this subdivision shall  
12 exist when the department or division of criminal justice services has  
13 reasonably and in good faith relied upon the accuracy and completeness  
14 of criminal history information furnished to it by qualified agencies.  
15 The provision of such criminal history record by the division of crimi-  
16 nal justice services shall be subject to the provisions of subdivision  
17 sixteen of section two hundred ninety-six of the executive law. The  
18 commissioner shall consider such criminal history record pursuant to  
19 article twenty-three-A of the correction law.

20 S 11. Subdivision 1 of section 3035 of the education law, as amended  
21 by chapter 630 of the laws of 2006, is amended to read as follows:

22 1. The commissioner shall submit to the division of criminal justice  
23 services ONE SET OR WHERE NECESSARY, two sets of fingerprints of  
24 prospective employees as defined in subdivision three of section eleven  
25 hundred twenty-five of this chapter received from a school district,  
26 charter school or board of cooperative educational services and of  
27 prospective employees received from nonpublic and private elementary and  
28 secondary schools pursuant to title two of this chapter, and the divi-  
29 sion of criminal justice services processing fee imposed pursuant to  
30 subdivision eight-a of section eight hundred thirty-seven of the execu-  
31 tive law and any fee imposed by the federal bureau of investigation. The  
32 division of criminal justice services and the federal bureau of investi-  
33 gation shall forward such criminal history record to the commissioner in  
34 a timely manner. For the purposes of this section, the term "criminal  
35 history record" shall mean a record of all convictions of crimes and any  
36 pending criminal charges maintained on an individual by the division of  
37 criminal justice services and the federal bureau of investigation. All  
38 such criminal history records sent to the commissioner pursuant to this  
39 subdivision shall be confidential pursuant to the applicable federal and  
40 state laws, rules and regulations, and shall not be published or in any  
41 way disclosed to persons other than the commissioner, unless otherwise  
42 authorized by law.

43 S 12. The commissioner of education, in consultation with the depart-  
44 ment of criminal justice, shall conduct a study or studies (1) of the  
45 feasibility and desirability of aligning the fingerprinting process used  
46 for criminal history records checks for employment in school districts  
47 and boards of cooperative educational services and for certification as  
48 a teacher or administrator, to the statewide vendor managed network  
49 administered by the division of criminal justice services, and (2)  
50 establishing a new fingerprinting process using the statewide vendor  
51 managed network administered by the division of criminal justice  
52 services for criminal history records checks for licensed professionals  
53 under title VIII of the education law. The commissioner of education  
54 shall submit a report to the board of regents, the governor and the  
55 legislature by no later than January 15, 2015, with recommendations,  
56 including appropriate actions that would need to be taken to align the

1 existing fingerprinting process and to establish a new fingerprinting  
2 process for licensed professionals under title VIII of the education law  
3 with the statewide system and any estimated costs and/or savings associ-  
4 ated with movement to the statewide system.

5 S 13. The commissioner of education is authorized to promulgate any  
6 and all rules and regulations and take any other measures necessary to  
7 implement the provisions of this act on its effective date on or before  
8 such date.

9 S 14. Section 12 of chapter 147 of the laws of 2001, amending the  
10 education law relating to conditional appointment of school district,  
11 charter school or BOCES employees, as amended by section 32 of part A of  
12 chapter 57 of the laws of 2013, is amended to read as follows:

13 S 12. This act shall take effect on the same date as chapter 180 of  
14 the laws of 2000 takes effect[, and shall expire July 1, 2014 when upon  
15 such date the provisions of this act shall be deemed repealed].

16 S 15. This act shall take effect on the one hundred eightieth day  
17 after it shall have become a law.