

5827--A

2013-2014 Regular Sessions

I N S E N A T E

June 17, 2013

Introduced by Sens. FLANAGAN, BOYLE, DeFRANCISCO, FELDER, HANNON, LANZA, LARKIN, LAVALLE, MARTINS, MAZIARZ, RANZENHOFER, YOUNG, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Rules -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- 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, special education schools, 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; and to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to making permanent certain provisions relating to conditional clearances for employment

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-

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

LBD10119-15-4

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

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

1 (i) inform the prospective employee that the commissioner is required
2 or authorized to request his or her criminal history information from
3 the division of criminal justice services and the federal bureau of
4 investigation and review such information pursuant to this section, and
5 provide a description of the manner in which his or her [fingerprint
6 cards] FINGERPRINTS will be TAKEN AND used upon submission to the divi-
7 sion of criminal justice services;

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

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

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

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

1 a. Shall require, for purposes of a criminal history record check, the
2 fingerprinting of all prospective employees pursuant to section three
3 thousand thirty-five of this chapter, who do not hold valid clearance
4 pursuant to such section or pursuant to section three thousand four-b of
5 this chapter or section five hundred nine-cc or twelve hundred twenty-
6 nine-d of the vehicle and traffic law. Prior to initiating the finger-
7 printing process, the prospective employer shall furnish the applicant
8 with the form described in paragraph (c) of subdivision thirty of
9 section three hundred five of this chapter and shall obtain the appli-
10 cant's consent to the criminal history records search. PROSPECTIVE
11 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
12 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
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15 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
16 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH SHALL BE FINGER-
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18 TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMISSIONER SHALL ESTABLISH
19 MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION VERIFICATION TO BE
20 FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE THE REQUIREMENTS
21 OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER. PRIOR TO INITIATING
22 THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL,
23 A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE
24 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO
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26 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF
27 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND
28 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON
29 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL
30 SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED BY THE COMMISSIONER, ATTESTING
31 THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED
32 THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS
33 CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS
34 SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF
35 SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S
36 EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER. Every set of
37 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 9 of section 1804 of the education
40 law, as amended by chapter 147 of the laws of 2001, is amended to read
41 as follows:

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

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4 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-
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20 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
21 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
22 COMMISSIONER. Every set of fingerprints taken pursuant to this subdivi-
23 sion shall be promptly submitted to the commissioner for purposes of
24 clearance for employment.

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

28 a. Shall require, for purposes of a criminal history record check, the
29 fingerprinting of all prospective employees pursuant to section three
30 thousand thirty-five of this chapter, who do not hold valid clearance
31 pursuant to such section or pursuant to section three thousand four-b of
32 this chapter or section five hundred nine-cc or twelve hundred twenty-
33 nine-d of the vehicle and traffic law. Prior to initiating the finger-
34 printing process, the prospective employer shall furnish the applicant
35 with the form described in paragraph (c) of subdivision thirty of
36 section three hundred five of this chapter and shall obtain the appli-
37 cant's consent to the criminal history records search. PROSPECTIVE
38 EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT PRACTICABLE,
39 SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-
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42 EES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGERPRINTED ELECTRON-
43 ICALLY PURSUANT TO THE REQUIREMENTS OF THIS SUBPARAGRAPH SHALL BE FING-
44 ERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE STATE. IN
45 ADDITION TO THE REQUIREMENTS OF THIS SUBPARAGRAPH, THE COMMISSIONER
46 SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICATION
47 VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL INCLUDE
48 THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMISSIONER.
49 PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF
50 AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATE-
51 MENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S
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5 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. Every set of fingerprints taken pursuant to this paragraph
9 shall be promptly submitted to the commissioner for purposes of clear-
10 ance for employment.

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

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

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

31 a. Shall require, for purposes of a criminal history record check, the
32 fingerprinting of all prospective employees pursuant to section three
33 thousand thirty-five of this chapter, who do not hold valid clearance
34 pursuant to such section or pursuant to section three thousand four-b of
35 this chapter or section five hundred nine-cc or twelve hundred twenty-
36 nine-d of the vehicle and traffic law. Prior to initiating the finger-
37 printing process, the prospective employer shall furnish the applicant
38 with the form described in paragraph (c) of subdivision thirty of
39 section three hundred five of this chapter and shall obtain the appli-
40 cant's consent to the criminal history records search. Every set of
41 fingerprints taken pursuant to this subdivision shall be promptly
42 submitted to the commissioner for purposes of clearance for employment.
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11 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
12 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
13 COMMISSIONER.

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

17 a. Shall require, for purposes of a criminal history record check, the
18 fingerprinting of all prospective employees pursuant to section three
19 thousand thirty-five of this chapter, who do not hold valid clearance
20 pursuant to such section or pursuant to section three thousand four-b of
21 this chapter or section five hundred nine-cc or twelve hundred twenty-
22 nine-d of the vehicle and traffic law. Prior to initiating the finger-
23 printing process, the prospective employer shall furnish the applicant
24 with the form described in paragraph (c) of subdivision thirty of
25 section three hundred five of this chapter and shall obtain the appli-
26 cant's consent to the criminal history records search. Every set of
27 fingerprints taken pursuant to this subdivision shall be promptly
28 submitted to the commissioner for purposes of clearance for employment.
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53 DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE
54 DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE
55 COMMISSIONER.

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

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

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

46 1. Criminal history records search. Upon receipt of an application for
47 certification as a superintendent of schools, teacher, administrator or
48 supervisor, teaching assistant or school personnel required to hold a
49 teaching or administrative license or certificate, the commissioner
50 shall, subject to the rules and regulations of the division of criminal
51 justice services, initiate a criminal history records search of the
52 person making application, except that nothing in this section shall be
53 construed to require a criminal history record check of an individual
54 who holds a valid provisional certificate on the effective date of this
55 section and applies for permanent certification in the same certificate
56 title, or of an individual who applies for a temporary license to serve

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

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

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

28 1. The commissioner shall submit to the division of criminal justice
29 services ONE SET OR WHERE NECESSARY, two sets of fingerprints of
30 prospective employees as defined in subdivision three of section eleven
31 hundred twenty-five of this chapter received from a school district,
32 charter school or board of cooperative educational services and of
33 prospective employees received from nonpublic and private elementary and
34 secondary schools pursuant to title two of this chapter, and the divi-
35 sion of criminal justice services processing fee imposed pursuant to
36 subdivision eight-a of section eight hundred thirty-seven of the execu-
37 tive law and any fee imposed by the federal bureau of investigation. The
38 division of criminal justice services and the federal bureau of investi-
39 gation shall forward such criminal history record to the commissioner in
40 a 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. All
44 such criminal history records sent to the commissioner pursuant to this
45 subdivision shall be confidential pursuant to the applicable federal and
46 state laws, rules and regulations, and shall not be published or in any
47 way disclosed to persons other than the commissioner, unless otherwise
48 authorized by law.

49 S 12. The commissioner of education, in consultation with the depart-
50 ment of criminal justice, shall conduct a study or studies (1) of the
51 feasibility and desirability of aligning the fingerprinting process used
52 for criminal history records checks for employment in school districts
53 and boards of cooperative educational services and for certification as
54 a teacher or administrator, to the statewide vendor managed network
55 administered by the division of criminal justice services, and (2)
56 establishing a new fingerprinting process using the statewide vendor

1 managed network administered by the division of criminal justice
2 services for criminal history records checks for licensed professionals
3 under title VIII of the education law. The commissioner of education
4 shall submit a report to the board of regents, the governor and the
5 legislature by no later than January 15, 2015, with recommendations,
6 including appropriate actions that would need to be taken to align the
7 existing fingerprinting process and to establish a new fingerprinting
8 process for licensed professionals under title VIII of the education law
9 with the statewide system and any estimated costs and/or savings associ-
10 ated with movement to the statewide system.

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

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

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

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