

6816--B

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

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  
12    of prospective employees of nonpublic and private elementary and second-  
13    ary schools, and for the use of information derived from searches of the  
14    records of the division of criminal justice services and the federal

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1 shall be promptly submitted to the commissioner for purposes of clear-  
2 ance for employment.

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

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

20 S 7. Paragraph a of subdivision 18 of section 2503 of the education  
21 law, as amended by chapter 147 of the laws of 2001, is amended to read  
22 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. Every set of  
33 fingerprints taken pursuant to this subdivision shall be promptly  
34 submitted to the commissioner for purposes of clearance for employment.  
35 PROSPECTIVE EMPLOYEES, INCLUDING OUT-OF-STATE APPLICANTS TO THE EXTENT  
36 PRACTICABLE, SHALL BE FINGERPRINTED BY AUTHORIZED PERSONNEL AT DESIG-  
37 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT, USING ELEC-  
38 TRONIC SCANNING TECHNOLOGY APPROVED BY THE DEPARTMENT. OUT-OF-STATE  
39 PROSPECTIVE EMPLOYEES WHO SUBMIT FINGERPRINT CARDS AND ARE NOT FINGER-  
40 PRINTED ELECTRONICALLY PURSUANT TO THE REQUIREMENTS OF THIS PARAGRAPH  
41 SHALL BE FINGERPRINTED ELECTRONICALLY PRIOR TO EMPLOYMENT WITHIN THE  
42 STATE. IN ADDITION TO THE REQUIREMENTS OF THIS PARAGRAPH, THE COMMIS-  
43 SIONER SHALL ESTABLISH MINIMUM STANDARDS AND PROCEDURES FOR IDENTIFICA-  
44 TION VERIFICATION TO BE FOLLOWED AT FINGERPRINTING SITES, WHICH SHALL  
45 INCLUDE THE REQUIREMENTS OF THIS SECTION IN REGULATIONS OF THE COMMIS-  
46 SIONER. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRES-  
47 ENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN  
48 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOY-  
49 EE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH  
50 SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF  
51 BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN  
52 BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
53 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
54 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT, ON A FORM PRESCRIBED  
55 BY THE COMMISSIONER, ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDEN-  
56 TIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGER-

PRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE DEPARTMENT. THESE RECORDS SHALL BE RETAINED AS BUSINESS RECORDS AS DEFINED IN SUBDIVISION TWO OF SECTION 175.00 OF THE PENAL LAW FOR THE DURATION OF THE INDIVIDUAL'S EMPLOYMENT IN A MANNER PRESCRIBED BY THE COMMISSIONER.

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

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

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

(i) The board of trustees of a charter school shall require, for purposes of a criminal history record check, the fingerprinting of all prospective employees pursuant to section three thousand thirty-five of this chapter, who do not hold valid clearance pursuant to such section or pursuant to section three thousand four-b of this chapter or section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and

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

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

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



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

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

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

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

40 S 12. The commissioner of education, in consultation with the depart-  
41 ment of criminal justice, shall conduct a study or studies (1) of the  
42 feasibility and desirability of aligning the fingerprinting process used  
43 for criminal history records checks for employment in school districts  
44 and boards of cooperative educational services and for certification as  
45 a teacher or administrator, to the statewide vendor managed network  
46 administered by the division of criminal justice services, and (2)  
47 establishing a new fingerprinting process using the statewide vendor  
48 managed network administered by the division of criminal justice  
49 services for criminal history records checks for licensed professionals  
50 under title VIII of the education law. The commissioner of education  
51 shall submit a report to the board of regents, the governor and the  
52 legislature by no later than January 15, 2014, with recommendations,  
53 including appropriate actions that would need to be taken to align the  
54 existing fingerprinting process and to establish a new fingerprinting  
55 process for licensed professionals under title VIII of the education law

1 with the statewide system and any estimated costs and/or savings associ-  
2 ated with movement to the statewide system.  
3 S 13. The commissioner of education is authorized to promulgate any  
4 and all rules and regulations and take any other measures necessary to  
5 implement the provisions of this act on its effective date on or before  
6 such date.  
7 S 14. This act shall take effect on the one hundred eightieth day  
8 after it shall have become a law.