

6816--B

2013-2014 Regular Sessions

I N A S S E M B L Y

April 19, 2013

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.

LBD10119-14-3

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;

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

S 2. Paragraph a of subdivision 39 of section 1604 of the education law, as amended by chapter 147 of the laws of 2001, 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. 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. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 3. Paragraph a of subdivision 39 of section 1709 of the education law, as amended by chapter 147 of the laws of 2001, 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

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.