

4492

2013-2014 Regular Sessions

I N   S E N A T E

April 3, 2013

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Introduced by Sens. FLANAGAN, FUSCHILLO -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the fingerprinting of applicants as school district employees

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

1     Section 1. Paragraph (a) of subdivision 30 of section 305 of the  
2 education law, as amended by chapter 630 of the laws of 2006, is amended  
3 to read as follows:  
4     (a) The commissioner, in cooperation with the division of criminal  
5 justice services and in accordance with all applicable provisions of  
6 law, shall promulgate rules and regulations to require the fingerprint-  
7 ing of prospective employees, as defined in section eleven hundred twen-  
8 ty-five of this chapter, of school districts, charter schools and boards  
9 of cooperative educational services and authorizing the fingerprinting  
10 of prospective employees of nonpublic and private elementary and second-  
11 ary schools, and for the use of information derived from searches of the  
12 records of the division of criminal justice services and the federal  
13 bureau of investigation based on the use of such fingerprints. The  
14 commissioner shall also develop a form for use by school districts,  
15 charter schools, boards of cooperative educational services, and nonpub-  
16 lic and private elementary and secondary schools in connection with the  
17 submission of fingerprints that contains the specific job title sought  
18 and any other information that may be relevant to consideration of the  
19 applicant. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRON-  
20 IC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGER-  
21 PRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE  
22 FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, A  
23 PROSPECTIVE EMPLOYEE SHALL SIGN A SWORN STATEMENT PREPARED BY THE  
24 DEPARTMENT VERIFYING THE PROSPECTIVE EMPLOYEE'S IDENTITY AND PRESENT TWO  
25 FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT

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

LBD10119-01-3

1 ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF  
2 THE PROSPECTIVE EMPLOYEE SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
3 AFFIXED TO THE PROSPECTIVE EMPLOYEE'S SIGNED, SWORN STATEMENT. UPON  
4 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL  
5 SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE  
6 VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND  
7 PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES  
8 AND REGULATIONS OF THE DEPARTMENT. The commissioner shall also establish  
9 a form for the recordation of allegations of child abuse in an educa-  
10 tional setting, as required pursuant to section eleven hundred twenty-  
11 six of this chapter. No person who has been fingerprinted pursuant to  
12 section three thousand four-b of this chapter or pursuant to section  
13 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and  
14 traffic law and whose fingerprints remain on file with the division of  
15 criminal justice services shall be required to undergo fingerprinting  
16 for purposes of a new criminal history record check. This subdivision  
17 and the rules and regulations promulgated pursuant thereto shall not  
18 apply to a school district within a city with a population of one  
19 million or more.

20 S 2. Subparagraph (i) of paragraph (b) of subdivision 30 of section  
21 305 of the education law, as amended by chapter 630 of the laws of 2006,  
22 is amended to read as follows:

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

30 S 3. Paragraph a of subdivision 39 of section 1604 of the education  
31 law, as amended by chapter 147 of the laws of 2001, is amended to read  
32 as follows:

33 a. Shall require, for purposes of a criminal history record check, the  
34 fingerprinting of all prospective employees pursuant to section three  
35 thousand thirty-five of this chapter, who do not hold valid clearance  
36 pursuant to such section or pursuant to section three thousand four-b of  
37 this chapter or section five hundred nine-cc or twelve hundred twenty-  
38 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
39 printing process, the prospective employer shall furnish the applicant  
40 with the form described in paragraph (c) of subdivision thirty of  
41 section three hundred five of this chapter and shall obtain the appli-  
42 cant's consent to the criminal history records search. PROSPECTIVE  
43 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY  
44 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY  
45 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN  
46 THE PRESENCE OF AUTHORIZED PERSONNEL, A PROSPECTIVE EMPLOYEE SHALL SIGN  
47 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE PROSPECTIVE  
48 EMPLOYEE'S IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF  
49 WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPA-  
50 BLE OF BEING VERIFIED. A PHOTOGRAPH OF THE PROSPECTIVE EMPLOYEE SHALL BE  
51 TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE PROSPECTIVE EMPLOYEE'S  
52 SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS,  
53 THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPART-  
54 MENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFICATION  
55 PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS IN  
56 ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE

DEPARTMENT. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 4. 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 section three hundred five of this chapter and shall obtain the applicant's consent to the criminal history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'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 APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT 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. Every set of fingerprints taken pursuant to this subdivision shall be promptly submitted to the commissioner for purposes of clearance for employment.

S 5. Paragraph a of subdivision 9 of section 1804 of the education law, as amended by chapter 147 of the laws of 2001, is amended to read as follows:

a. The board of education shall, for purposes of a criminal history record check, require 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 SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'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 APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR

1 SHE VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE  
2 AND PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE  
3 RULES AND REGULATIONS OF THE DEPARTMENT. Every set of fingerprints taken  
4 pursuant to this subdivision shall be promptly submitted to the commis-  
5 sioner for purposes of clearance for employment.

6 S 6. Subparagraph a of paragraph 11 of subdivision 4 of section 1950  
7 of the education law, as amended by chapter 147 of the laws of 2001, is  
8 amended to read as follows:

9 a. Shall require, for purposes of a criminal history record check, the  
10 fingerprinting of all prospective employees pursuant to section three  
11 thousand thirty-five of this chapter, who do not hold valid clearance  
12 pursuant to such section or pursuant to section three thousand four-b of  
13 this chapter or section five hundred nine-cc or twelve hundred twenty-  
14 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
15 printing process, the prospective employer shall furnish the applicant  
16 with the form described in paragraph (c) of subdivision thirty of  
17 section three hundred five of this chapter and shall obtain the appli-  
18 cant's consent to the criminal history records search. PROSPECTIVE  
19 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY  
20 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY  
21 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN  
22 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN  
23 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY  
24 AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFI-  
25 CIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A  
26 PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
27 AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF  
28 THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFI-  
29 DAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE  
30 PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED  
31 THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGU-  
32 LATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to  
33 this paragraph shall be promptly submitted to the commissioner for  
34 purposes of clearance for employment.

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

38 a. Shall require, for purposes of a criminal history record check, the  
39 fingerprinting of all prospective employees pursuant to section three  
40 thousand thirty-five of this chapter, who do not hold valid clearance  
41 pursuant to such section or pursuant to section three thousand four-b of  
42 this chapter or section five hundred nine-cc or twelve hundred twenty-  
43 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
44 printing process, the prospective employer shall furnish the applicant  
45 with the form described in paragraph (c) of subdivision thirty of  
46 section three hundred five of this chapter and shall obtain the appli-  
47 cant's consent to the criminal history records search. PROSPECTIVE  
48 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY  
49 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY  
50 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN  
51 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN  
52 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY  
53 AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFI-  
54 CIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A  
55 PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
56 AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF

1 THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFI-  
2 DAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE  
3 PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED  
4 THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGU-  
5 LATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to  
6 this subdivision shall be promptly submitted to the commissioner for  
7 purposes of clearance for employment.

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

11 a. Shall require, for purposes of a criminal history record check, the  
12 fingerprinting of all prospective employees pursuant to section three  
13 thousand thirty-five of this chapter, who do not hold valid clearance  
14 pursuant to such section or pursuant to section three thousand four-b of  
15 this chapter or section five hundred nine-cc or twelve hundred twenty-  
16 nine-d of the vehicle and traffic law. Prior to initiating the finger-  
17 printing process, the prospective employer shall furnish the applicant  
18 with the form described in paragraph (c) of subdivision thirty of  
19 section three hundred five of this chapter and shall obtain the appli-  
20 cant's consent to the criminal history records search. PROSPECTIVE  
21 EMPLOYEES SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING TECHNOLOGY BY  
22 AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES APPROVED BY  
23 THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROCESS AND IN  
24 THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN A SWORN  
25 STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY  
26 AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFI-  
27 CIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A  
28 PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND  
29 AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF  
30 THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFI-  
31 DAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE  
32 PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED  
33 THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGU-  
34 LATIONS OF THE DEPARTMENT. Every set of fingerprints taken pursuant to  
35 this subdivision shall be promptly submitted to the commissioner for  
36 purposes of clearance for employment.

37 S 9. Subparagraph (i) of paragraph (a-2) of subdivision 3 of section  
38 2854 of the education law, as amended by chapter 147 of the laws of  
39 2001, is amended to read as follows:

40 (i) The board of trustees of a charter school shall require, for  
41 purposes of a criminal history record check, the fingerprinting of all  
42 prospective employees pursuant to section three thousand thirty-five of  
43 this chapter, who do not hold valid clearance pursuant to such section  
44 or pursuant to section three thousand four-b of this chapter or section  
45 five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and  
46 traffic law. Prior to initiating the fingerprinting process, the  
47 prospective employer shall furnish the applicant with the form described  
48 in paragraph (c) of subdivision thirty of section three hundred five of  
49 this chapter and shall obtain the applicant's consent to the criminal  
50 history records search. PROSPECTIVE EMPLOYEES SHALL BE FINGERPRINTED  
51 USING ELECTRONIC SCANNING TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIG-  
52 NATED FINGERPRINTING ENTITIES APPROVED BY THE DEPARTMENT. PRIOR TO  
53 INITIATING THE FINGERPRINTING PROCESS AND IN THE PRESENCE OF AUTHORIZED  
54 PERSONNEL, AN APPLICANT SHALL SIGN A SWORN STATEMENT PREPARED BY THE  
55 DEPARTMENT VERIFYING THE APPLICANT'S IDENTITY AND PRESENT TWO FORMS OF  
56 IDENTIFICATION, ONE OF WHICH SHALL BE AN OFFICIAL GOVERNMENT ISSUED

1 PHOTO IDENTIFICATION CAPABLE OF BEING VERIFIED. A PHOTOGRAPH OF THE  
2 APPLICANT SHALL BE TAKEN BY AUTHORIZED PERSONNEL AND AFFIXED TO THE  
3 APPLICANT'S SIGNED, SWORN STATEMENT. UPON COMPLETION OF THE FINGERPRINT-  
4 ING PROCESS, THE AUTHORIZED PERSONNEL SHALL SIGN AN AFFIDAVIT PREPARED  
5 BY THE DEPARTMENT ATTESTING THAT HE OR SHE VERIFIED THE PHOTO IDENTIFI-  
6 CATION PRESENTED, WITNESSED THE SIGNATURE AND PROCESSED THE FINGERPRINTS  
7 IN ACCORDANCE WITH THIS CHAPTER AND THE RULES AND REGULATIONS OF THE  
8 DEPARTMENT. 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 10. Subdivision 1 of section 3004-b of the education law, as sepa-  
12 rately amended by chapters 147 and 380 of the laws of 2001, is amended  
13 to read as follows:

14 1. Criminal history records search. Upon receipt of an application for  
15 certification as a superintendent of schools, teacher, administrator or  
16 supervisor, teaching assistant or school personnel required to hold a  
17 teaching or administrative license or certificate, the commissioner  
18 shall, subject to the rules and regulations of the division of criminal  
19 justice services, initiate a criminal history records search of the  
20 person making application, except that nothing in this section shall be  
21 construed to require a criminal history record check of an individual  
22 who holds a valid provisional certificate on the effective date of this  
23 section and applies for permanent certification in the same certificate  
24 title, or of an individual who applies for a temporary license to serve  
25 in the city school district of the city of New York and has been cleared  
26 for licensure and/or employment by such city school district pursuant to  
27 subdivision twenty of section twenty-five hundred ninety-h of this chap-  
28 ter. Prior to initiating the fingerprinting process, the commissioner  
29 shall furnish the applicant with the form described in paragraph (c) of  
30 subdivision thirty of section three hundred five of this chapter and  
31 shall obtain the applicant's consent to the criminal history records  
32 search. APPLICANTS SHALL BE FINGERPRINTED USING ELECTRONIC SCANNING  
33 TECHNOLOGY BY AUTHORIZED PERSONNEL AT DESIGNATED FINGERPRINTING ENTITIES  
34 APPROVED BY THE DEPARTMENT. PRIOR TO INITIATING THE FINGERPRINTING PROC-  
35 ESS AND IN THE PRESENCE OF AUTHORIZED PERSONNEL, AN APPLICANT SHALL SIGN  
36 A SWORN STATEMENT PREPARED BY THE DEPARTMENT VERIFYING THE APPLICANT'S  
37 IDENTITY AND PRESENT TWO FORMS OF IDENTIFICATION, ONE OF WHICH SHALL BE  
38 AN OFFICIAL GOVERNMENT ISSUED PHOTO IDENTIFICATION CAPABLE OF BEING  
39 VERIFIED. A PHOTOGRAPH OF THE APPLICANT SHALL BE TAKEN BY AUTHORIZED  
40 PERSONNEL AND AFFIXED TO THE APPLICANT'S SIGNED, SWORN STATEMENT. UPON  
41 COMPLETION OF THE FINGERPRINTING PROCESS, THE AUTHORIZED PERSONNEL SHALL  
42 SIGN AN AFFIDAVIT PREPARED BY THE DEPARTMENT ATTESTING THAT HE OR SHE  
43 VERIFIED THE PHOTO IDENTIFICATION PRESENTED, WITNESSED THE SIGNATURE AND  
44 PROCESSED THE FINGERPRINTS IN ACCORDANCE WITH THIS CHAPTER AND THE RULES  
45 AND REGULATIONS OF THE DEPARTMENT. The commissioner shall obtain from  
46 each applicant two sets of fingerprints and the division of criminal  
47 justice services processing fee imposed pursuant to subdivision eight-a  
48 of section eight hundred thirty-seven of the executive law and any fee  
49 imposed by the federal bureau of investigation. The commissioner shall  
50 promptly transmit such fingerprints and fees to the division of criminal  
51 justice services for its full search and retain processing. The division  
52 of criminal justice services is authorized to submit the fingerprints  
53 and the appropriate fee to the federal bureau of investigation for a  
54 national criminal history record check. The division of criminal justice  
55 services and the federal bureau of investigation shall forward such  
56 criminal history record to the commissioner in a timely manner. For the

1 purposes of this section the term "criminal history record" shall mean a  
2 record of all convictions of crimes and any pending criminal charges  
3 maintained on an individual by the division of criminal justice services  
4 and the federal bureau of investigation. In addition, upon request from  
5 an applicant who has applied for employment with the city school  
6 district of the city of New York, the commissioner shall have the  
7 authority to forward a copy of such criminal history record to the city  
8 school district of the city of New York by the most expeditious means  
9 available. Furthermore, upon notification that such applicant is  
10 employed by the city school district of the city of New York, the divi-  
11 sion of criminal justice services shall have the authority to provide  
12 subsequent criminal history notifications directly to the city school  
13 district of the city of New York. Upon request from an applicant who has  
14 already been cleared for licensure and/or employment by the city school  
15 district of the city of New York, such school district shall have the  
16 authority to forward a copy of the applicant's criminal history record  
17 to the commissioner, by the most expeditious means available, for the  
18 purposes of this section. Furthermore, upon notification that such  
19 applicant has been certified, the division of criminal justice services  
20 shall have the authority to provide subsequent criminal history notifi-  
21 cations directly to the commissioner. All such criminal history records  
22 processed and sent pursuant to this subdivision shall be confidential  
23 pursuant to the applicable federal and state laws, rules and regu-  
24 lations, and shall not be published or in any way disclosed to persons  
25 other than the commissioner, unless otherwise authorized by law. No  
26 cause of action against the department or the division of criminal  
27 justice services for damages related to the dissemination of criminal  
28 history records pursuant to this subdivision shall exist when the  
29 department or division of criminal justice services has reasonably and  
30 in good faith relied upon the accuracy and completeness of criminal  
31 history information furnished to it by qualified agencies. The provision  
32 of such criminal history record by the division of criminal justice  
33 services shall be subject to the provisions of subdivision sixteen of  
34 section two hundred ninety-six of the executive law. The commissioner  
35 shall consider such criminal history record pursuant to article twenty-  
36 three-A of the correction law.

37 S 11. This act shall take effect immediately; provided, however, that  
38 the amendments made to subdivision 39 of section 1604 of the education  
39 law by section three of this act, subdivision 39 of section 1709 of the  
40 education law by section four of this act, subdivision 9 of section 1804  
41 of the education law by section five of this act, paragraph 11 of subdi-  
42 vision 4 of section 1950 of the education law by section six of this  
43 act, subdivision 18 of section 2503 of the education law by section  
44 seven of this act, subdivision 25 of section 2554 of the education law  
45 by section eight of this act, paragraph (a-2) of subdivision 3 of  
46 section 2854 of the education law by section nine of this act, and  
47 subdivision 1 of section 3004-b of the education law by section ten of  
48 this act, shall not affect the expirations of such paragraphs or subdi-  
49 visions and shall expire and be deemed repealed therewith.