STATE OF NEW YORK

8902

2025-2026 Regular Sessions

IN ASSEMBLY

June 16, 2025

Introduced by M. of A. ROSENTHAL -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to background checks and fingerprinting; and to amend the social services law, in relation to statewide central registry clearances by providers of contract services to covered schools

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 3 of section 1125 of the education law, as amended by chapter 363 of the laws of 2018, is amended to read as follows:

3. "Employee" shall mean any person: (i) who is receiving compensation from a school or (ii) whose duties involve direct student contact and (a) who is receiving compensation from any person or entity that contracts with a school to provide transportation services to children, or (b) who is an employee of a contracted service provider or worker placed within the school under a public assistance employment program, pursuant to title nine-B of article five of the social services law, **or (c) who is receiving compensation from any person or entity that contracts with a school to provide student support services,** and consistent with the provisions of such title for the provision of services to such school, its students or employees, directly or through contract.

§ 2. Paragraph (a-2) of subdivision 3 of section 2854 of the education law is amended by adding a new subparagraph (v) to read as follows:

(v) (1) Notwithstanding anything to the contrary in this section, if a school district, charter school, board of cooperative educational services, or non-public and private elementary or secondary school has engaged a contracted service provider of student support services, they may opt to allow the contracted service provider to oversee the fingerprinting process of the contracted service provider's employees.

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

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(2) Any school district, charter school, board of cooperative educational services, or non-public and private elementary or secondary school that opts in shall not be required to oversee the fingerprinting process for employees of a contracted service provider of student support services such as, but not limited to, substitute teachers, substitute teacher aides, substitute nurses, educational consultants, tutors, substitute school administrative support and other temporary student services professionals, so long as they have engaged a contracted service provider of student support services who has complied with the fingerprinting requirements elsewhere in this chapter.

§ 3. Paragraph (a) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(a) The commissioner, in cooperation with the division of criminal justice services and in accordance with all applicable provisions of law, shall promulgate rules and regulations to require the fingerprinting of prospective employees, as defined in section eleven hundred twenty-five of this chapter, of school districts, charter schools [~~and~~], boards of cooperative educational services **and providers of contract services to covered schools as such term is defined by 8 NYCRR 87.2(e)** and authorizing the fingerprinting of prospective employees of nonpublic and private elementary and secondary schools, and for the use of information derived from searches of the records of the division of criminal justice services and the federal bureau of investigation based on the use of such fingerprints. The commissioner shall also develop a form for use by school districts, charter schools, boards of cooperative educational services, **providers of contract services,** and nonpublic and private elementary and secondary schools in connection with the submission of fingerprints that contains the specific job title sought and any other information that may be relevant to consideration of the applicant. The commissioner shall also establish a form for the recordation of allegations of child abuse in an educational setting, as required pursuant to section eleven hundred twenty-six of this chapter. No person who has been fingerprinted pursuant to section three thousand four-b of this chapter or pursuant to section five hundred nine-cc or twelve hundred twenty-nine-d of the vehicle and traffic law and whose fingerprints remain on file with the division of criminal justice services shall be required to undergo fingerprinting for purposes of a new criminal history record check. This subdivision and the rules and regulations promulgated pursuant thereto shall not apply to a school district within a city with a population of one million or more.

§ 4. Paragraph (d) of subdivision 30 of section 305 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

(d) The commissioner shall develop forms to be provided to all school districts, charter schools, boards of cooperative educational services, **providers of contracted services** and to all nonpublic and private elementary and secondary schools that elect to fingerprint their prospective employees, to be completed and signed by prospective employees when conditional appointment or emergency conditional appointment is offered.

§ 5. Subdivision 1 of section 3035 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

1. The commissioner shall submit to the division of criminal justice services two sets of fingerprints of prospective employees as defined in subdivision three of section eleven hundred twenty-five of this chapter

received from a school district, charter school or board of cooperative educational services**, providers of contract services** and of prospective employees received from nonpublic and private elementary and secondary schools pursuant to title two of this chapter, and the division of criminal justice services processing fee imposed pursuant to subdivision eight-a of section eight hundred thirty-seven of the executive law and any fee imposed by the federal bureau of investigation. The division of criminal justice services and the federal bureau of investigation shall forward such criminal history record to the commissioner in a timely manner. For the purposes of this section, the term "criminal history record" shall mean a record of all convictions of crimes and any pending criminal charges maintained on an individual by the division of criminal justice services and the federal bureau of investigation. All such criminal history records sent to the commissioner pursuant to this subdivision shall be confidential pursuant to the applicable federal and state laws, rules and regulations, and shall not be published or in any way disclosed to persons other than the commissioner, unless otherwise authorized by law.

§ 6. Subdivision 3 of section 3035 of the education law, as amended by chapter 630 of the laws of 2006, is amended to read as follows:

3. (a) Clearance. **(i)** After receipt of a criminal history record from the division of criminal justice services and the federal bureau of investigation the commissioner shall promptly notify the appropriate school district, charter school, board of cooperative educational services, **providers of contract services** or nonpublic or private elementary or secondary school whether the prospective employee to which such report relates is cleared for employment based upon [~~his or her~~] criminal history. All determinations to grant or deny clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law. When the commissioner denies a prospective employee clearance for employment, such prospective employee shall be afforded notice and the right to be heard and offer proof in opposition to such determination in accordance with the regulations of the commissioner.

(ii) The commissioner shall promptly notify school district, charter schools, boards of cooperative educational services, and providers of contract services of any subsequent changes in clearance status, and such entities shall be provided access to the department's secure electronic system in which fingerprinting and background clearance records are maintained in order to verify the clearance status of prospective and current employees as needed.

(b) Conditional clearance. When the commissioner receives a request for a determination on the conditional clearance of a prospective employee, the commissioner, after receipt of a criminal history record from the division of criminal justice services, shall promptly notify the prospective employee and the appropriate school district, charter school, board of cooperative educational services, **providers of contracted services** or nonpublic or private elementary or secondary school that the prospective employee to which such report relates is conditionally cleared for employment based upon [~~his or her~~] criminal history or that more time is needed to make the determination. If the commissioner determines that more time is needed, the notification shall include a good faith estimate of the amount of additional time needed. Such notification shall be made within fifteen business days after the commissioner receives the prospective employee's fingerprints. All

determinations to grant or deny conditional clearance for employment pursuant to this paragraph shall be performed in accordance with subdivision sixteen of section two hundred ninety-six of the executive law and article twenty-three-A of the correction law.

(c) Notwithstanding any provision of law to the contrary, a covered school, as defined by 8 NYCRR 87.2(e), that utilizes temporary staff from a provider of contract services may accept the written confirmation of such provider of contract services as evidence that such temporary staff have satisfied the fingerprinting and background check requirements required by applicable law. In such instances, the covered school shall not be required to separately initiate the fingerprinting and background check process for such temporary staff.

§ 7. Subdivision 3 of section 424-a of the social services law, as amended by chapter 611 of the laws of 2022, is amended to read as follows:

3. For purposes of this section, the term "provider" or "provider agency" shall mean: an authorized agency; the office of children and family services; a private, nonprofit incorporated agency that meets the state office of children and family services program standards for child advocacy centers; juvenile detention facilities subject to the certification of the office of children and family services; programs established pursuant to article nineteen-H of the executive law; non-residential or residential programs or facilities licensed or operated by the office of mental health or the office for people with developmental disabilities except family care homes; including head start programs which are funded pursuant to title V of the federal economic opportunity act of nineteen hundred sixty-four, as amended; early intervention service established pursuant to section twenty-five hundred forty of the public health law; preschool services established pursuant to section forty-four hundred ten of the education law; **providers of contracted services to covered schools as defined by 8 NYCRR 87.2(e);** special act school districts as enumerated in chapter five hundred sixty-six of the laws of nineteen hundred sixty-seven, as amended; programs and facilities licensed by the office of [~~**alcoholism and substance abuse**~~] **addiction** services **and supports**; residential schools which are operated, supervised or approved by the education department; health homes, or any subcontractor of such health homes, who contracts with or is approved or otherwise authorized by the department of health to provide health home services to all those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law and enrollees who are under twenty-one years of age under section three hundred sixty-five-l of this chapter, or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act; publicly-funded emergency shelters for families with children, provided, however, for purposes of this section, when the provider or provider agency is a publicly-funded emergency shelter for families with children, then all references in this section to the "potential for regular and substantial contact with individuals who are cared for by the agency" shall mean the potential for regular and substantial contact with children who are served by such shelter; and any other facility or provider agency, as defined in subdivision four of section four hundred eighty-eight of this chapter, in regard to the employment of staff, or use of providers of goods and services and staff of such providers, consultants, interns and volunteers.

§ 8. Paragraph (a) of subdivision 2 of section 390-a of the social services law, as amended by chapter 416 of the laws of 2000, is amended to read as follows:

(a) review and evaluate the backgrounds of and information supplied by any person applying to be a child day care center or school-age child care program employee or volunteer or group family day care assistant, a provider of family day care or group family day care, or a director of a child day care center, head start day care center or school-age child care program. Such procedures shall include but not be limited to the following requirements: that the applicant set forth [~~his or her~~] **such applicant's** employment history, provide personal and employment references; submit such information as is required for screening with the statewide central register of child abuse and maltreatment in accordance with the provisions of section four hundred twenty-four-a of this article; sign a sworn statement indicating whether, to the best of [~~his or her~~] **such applicant's** knowledge, [~~he or she~~] **such applicant** has ever been convicted of a crime in this state or any other jurisdiction; and provide [~~his or her~~] **such applicant's** fingerprints for submission to the division of criminal justice services in accordance with the provisions of section three hundred ninety-b of this title**. Notwithstanding the provisions of this paragraph, where a program has people working on their premises through a contracted service provider of student support services as defined in subdivision eleven of section eleven hundred twenty-five of the education law, and such contracted services provider of student support services has reviewed clearance statuses as a provider or provider agency under section four hundred twenty-four-a of this chapter, then such program does not need to run the check itself on the contracted service provider employees working on their site**;

§ 9. This act shall take effect immediately.