

STATE OF NEW YORK

2123

2025-2026 Regular Sessions

IN SENATE

January 15, 2025

Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when printed to be committed to the Committee on Children and Families

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 construction contractors

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

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

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

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

18 (a) The commissioner, in cooperation with the division of criminal
19 justice services and in accordance with all applicable provisions of
20 law, shall promulgate rules and regulations to require the fingerprint-
21 ing of prospective employees, as defined in section eleven hundred twen-
22 ty-five of this chapter, of school districts, charter schools ~~[and]~~,
23 boards of cooperative educational services, and construction contractors
24 and authorizing the fingerprinting of prospective employees of nonpublic

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

LBD03083-01-5

1 and private elementary and secondary schools, and for the use of infor-
2 mation derived from searches of the records of the division of criminal
3 justice services and the federal bureau of investigation based on the
4 use of such fingerprints. The commissioner shall also develop a form for
5 use by school districts, charter schools, boards of cooperative educa-
6 tional services, construction contractors, and nonpublic and private
7 elementary and secondary schools in connection with the submission of
8 fingerprints that contains the specific job title sought or the
9 construction or maintenance project on which the individual will be
10 working, and any other information that may be relevant to consideration
11 of the applicant. The commissioner shall also create or expand the
12 functionality of internet based systems to provide access to
13 construction contractors upon application of the construction contractor
14 to the commissioner to enable them to be able to review fingerprint
15 results and subsequent arrest notifications based on the fingerprint and
16 background check data by logging into a protected web portal, entering
17 in the employee name and social security number, which would provide
18 access to see the fingerprint results. The commissioner shall also
19 establish a form for the recordation of allegations of child abuse in an
20 educational setting, as required pursuant to section eleven hundred
21 twenty-six of this chapter. No person who has been fingerprinted pursu-
22 ant to section three thousand four-b of this chapter or pursuant to
23 section five hundred nine-cc or twelve hundred twenty-nine-d of the
24 vehicle and traffic law and whose fingerprints remain on file with the
25 division of criminal justice services shall be required to undergo fing-
26 erprinting for purposes of a new criminal history record check. This
27 subdivision and the rules and regulations promulgated pursuant thereto
28 shall not apply to a school district within a city with a population of
29 one million or more.

30 § 3. The opening paragraph of paragraph (b) of subdivision 30 of
31 section 305 of the education law, as amended by chapter 630 of the laws
32 of 2006, is amended to read as follows:

33 The commissioner, in cooperation with the division of criminal justice
34 services, shall promulgate a form to be provided to all such prospective
35 employees of school districts, charter schools, boards of cooperative
36 educational services, construction contractors and nonpublic and private
37 elementary and secondary schools that elect to fingerprint and seek
38 clearance for prospective employees that shall:

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

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

48 § 5. Subdivision 31 of section 305 of the education law, as added by
49 chapter 380 of the laws of 2001, is amended to read as follows:

50 31. The commissioner shall direct that each school district, charter
51 school, ~~[and]~~ private elementary and secondary school, and construction
52 contractor appoint a designated educational official for the purposes
53 set forth in section 380.90 of the criminal procedure law, subdivision
54 seventeen of section 301.2 and subdivision three of section 380.1 of the
55 family court act. In addition, the commissioner shall promulgate rules
56 and regulations, in consultation with the office of court adminis-

1 tration, to facilitate electronic access by the courts to the names and
2 addresses of such designated educational officials.

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

5 1. ~~[The]~~ Prior to the awarding of a contract to perform services, the
6 commissioner shall submit to the division of criminal justice services
7 two sets of fingerprints of prospective employees as defined in subdivi-
8 sion three of section eleven hundred twenty-five of this chapter
9 received from a school district, charter school or board of cooperative
10 educational services, construction contractors and of prospective
11 employees received from nonpublic and private elementary and secondary
12 schools pursuant to title two of this chapter, and the division of crim-
13 inal justice services processing fee imposed pursuant to subdivision
14 eight-a of section eight hundred thirty-seven of the executive law and
15 any fee imposed by the federal bureau of investigation. The division of
16 criminal justice services and the federal bureau of investigation shall
17 forward such criminal history record to the commissioner in a timely
18 manner. For the purposes of this section, the term "criminal history
19 record" shall mean a record of all convictions of crimes and any pending
20 criminal charges maintained on an individual by the division of criminal
21 justice services and the federal bureau of investigation. All such crim-
22 inal history records sent to the commissioner pursuant to this subdivi-
23 sion shall be confidential pursuant to the applicable federal and state
24 laws, rules and regulations, and shall not be published or in any way
25 disclosed to persons other than the commissioner, unless otherwise
26 authorized by law.

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

29 3. (a) Clearance. (i) After receipt of a criminal history record from
30 the division of criminal justice services and the federal bureau of
31 investigation the commissioner shall promptly notify the appropriate
32 school district, charter school, board of cooperative educational
33 services, construction contractors or nonpublic or private elementary or
34 secondary school whether the prospective employee to which such report
35 relates is cleared for employment or for access to the proposed project
36 to perform construction and/or maintenance work based upon ~~[his or her]~~
37 such prospective employee's criminal history. All determinations to
38 grant or deny clearance for employment pursuant to this paragraph shall
39 be performed in accordance with subdivision sixteen of section two
40 hundred ninety-six of the executive law and article twenty-three-A of
41 the correction law. When the commissioner denies a prospective employee
42 clearance for employment, such prospective employee shall be afforded
43 notice and the right to be heard and offer proof in opposition to such
44 determination in accordance with the regulations of the commissioner.

45 (ii) Notwithstanding any other provisions of law to the contrary,
46 information regarding the results of the investigation of current or
47 prospective employees of construction contractors and subsequent changes
48 in status related to such employees shall be transmitted via an inter-
49 net-based system made available to construction contractors upon appli-
50 cation of the construction contractor to the commissioner where, by
51 logging into a protected web portal and entering in the employee name
52 and social security number, and construction contractors would be able
53 to access fingerprint results, whether the employee first completed a
54 form provided to them by the construction contractors, or received a
55 form previously from a school district, charter school or board of coop-
56 erative educational services. Nothing in this section shall require an

employee who has already submitted their fingerprints to the commissioner to have to submit them again, so long as they were not destroyed.

(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, construction contractors or nonpublic or private elementary or secondary school that the prospective employee to which such report relates is conditionally cleared for employment or work on a construction or maintenance project based upon ~~[his or her]~~ such prospective employee's 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.

§ 8. Section 1125 of the education law is amended by adding a new subdivision 11 to read as follows:

11. "Construction contractor" shall mean any individual or entity seeking permission either through a bid or otherwise to perform construction and/or maintenance work on facilities occupied at any point by students of the school district, charter school, board of cooperative educational services, or nonpublic school.

§ 9. 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; construction contractors as defined in subdivision eleven of section eleven hundred twenty-five of the education law; 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

1 twenty-two of section 1.03 of the mental hygiene law and enrollees who
2 are under twenty-one years of age under section three hundred sixty-
3 five-l of this chapter, or any entity that provides home and community
4 based services to enrollees who are under twenty-one years of age under
5 a demonstration program pursuant to section eleven hundred fifteen of
6 the federal social security act; publicly-funded emergency shelters for
7 families with children, provided, however, for purposes of this section,
8 when the provider or provider agency is a publicly-funded emergency
9 shelter for families with children, then all references in this section
10 to the "potential for regular and substantial contact with individuals
11 who are cared for by the agency" shall mean the potential for regular
12 and substantial contact with children who are served by such shelter;
13 and any other facility or provider agency, as defined in subdivision
14 four of section four hundred eighty-eight of this chapter, in regard to
15 the employment of staff, or use of providers of goods and services and
16 staff of such providers, consultants, interns and volunteers.

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

20 (a) review and evaluate the backgrounds of and information supplied by
21 any person applying to be a child day care center or school-age child
22 care program employee or volunteer or group family day care assistant, a
23 provider of family day care or group family day care, or a director of a
24 child day care center, head start day care center or school-age child
25 care program or a construction contractor, or a construction contrac-
26 tor's employee who services any of these entities. Such procedures shall
27 include but not be limited to the following requirements: that the
28 applicant set forth ~~[his or her]~~ such applicant's employment history,
29 provide personal and employment references; submit such information as
30 is required for screening with the statewide central register of child
31 abuse and maltreatment in accordance with the provisions of section four
32 hundred twenty-four-a of this article; sign a sworn statement indicating
33 whether, to the best of ~~[his or her]~~ their knowledge, ~~[he or she has]~~
34 have ever been convicted of a crime in this state or any other jurisdic-
35 tion; and provide ~~[his or her]~~ fingerprints for submission to the divi-
36 sion of criminal justice services in accordance with the provisions of
37 section three hundred ninety-b of this title. Notwithstanding the
38 provisions of this paragraph, where a program has people working on
39 their premises through a construction contractor as defined in subdivi-
40 sion eleven of section eleven hundred twenty-five of the education law
41 and such construction contractor has properly performed checks on its
42 employees as a provider or provider agency under section four hundred
43 twenty-four-a of this chapter, then such program does not need to run
44 the check itself on the construction contractor employees working on
45 their site;

46 § 11. This act shall take effect immediately; provided however that
47 the amendments to section 1125 of the education law made by section one
48 of this act shall take effect on the same date and in the same manner as
49 chapter 363 of the laws of 2018, takes effect.