

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:

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 person or entity that
12 contracts with a school to provide student support services, and
13 consistent with the provisions of such title for the provision of
14 services to such school, its students or employees, directly or through
15 contract.

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

18 (v) (1) Notwithstanding anything to the contrary in this section, if a
19 school district, charter school, board of cooperative educational
20 services, or non-public and private elementary or secondary school has
21 engaged a contracted service provider of student support services, they
22 may opt to allow the contracted service provider to oversee the finger-
23 printing 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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1 (2) Any school district, charter school, board of cooperative educa-
2 tional services, or non-public and private elementary or secondary
3 school that opts in shall not be required to oversee the fingerprinting
4 process for employees of a contracted service provider of student
5 support services such as, but not limited to, substitute teachers,
6 substitute teacher aides, substitute nurses, educational consultants,
7 tutors, substitute school administrative support and other temporary
8 student services professionals, so long as they have engaged a
9 contracted service provider of student support services who has complied
10 with the fingerprinting requirements elsewhere in this chapter.

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

14 (a) The commissioner, in cooperation with the division of criminal
15 justice services and in accordance with all applicable provisions of
16 law, shall promulgate rules and regulations to require the fingerprint-
17 ing of prospective employees, as defined in section eleven hundred twen-
18 ty-five of this chapter, of school districts, charter schools [~~and~~],
19 boards of cooperative educational services and providers of contract
20 services to covered schools as such term is defined by 8 NYCRR 87.2(e)
21 and authorizing the fingerprinting of prospective employees of nonpublic
22 and private elementary and secondary schools, and for the use of infor-
23 mation derived from searches of the records of the division of criminal
24 justice services and the federal bureau of investigation based on the
25 use of such fingerprints. The commissioner shall also develop a form for
26 use by school districts, charter schools, boards of cooperative educa-
27 tional services, providers of contract services, and nonpublic and
28 private elementary and secondary schools in connection with the
29 submission of fingerprints that contains the specific job title sought
30 and any other information that may be relevant to consideration of the
31 applicant. The commissioner shall also establish a form for the recorda-
32 tion of allegations of child abuse in an educational setting, as
33 required pursuant to section eleven hundred twenty-six of this chapter.
34 No person who has been fingerprinted pursuant to section three thousand
35 four-b of this chapter or pursuant to section five hundred nine-cc or
36 twelve hundred twenty-nine-d of the vehicle and traffic law and whose
37 fingerprints remain on file with the division of criminal justice
38 services shall be required to undergo fingerprinting for purposes of a
39 new criminal history record check. This subdivision and the rules and
40 regulations promulgated pursuant thereto shall not apply to a school
41 district within a city with a population of one million or more.

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

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

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

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

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

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

21 3. (a) Clearance. (i) After receipt of a criminal history record from
22 the division of criminal justice services and the federal bureau of
23 investigation the commissioner shall promptly notify the appropriate
24 school district, charter school, board of cooperative educational
25 services, providers of contract services or nonpublic or private elemen-
26 tary or secondary school whether the prospective employee to which such
27 report relates is cleared for employment based upon [~~his or her~~] crimi-
28 nal history. All determinations to grant or deny clearance for employ-
29 ment pursuant to this paragraph shall be performed in accordance with
30 subdivision sixteen of section two hundred ninety-six of the executive
31 law and article twenty-three-A of the correction law. When the commis-
32 sioner denies a prospective employee clearance for employment, such
33 prospective employee shall be afforded notice and the right to be heard
34 and offer proof in opposition to such determination in accordance with
35 the regulations of the commissioner.

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

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

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

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

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

16 3. For purposes of this section, the term "provider" or "provider
17 agency" shall mean: an authorized agency; the office of children and
18 family services; a private, nonprofit incorporated agency that meets the
19 state office of children and family services program standards for child
20 advocacy centers; juvenile detention facilities subject to the certif-
21 ication of the office of children and family services; programs estab-
22 lished pursuant to article nineteen-H of the executive law; non-residen-
23 tial or residential programs or facilities licensed or operated by the
24 office of mental health or the office for people with developmental
25 disabilities except family care homes; including head start programs
26 which are funded pursuant to title V of the federal economic opportunity
27 act of nineteen hundred sixty-four, as amended; early intervention
28 service established pursuant to section twenty-five hundred forty of the
29 public health law; preschool services established pursuant to section
30 forty-four hundred ten of the education law; providers of contracted
31 services to covered schools as defined by 8 NYCRR 87.2(e); special act
32 school districts as enumerated in chapter five hundred sixty-six of the
33 laws of nineteen hundred sixty-seven, as amended; programs and facili-
34 ties licensed by the office of [~~alcoholism and substance abuse~~]
35 addiction services and supports; residential schools which are operated,
36 supervised or approved by the education department; health homes, or any
37 subcontractor of such health homes, who contracts with or is approved or
38 otherwise authorized by the department of health to provide health home
39 services to all those enrolled pursuant to a diagnosis of a develop-
40 mental disability as defined in subdivision twenty-two of section 1.03
41 of the mental hygiene law and enrollees who are under twenty-one years
42 of age under section three hundred sixty-five-1 of this chapter, or any
43 entity that provides home and community based services to enrollees who
44 are under twenty-one years of age under a demonstration program pursuant
45 to section eleven hundred fifteen of the federal social security act;
46 publicly-funded emergency shelters for families with children, provided,
47 however, for purposes of this section, when the provider or provider
48 agency is a publicly-funded emergency shelter for families with chil-
49 dren, then all references in this section to the "potential for regular
50 and substantial contact with individuals who are cared for by the agen-
51 cy" shall mean the potential for regular and substantial contact with
52 children who are served by such shelter; and any other facility or
53 provider agency, as defined in subdivision four of section four hundred
54 eighty-eight of this chapter, in regard to the employment of staff, or
55 use of providers of goods and services and staff of such providers,
56 consultants, interns and volunteers.

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

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

29 § 9. This act shall take effect immediately.