

# 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.

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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

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

2  
3 (b) Conditional clearance. When the commissioner receives a request  
4 for a determination on the conditional clearance of a prospective  
5 employee, the commissioner, after receipt of a criminal history record  
6 from the division of criminal justice services, shall promptly notify  
7 the prospective employee and the appropriate school district, charter  
8 school, board of cooperative educational services, construction contrac-  
9 tors or nonpublic or private elementary or secondary school that the  
10 prospective employee to which such report relates is conditionally  
11 cleared for employment or work on a construction or maintenance project  
12 based upon [~~his or her~~] such prospective employee's criminal history or  
13 that more time is needed to make the determination. If the commissioner  
14 determines that more time is needed, the notification shall include a  
15 good faith estimate of the amount of additional time needed. Such  
16 notification shall be made within fifteen business days after the  
17 commissioner receives the prospective employee's fingerprints. All  
18 determinations to grant or deny conditional clearance for employment  
19 pursuant to this paragraph shall be performed in accordance with subdivi-  
20 sion sixteen of section two hundred ninety-six of the executive law  
21 and article twenty-three-A of the correction law.

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

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

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

32 3. For purposes of this section, the term "provider" or "provider  
33 agency" shall mean: an authorized agency; the office of children and  
34 family services; a private, nonprofit incorporated agency that meets the  
35 state office of children and family services program standards for child  
36 advocacy centers; juvenile detention facilities subject to the certifi-  
37 cation of the office of children and family services; programs estab-  
38 lished pursuant to article nineteen-H of the executive law; non-residen-  
39 tial or residential programs or facilities licensed or operated by the  
40 office of mental health or the office for people with developmental  
41 disabilities except family care homes; including head start programs  
42 which are funded pursuant to title V of the federal economic opportunity  
43 act of nineteen hundred sixty-four, as amended; early intervention  
44 service established pursuant to section twenty-five hundred forty of the  
45 public health law; preschool services established pursuant to section  
46 forty-four hundred ten of the education law; construction contractors as  
47 defined in subdivision eleven of section eleven hundred twenty-five of  
48 the education law; special act school districts as enumerated in chapter  
49 five hundred sixty-six of the laws of nineteen hundred sixty-seven, as  
50 amended; programs and facilities licensed by the office of [~~alcoholism~~  
51 ~~and substance abuse~~] addiction services and supports; residential  
52 schools which are operated, supervised or approved by the education  
53 department; health homes, or any subcontractor of such health homes, who  
54 contracts with or is approved or otherwise authorized by the department  
55 of health to provide health home services to all those enrolled pursuant  
56 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-1 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.