§ 139-a. Special provisions to avoid abuse of assistance and care. 1. Any person who shall apply for safety net assistance or family assistance within one year after arrival in this state, shall be presumed to have come into the state for the purpose of receiving public assistance or care and the social services official where application is made, shall deny public assistance and care to such applicant unless such applicant shall establish by clear and convincing proof that the purpose of his or her entry was not for the purpose of securing public assistance and care in this state. In addition to complying with the foregoing provisions, the applicant shall also submit with his or her application a certificate from the appropriate local employment office of the state department of labor issued within a two week period from the date of his or her application stating that such employment office has no order for an opening in part-time, full-time, temporary or permanent work of any kind to which the applicant could properly be referred by such office, taking into consideration only his or her physical and mental capacity without reference to his or her customary occupation or acquired skill.

2. The social services official shall in every case complete his investigation and make his determination of the application under this section not more than thirty days after receipt of the application.

3. (a) The social services districts of Allegany, Broome, Dutchess, Niagara, Onondaga, Oneida, Orange, Oswego, Rensselaer, Rockland, Steuben, and Suffolk shall authorize and implement demonstration projects for the purposes of determining the cost-effectiveness of preventing multiple enrollment of home relief benefit recipients through the use of an automated two-digit finger imaging matching identification system. The system shall only include home relief benefit recipient finger imaging upon application for eligibility for such benefits and finger imaging of home relief recipients currently receiving home relief benefits.

(b) Notwithstanding the provisions of section one hundred thirty-six of this article or any other provision of law, data collected and maintained through the use of an automated finger imaging matching identification system as authorized by this subdivision may not be used,

disclosed or redisclosed for any purpose other than the prevention of multiple enrollments in home relief, may not be used or admitted in any criminal or civil investigation, prosecution, or proceeding, other than a civil proceeding pursuant to section one hundred forty-five-c of this article, and may not be disclosed in response to a subpoena or other compulsory legal process or warrant, or upon request or order of any agency, authority, division, office or other private or public entity or person, except that nothing contained herein shall prohibit disclosure in response to a subpoena issued by or on behalf of the applicant or recipient who is the subject of the record maintained as a part of such system. Any person who knowingly makes or obtains any unauthorized disclosure of data collected and maintained through the use of an automated two-digit finger imaging matching identification system shall be guilty of a class A misdemeanor, and shall be punished in accordance with the provisions of the penal law.

(c) Data collected and maintained on the automated two-digit finger imaging matching identification system shall be subject to those provisions relating to unauthorized disclosure of confidential client information currently subject to part 357 of the commissioner's regulations.

(d) Such social services districts shall develop a competitive request for proposal for an automated two-digit finger imaging matching identification system, and shall thereafter contract for the services of a firm certified by the department as able to design and implement such automated two-digit finger imaging matching identification system. The department shall oversee the process by which districts select and award contracts for the demonstration projects. Prior to the implementation of any contracts, the department shall certify that a system exists for data collection and for destroying and expunging a recipient finger image upon such recipient ceasing to be a home relief recipient and that the design of the demonstration project fulfills all the requirements of this section. The department shall provide such assistance as needed to facilitate finger image matching among social services districts including centralized sharing of data when local matching among social services districts is not feasible. After award the department shall be responsible for ensuring that the demonstration projects are carried out in accordance with the requirements of this section, that adequate

training for local district staff involved with the project will be provided and taking any actions necessary to bring such programs into compliance if required. Such contractual arrangement shall ensure that state payments for the contractor's necessary and legitimate expenses for the administration of such program are limited to amounts specified in advance and that such amounts shall not exceed the amount appropriated therefor in any fiscal years.

(e) Immediate notice of all the provisions of this subdivision shall be provided to home relief recipients or applicants.

(f) Notwithstanding any other provision of law, nothing contained herein shall be deemed to authorize or permit the termination, suspension, or diminution of home relief benefits except as elsewhere specifically authorized in this chapter, provided, however, that where the basis of a proposed sanction is a determination of a fraudulent multiple enrollment based on the use of an automated finger imaging matching identification system authorized pursuant to this section, no such sanction shall be imposed pending a hearing conducted pursuant to section twenty-two of this chapter within forty-five days of the notification of the applicant or recipient of the alleged fraudulent multiple enrollment, or pending a final determination of a request by an applicant or a recipient for correction or amendment of a record pursuant to section ninety-five of the public officers law, and no such sanction shall be imposed unless the local social services district has verified the results of the automated finger imaging matching identification system by means of a manual match conducted by a person who is qualified to perform such identifications.

(g) The department shall conduct periodic audits to monitor compliance with all laws and regulations regarding the automated finger imaging matching system to insure that any records maintained as part of such system are accurate and complete, that no illegal disclosures of such records have taken place, that effective software and hardware designs have been instituted with security features to prevent unauthorized access to such records, that access to record information system facilities, systems operating environments, data file contents whether while in use or when stored in a media library is restricted to authorized personnel only, that operation programs are used that will prohibit inquiry, record updates, or destruction of records, from any

terminal other than automated finger imaging matching system terminals which are so designated, that operational programs are used to detect and store for the output of designated department employees all unauthorized attempts to penetrate any automated finger imaging matching system, program or file, that adequate and timely procedures exist to insure that the recipient or applicant's right to access and review of records for the purpose of accuracy and completeness, including procedures for review of information maintained about such individuals and for administrative review (including procedures for administrative appeal) and necessary correction of any claim by the individual to whom the information relates that the information is inaccurate or incomplete.

(h) The department shall report to the speaker of the assembly and the temporary president of the senate on the operation of the demonstration project by March first, nineteen hundred ninety-six. This report shall include analysis of the cost-effectiveness of such project, and shall include information concerning instances of multiple enrollment detected through use of this system, and shall include a detailed summary of the results of audits required by paragraph (g) of this subdivision. The report shall include recommendations regarding whether the program should be discontinued, expanded, or otherwise modified.

(i) The department of social services shall contract with an independent academic or research organization (the "contractor") experienced in evaluating public assistance programs for a comprehensive evaluation of the automated finger imaging matching identification system authorized in this section. The results of such evaluation shall be set forth in a report which shall include, but not be limited to the following:

(1) a description of the demonstration project, its implementation schedule and the problems encountered in implementation;

(2) investigations of each instance where a recipient does not respond to a notice informing the recipient of the need to submit to finger imaging. Such investigation shall determine, to the extent possible, why the recipient did not respond and whether such failure to respond was due to the recipient: (a) becoming eligible for federal supplemental security income benefits, if any; (b) no longer being eligible because of earned income, if any; (c) no longer being a resident of the county,

if any; or (d) failing to respond because of other reasons;

(3) an evaluation of historical caseload trends, both statewide and in the demonstration counties, including a study of monthly records for the two years prior to the demonstration, and also including the closing of cases at recertification. Analysis of such monthly records shall be conducted as part of the basis of estimating benefits under the demonstration;

(4) an analysis of the procedures used to verify suspicions of fraud including follow-up of identified cases of fraud, if any;

(5) aggregate totals of false matches, if any, found by the system, the methods used to correct such errors and an accounting of the duplicate applications for benefits, if any, that are detected by the system; and

(6) an estimate of the savings, if any, resulting from the implementation of finger imaging, and an estimate of the actual costs of the system including, but not limited to equipment costs, the costs of linking terminals, site preparation and the costs of any additional staff required to operate the system.

(j) Not later than February first, nineteen hundred ninety-six, the contractor shall submit the report required by paragraph (i) of subdivision three of this section to the governor, the majority leader of the senate and the speaker of the assembly and to the commissioner of the department of social services.

(k) The local social service districts establishing an automated finger imaging matching identification system pursuant to this subdivision shall be deemed an agency as defined in subdivision one of section ninety-two of the public officers law, and data collected and maintained in such automated system shall be deemed records and systems of records as defined in subdivisions nine and eleven of such section of such law. Except as otherwise specifically provided in this section, the provisions of article six-a of such law, known as the "personal privacy protection law" shall apply to the records and systems of records collected and maintained by such local social service districts pursuant to this section.

(l) Expenditures made by social services districts, and determined cost effective by the department, including those expenditures necessary for contracts planned or executed on or before the effective date of

this section, for the design, development, implementation and administrative costs of the automated finger imaging matching identification system shall be subject to one hundred percent state reimbursement.

(m) The automated finger imaging matching identification system shall be established in the selected districts not later than October first, nineteen hundred ninety-four, and such demonstration projects shall expire upon the enactment of a chapter of the laws of nineteen hundred ninety-five providing for an automated fraud prevention system based on personally unique identification factors.