§ 460-h. Review of criminal history information concerning prospective employees, consultants, assistants and volunteers of publicly-funded emergency shelters for families with children. 1. Every provider of services to publicly-funded emergency shelters for families with children, as such phrase is defined in subdivision nine of section four hundred twelve of this chapter, shall request from the division of criminal justice services criminal history information, as such phrase is defined in paragraph (c) of subdivision one of section eight hundred forty-five-b of the executive law, concerning each prospective employee, consultant, assistant or volunteer of such provider who will have the potential for regular and substantial contact with children who are served by the publicly-funded emergency shelter for families with children.

(a) Prior to requesting criminal history information concerning any prospective employee, consultant, assistant or volunteer, a provider shall:

(1) inform the prospective employee, consultant, assistant or volunteer in writing that the provider is required to request his or her criminal history information from the division of criminal justice services and review such information pursuant to this section; and

(2) obtain the signed informed consent of the prospective employee, consultant, assistant or volunteer on a form supplied by the division of criminal justice services which indicates that such person has:

(i) been informed of the right and procedures necessary to obtain, review and seek correction of his or her criminal history information;

(ii) been informed of the reason for the request for his or her criminal history information;

(iii) consented to such request; and

(iv) supplied on the form a current mailing or home address.

(b) Upon receiving such written consent, the provider shall obtain a set of fingerprints of such prospective employee, consultant, assistant, or volunteer and provide such fingerprints to the division of criminal justice services pursuant to regulations established by the division of criminal justice services.

2. A provider shall designate one or two persons in its employ who shall be authorized to request, receive and review the criminal history

information, and only such persons and the prospective employee, consultant, assistant or volunteer to which the criminal history information relates shall have access to such information; provided, however, the criminal history information may be disclosed to other personnel authorized by the provider who are empowered to make decisions concerning prospective employees, consultants, assistants or volunteers and provided further that such other personnel shall also be subject to the confidentiality requirements and all other provisions of this section. A provider shall notify each person authorized to have access to criminal history information pursuant to this section.

3. A provider requesting criminal history information pursuant to this section shall also complete a form developed for such purpose by the division of criminal justice services. Such form shall include a sworn statement of the person designated by such provider to request, receive and review criminal history information pursuant to subdivision two of this section certifying that:

(a) such criminal history information will be used by the provider solely for purposes authorized by this section;

(b) the provider and its staff are aware of and will abide by the confidentiality requirements and all other provisions of this section; and

(c) the persons designated by the provider to receive criminal history information pursuant to subdivision two of this section shall upon receipt immediately mark such criminal history information "confidential," and shall at all times maintain such criminal history information in a secure place.

4. Upon receipt of the fingerprints and sworn statement required by this section, the provider shall promptly submit the fingerprints to the division of criminal justice services.

5. The division of criminal justice services shall promptly provide the requested criminal history information, if any, to the provider that transmitted the fingerprints to it. Criminal history information provided by the division of criminal justice services pursuant to this section shall be furnished only by mail or other method of secure and

confidential delivery, addressed to the requesting provider. Such information and the envelope in which it is enclosed shall be prominently marked "confidential," and shall at all times be maintained by the provider in a secure place.

6. Upon receipt of criminal history information from the division of criminal justice services, the provider may request, and is entitled to receive, information pertaining to any crime identified on such criminal history information from any state or local law enforcement agency, district attorney, parole officer, probation officer or court for the purposes of determining whether any grounds relating to such crime exist for denying an application, renewal, or employment.

7. After receiving criminal history information pursuant to subdivisions five and six of this section and before making a determination, the provider shall provide the prospective employee, consultant, assistant or volunteer with a copy of such criminal history information and a copy of article twenty-three-A of the correction law and inform such prospective employee, consultant, assistant and volunteer of his or her right to seek correction of any incorrect information contained in such criminal history information provided by the division of criminal justice services pursuant to the regulations and procedures established by the division of criminal justice services and the right of the prospective employee, consultant, assistant or volunteer to provide information relevant to such analysis.

8. Criminal history information obtained pursuant to subdivisions five and six of this section shall be considered by the provider in accordance with the provisions of article twenty-three-A of the correction law and subdivisions fifteen and sixteen of section two hundred ninety-six of the executive law.

9. A prospective employee, consultant, assistant or volunteer may withdraw from the application process, without prejudice, at any time regardless of whether he or she, or the provider, has reviewed his or her criminal history information. Where a prospective employee, consultant, assistant or volunteer withdraws from the application

process, any fingerprints and criminal history information concerning such prospective employee, consultant, assistant or volunteer received by the provider shall, within ninety days, be returned to such prospective employee, consultant, assistant or volunteer by the person designated for receipt of criminal history information pursuant to subdivision two of this section.

10. Any person who willfully permits the release of any confidential criminal history information contained in the report to persons not permitted by this section to receive such information shall be guilty of a misdemeanor.

11. The commissioner of the division of criminal justice services, in consultation with the office of temporary and disability assistance, shall promulgate all rules and regulations necessary to implement the provisions of this section, which shall include convenient procedures for the provider to promptly verify the accuracy of the reviewed criminal history information and, to the extent authorized by law, to have access to relevant documents related thereto.