

**ASSEMBLY, No. 2093**

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**STATE OF NEW JERSEY**

**213th LEGISLATURE**

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INTRODUCED FEBRUARY 25, 2008

**Sponsored by:**

**Assemblywoman VALERIE VAINIERI HUTTLE**

**District 37 (Bergen)**

**Assemblywoman PAMELA R. LAMPITT**

**District 6 (Camden)**

**Assemblyman MATTHEW W. MILAM**

**District 1 (Cape May, Atlantic and Cumberland)**

**Assemblyman NELSON T. ALBANO**

**District 1 (Cape May, Atlantic and Cumberland)**

**SYNOPSIS**

Revises criminal history record check process undergone by public and nonpublic school employees and school bus drivers.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 5/6/2008)**

A2093 VAINIERI HUTTLE, LAMPITT

2

1 AN ACT concerning criminal history record checks, revising various  
2 parts of the statutory law, and supplementing P.L.1986, c.116  
3 and P.L.1989, c.229.

4  
5 **BE IT ENACTED** by the Senate and General Assembly of the State  
6 of New Jersey:

- 7  
8 1. (New section) The Legislature finds and declares that:  
9 a. The goal of preserving the safety of students in schools is of  
10 paramount importance.  
11 b. Since 1986 candidates for employment in New Jersey  
12 schools have been required to undergo a criminal history record  
13 check.  
14 c. Many employees in New Jersey schools were hired prior to  
15 1986, and therefore have never been required to undergo a criminal  
16 history record check. Additionally, fingerprint records have not  
17 been retained uniformly, nor has all information about subsequent  
18 arrests been uniformly shared.  
19 d. Fingerprint technology has changed significantly from a  
20 standard fingerprint card system to a digitized system. The  
21 digitized system has allowed criminal background checks to be  
22 completed in a shorter time period.  
23 e. In order to assure the safety of school students and others in  
24 our schools, persons who come in contact with students or school  
25 property must possess the character and integrity necessary for their  
26 positions.  
27 f. To ensure that employees possess such qualities, it is  
28 imperative that all employees, including those hired prior to 1986,  
29 and candidates for employment undergo criminal history record  
30 checks, that the checks are regularly updated, and that the list of  
31 disqualifying crimes and offenses be made more comprehensive.

32  
33 2. Section 1 of P.L.1989, c.229 (C.18A:6-4.13) is amended to  
34 read as follows:

- 35 1. Any nonpublic school may require **[all final candidates]**  
36 applicants for employment or service under contract with the school  
37 as an administrator, a teacher, substitute teacher, teacher aide, a  
38 school physician, school nurse, custodian, maintenance worker, bus  
39 driver, security guard, secretary or clerical worker or for any other  
40 position which involves regular contact with pupils, to demonstrate  
41 that no criminal history record information exists on file in the  
42 Federal Bureau of Investigation, Identification Division, **[or]** the  
43 State Bureau of Identification, the Administrative Office of the  
44 Courts, or any other verifiable source, which would disqualify that  
45 individual from employment in the public schools of this State

**EXPLANATION** – Matter enclosed in bold-faced brackets **[thus]** in the above bill is  
not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 pursuant to the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.).  
2 Application of this requirement by a nonpublic school shall be  
3 consistent and nondiscriminatory among **[candidates]** applicants.

4 A nonpublic school may require a criminal history record check  
5 for individuals who, on an unpaid voluntary basis, provide services  
6 that involve regular contact with pupils.

7 As used in this act, "nonpublic school" means an elementary or  
8 secondary school within the State, other than a public school,  
9 offering education in grades K-12 or any combination thereof,  
10 wherein a child may legally fulfill compulsory school attendance  
11 requirements.

12 (cf: P.L.1998, c.31, s.1)

13

14 3. Section 2 of P.L.1989, c.229 (C.18A:6-4.14) is amended to  
15 read as follows:

16 2. **[An applicant for employment or service in any of the**  
17 **positions covered by this act shall submit to the Commissioner of**  
18 **Education his or her name, address and fingerprints taken in**  
19 **accordance with procedures established by the commissioner. The**  
20 **commissioner is hereby authorized to exchange fingerprint data**  
21 **with and to receive criminal history record information from the**  
22 **Federal Bureau of Investigation and the Division of State Police for**  
23 **use in making the determinations required by this act. No criminal**  
24 **history record check shall be performed pursuant to this act unless**  
25 **the applicant shall have furnished his or her written consent to such**  
26 **a check.]** The applicant or employee required to undergo a criminal  
27 history record check pursuant to the provisions of P.L.1989, c.229  
28 (C.18A:6-4.13 et seq.) shall bear the cost for the criminal history  
29 record check, including all costs for administering and processing  
30 the check.

31 The nonpublic school may reimburse an applicant or employee  
32 for the cost of the check.

33 If a nonpublic school requires a criminal history record check for  
34 an unpaid volunteer, the nonpublic school shall reimburse the  
35 person for the cost of the check.

36 (cf: P.L.2002, c.119, s.1)

37

38 4. Section 3 of P.L.1989, c.229 (C.18A:6-4.15) is amended to  
39 read as follows:

40 3. a. The commissioner shall apply the same requirements,  
41 procedures and standards and shall proceed in the same manner as  
42 is prescribed in P.L.1986, c.116 (C.18A:6-7.1 et seq.) for  
43 determining whether the applicant would be qualified or  
44 disqualified for employment in the public schools **[and shall inform**  
45 **the applicant of his determination in writing. The commissioner**  
46 **shall also provide written notification to the chief administrator of**  
47 **the nonpublic school, which requires the criminal history record**  
48 **check as a condition of employment, of his determination as to**

1 whether the candidate would be qualified or disqualified for  
2 employment in the public schools.

3 Following qualification for employment pursuant to this section,  
4 the State Bureau of Identification shall immediately forward to the  
5 Commissioner of Education any information which the bureau  
6 receives on a charge pending against an employee of the nonpublic  
7 school which requires a criminal history record check as a condition  
8 of employment. If the charge is for one of the crimes or offenses  
9 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
10 commissioner shall notify the chief administrator of the nonpublic  
11 school].

12 b. Upon receipt of the criminal history record information for  
13 an applicant from the Federal Bureau of Investigation, the State  
14 Bureau of Identification, the Administrative Office of the Courts, or  
15 any other verifiable source, the Commissioner of Education shall  
16 notify the applicant and the chief administrator of the nonpublic  
17 school that requires criminal history record checks as a condition of  
18 employment or the contracted service provider, in writing, of the  
19 applicant's qualification or disqualification for employment or  
20 service under P.L.1989, c.229 (C.18A:6-4.13 et seq.). If the  
21 applicant is disqualified, the convictions which constitute the basis  
22 for the disqualification shall be identified in the written notice to  
23 the applicant, and the employing chief administrator of the  
24 nonpublic school or the contracted service provider shall deny  
25 employment to the applicant. The applicant shall have 30 days from  
26 the date of the written notice of disqualification to challenge the  
27 accuracy of the criminal history record information. If no challenge  
28 is filed or if the determination of the accuracy of the criminal  
29 history record information upholds the disqualification, the  
30 applicant shall remain permanently disqualified from employment.  
31 A written notice of disqualification for applicants who hold a  
32 certificate issued by the State Board of Examiners shall be  
33 forwarded to that board.

34 c. When charges are pending for a crime or any other offense  
35 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
36 commissioner shall notify the prospective employing nonpublic  
37 school chief administrator or the contracted service provider that  
38 the applicant shall not be eligible for employment until the  
39 commissioner has made a determination regarding qualification or  
40 disqualification upon adjudication of the pending charges.

41 (cf: P.L.2002, c.119, s.2)

42

43 5. Section 4 of P.L.1989, c.229 (C.18A:6-4.16) is amended to  
44 read as follows:

45 4. The commissioner may maintain the criminal record and  
46 application documents on **[a candidate]** an applicant or employee  
47 for no longer than three years from the date of a determination as to  
48 the **[candidate's]** person's qualification or disqualification for

1 employment with an employer. The three-year retention limitation  
2 shall not apply to statistical data on crimes and any other offenses  
3 or an ongoing list of **[candidates]** applicants and employees who  
4 are qualified or disqualified. All documents submitted by **[a**  
5 **candidate]** an applicant or employee and all criminal history record  
6 information shall be maintained by the commissioner in a  
7 confidential manner.

8 (cf: P.L.1998, c.31, s.4)

9  
10 6. Section 5 of P.L.1989, c.229 (C.18A:6-4.17) is amended to  
11 read as follows:

12 5. An individual employed in any substitute capacity or  
13 position by a nonpublic school which requires a criminal history  
14 record check as a condition of employment or by a contracted  
15 service provider, and who is rehired annually by that **[school]**  
16 employer, shall **[only]** be required to undergo a criminal history  
17 record check authorized pursuant to this act only upon initial  
18 employment, provided the substitute continues in the employ of at  
19 least one of the employers at which the substitute was employed  
20 within one year of the approval of the criminal history record check,  
21 and his fingerprint image has been retained by the State Bureau of  
22 Identification.

23 (cf: P.L.1989, c.229, s.5)

24  
25 7. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to  
26 read as follows:

27 1. A facility, center, school, or school system under the  
28 supervision of the Department of Education and board of education  
29 which cares for, or is involved in the education of children under  
30 the age of 18 shall not **[employ]** hire for pay or enter into a contract  
31 for the paid services of any teaching staff member, including an  
32 administrator, or substitute teacher, teacher aide, child study team  
33 member, school physician, school nurse, custodian, school  
34 maintenance worker, cafeteria worker, school law enforcement  
35 officer, school secretary or clerical worker or any other person  
36 serving in a position which involves regular contact with pupils  
37 unless the employer has first determined consistent with the  
38 requirements and standards of this act, that no criminal history  
39 record information exists on file in the Federal Bureau of  
40 Investigation, Identification Division, **[or]** the State Bureau of  
41 Identification, the Administrative Office of the Courts, or any other  
42 verifiable source, which would disqualify that individual from being  
43 employed or utilized in such capacity or position. An entity  
44 contracting with a board of education for the provision of  
45 educational or related services, including extended school year  
46 services for students with disabilities, shall ensure that all of its  
47 employees whose position involves regular contact with students

1 meet the criminal history record requirements pursuant to P.L.1986,  
 2 c.116 (C.18A:6-7.1 et seq.). An individual employed by a board of  
 3 education or a school bus contractor holding a contract with a board  
 4 of education, in the capacity of a school bus driver, shall be  
 5 required to meet the criminal history record requirements pursuant  
 6 to section 6 of P.L.1989, c.104 (C.18A:39-19.1). A facility, center,  
 7 school, or school system under the supervision of the Department of  
 8 Education and board of education which cares for, or is involved in  
 9 the education of children under the age of 18 may require criminal  
 10 history record checks for individuals who, on an unpaid voluntary  
 11 basis, provide services that involve regular contact with pupils. In  
 12 the case of school districts involved in a sending-receiving  
 13 relationship, the decision to require criminal history record checks  
 14 for volunteers shall be made jointly by the boards of education of  
 15 the sending and receiving districts.

16 An [individual, except as provided in subsection g. of this  
 17 section,] applicant shall be permanently disqualified from  
 18 employment or service under this act if the individual's criminal  
 19 history record check reveals a record of conviction for any crime of  
 20 the first or second degree; or

21 a. An offense as set forth in chapter 14 of Title 2C of the New  
 22 Jersey Statutes, or as set forth in N.J.S.2C:24-4 [and] , 2C:24-7  
 23 and 2C:24-9, or as set forth in R.S.9:6-1 et seq., or a crime as set  
 24 forth in [N.J.S.2C:29-2] N.J.S.2C:34-1 et seq.; or

25 b. An offense involving the manufacture, transportation, sale,  
 26 possession, distribution or habitual use of a "controlled dangerous  
 27 substance" as defined in the "Comprehensive Drug Reform Act of  
 28 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined  
 29 pursuant to N.J.S.2C:36-1 et seq.; or

30 c. (1) A crime involving the use of force or the threat of force  
 31 to or upon a person or property including, but not limited to,  
 32 robbery, aggravated assault, stalking, kidnapping, arson,  
 33 manslaughter and murder; or

34 (2) A crime as set forth in chapter 39 of Title 2C of the New  
 35 Jersey Statutes, a third degree crime as set forth in chapter 20 of  
 36 Title 2C of the New Jersey Statutes, a crime as set forth in chapter  
 37 38 of Title 2C of the New Jersey Statutes, or a crime as listed  
 38 below:

39 Leaving scene of accident resulting in death

40 section 1 of P.L.1997, c.111 (C.2C:11-5.1)

41 Recklessly endangering another person N.J.S.2C:12-2

42 Terroristic threats N.J.S.2C:12-3

43 Criminal restraint N.J.S.2C:13-2

44 Luring, enticing child [into motor

45 vehicle, structure or isolated area] P.L.1993, c.291,

46 (C.2C:13-6)

47 Human trafficking section 1 of P.L.2005, c.77 (C.2C:13-8)

1	Causing or risking widespread injury	
2	or damage	N.J.S.2C:17-2
3	Criminal mischief ( <u>third degree</u> )	N.J.S.2C:17-3
4	Burglary	N.J.S.2C:18-2
5	<u>Peering</u>	<u>subsection c. of N.J.S.2C:18-3</u>
6	Usury	N.J.S.2C:21-19
7	Threats and other improper influence	N.J.S.2C:27-3
8	Perjury and false swearing	N.J.S.【2C:28-3】
9		<u>2C:28-1 and 2C:28-2</u>
10	Resisting arrest	N.J.S.2C:29-2
11	Escape	N.J.S.2C:29-5

12 or

13 (3) Conspiracy to commit or an attempt to commit any of the  
 14 crimes described in this act.

15 d. For the purposes of this section, a conviction exists if the  
 16 individual has at any time been convicted under the laws of this  
 17 State or under any similar statutes of the United States or any other  
 18 **【state】** jurisdiction for a substantially equivalent crime or other  
 19 offense.

20 e. **【Notwithstanding the provisions of this section, an**  
 21 **individual shall not be disqualified from employment or service**  
 22 **under this act on the basis of any conviction disclosed by a criminal**  
 23 **record check performed pursuant to this act without an opportunity**  
 24 **to challenge the accuracy of the disqualifying criminal history**  
 25 **record.】** Upon receipt of the criminal history record information  
 26 for an applicant from the Federal Bureau of Investigation, the State  
 27 Bureau of Identification, the Administrative Office of the Courts, or  
 28 any other verifiable source, the Commissioner of Education shall  
 29 notify the applicant and employing board of education or contracted  
 30 service provider, in writing, of the applicant’s qualification or  
 31 disqualification for employment or service under P.L.1986, c.116  
 32 (C.18A:6-7.1 et seq.). If the applicant is disqualified, the  
 33 convictions which constitute the basis for the disqualification shall  
 34 be identified in the written notice to the applicant, and the  
 35 employing board of education or contracted service provider shall  
 36 deny employment to the applicant. The applicant shall have 30 days  
 37 from the date of the written notice of disqualification to challenge  
 38 the accuracy of the criminal history record information. If no  
 39 challenge is filed or if the determination of the accuracy of the  
 40 criminal history record information upholds the disqualification, the  
 41 applicant shall remain permanently disqualified from employment.  
 42 A written notice of disqualification for applicants who hold a  
 43 certificate issued by the State Board of Examiners shall be  
 44 forwarded to that board.

45 f. When charges are pending for a crime or any other offense  
 46 enumerated in this section, the commissioner shall notify the  
 47 prospective employing board of education **【shall be notified】** or

1 contracted service provider that the **【candidate】** applicant shall not  
2 be eligible for employment until the commissioner has made a  
3 determination regarding qualification or disqualification upon  
4 adjudication of the pending charges.

5 g. **【**This section shall first apply to criminal history record  
6 checks conducted on or after the effective date of P.L.1998, c.31  
7 (C.18A:6-7.1c et al.); except that in the case of an individual  
8 employed by a board of education or a contracted service provider  
9 who is required to undergo a check upon employment with another  
10 board of education or contracted service provider, the individual  
11 shall be disqualified only for the following offenses:

12 (1) any offense enumerated in this section prior to the effective  
13 date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

14 (2) any offense enumerated in this section which had not been  
15 enumerated in this section prior to the effective date of P.L.1998,  
16 c.31 (C.18A:6-7.1c et al.), if the person was convicted of that  
17 offense on or after the effective date of that act. **】** (~~Deleted by~~  
18 ~~amendment, P.L. , c. ) (pending before the Legislature as this~~  
19 ~~bill)~~

20 (cf: P.L.2007, c.82, s.1)

21

22 8. Section 2 of P.L.1987, c.164 (C.18A:6-7.1b) is amended to  
23 read as follows:

24 2. An individual employed by a board of education or a  
25 contracted service provider in any substitute capacity or position,  
26 who is rehired annually by that board or contracted service  
27 provider, shall **【only】** be required to undergo a criminal history  
28 record check as required pursuant to P.L.1986, c.116 (C.18A:6-7.1  
29 et seq.) only upon initial employment, provided the substitute  
30 continues in the employ of at least one of the districts or contracted  
31 service providers at which the substitute was employed within one  
32 year of the approval of the criminal history record check and his  
33 fingerprint image has been retained by the State Bureau of  
34 Identification.

35 (cf: P.L.1998, c.31, s.6)

36

37 9. Section 2 of P.L.1986, c.116 (C.18A:6-7.2) is amended to  
38 read as follows:

39 2. **【**An applicant for employment or service in any of the  
40 positions covered by this act shall submit to the Commissioner of  
41 Education his or her name, address and fingerprints taken in  
42 accordance with procedures established by the commissioner. The  
43 Commissioner of Education is hereby authorized to exchange  
44 fingerprint data with and receive criminal history record  
45 information from the Federal Bureau of Investigation and the  
46 Division of State Police for use in making the determinations  
47 required by this act. No criminal history record check shall be

1 performed pursuant to this act unless the applicant shall have  
2 furnished his or her written consent to such a check.】 The applicant  
3 or employee required to undergo a criminal history record check  
4 pursuant to the provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.)  
5 shall bear the cost for the criminal history record check, including  
6 all costs for administering and processing the check.

7 If a facility, center, school, or school system under the  
8 supervision of the Department of Education or board of education  
9 requires a criminal history record check for an unpaid volunteer, the  
10 facility, center, school, or school system under the supervision of  
11 the Department of Education or school board shall reimburse the  
12 **【applicant】** person for the cost of the check. A facility, center,  
13 school, or school system under the supervision of the Department of  
14 Education or board of education may reimburse an applicant or  
15 employee serving in a paid position for the cost of the check.  
16 (cf: P.L.2007, c.82, s.2)

17

18 10. Section 13 of P.L.1998, c.31 (C.18A:6-7.2a) is amended to  
19 read as follows:

20 13. The Commissioner of Education is authorized to:

21 a. exchange fingerprint data with and receive all criminal  
22 history data **【necessary to complete the criminal history records**  
23 **check as】** from the Federal Bureau of Investigation, the State  
24 Bureau of Identification, the Administrative Office of the Courts, or  
25 any other verifiable source, for use in making the determinations  
26 required pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) **【and】** ,  
27 section 6 of P.L.1989, c.104 (C.18A:39-19.1), sections 17 and 18 of  
28 P.L. , c. (C. ) (pending before the Legislature as this bill), or  
29 as permitted pursuant to P.L.1989, c.229 (C.18A:6-4.13 et seq.);

30 b. receive all data in accordance with section 3 of P.L.1986,  
31 c.116 (C.18A:6-7.3), section 6 of P.L.1989, c.104 (C.18A:39-19.1)  
32 and section **【3 of P.L.1989, c. 229 (C.18A:6-4.15)】** 17 of P.L. ,  
33 c. (C. ) (pending before the Legislature as this bill) on charges  
34 pending against an employee or school bus driver who has  
35 previously undergone a criminal history records check; **【and】**

36 c. adjust the fees set by the Department of Education for the  
37 criminal history records checks. All administrative fees received by  
38 the department for criminal history record checks shall be dedicated  
39 for use by the department to administer and enforce P.L.1986, c.116  
40 (C.18A:6-7.1 et seq.), section 6 of P.L.1989, c.104 (C.18A:39-  
41 19.1), P.L.1989, c.229 (C.18A:6-4.13 et seq.), and P.L. ,  
42 c. (C. ) (pending before the Legislature as this bill);

43 d. share all criminal history record information regarding  
44 teaching staff members with the State Board of Examiners; and

45 e. share criminal history record information of an applicant or  
46 employee from the Federal Bureau of Investigation, the State  
47 Bureau of Identification, the Administrative Office of the Courts, or

1 any other verifiable source, with the appropriate court in order to  
2 obtain copies of the judgment of conviction and such other  
3 documents as the Commissioner of Education deems necessary to  
4 confirm the completeness and accuracy of the record.

5 (cf: P.L.2002, c.119, s.5)

6  
7 11. Section 3 of P.L.1986, c.116 (C.18A:6-7.3) is amended to  
8 read as follows:

9 3. **【**Upon receipt of the criminal history record information for  
10 an applicant from the Federal Bureau of Investigation and the  
11 Division of State Police, the Commissioner of Education shall  
12 notify the applicant, in writing, of the applicant's qualification or  
13 disqualification for employment or service under this act. If the  
14 applicant is disqualified, the convictions which constitute the basis  
15 for the disqualification shall be identified in the written notice to  
16 the applicant. The applicant shall have 14 days from the date of the  
17 written notice of disqualification to challenge the accuracy of the  
18 criminal history record information. If no challenge is filed or if the  
19 determination of the accuracy of the criminal history record  
20 information upholds the disqualification, the commissioner shall  
21 notify the employing board of education that the applicant has been  
22 disqualified from employment, and a copy of the written notice of  
23 disqualification for applicants who hold a certificate issued by the  
24 State Board of Examiners shall be forwarded to that board.

25 The commissioner is authorized to share all criminal history  
26 record information regarding teaching staff members with the State  
27 Board of Examiners. In addition, the commissioner is authorized to  
28 share criminal history record information of an applicant from the  
29 Federal Bureau of Investigation or the State Bureau of  
30 Identification with the appropriate court in order to obtain copies of  
31 the judgment of conviction and such other documents as the  
32 commissioner deems necessary to confirm the completeness and  
33 accuracy of the record. **】**

34 **【**Following qualification for employment pursuant to this  
35 section, the **】** The State Bureau of Identification shall immediately  
36 forward to the Commissioner of Education any information which  
37 the bureau receives on a charge pending against an employee. If the  
38 charge is for one of the crimes or offenses enumerated in section 1  
39 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the  
40 employing board of education or **【contractor】** contracted service  
41 provider, and the board or **【contractor】** contracted service provider  
42 shall take appropriate action. If the pending charge results in  
43 conviction, the employee shall **【not be eligible for continued】** be  
44 permanently disqualified from employment.

45 (cf: P.L.2002, c.119, s.6)

1       12. Section 4 of P.L.1986, c.116 (C.18A:6-7.4) is amended to  
2 read as follows:

3       4. The Commissioner of Education may maintain the criminal  
4 record and application documents on **【a candidate】** an applicant or  
5 employee for no longer than three years from the date of  
6 determination as to the **【candidate's】** person's qualification or  
7 disqualification for employment with an employer. The three-year  
8 retention limitation shall not apply to statistical data on crimes and  
9 any other offenses or an ongoing list of **【candidates】** applicants and  
10 employees who are qualified or disqualified. All documents  
11 submitted by **【a candidate】** an applicant or employee and all  
12 criminal history record information shall be maintained by the  
13 commissioner in a confidential manner.  
14 (cf: P.L.1998, c.31, s.9)

15  
16       13. Section 5 of P.L.1986, c.116 (C.18A:6-7.5) is amended to  
17 read as follows:

18       5. Any employer who fails to comply with the provisions of  
19 this act shall be subject to a fine of not more than \$500.00 for each  
20 incident of noncompliance.  
21 (cf: P.L.1986, c.116, s.5)

22  
23       14. N.J.S.18A:39-17 is amended to read as follows:  
24       18A:39-17. In each school year, prior to the assignment of any  
25 driver or substitute driver to any vehicle operated by the board of  
26 education of any district as a school bus, there shall be filed by the  
27 secretary of such board with the executive county superintendent of  
28 schools the name and social security number of each such driver or  
29 substitute driver and certification of a valid school bus driver's  
30 license, criminal **【background】** history record check, and evidence  
31 of a check for the driver's record of alcohol and drug-related motor  
32 vehicle violations pursuant to section 6 of P.L.1989, c.104  
33 (C.18A:39-19.1).  
34 (cf: P.L.2003, c.66, s.2)

35  
36       15. N.J.S.18A:39-18 is amended to read as follows:  
37       18A:39-18. In each school year, prior to the beginning of  
38 transportation of school pupils under a contract awarded by a board  
39 of education, the contractor shall furnish to the executive county  
40 superintendent of schools the name, social security number, and  
41 certification of a valid school bus driver's license and criminal  
42 **【background】** history record check, and evidence of a check for the  
43 driver's record of alcohol and drug-related motor vehicle violations  
44 pursuant to section 6 of P.L.1989, c.104 (C.18A:39-19.1) of each  
45 driver or substitute driver to be assigned to any vehicle in the  
46 performance of his contract.  
47 (cf: P.L.2003, c.66, s.3)

1       16. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to  
2 read as follows:

3       6. a. Prior to employment as a school bus driver, and upon  
4 application for renewal of a school bus driver's license, a bus driver  
5 shall ~~submit to the Commissioner of Education his or her name,~~  
6 ~~address and fingerprints~~ undergo a federal and State criminal  
7 history record check in accordance with procedures established by  
8 the ~~commissioner~~ Commissioner of Education. ~~【No criminal~~  
9 ~~history record check or check for alcohol and drug-related motor~~  
10 ~~vehicle violations shall be furnished without his or her written~~  
11 ~~consent to such a check. The】~~

12       An applicant or school bus driver shall bear the cost for the  
13 【checks】 criminal history record check or check for alcohol and  
14 drug-related motor vehicle violations, including all costs for  
15 administering and processing the checks. The employing board of  
16 education or contractor may reimburse an applicant or school bus  
17 driver for the cost of the check.

18       Upon receipt of the criminal history record information for an  
19 applicant from the Federal Bureau of Investigation ~~【and】~~, the  
20 Division of State Police, the Administrative Office of the Courts, or  
21 any other verifiable source, and information on the check for  
22 alcohol and drug-related motor vehicle violations from the  
23 ~~【Division of】~~ Motor Vehicle ~~【Services】~~ Commission, the  
24 Commissioner of Education shall notify the applicant, and the  
25 employing board of education or contractor, in writing, of the  
26 applicant's qualification or disqualification as a school bus driver.  
27 If the applicant is disqualified, the convictions which constitute the  
28 basis for the disqualification shall be identified in the written notice  
29 to the applicant, and the employing board of education or contractor  
30 shall immediately remove the applicant from employment. A  
31 school bus driver, except as provided in subsection ~~【e.】~~ g. of this  
32 section, shall be permanently disqualified from employment or  
33 service if the individual's criminal history record reveals a record of  
34 conviction for which public school employment candidates are  
35 disqualified pursuant to section 1 of P.L.1986, c.116 (C.18A:6-7.1)  
36 or if the driver has been convicted at least two times within the last  
37 10 years for a violation of R.S.39:4-50, section 2 of P.L.1981, c.512  
38 (C.39:4-50.4a), section 5 of P.L.1990, c.103 (C.39:3-10.13), or  
39 section 16 of P.L.1990, c.103 (C.39:3-10.24); or once for a  
40 violation of section 5 of P.L.1990, c.103 (C.39:3-10.13) or section  
41 16 of P.L.1990, c.103 (C.39:3-10.24) while transporting school  
42 children.

43       Following qualification for employment as a school bus driver  
44 pursuant to this section, the State Bureau of Identification shall  
45 immediately forward to the Commissioner of Education any  
46 information which the bureau receives on a charge pending against  
47 the school bus driver. If the charge is for one of the crimes or

1 offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1),  
2 the commissioner shall notify the employing board of education or  
3 contractor, and the board or contractor shall take appropriate action.  
4 If the pending charge results in conviction, the school bus driver  
5 shall ~~not be eligible for continued~~ be permanently disqualified  
6 from employment.

7 A school bus driver shall not be eligible to operate a school bus  
8 if the individual's bus driver's license is currently revoked or  
9 suspended by the ~~Division of~~ Motor Vehicle ~~Services~~  
10 Commission in accordance with R.S.39:3-10.1.

11 Following qualification for employment as a school bus driver,  
12 the ~~Division of~~ Motor Vehicle ~~Services~~ Commission shall  
13 immediately forward to the Commissioner of Education any  
14 information which the ~~division~~ commission receives on a  
15 conviction for an alcohol or drug-related motor vehicle violation  
16 that would disqualify the driver from employment pursuant to the  
17 provisions of this subsection. The commissioner shall notify the  
18 employing board of education or contractor that the driver is ~~no~~  
19 longer eligible for permanently disqualified from employment.

20 b. ~~Notwithstanding the provisions of this section, an~~ An  
21 individual ~~shall not be~~ disqualified from employment or service  
22 under this act on the basis of any conviction disclosed by a criminal  
23 history record check or a check for alcohol and drug-related motor  
24 vehicle violations performed pursuant to this section ~~without~~  
25 shall have an opportunity to challenge the accuracy of the  
26 disqualifying records.

27 c. When charges are pending for a crime or any other offense  
28 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
29 employing board of education or contractor shall be notified that the  
30 ~~candidate~~ applicant shall not be eligible for employment until the  
31 commissioner has made a determination regarding qualification or  
32 disqualification upon adjudication of the pending charges.

33 d. The applicant shall have 30 days from the date of the written  
34 notice of disqualification to challenge the accuracy of the criminal  
35 history record information or the record of convictions for an  
36 alcohol or drug-related motor vehicle violation. If no challenge is  
37 filed or if the determination of the accuracy of the criminal history  
38 record information or the record of convictions for an alcohol or  
39 drug-related motor vehicle violation upholds the disqualification,  
40 ~~notification of the applicant's disqualification for~~ the applicant  
41 shall remain permanently disqualified from employment ~~shall be~~  
42 forwarded to the Division of Motor Vehicle Services. The local  
43 board of education or the school bus contractor and the County  
44 Superintendent of Schools shall also be notified of the  
45 disqualification]. A notice of disqualification shall be forwarded to  
46 the Motor Vehicle Commission and the executive county  
47 superintendent of schools.

1 Notwithstanding the provisions of any law to the contrary, the  
2 **【Director of the Division】** Chief Administrator of the Motor  
3 Vehicle **【Services】** Commission shall, upon notice of  
4 disqualification from the Commissioner of Education, immediately  
5 revoke the applicant's special license issued pursuant to R.S.39:3-  
6 10.1 without necessity of a further hearing.

7 **【Candidates'】** Applicants' and employees' records shall be  
8 maintained in accordance with the provisions of section 4 of  
9 P.L.1986, c.116 (C.18A:6-7.4).

10 e. **【This section shall first apply to criminal history record**  
11 **checks conducted on or after the effective date of P.L.1998, c.31**  
12 **(C.18A:6-7.1c et al.); except that in the case of a school bus driver**  
13 **employed by a board of education or a contracted service provider**  
14 **who is required to undergo a check upon application for renewal of**  
15 **a school bus driver's license, the individual shall be disqualified**  
16 **only for the following offenses:**

17 (1) any offense enumerated in this section prior to the effective  
18 date of P.L.1998, c.31 (C.18A:6-7.1c et al.); and

19 (2) any offense enumerated in this section which had not been  
20 enumerated in this section prior to the effective date of P.L.1998,  
21 c.31 (C.18A:6-7.1c et al.), if the person was convicted of that  
22 offense on or after the effective date of that act.] Deleted by  
23 amendment, P.L. , c. (pending before the Legislature as this bill)

24 f. (1) Notwithstanding any provision of this section to the  
25 contrary, the check for alcohol and drug-related motor vehicle  
26 violations shall be conducted in accordance with the provisions of  
27 this section prior to initial employment as a school bus driver and  
28 upon application for renewal of a school bus driver's license until  
29 such time as the provisions of the "Motor Carrier Safety  
30 Improvement Act of 1999," Pub. L. 106-159, are effective and  
31 implemented by the State.

32 (2) Notwithstanding any provision of this section to the  
33 contrary, upon the implementation by the State of the "Motor  
34 Carrier Safety Improvement Act of 1999," Pub. L. 106-159, a check  
35 for alcohol and drug-related motor vehicle violations shall be  
36 conducted in accordance with the provisions of this section prior to  
37 initial employment as a school bus driver. A check for alcohol and  
38 drug-related motor vehicle violations conducted for any subsequent  
39 renewal of a school bus driver's license shall be subject to the  
40 provisions of the "Motor Carrier Safety Improvement Act of 1999,"  
41 Pub. L.106-159.

42 (3) Upon the implementation by the State of the "Motor Carrier  
43 Safety Improvement Act of 1999," Pub. L. 106-159, following  
44 qualification for employment as a school bus driver, the **【Division**  
45 **of】** Motor Vehicle **【Services】** Commission shall immediately notify  
46 the Commissioner of Education of the suspension or revocation of a  
47 school bus driver's commercial driver's license. The commissioner

1 shall notify the employing board of education or contractor of the  
2 suspension or revocation, and the employment of the school bus  
3 driver shall be immediately terminated. In the case of a school bus  
4 driver whose commercial driver's license has been suspended, the  
5 driver may apply for re-employment at the end of the period of  
6 suspension.

7 g. The Commissioner of Education shall require a biennial  
8 federal criminal history record check of school bus drivers. These  
9 criminal history record checks shall continue until such time as the  
10 United States Department of Justice has implemented a program to  
11 retain the federal fingerprint image.

12 A bus driver employed on the effective date of P.L. \_\_\_\_\_,  
13 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) shall be  
14 permanently disqualified from employment only for the following  
15 crimes and offenses:

16 (1) any crime or offense enumerated in section 1 of P.L.1986,  
17 c.116 (C.18A:6-7.1) prior to the effective date of P.L.1998, c.31  
18 (C.18A:6-7.1c et al.); and

19 (2) any crime or offense enumerated in section 1 of P.L.1986,  
20 c.116 (C.18A:6-7.1), if that crime or offense was a disqualifying  
21 crime or offense at the time the person was convicted of that crime  
22 or offense.

23 (cf: P.L.2003, c.66, s.4)

24

25 17. (New section) a. In the case of any nonpublic school which  
26 requires a criminal history record check as a condition of  
27 employment, the Commissioner of Education shall require:

28 (1) a State and federal criminal history record check of any  
29 employee of the nonpublic school or contracted service provider  
30 who is employed on the effective date of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_)  
31 (pending before the Legislature as this bill), and who has not had  
32 the fingerprint image retained at the State Bureau of Identification.  
33 These checks shall be completed within two years of the effective  
34 date of P.L. \_\_\_\_\_, c. (C. \_\_\_\_\_) (pending before the Legislature as this  
35 bill). Employees hired prior to the effective date of P.L.1986, c.116  
36 (C.18A:6-7.1 et seq.) who have not undergone a criminal history  
37 record check shall be processed first;

38 (2) beginning two years following the effective date of P.L. \_\_\_\_\_, c.  
39 (C. \_\_\_\_\_) (pending before the Legislature as this bill), a biennial  
40 federal criminal history record check of employees of the nonpublic  
41 school or contracted service provider. These criminal history  
42 record checks shall continue until such time as the United States  
43 Department of Justice has implemented a program to retain the  
44 federal fingerprint image.

45 b. An employee employed on the effective date of P.L. \_\_\_\_\_,  
46 c. (C. \_\_\_\_\_) (pending before the Legislature as this bill) shall be  
47 permanently disqualified from employment only for the following  
48 crimes and offenses:

1 (1) any crime or offense enumerated in section 1 of P.L.1986,  
2 c.116 (C.18A:6-7.1) prior to the effective date of P.L.1998, c.31  
3 (C.18A:6-7.1c et al.); and

4 (2) any crime or offense enumerated in section 1 of P.L.1986,  
5 c.116 (C.18A:6-7.1), if that crime or offense was a disqualifying  
6 crime or offense at the time the person was convicted of that crime  
7 or offense.

8 c. Upon receipt of the criminal history record information for  
9 an employee from the Federal Bureau of Investigation, the State  
10 Bureau of Identification, the Administrative Office of the Courts, or  
11 any other verifiable source, the Commissioner of Education shall  
12 notify the employee and chief administrator of the nonpublic school  
13 that requires a criminal history record check as a condition of  
14 employment, or contracted service provider, in writing, of the  
15 employee's qualification or disqualification for employment or  
16 service under P.L.1989, c.229 (C.18A:6-4.13 et seq.). If the  
17 employee is disqualified, the convictions which constitute the basis  
18 for the disqualification shall be identified in the written notice to  
19 the employee, and the employing board of education or contracted  
20 service provider shall immediately remove the employee from  
21 employment. The employee shall have 30 days from the date of the  
22 written notice of disqualification to challenge the accuracy of the  
23 criminal history record information. If no challenge is filed or if the  
24 determination of the accuracy of the criminal history record  
25 information upholds the disqualification, the employee shall remain  
26 permanently disqualified from employment. A written notice of  
27 disqualification for employees who hold a certificate issued by the  
28 State Board of Examiners shall be forwarded to that board.

29 d. An employee of a contracted service provider employed  
30 simultaneously in more than one facility, center, school, or school  
31 system shall be required to be fingerprinted for only one of those  
32 facilities, centers, schools, or school systems, provided the  
33 employee remains employed with the same contracted service  
34 provider and his fingerprint image is retained by the State Bureau of  
35 Identification. Individuals employed by one nonpublic school that  
36 requires the criminal history record check as a condition of  
37 employment may provide services part-time to another facility,  
38 center, school, or school system without undergoing a new record  
39 check.

40 e. The State Bureau of Identification shall immediately forward  
41 to the Commissioner of Education any information which the  
42 bureau receives on a charge pending against an employee of the  
43 nonpublic school that requires a criminal history record check as a  
44 condition of employment or contracted service provider. If the  
45 charge is for one of the crimes or offenses enumerated in section 1  
46 of P.L.1986, c.116 (C.18A:6-7.1), the commissioner shall notify the  
47 chief administrator of the nonpublic school or contractor, who shall

1 take appropriate action. If the pending charge results in conviction,  
2 the employee shall be permanently disqualified from employment.

3

4 18. (New section) a. The Commissioner of Education shall  
5 require:

6 (1) a State and federal criminal history record check of any  
7 employee employed on the effective date of P.L. , c. (C. )  
8 (pending before the Legislature as this bill) in a position covered  
9 under section 1 of P.L.1986, c.116 (C.18A:6-7.1) who has not had  
10 the fingerprint image retained at the State Bureau of Identification.  
11 These checks shall be completed within two years of the effective  
12 date of P.L. , c. (C. ) (pending before the Legislature as this  
13 bill). Employees hired prior to the effective date of P.L.1986, c.116  
14 (C.18A:6-7.1 et seq.) who have not undergone a criminal history  
15 record check shall be processed first;

16 (2) beginning two years following the effective date of P.L. ,  
17 c. (pending before the Legislature as this bill) a biennial federal  
18 criminal history record check of all employees in a position covered  
19 under section 1 of P.L.1986, c.116 (C.18A:6-7.1). These criminal  
20 history record checks shall continue until such time as the United  
21 States Department of Justice has implemented a program to retain  
22 the federal fingerprint image.

23 b. An employee employed on the effective date of P.L. ,  
24 c. (C. ) (pending before the Legislature as this bill) shall be  
25 permanently disqualified from employment only for the following  
26 crimes and offenses:

27 (1) any crime or offense enumerated in section 1 of P.L.1986,  
28 c.116 (C.18A:6-7.1) prior to the effective date of P.L.1998, c.31  
29 (C.18A:6-7.1c et al.); and

30 (2) any crime or offense enumerated in section 1 of P.L.1986,  
31 c.116 (C.18A:6-7.1), if that crime or offense was a disqualifying  
32 crime or offense at the time the person was convicted of that crime  
33 or offense.

34 c. Upon receipt of the criminal history record information for  
35 an employee from the Federal Bureau of Investigation, the State  
36 Bureau of Identification, the Administrative Office of the Courts, or  
37 any other verifiable source, the Commissioner of Education shall  
38 notify the employee and employing board of education or  
39 contracted service provider, in writing, of the employee's  
40 qualification or disqualification for employment or service under  
41 P.L.1986, c.116 (C.18A:6-7.1 et seq.). If the employee is  
42 disqualified, the convictions which constitute the basis for the  
43 disqualification shall be identified in the written notice to the  
44 employee, and the employing board of education or contracted  
45 service provider shall immediately remove the employee from  
46 employment. The employee shall have 30 days from the date of the  
47 written notice of disqualification to challenge the accuracy of the  
48 criminal history record information. If no challenge is filed or if the

1 determination of the accuracy of the criminal history record  
2 information upholds the disqualification, the employee shall remain  
3 permanently disqualified from employment. A written notice of  
4 disqualification for employees who hold a certificate issued by the  
5 State Board of Examiners shall be forwarded to that board.

6 d. An employee of a contracted service provider employed  
7 simultaneously in more than one facility, center, school, or school  
8 system shall be required to be fingerprinted for only one of those  
9 facilities, centers, schools, or school systems, provided the  
10 employee remains employed by the same contracted service  
11 provider and the fingerprint image is retained by the State Bureau  
12 of Identification. Individuals employed by one school district may  
13 provide services part time to another school district without  
14 undergoing a new criminal history record check. Non-tenured  
15 teaching staff members who receive a written notice of termination  
16 pursuant to section 1 of P.L.1971, c.436 (C.18A:27-10) and are re-  
17 hired by that school district the following school year shall not be  
18 required to undergo a new criminal history record check.

19  
20 19. (New section) a. The State Board of Education shall adopt  
21 rules and regulations pursuant to the "Administrative Procedure  
22 Act," P.L.1968, c.410 (C.52:14B-1 et seq.), to effectuate the  
23 provisions of P.L. , c. (C. ) (pending before the Legislature  
24 as this bill); except that notwithstanding any provision of P.L.1968,  
25 c.410 (C.52:14B-1 et seq.) to the contrary, the commissioner shall,  
26 for a period of 12 months following the effective date of P.L. ,  
27 c. (C. ) (pending before the Legislature as this bill), adopt,  
28 immediately upon filing with the Office of Administrative Law,  
29 such rules and regulations as the commissioner deems necessary to  
30 implement P.L. , c. (C. ) (pending before the Legislature as  
31 this bill). All such rules and regulations adopted by the  
32 commissioner shall expire no later than 12 months following the  
33 effective date of P.L. , c. (C. ) (pending before the Legislature  
34 as this bill) and shall thereafter be amended, adopted, or re-adopted  
35 during the following 24-month period by the commissioner in  
36 accordance with the provisions of P.L.1968, c.410 (C.52:14B-1 et  
37 seq.).

38 b. All such rules and regulations adopted by the commissioner  
39 pursuant to subsection a. of this section shall expire no later than 36  
40 months following the effective date of P.L. , c. (C. ) (pending  
41 before the Legislature as this bill) and shall thereafter be amended,  
42 adopted or re-adopted by the State board in accordance with the  
43 provisions of P.L.1968, c.410 (C.52:14B-1 et seq.).

44  
45 20. This act shall take effect on the first day of the second month  
46 after enactment; except that the Commissioner of Education and the  
47 Chief Administrator of the Motor Vehicle Commission may take

1 such administrative and regulatory action in advance as shall be  
2 necessary to implement the provisions of this act.

3

4

5

STATEMENT

6

7 This bill makes various changes to the laws concerning criminal  
8 history record checks of persons in contact with students in New  
9 Jersey schools.

10 This bill would require employees of public schools who were  
11 continuously employed in a school district since prior to 1986 to  
12 undergo a criminal history record check. This was the year in  
13 which the original criminal history record check requirement was  
14 established, and because the law included a “grandfather”  
15 provision, employees of a district who were hired prior to that date  
16 have never been required to undergo a record check. The bill also  
17 covers nonpublic school employees and provides that if the  
18 nonpublic school requires a criminal history record check as a  
19 condition of employment, all current employees who have regular  
20 contact with pupils must undergo a criminal history record check.

21 The bill also requires that all public school employees, school  
22 bus drivers, and persons employed in nonpublic schools that require  
23 criminal history record checks as a condition of employment,  
24 undergo a federal criminal history record check every two years,  
25 until such time as the federal government implements a program to  
26 retain the federal fingerprint image. The State currently has a  
27 program in place to retain the State fingerprint image, enabling the  
28 employer to be notified in the future of any information received by  
29 the State Bureau of Identification on a State charge pending or a  
30 criminal conviction against an employee.

31 The bill clarifies those persons required to undergo a criminal  
32 history record check. Although by definition an administrator is  
33 considered a “teaching staff member” and therefore required under  
34 current law to undergo a record check, this bill will include  
35 administrators specifically. The bill also provides that an entity  
36 contracting with a board of education for the provision of  
37 educational or related services, including extended school year  
38 services for students with disabilities, must ensure that all of its  
39 employees whose positions involve regular contact with students  
40 undergo a criminal history record check. In addition, the bill  
41 clarifies that employees of contracted service providers are required  
42 to undergo the record check if they have regular contact with pupils.

43 Current law provides that all first and second degree crimes and  
44 other specified crimes will permanently disqualify a person from  
45 employment in schools. This bill sets forth new disqualifying  
46 crimes, including: N.J.S.2C:34-1 et seq. (prostitution/obscenity);  
47 P.L.2002, c.26 (C.2C:38-1 et seq.) (September 11th, 2001 Anti-  
48 Terrorism Act); section 1 of P.L.1997, c.111 (C.2C:11-5.1) (leaving

- 1 scene of accident resulting in death); section 1 of P.L.2005, c.77
- 2 (C.2C:13-8) (human trafficking); and subsection c. of N.J.S.2C:18-
- 3 3 (peering).