

# ASSEMBLY, No. 4753

## STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED NOVEMBER 16, 2015

**Sponsored by:**

**Assemblyman CARMELO G. GARCIA**  
**District 33 (Hudson)**

**Co-Sponsored by:**

**Assemblyman Mukherji**

**SYNOPSIS**

Requires employees of nonpublic schools to undergo criminal history record checks and requires certain types of formerly-exempt child care centers to obtain license from DCF.

**CURRENT VERSION OF TEXT**

As introduced.



A4753 GARCIA

2

1 AN ACT concerning the safety of children and amending P.L.1989,  
2 c.229 and P.L.1983, c.492.

3

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

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

9 1. **【Any】** A nonpublic school **【may】** shall require all final  
10 candidates for employment or service under contract with the  
11 school as a teacher, substitute teacher, teacher aide, a school  
12 physician, school nurse, custodian, maintenance worker, bus driver,  
13 security guard, secretary or clerical worker or for any other position  
14 which involves regular contact with pupils, to demonstrate that no  
15 criminal history record information exists on file in the Federal  
16 Bureau of Investigation, Identification Division, or the State Bureau  
17 of Identification which would disqualify that individual from  
18 employment in the public schools of this State pursuant to the  
19 provisions of P.L.1986, c.116 (C.18A:6-7.1 et seq.). **【Application**  
20 **of this requirement by a nonpublic school shall be consistent and**  
21 **nondiscriminatory among candidates.】**

22 As used in this act, "nonpublic school" means an elementary or  
23 secondary school within the State, other than a public school,  
24 offering education in grades K-12 or any combination thereof,  
25 wherein a child may legally fulfill compulsory school attendance  
26 requirements.

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

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

31 3. The commissioner shall apply the same requirements,  
32 procedures and standards and shall proceed in the same manner as  
33 is prescribed in P.L.1986, c.116 (C.18A:6-7.1 et seq.) for  
34 determining whether the applicant would be qualified or  
35 disqualified for employment in the public schools and shall inform  
36 the applicant of his determination in writing. The commissioner  
37 shall also provide written notification to the chief administrator of  
38 the nonpublic school **【,** which requires the criminal history record  
39 check as a condition of employment,**】** of his determination as to  
40 whether the candidate would be qualified or disqualified for  
41 employment in the public schools.

42 Following qualification for employment pursuant to this section,  
43 the State Bureau of Identification shall immediately forward to the  
44 Commissioner of Education any information which the bureau

**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 receives on a charge pending against an employee of the nonpublic  
2 school [which requires a criminal history record check as a  
3 condition of employment]. If the charge is for one of the crimes or  
4 offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1),  
5 the commissioner shall notify the chief administrator of the  
6 nonpublic school.

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

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

11 5. An individual employed in any substitute capacity or position  
12 by a nonpublic school [which requires a criminal history record  
13 check, and] who is rehired annually by that school [.] shall only be  
14 required to undergo a criminal history record check as authorized  
15 pursuant to this act upon initial employment.

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

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18 4. Section 3 of P.L.1983, c.492 (C.30:5B-3) is amended to read  
19 as follows:

20 3. As used in this act:

21 a. "Child" means any person under the age of 13.

22 b. "Child care center" or "center" means any facility which is  
23 maintained for the care, development or supervision of six or more  
24 children who attend the facility for less than 24 hours a day. In the  
25 case of a center operating in a sponsor's home, children who reside  
26 in the home shall not be included when counting the number of  
27 children being served. This term shall include, but shall not be  
28 limited to, day care centers, drop-in centers, nighttime centers,  
29 recreation centers sponsored and operated by a county or municipal  
30 government recreation or park department or agency, day nurseries,  
31 nursery and play schools, cooperative child centers, centers for  
32 children with special needs, centers serving sick children, infant-  
33 toddler programs, school age child care programs, employer  
34 supported centers, centers that had been licensed by the Department  
35 of Human Services prior to the enactment of the "Child Care Center  
36 Licensing Act," P.L.1983, c.492 (C.30:5B-1 et seq.) and  
37 kindergartens that are not an integral part of a private educational  
38 institution or system offering elementary education in grades  
39 kindergarten through sixth, seventh or eighth. This term shall not  
40 include:

41 (1) (Deleted by amendment, P.L.1992, c.95).

42 (2) A program operated by a private school which is run solely  
43 for educational purposes. This exclusion shall include  
44 kindergartens[,] or prekindergarten programs [or child care  
45 centers] that are an integral part of a private educational institution  
46 or system offering elementary education in grades kindergarten  
47 through sixth, seventh or eighth;

- 1 (3) Centers or special classes operated primarily for religious  
2 instruction or for the temporary care of children while persons  
3 responsible for such children are attending religious services;
- 4 (4) A program of specialized activity or instruction for children  
5 that is not designed or intended for child care purposes, including,  
6 but not limited to, Boy Scouts, Girl Scouts, 4-H clubs, and Junior  
7 Achievement, and single activity programs such as athletics,  
8 gymnastics, hobbies, art, music, and dance and craft instruction,  
9 which are supervised by an adult, agency or institution;
- 10 (5) Youth camps required to be licensed under the "New Jersey  
11 Youth Camp Safety Act," P.L.1973, c.375 (C.26:12-1 et seq.). To  
12 qualify for an exemption from licensing under this provision, a  
13 program must have a valid and current license as a youth camp  
14 issued by the Department of Health **【and Senior Services】**. A youth  
15 camp sponsor who also operates a child care center shall secure a  
16 license from the Department of Children and Families for the  
17 center;
- 18 (6) Day training centers operated by or under contract with the  
19 Division of Developmental Disabilities within the Department of  
20 Human Services;
- 21 (7) Programs operated by the board of education of the local  
22 public school district that is responsible for their implementation  
23 and management;
- 24 (8) A program such as that located in a bowling alley, health spa  
25 or other facility in which each child attends for a limited time  
26 period while the parent is present and using the facility;
- 27 (9) A child care program operating within a geographical area,  
28 enclave or facility that is owned or operated by the federal  
29 government;
- 30 (10) A family day care home that is registered pursuant to the  
31 "Family Day Care Provider Registration Act," P.L.1987, c.27  
32 (C.30:5B-16 et seq.); and
- 33 (11) Privately operated infant and preschool programs that are  
34 approved by the Department of Education to provide services  
35 exclusively to local school districts for handicapped children,  
36 pursuant to N.J.S.18A:46-1 et seq.
- 37 c. "Commissioner" means the Commissioner of Children and  
38 Families.
- 39 d. "Department" means the Department of Children and  
40 Families.
- 41 e. "Parent" means a natural or adoptive parent, guardian, or any  
42 other person having responsibility for, or custody of, a child.
- 43 f. "Person" means any individual, corporation, company,  
44 association, organization, society, firm, partnership, joint stock  
45 company, the State or any political subdivision thereof.
- 46 g. "Sponsor" means any person owning or operating a child  
47 care center.
- 48 (cf: P.L.2006, c.47, s.161)

1       5. Section 4 of this act shall take effect immediately and  
2 sections 1 through 3 of this act shall first apply to persons who are  
3 final candidates for employment by a nonpublic school or service  
4 under contract with the school on and after the effective date of this  
5 act.

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STATEMENT

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10       This bill requires a final candidate for employment in a  
11 nonpublic school or for service under contract with the school, who  
12 will have regular contact with students, to undergo a criminal  
13 history record check. The applicant will continue to bear the cost  
14 for the check, which is now the practice.

15       The requirement for a criminal history record check would first  
16 apply to persons who are final candidates for employment or service  
17 on and after the bill's effective date.

18       The bill also amends the "Child Care Center Licensing Act,"  
19 P.L.1983, c.492 (C.30:5B-1 et seq.), to eliminate the exemption  
20 under that law for "child care centers that are an integral part of a  
21 private educational institution or system offering elementary  
22 education in grades kindergarten through sixth, seventh or eighth."  
23 The elimination of this exemption will require these types of  
24 programs to comply with the "Child Care Center Licensing Act,"  
25 including the provisions that require the center to ensure that a child  
26 abuse record information check and a criminal history record  
27 background check have been conducted on all staff members of the  
28 center. A "staff member" is defined by law as "any owner, sponsor,  
29 director, or person employed by or working at a child care center on  
30 a regularly scheduled basis during the center's operating hours,  
31 including full-time, part-time, voluntary, contract, consulting, and  
32 substitute staff, whether compensated or not."