

# 18A:6-7.3

## LEGISLATIVE HISTORY CHECKLIST

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**LAWS OF:** 2002                      **CHAPTER:** 119

**NJSA:** 18A:6-7.3            (Notification of charges pending – school employee background checks)

**BILL NO:** S1709            (Substituted for A2626)

**SPONSOR(S):** Inverso and others

**DATE INTRODUCED:** June 27, 2002

**COMMITTEE:**                      **ASSEMBLY:** ----

**SENATE:** Education

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**              **ASSEMBLY:** October 7, 2002

**SENATE:** October 31, 2002

**DATE OF APPROVAL:** December 12, 2002

**FOLLOWING ARE ATTACHED IF AVAILABLE:**

[FINAL TEXT OF BILL](#) (2nd reprint enacted)  
(Amendments during passage denoted by superscript numbers)

**S1709**

[SPONSORS STATEMENT](#): (Begins on page 4 of original bill)                      [Yes](#)

**COMMITTEE STATEMENT:**    **ASSEMBLY:** No

**SENATE:**                      [Yes](#)

[FLOOR AMENDMENT STATEMENT](#):    [Yes](#)

**LEGISLATIVE FISCAL ESTIMATE:**    No

**A2626**

[SPONSORS STATEMENT](#): (Begins on page 4 of original bill)                      [Yes](#)  
Bill and Sponsors Statement identical to S1709

**COMMITTEE STATEMENT:**    **ASSEMBLY:**                      [Yes](#)

**SENATE:**                      No

**FLOOR AMENDMENT STATEMENTS:**    No

**LEGISLATIVE FISCAL ESTIMATE:**    No

**VETO MESSAGE:**    No

**GOVERNOR’S PRESS RELEASE ON SIGNING:**    No

**FOLLOWING WERE PRINTED:**

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**REPORTS:**

No

**HEARINGS:**

No

**NEWSPAPER ARTICLES:**

Yes

"New law boost to schools," 12-13-2002 The Times, pA1

P.L. 2002, CHAPTER 119, *approved December 12, 2002*  
Senate, No. 1709 (*Second Reprint*)

1 AN ACT concerning criminal history record checks and amending  
2 P.L.1986, c.116 <sup>2</sup>[ and] <sup>2</sup> P.L.1989, c.104 <sup>2</sup>, P.L.1989, c.229 and  
3 P.L.1998, c.31<sup>2</sup>.

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

7  
8 <sup>2</sup>1. Section 2 of P.L.1989, c.229 (C.18A:6-4.14) is amended to  
9 read as follows:

10 2. An applicant for employment or service in any of the positions  
11 covered by this act shall submit to the Commissioner of Education his  
12 or her name, address and fingerprints taken [on standard fingerprint  
13 cards by a law enforcement agency] in accordance with procedures  
14 established by the commissioner. The commissioner is hereby  
15 authorized to exchange fingerprint data with and to receive criminal  
16 history record information from the Federal Bureau of Investigation  
17 and the Division of State Police for use in making the determinations  
18 required by this act. No criminal history record check shall be  
19 performed pursuant to this act unless the applicant shall have furnished  
20 his or her written consent to such a check. The applicant shall bear the  
21 cost for the criminal history record check, including all costs for  
22 administering and processing the check.<sup>2</sup>

23 (cf: P.L.1998, c.31, s.2)

24

25 <sup>2</sup>2. Section 3 of P.L.1989, c.229 (C.18A:6-4.15) is amended to  
26 read as follows:

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

37 Following qualification for employment pursuant to this section, the  
38 State Bureau of Identification shall immediately forward to the  
39 Commissioner of Education any information which the bureau receives

**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.**

**Matter enclosed in superscript numerals has been adopted as follows:**

<sup>1</sup> Senate SED committee amendments adopted September 9, 2002.

<sup>2</sup> Assembly floor amendments adopted September 23, 2002.

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

7 (cf: P.L.1998, c.31, s.3)

8

9 <sup>2</sup>3. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read  
10 as follows:

11 3. A facility, center, school, or school system under the  
12 supervision of the Department of Education and board of education  
13 which cares for, or is involved in the education of children under the  
14 age of 18 shall not employ or contract for the services of any teaching  
15 staff member or substitute teacher, teacher aide, child study team  
16 member, school physician, school nurse, custodian, school  
17 maintenance worker, cafeteria worker, school law enforcement officer,  
18 school secretary or clerical worker or any other person serving in a  
19 position which involves regular contact with pupils unless the  
20 employer has first determined consistent with the requirements and  
21 standards of this act, that no criminal history record information exists  
22 on file in the Federal Bureau of Investigation, Identification Division,  
23 or the State Bureau of Identification which would disqualify that  
24 individual from being employed or utilized in such capacity or  
25 position. An individual employed by a board of education or a school  
26 bus contractor holding a contract with a board of education, in the  
27 capacity of a school bus driver, shall be required to meet the criminal  
28 history record requirements pursuant to section 6 of P.L.1989, c.104  
29 (C.18A:39-19.1). This section shall not apply to any individual who  
30 provides services on a voluntary basis.

31 An individual, except as provided in subsection g. of this section,  
32 shall be permanently disqualified from employment or service under  
33 this act if the individual's criminal history record check reveals a  
34 record of conviction for any crime of the first or second degree; or

35 a. An offense as set forth in chapter 14 of Title 2C of the New  
36 Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or as set  
37 forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2; or

38 b. An offense involving the manufacture, transportation, sale,  
39 possession, distribution or habitual use of a "controlled dangerous  
40 substance" as defined in the "Comprehensive Drug Reform Act of  
41 1987," N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined  
42 pursuant to N.J.S.2C:36-1 et seq.; or

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

1 (2) A crime as set forth in chapter 39 of Title 2C of the New Jersey  
 2 Statutes, a third degree crime as set forth in chapter 20 of Title 2C of  
 3 the New Jersey Statutes, or a crime as listed below:

4 Recklessly endangering another person	N.J.S.2C:12-2
5 Terroristic threats	N.J.S.2C:12-3
6 Criminal restraint	N.J.S.2C:13-2
7 Luring, enticing child into motor vehicle, 8 structure or isolated area	P.L.1993, c.291
9 Causing or risking widespread injury 10 or damage	N.J.S.2C:17-2
11 Criminal mischief	N.J.S.2C:17-3
12 Burglary	N.J.S.2C:18-2
13 Usury	N.J.S.2C:21-19
14 Threats and other improper influence	N.J.S.2C:27-3
15 Perjury and false swearing	N.J.S.2C:28-3
16 Resisting arrest	N.J.S.2C:29-2
17 Escape	N.J.S.2C:29-5;
18 or	

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

21 d. For the purposes of this section, a conviction exists if the  
 22 individual has at any time been convicted under the laws of this State  
 23 or under any similar statutes of the United States or any other state for  
 24 a substantially equivalent crime or other offense.

25 e. Notwithstanding the provisions of this section, an individual  
 26 shall not be disqualified from employment or service under this act on  
 27 the basis of any conviction disclosed by a criminal record check  
 28 performed pursuant to this act without an opportunity to challenge the  
 29 accuracy of the disqualifying criminal history record.

30 f. When charges are pending for a crime or any other offense  
 31 enumerated in this section, the employing board of education shall be  
 32 notified that the candidate [may] shall not be eligible for employment  
 33 until the commissioner has made a determination regarding  
 34 qualification or disqualification upon adjudication of the pending  
 35 charges.

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

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

1 (2) any offense enumerated in this section which had not been  
2 enumerated in this section prior to the effective date of P.L.1998,  
3 c.31 (C.18A:6-7.1c et al.), if the person was convicted of that offense  
4 on or after the effective date of that act.<sup>2</sup>

5 (cf: P.L.1998, c.31, s.5)

6  
7 <sup>24.</sup> Section 2 of P.L.1986, c.116 (C.18A:6-7.2) is amended to read  
8 as follows:

9 2. An applicant for employment or service in any of the positions  
10 covered by this act shall submit to the Commissioner of Education his  
11 or her name, address and fingerprints taken [on standard fingerprint  
12 cards by a law enforcement agency] in accordance with procedures  
13 established by the commissioner. The Commissioner of Education is  
14 hereby authorized to exchange fingerprint data with and receive  
15 criminal history record information from the federal Bureau of  
16 Investigation and the Division of State Police for use in making the  
17 determinations required by this act. No criminal history record check  
18 shall be performed pursuant to this act unless the applicant shall have  
19 furnished his or her written consent to such a check. The applicant  
20 shall bear the cost for the criminal history record check, including all  
21 costs for administering and processing the check.<sup>2</sup>

22 (cf: P.L.1998, c.31, s.7)

23  
24 <sup>25.</sup> Section 13 of P.L.1998, c.31 (C.18A:6-7.2a) is amended to  
25 read as follows:

26 13. The Commissioner of Education is authorized to:

27 a. receive all criminal history data necessary to complete the  
28 criminal history records check as required pursuant to P.L.1986, c.116  
29 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104  
30 (C.18A:39-19.1), or as permitted pursuant to P.L.1989, c.229  
31 (C.18A:6-4.13 et seq.);[ and]

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

37 c. adjust the fees set by the Department of Education for the  
38 criminal history records checks.<sup>2</sup>

39 (cf: P.L.1998, c.31, s.13.)

40  
41 <sup>2</sup>[1.] 6.<sup>2</sup> Section 3 of P.L.1986, c.116 (C.18A:6-7.3) is amended  
42 to read as follows:

43 3. Upon receipt of the criminal history record information for an  
44 applicant from the Federal Bureau of Investigation and the Division of  
45 State Police, the Commissioner of Education shall notify the applicant,

1 in writing, of the applicant's qualification or disqualification for  
2 employment or service under this act. If the applicant is disqualified,  
3 the convictions which constitute the basis for the disqualification shall  
4 be identified in the written notice to the applicant. The applicant shall  
5 have 14 days from the date of the written notice of disqualification to  
6 challenge the accuracy of the criminal history record information. If no  
7 challenge is filed or if the determination of the accuracy of the  
8 criminal history record information upholds the disqualification, the  
9 commissioner shall notify the employing board of education that the  
10 applicant has been disqualified from employment, and a copy of the  
11 written notice of disqualification for applicants who hold a certificate  
12 issued by the State Board of Examiners shall be forwarded to that  
13 board.

14 The commissioner is authorized to share all criminal history record  
15 information regarding teaching staff members with the State Board of  
16 Examiners. In addition, the commissioner is authorized to share  
17 criminal history record information of an applicant from the Federal  
18 Bureau of Investigation or the State Bureau of Identification with the  
19 appropriate court in order to obtain copies of the judgment of  
20 conviction and such other documents as the commissioner deems  
21 necessary to confirm the completeness and accuracy of the record.

22 Following qualification for employment pursuant to this section, the  
23 State Bureau of Identification shall immediately forward to the  
24 Commissioner of Education any information which the bureau receives  
25 on a charge pending against an employee<sup>1</sup>. If the charge is<sup>1</sup> for one of  
26 the<sup>2</sup> crimes or<sup>2</sup> offenses enumerated in section 1 of P.L.1986, c.116  
27 (C.18A:6-7.1)<sup>1</sup> [Upon receipt of the information]<sup>1</sup>, the  
28 commissioner shall notify the employing board of education or  
29 contractor, and the board or contractor shall take appropriate action.  
30 If the pending charge results in conviction, the employee shall not be  
31 eligible for continued employment.

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

33

34 <sup>2</sup>[2.] 7.<sup>2</sup> Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is  
35 amended to read as follows:

36 6. a. Prior to employment as a school bus driver, and upon  
37 application for renewal of a school bus driver's license, a bus driver  
38 shall submit to the Commissioner of Education his or her name,  
39 address and fingerprints taken on standard fingerprint cards by a law  
40 enforcement agency. No criminal history record check shall be  
41 furnished without his or her written consent to such a check. The  
42 applicant shall bear the cost for the criminal history record check,  
43 including all costs for administering and processing the check.

44 Upon receipt of the criminal history record information for an  
45 applicant from the Federal Bureau of Investigation and the Division of  
46 State Police, the Commissioner of Education shall notify the applicant,

1 in writing, of the applicant's qualification or disqualification as a  
2 school bus driver. If the applicant is disqualified, the convictions  
3 which constitute the basis for the disqualification shall be identified in  
4 the written notice to the applicant. A school bus driver, except as  
5 provided in subsection e. of this section, shall be permanently  
6 disqualified from employment or service if the individual's criminal  
7 history record reveals a record of conviction for which public school  
8 employment candidates are disqualified pursuant to section 1 of  
9 P.L.1986, c.116 (C.18A:6-7.1).

10 Following qualification for employment as a school bus driver  
11 pursuant to this section, the State Bureau of Identification shall  
12 immediately forward to the Commissioner of Education any  
13 information which the bureau receives on a charge pending against the  
14 school bus driver <sup>1</sup>. If the charge is<sup>1</sup> for one of the <sup>2</sup>crimes or<sup>2</sup>  
15 offenses enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1) <sup>1</sup> [  
16 Upon receipt of the information]<sup>1</sup>, the commissioner shall notify the  
17 employing board of education or contractor, and the board or  
18 contractor shall take appropriate action. If the pending charge results  
19 in conviction, the school bus driver shall not be eligible for continued  
20 employment.

21 A school bus driver shall not be eligible to operate a school bus if  
22 the individual's bus driver's license is currently revoked or suspended  
23 by the Division of Motor Vehicle Services in accordance with  
24 R.S.39:3-10.1.

25 b. Notwithstanding the provisions of this section, an individual  
26 shall not be disqualified from employment or service under this act on  
27 the basis of any conviction disclosed by a criminal history record check  
28 performed pursuant to this section without an opportunity to challenge  
29 the accuracy of the disqualifying criminal history record.

30 c. When charges are pending for a crime or any other offense  
31 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
32 employing board of education or contractor shall be notified that the  
33 candidate <sup>2</sup>[may] shall<sup>2</sup> not be eligible for employment until the  
34 commissioner has made a determination regarding qualification or  
35 disqualification upon adjudication of the pending charges.

36 d. The applicant shall have 14 days from the date of the written  
37 notice of disqualification to challenge the accuracy of the criminal  
38 history record information. If no challenge is filed or if the  
39 determination of the accuracy of the criminal history record  
40 information upholds the disqualification, notification of the applicant's  
41 disqualification for employment shall be forwarded to the Division of  
42 Motor Vehicle Services. The local board of education or the school  
43 bus contractor and the County Superintendent of Schools shall also be  
44 notified of the disqualification. Notwithstanding the provisions of any  
45 law to the contrary, the Director of the Division of Motor Vehicle



1 Services shall, upon notice of disqualification from the Commissioner  
2 of Education, immediately revoke the applicant's special license issued  
3 pursuant to R.S.39:3-10.1 without necessity of a further hearing.  
4 Candidates' records shall be maintained in accordance with the  
5 provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

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

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

15 (2) any offense enumerated in this section which had not been  
16 enumerated in this section prior to the effective date of P.L.1998, c.31  
17 (C.18A:6-7.1c et al.), if the person was convicted of that offense on  
18 or after the effective date of that act.

19 (cf: P.L.1998, c.31, s.10)

20

21 <sup>2</sup>[3.] 8.<sup>2</sup> This act shall take effect immediately.

22

23

24

25

26 Provides for notification of charges pending for a disqualifying crime  
27 or offense against a public or nonpublic school employee or a school  
28 bus driver who has previously undergone a criminal history  
29 background check.

**SENATE, No. 1709**

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**STATE OF NEW JERSEY**  
**210th LEGISLATURE**

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INTRODUCED JUNE 27, 2002

**Sponsored by:**

**Senator PETER A. INVERSO**  
**District 14 (Mercer and Middlesex)**  
**Senator JOSEPH A. PALAIA**  
**District 11 (Monmouth)**

**SYNOPSIS**

Provides procedure to dismiss school board employee or school bus driver who is subsequently charged with disqualifying offense.

**CURRENT VERSION OF TEXT**

As introduced.



S1709 INVERSO, PALAIA

2

1 AN ACT concerning criminal history record checks and amending  
2 P.L.1986, c. 116 and P.L.1989, c.104.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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

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

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

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

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

**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       2. 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 taken on standard fingerprint cards by a law  
7 enforcement agency. No criminal history record check shall be  
8 furnished without his or her written consent to such a check. The  
9 applicant shall bear the cost for the criminal history record check,  
10 including all costs for administering and processing the check.

11       Upon receipt of the criminal history record information for an  
12 applicant from the Federal Bureau of Investigation and the Division of  
13 State Police, the Commissioner of Education shall notify the applicant,  
14 in writing, of the applicant's qualification or disqualification as a  
15 school bus driver. If the applicant is disqualified, the convictions  
16 which constitute the basis for the disqualification shall be identified in  
17 the written notice to the applicant. A school bus driver, except as  
18 provided in subsection e. of this section, shall be permanently  
19 disqualified from employment or service if the individual's criminal  
20 history record reveals a record of conviction for which public school  
21 employment candidates are disqualified pursuant to section 1 of  
22 P.L.1986, c.116 (C.18A:6-7.1).

23       Following qualification for employment as a school bus driver  
24 pursuant to this section, the State Bureau of Identification shall  
25 immediately forward to the Commissioner of Education any  
26 information which the bureau receives on a charge pending against the  
27 school bus driver for one of the offenses enumerated in section 1 of  
28 P.L.1986, c.116 (C.18A:6-7.1). Upon receipt of the information, the  
29 commissioner shall notify the employing board of education or  
30 contractor, and the board or contractor shall take appropriate action.  
31 If the pending charge results in conviction, the school bus driver shall  
32 not be eligible for continued employment.

33       A school bus driver shall not be eligible to operate a school bus if  
34 the individual's bus driver's license is currently revoked or suspended  
35 by the Division of Motor Vehicle Services in accordance with  
36 R.S.39:3-10.1.

37       b. Notwithstanding the provisions of this section, an individual  
38 shall not be disqualified from employment or service under this act on  
39 the basis of any conviction disclosed by a criminal history record check  
40 performed pursuant to this section without an opportunity to challenge  
41 the accuracy of the disqualifying criminal history record.

42       c. When charges are pending for a crime or any other offense  
43 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
44 employing board of education or contractor shall be notified that the  
45 candidate may not be eligible for employment until the commissioner  
46 has made a determination regarding qualification or disqualification

1 upon adjudication of the pending charges.

2 d. The applicant shall have 14 days from the date of the written  
3 notice of disqualification to challenge the accuracy of the criminal  
4 history record information. If no challenge is filed or if the  
5 determination of the accuracy of the criminal history record  
6 information upholds the disqualification, notification of the applicant's  
7 disqualification for employment shall be forwarded to the Division of  
8 Motor Vehicle Services. The local board of education or the school  
9 bus contractor and the County Superintendent of Schools shall also be  
10 notified of the disqualification. Notwithstanding the provisions of any  
11 law to the contrary, the Director of the Division of Motor Vehicle  
12 Services shall, upon notice of disqualification from the Commissioner  
13 of Education, immediately revoke the applicant's special license issued  
14 pursuant to R.S.39:3-10.1 without necessity of a further hearing.  
15 Candidates' records shall be maintained in accordance with the  
16 provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

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

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

26 (2) any offense enumerated in this section which had not been  
27 enumerated in this section prior to the effective date of P.L.1998, c.31  
28 (C.18A:6-7.1c et al.), if the person was convicted of that offense on  
29 or after the effective date of that act.

30 (cf: P.L.1998, c.31, s.10)

31

32 3. This act shall take effect immediately.

33

34

35

#### STATEMENT

36

37 This bill provides that after a person is qualified for employment by  
38 a board of education or contractor following a criminal history records  
39 check, including employment as a school bus driver, the State Bureau  
40 of Identification shall immediately forward to the Commissioner of  
41 Education any information that the bureau receives on a charge  
42 pending against the employee for one of the offenses which would  
43 have disqualified the person from initial employment. Upon receipt of  
44 the information, the commissioner is directed to notify the employer,  
45 and the employer is directed to take appropriate action. If the pending  
46 charge results in conviction, the employee shall not be eligible for  
47 continued employment.

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 1709**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 9, 2002

The Senate Education Committee reports favorably and with committee amendments Senate Bill No. 1709.

As amended, this bill provides that after a person is qualified for employment by a board of education or contractor following a criminal history records check, including employment as a school bus driver, the State Bureau of Identification shall immediately forward to the Commissioner of Education any information that the bureau receives on a charge pending against the employee. If the charge is for one of the offenses which would have disqualified the person from initial employment, the commissioner is directed to notify the employer, and the employer is required to take appropriate action. If the pending charge results in conviction, the employee shall not be eligible for continued employment.

The committee amended the bill to provide that the State Bureau of Identification would notify the Commissioner of Education of any pending charge against an employee, and the commissioner would notify the employer if the charge involved a disqualifying offense.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 1709**

with Assembly Floor Amendments  
(Proposed By Assemblywoman GREENSTEIN and Assemblyman GUEAR)

ADOPTED: SEPTEMBER 23, 2002

These amendments: 1) allow those nonpublic schools which currently require background checks as a condition of employment also to receive notification of any subsequent charge pending against an employee for a disqualifying crime or offense; 2) delete specific reference to fingerprint cards in light of the new digital fingerprint technology; 3) clarify that in the case of an initial background check, a school district may not hire any person against whom the check reveals a pending charge until that charge has been adjudicated and qualification for the position has thus been established; and 4) insert in the section of existing law that outlines the authority of the commissioner to receive criminal history data, language to reflect the authority provided to the commissioner under the bill also to receive information on subsequent pending charges.

# ASSEMBLY, No. 2626

## STATE OF NEW JERSEY 210th LEGISLATURE

INTRODUCED JUNE 28, 2002

**Sponsored by:**

**Assemblywoman LINDA R. GREENSTEIN**

**District 14 (Mercer and Middlesex)**

**Assemblyman GARY L. GUEAR, SR.**

**District 14 (Mercer and Middlesex)**

**SYNOPSIS**

Provides procedure to dismiss school board employee or school bus driver who is subsequently charged with disqualifying offense.

**CURRENT VERSION OF TEXT**

As introduced.





1 AN ACT concerning criminal history record checks and amending  
2 P.L.1986, c.116 and P.L.1989, c.104.

3  
4 **BE IT ENACTED** by the Senate and General Assembly of the State  
5 of New Jersey:

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

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

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

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

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

**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       2. 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 taken on standard fingerprint cards by a law  
7 enforcement agency. No criminal history record check shall be  
8 furnished without his or her written consent to such a check. The  
9 applicant shall bear the cost for the criminal history record check,  
10 including all costs for administering and processing the check.

11       Upon receipt of the criminal history record information for an  
12 applicant from the Federal Bureau of Investigation and the Division of  
13 State Police, the Commissioner of Education shall notify the applicant,  
14 in writing, of the applicant's qualification or disqualification as a  
15 school bus driver. If the applicant is disqualified, the convictions  
16 which constitute the basis for the disqualification shall be identified in  
17 the written notice to the applicant. A school bus driver, except as  
18 provided in subsection e. of this section, shall be permanently  
19 disqualified from employment or service if the individual's criminal  
20 history record reveals a record of conviction for which public school  
21 employment candidates are disqualified pursuant to section 1 of  
22 P.L.1986, c.116 (C.18A:6-7.1).

23       Following qualification for employment as a school bus driver  
24 pursuant to this section, the State Bureau of Identification shall  
25 immediately forward to the Commissioner of Education any  
26 information which the bureau receives on a charge pending against the  
27 school bus driver for one of the offenses enumerated in section 1 of  
28 P.L.1986, c.116 (C.18A:6-7.1). Upon receipt of the information, the  
29 commissioner shall notify the employing board of education or  
30 contractor, and the board or contractor shall take appropriate action.  
31 If the pending charge results in conviction, the school bus driver shall  
32 not be eligible for continued employment.

33       A school bus driver shall not be eligible to operate a school bus if  
34 the individual's bus driver's license is currently revoked or suspended  
35 by the Division of Motor Vehicle Services in accordance with  
36 R.S.39:3-10.1.

37       b. Notwithstanding the provisions of this section, an individual  
38 shall not be disqualified from employment or service under this act on  
39 the basis of any conviction disclosed by a criminal history record check  
40 performed pursuant to this section without an opportunity to challenge  
41 the accuracy of the disqualifying criminal history record.

42       c. When charges are pending for a crime or any other offense  
43 enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1), the  
44 employing board of education or contractor shall be notified that the  
45 candidate may not be eligible for employment until the commissioner  
46 has made a determination regarding qualification or disqualification

1 upon adjudication of the pending charges.

2 d. The applicant shall have 14 days from the date of the written  
3 notice of disqualification to challenge the accuracy of the criminal  
4 history record information. If no challenge is filed or if the  
5 determination of the accuracy of the criminal history record  
6 information upholds the disqualification, notification of the applicant's  
7 disqualification for employment shall be forwarded to the Division of  
8 Motor Vehicle Services. The local board of education or the school  
9 bus contractor and the County Superintendent of Schools shall also be  
10 notified of the disqualification. Notwithstanding the provisions of any  
11 law to the contrary, the Director of the Division of Motor Vehicle  
12 Services shall, upon notice of disqualification from the Commissioner  
13 of Education, immediately revoke the applicant's special license issued  
14 pursuant to R.S.39:3-10.1 without necessity of a further hearing.  
15 Candidates' records shall be maintained in accordance with the  
16 provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).

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

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

26 (2) any offense enumerated in this section which had not been  
27 enumerated in this section prior to the effective date of P.L.1998, c.31  
28 (C.18A:6-7.1c et al.), if the person was convicted of that offense on  
29 or after the effective date of that act.

30 (cf: P.L.1998, c.31, s.10)

31

32 3. This act shall take effect immediately.

33

34

#### STATEMENT

35

36 This bill provides that after a person is qualified for employment by  
37 a board of education or contractor following a criminal history records  
38 check, including employment as a school bus driver, the State Bureau  
39 of Identification shall immediately forward to the Commissioner of  
40 Education any information that the bureau receives on a charge  
41 pending against the employee for one of the offenses which would  
42 have disqualified the person from initial employment. Upon receipt of  
43 the information, the commissioner is directed to notify the employer,  
44 and the employer is directed to take appropriate action. If the pending  
45 charge results in conviction, the employee shall not be eligible for  
46 continued employment.

# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### **ASSEMBLY, No. 2626**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: SEPTEMBER 12, 2002

The Assembly Education Committee favorably reports Assembly Bill No. 2626 with committee amendments.

As amended, this bill provides that after a person is qualified for employment by a board of education or contractor following a criminal history records check, including employment as a school bus driver, the State Bureau of Identification will immediately forward to the Commissioner of Education any information that the bureau receives on a charge pending against the employee. If the charge is for one of the crimes or offenses which would have disqualified the person from initial employment, the commissioner is directed to notify the employer, and the employer is required to take appropriate action. If the pending charge results in conviction, the employee shall not be eligible for continued employment.

The bill also extends the above notification procedures to those nonpublic schools which require their employees to undergo a criminal history records check as a condition of employment. Under current law, a nonpublic school may choose to have its employees submit to a check as a condition of employment; and for those nonpublic schools which require the checks, this bill will ensure that the chief administrator of the nonpublic school will receive information on subsequent pending charges for disqualifying crimes and offenses.

The bill also amends current law to provide that in the case of a person who is undergoing an initial background check at the time of application for employment with a school district or school bus contractor, if the check determines that the applicant has a charge pending for a disqualifying crime or offense, then the school district may not hire the candidate until the charges have been adjudicated and qualification or disqualification for employment has been determined by the commissioner. Some school districts have interpreted the current law to allow the district to hire such an individual pending the adjudication of the charge.

The bill also deletes reference to the taking of fingerprints on fingerprint cards and instead provides that fingerprints will be taken in accordance with procedures established by the commissioner. This

reflects the use of new digital fingerprinting technology in the background check process.

The committee amended the bill to: 1) provide that the State Bureau of Identification would notify the Commissioner of Education of any pending charge against an employee, and the commissioner would notify the employer if the charge involved a disqualifying crime or offense. This change in the bill's language reflects the fact that while the State Bureau of Identification can provide information of pending charges, the determination of whether those charges are for a disqualifying crime or offense can be more easily made by the Department of Education; 2) allow those nonpublic schools which currently require background checks as a condition of employment to also receive notification of any subsequent charge pending against an employee for a disqualifying crime or offense; 3) delete specific reference to fingerprint cards in light of the new digital fingerprint technology; 4) clarify that in the case of an initial background check, a school district may not hire any person against whom the check reveals a pending charge until that charge has been adjudicated and qualification for the position has thus been established; and 5) insert in the section of existing law that outlines the authority of the commissioner to receive criminal history data, language to reflect the authority provided to the commissioner under the bill to also receive information on subsequent pending charges.