

***LEGISLATIVE HISTORY CHECKLIST***

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**LAWS OF:** 1998

**CHAPTER:** 31

**NJSA:** 18A:6-7.1c et al

"School Employees -- Criminal Background Checks"

**BILL NO:** S851 (Substituted for A1569)

**SPONSOR(S):** Palaia and Robertson

**DATE INTRODUCED:** March 2, 1998

**COMMITTEE:**

*ASSEMBLY:* ~~~~

*SENATE:* Education

**AMENDED DURING PASSAGE:** Yes

**DATE OF PASSAGE:**

*ASSEMBLY:* June 29, 1998

*SENATE:* June 29, 1998

**DATE OF APPROVAL:** June 30, 1998

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**THE FOLLOWING ARE ATTACHED IF AVAILABLE:**

**FINAL TEXT OF BILL:** 4<sup>th</sup> reprint (CC) or (Corrected Copy)  
(Amendments during passage denoted by superscript numbers)

**S851**

**SPONSORS STATEMENT:** *Yes* (Begins on page 10 of original bill)

**COMMITTEE STATEMENT:**

*ASSEMBLY: No*

**SENATE:** *Yes*

**FLOOR AMENDMENT STATEMENTS:** *Yes*

**6-11-98**

**6-22-98**

**6-25-98**

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**A1569**

**SPONSORS STATEMENT:** *Yes* (Begins on page 1 of original bill)  
(Assembly committee substitute identical to S851)

**COMMITTEE STATEMENT:**

**ASSEMBLY:** *Yes*

**5-7-98**

**6-22-98**

**SENATE:** *No*

**FLOOR AMENDMENT STATEMENTS:** *No*

**LEGISLATIVE FISCAL ESTIMATE:** *No*

**VETO MESSAGE:** *No*

**GOVERNOR'S PRESS RELEASE ON SIGNING:** *Yes*

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**THE FOLLOWING WERE PRINTED:**

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**REPORTS:** *No*

**HEARINGS:** *No*

**NEWSPAPER ARTICLES:**

"Senate bill mandates checks of school workers before hiring," 6-26-98, Bergen  
Record, p. A2.

"New bill requires checks before teachers can work," 6-30-98, Bergen Record, p. A4.

"Whitman signs background-check bill," 7-1-98, Bergen Record, p. A3.

[Fourth Reprint]

**SENATE, No. 851**

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**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

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INTRODUCED MARCH 2, 1998

**Sponsored by:**

**Senator JOSEPH A. PALAIA**

**District 11 (Monmouth)**

**Senator NORMAN M. ROBERTSON**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

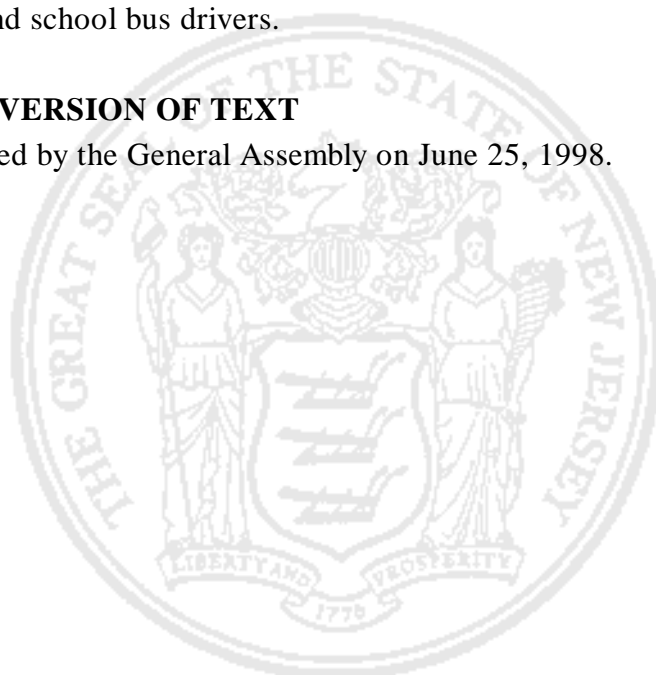
**Senators Baer, Turner and Assemblyman Bateman**

**SYNOPSIS**

Revises statutes providing for criminal history record checks of school employees and school bus drivers.

**CURRENT VERSION OF TEXT**

As amended by the General Assembly on June 25, 1998.



**(Sponsorship Updated As Of: 6/26/1998)**

1 AN ACT concerning criminal history record checks of school  
2 employees, amending various parts of the statutory law,  
3 supplementing chapter 6 of Title 18A of the New Jersey Statutes,  
4 <sup>2</sup>and<sup>2</sup> repealing section 1 of P.L.1987, c.164 <sup>2</sup>[, and making an  
5 appropriation]<sup>2</sup> .  
6

7 **BE IT ENACTED** by the Senate and General Assembly of the State  
8 of New Jersey:  
9

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

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

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

28 (cf: P.L.1989, c.229, s.1)  
29

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

32 2. An applicant for employment or service in any of the positions  
33 covered by this act shall submit to the Commissioner of Education his  
34 or her name, address and fingerprints taken on standard fingerprint  
35 cards by a **[State or municipal]** law enforcement agency. The  
36 commissioner is hereby authorized to exchange fingerprint data with  
37 and to receive criminal history record information from the Federal  
38 Bureau of Investigation and the Division of State Police for use in  
39 making the determinations required by this act. No criminal history

**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 May 14, 1998.

<sup>2</sup> Senate floor amendments adopted June 11, 1998.

<sup>3</sup> Senate floor amendments adopted June 22, 1998.

<sup>4</sup> Assembly floor amendments adopted June 25, 1998.

1 record check shall be performed pursuant to this act unless the  
2 applicant shall have furnished his or her written consent to such a  
3 check. The applicant shall bear the cost for the criminal history  
4 recordcheck, including all costs for administering and processing the  
5 check.

6 (cf: P.L.1989, c.229, s.2)

7

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

10 3. The commissioner shall apply the same requirements, procedures  
11 and standards and shall proceed in the same manner as is prescribed in  
12 P.L.1986, c.116 (C.18A:6-7.1 et seq.) for determining whether the  
13 applicant would be qualified or disqualified for employment in the  
14 public schools and shall inform the applicant of his determination in  
15 writing. **[It shall be the applicant's responsibility to present a copy of**  
16 **the commissioner's letter to the nonpublic school which requires the**  
17 **criminal history records check as a condition of employment.] The**  
18 **commissioner shall also provide written notification to the chief**  
19 **administrator of the nonpublic school, which requires the criminal**  
20 **history record check as a condition of employment, of his**  
21 **determination as to whether the candidate would be qualified or**  
22 **disqualified for employment in the public schools.**

23 (cf: P.L.1989, c.229, s.3)

24

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

27 4. The commissioner may maintain the **[records]** <sup>2</sup>criminal record  
28 and<sup>2</sup> application documents on a candidate for no longer than **[one**  
29 **year]** three years from the date of a determination as to the candidate's  
30 qualification or disqualification for employment with an employer.  
31 The three-year retention <sup>2</sup>**[period]** <sup>2</sup>limitation<sup>2</sup> shall not apply to  
32 statistical data on <sup>1</sup>**[crimes and]**<sup>1</sup> <sup>2</sup>crimes and any other<sup>2</sup> offenses or  
33 an ongoing list of candidates who are qualified or disqualified. All  
34 documents submitted by a candidate and all criminal history record  
35 information shall be maintained by the commissioner in a confidential  
36 manner.

37 (cf: P.L.1989, c.229, s.4)

38

39 5. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read  
40 as follows:

41 1. A facility, center, school, or school system under the supervision  
42 of the Department of Education and board of education which cares  
43 for, or is involved in the education of children under the age of 18  
44 shall not employ or contract for the services of any teaching staff  
45 member or substitute teacher, teacher aide, child study team member,  
46 school physician, school nurse, custodian, school maintenance worker,

1 cafeteria worker, school law enforcement officer, school secretary or  
 2 clerical worker or any other person serving in a position which  
 3 involves regular contact with pupils [except individuals serving as  
 4 school bus drivers] unless the employer has first determined consistent  
 5 with the requirements and standards of this act, that no criminal  
 6 history record information exists on file in the Federal Bureau of  
 7 Investigation, Identification Division, or the State Bureau of  
 8 Identification which would disqualify that individual from being  
 9 employed or utilized in such capacity or position. An individual  
 10 employed by a board of education or a school bus contractor holding  
 11 a contract with a board of education, in the capacity of a school bus  
 12 driver, shall be required to meet the criminal history record  
 13 requirements pursuant to section 6 of P.L.1989, c.104  
 14 (C.18A:39-19.1). This section shall not apply to any individual who  
 15 provides services on a voluntary basis.

16 An individual [other than a school bus driver]<sup>2</sup>, except as provided  
 17 in subsection g. of this section,<sup>2</sup> shall be permanently disqualified from  
 18 employment or service under this act if the individual's criminal history  
 19 record check reveals a record of conviction [of] for any [of the  
 20 following crimes and offenses:] crime of the first <sup>1</sup> [or] <sup>4</sup> [<sup>1</sup>] or<sup>4</sup>  
 21 second <sup>4</sup> [<sup>1</sup> or third]<sup>4</sup> degree; or

22 a. <sup>1</sup> [In New Jersey, any crime [or disorderly persons offense]:  
 23 (1) bearing upon or involving sexual offense or child molestation  
 24 as set forth in N.J.S.2C:14-1 et seq.; or public indecency as set forth  
 25 in N.J.S.2C:34-1b. (5) through (7); or  
 26 (2) endangering the welfare of children or incompetents, as set  
 27 forth in N.J.S.2C:24-4 and N.J.S.2C:24-7; or  
 28 (3) abuse, abandonment or neglect of a child as set forth in R.S.  
 29 9:6-1 et seq.] An offense as set forth in chapter 14 of Title 2C of the  
 30 New Jersey Statutes, or as set forth in N.J.S.2C:24-4 and 2C:24-7, or  
 31 as set forth in R.S.9:6-1 et seq., or as set forth in N.J.S.2C:29-2<sup>1</sup> ; or

32 b. <sup>1</sup> [A crime or] An<sup>1</sup> offense involving the manufacture,  
 33 transportation, sale, possession, distribution or [habitual] <sup>1</sup> habitual<sup>1</sup>  
 34 use of a "controlled dangerous substance" as defined in the ["New  
 35 Jersey Controlled Dangerous Substances Act," P.L.1970, c.226  
 36 (C.24:21-1 et seq.)] "Comprehensive Drug Reform Act of 1987,"  
 37 N.J.S.2C:35-1 et al. or "drug paraphernalia" as defined pursuant to  
 38 N.J.S.2C:36-1 et seq.; or

39 c. (1) A crime <sup>1</sup> [or offense]<sup>1</sup> involving the use of force or the  
 40 threat of force to or upon a person or property including[: armed],  
 41 but not limited to, robbery, [aggravated] <sup>1</sup> aggravated<sup>1</sup> assault,  
 42 <sup>1</sup> stalking,<sup>1</sup> kidnapping, arson, manslaughter and murder; or  
 43 (2) [A simple assault involving the use of force which results in  
 44 bodily injury;] A crime <sup>1</sup> [or offense as listed below:

1	<u>Aggravated assault</u>	<u>N.J.S.2C:12-1b.</u>
2	<u>Recklessly endangering another person</u>	<u>N.J.S.2C:12-2</u>
3	<u>Terroristic threats</u>	<u>N.J.S.2C:12-3</u>
4	<u>Stalking</u>	<u>P.L.1992, c.209</u>
5		<u>(C.2C:12-10)</u>
6	<u>Criminal restraint</u>	<u>N.J.S.2C:13-2</u>
7	<u>Luring, enticing child into motor vehicle,</u>	
8	<u>structure or isolated area</u>	<u>P.L.1993, c.291</u>
9		<u>(C.2C:13-6)</u>
10	<u>Arson</u>	<u>2C:17-1b.</u>
11	<u>Causing or risking widespread injury</u>	
12	<u>or damage</u>	<u>N.J.S.2C:17-</u>
13		<u>2b.,c.,d.and e.</u>
14	<u>Criminal mischief</u>	<u>N.J.S.2C:17-3</u>
15	<u>Burglary</u>	<u>N.J.S.2C:18-2</u>
16	<u>Theft</u>	<u>N.J.S.2C:20-2b.(2)</u>
17	<u>Usury</u>	<u>N.J.S.2C:21-19a.,c.</u>
18		<u>and f.</u>
19	<u>Threats and other improper influence</u>	<u>N.J.S.2C:27-3</u>
20	<u>Perjury and false swearing</u>	<u>N.J.S.2C:28-3</u>
21	<u>Resisting arrest</u>	<u>N.J.S.2C:29-2</u>
22	<u>Escape</u>	<u>N.J.S.2C:29-5</u>
23	<u>Prohibited weapons and devices</u>	<u>N.J.S.2C:39-3</u>
24		<u>N.J.S.2C:39-4</u>
25		<u>N.J.S.2C:39-5</u>
26		<u>N.J.S.2C:39-7</u>
27		<u>P.L.1987,c.228</u>
28		<u>(C.2C:39-9.1)</u>
29		<u>P.L.1991, c.437</u>
30		<u>(C.2C:39-9.2)] as</u>
31	<u>set forth in chapter 39 of Title 2C of the New Jersey Statutes<sup>4</sup>, a third</u>	
32	<u>degree crime as set forth in chapter 20 of Title 2C of the New Jersey</u>	
33	<u>Statutes, or a crime as listed below:</u>	
34		
35	<u>Recklessly endangering another person</u>	<u>N.J.S.2C:12-2</u>
36	<u>Terroristic threats</u>	<u>N.J.S.2C:12-3</u>
37	<u>Criminal restraint</u>	<u>N.J.S.2C:13-2</u>
38	<u>Luring, enticing child into motor vehicle,</u>	
39	<u>structure or isolated area</u>	<u>P.L.1993, c.291</u>
40		<u>(C.2C:13-6)</u>
41	<u>Causing or risking widespread injury</u>	
42	<u>or damage</u>	<u>N.J.S.2C:17-2</u>
43	<u>Criminal mischief</u>	<u>N.J.S.2C:17-3</u>
44	<u>Burglary</u>	<u>N.J.S.2C:18-2</u>
45	<u>Usury</u>	<u>N.J.S.2C:21-19</u>



- 1 Threats and other improper influence . . . . . N.J.S.2C:27-3  
2 Perjury and false swearing . . . . . N.J.S.2C:28-3  
3 Resisting arrest . . . . . N.J.S.2C:29-2  
4 Escape . . . . . N.J.S.2C:29-5<sup>4,1</sup>  
5 or  
6 (3) Conspiracy to commit or <sup>1</sup>[the] an<sup>1</sup> attempt to commit any of  
7 the <sup>1</sup>[crimes] <sup>2</sup>[offenses<sup>1</sup>] crimes<sup>2</sup> described in this act <sup>1</sup>[; or].<sup>1</sup>  
8 d. <sup>1</sup>[In any other state or jurisdiction, a conviction involving  
9 conduct which, if committed in New Jersey, would constitute any of  
10 the crimes or [disorderly persons] offenses described in this section  
11 of this act] For the purposes of this section, a conviction exists if the  
12 individual has at any time been convicted under the laws of this State  
13 or under any similar statutes of the United States or any other state for  
14 a substantially equivalent <sup>2</sup>crime or other<sup>2</sup> offense<sup>1</sup>.  
15 e. Notwithstanding the provisions of this section, an individual  
16 shall not be disqualified from employment or service under this act on  
17 the basis of any conviction disclosed by a criminal record check  
18 performed pursuant to this act [if the individual has affirmatively  
19 demonstrated to the Commissioner of Education clear and convincing  
20 evidence of his or her rehabilitation. In determining whether an  
21 individual has affirmatively demonstrated rehabilitation, the following  
22 factors shall be considered:  
23 (1) The nature and responsibility of the position which the  
24 convicted individual would hold;  
25 (2) The nature and seriousness of the offense;  
26 (3) The circumstances under which the offense occurred;  
27 (4) The date of the offense;  
28 (5) The age of the individual when the offense was committed;  
29 (6) Whether the offense was an isolated or repeated incident;  
30 (7) Any social conditions which may have contributed to the  
31 offense;  
32 (8) Any evidence of rehabilitation, including good conduct in  
33 prison or in the community, counseling or psychiatric treatment  
34 received, acquisition of additional academic or vocational schooling,  
35 successful participation in correctional work-release programs, or the  
36 recommendation of persons who have had the individual under their  
37 supervision] without an opportunity to <sup>2</sup>[appeal] challenge<sup>2</sup> the  
38 accuracy of the disqualifying criminal history record.  
39 f. When charges are pending for <sup>1</sup>[a crime or] <sup>2</sup>[an<sup>1</sup>] a crime or  
40 any other<sup>2</sup> offense enumerated in this section, the employing board of  
41 education shall be notified that the candidate <sup>1</sup>[is] may<sup>1</sup> not <sup>1</sup>be<sup>1</sup>  
42 eligible for employment<sup>2</sup>[. The commissioner shall make no  
43 determination regarding the qualification or disqualification until the  
44 pending charges are adjudicated] until the commissioner has made a

1 determination regarding qualification or disqualification upon  
2 adjudication of the pending charges.

3 g. This section shall first apply to criminal history record checks  
4 conducted on or after the effective date of P.L. , c. (C. ) (now  
5 pending before the Legislature as this bill); except that in the case of  
6 an individual employed by a board of education or a contracted service  
7 provider who is required to undergo a check upon employment with  
8 another board of education or contracted service provider, the  
9 individual shall be disqualified only for the following offenses:

10 (1) any offense enumerated in this section prior to the effective  
11 date of P.L. , c. (C. ) (now pending before the Legislature as this  
12 bill); and

13 (2) any offense enumerated in this section which had not been  
14 enumerated in this section prior to the effective date of P.L. , c.  
15 (C. ) (now pending before the Legislature as this bill), if the  
16 person was convicted of that offense on or after the effective date of  
17 that act<sup>2</sup>.

18 (cf: P.L.1989, c.156, s.1)

19

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

22 2. An individual employed by a board of education in any substitute  
23 capacity or position, who is rehired annually by that board, shall only  
24 be required to undergo a criminal history record check as required  
25 pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) upon initial  
26 employment, provided the substitute continues in the employ of at  
27 least one of the districts at which the substitute was employed within  
28 one year of the approval of the criminal history record check.

29 (cf: P.L.1987, c.164, s.2)

30

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

33 2. An applicant for employment or service in any of the positions  
34 covered by this act shall submit to the Commissioner of Education his  
35 or her name, address and fingerprints taken on standard fingerprint  
36 cards by a **[State or municipal]** law enforcement agency. The  
37 Commissioner of Education is hereby authorized to exchange  
38 fingerprint data with and receive criminal history record information  
39 from the federal Bureau of Investigation and the Division of State  
40 Police for use in making the determinations required by this act. No  
41 criminal history record check shall be performed pursuant to this act  
42 unless the applicant shall have furnished his or her written consent to  
43 such a check. The applicant shall bear the cost for the criminal history  
44 record check <sup>1</sup>,including all costs for administering and processing the  
45 check<sup>1</sup>.

46 (cf: P.L.1986, c.116, s.2)

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

3 3. Upon receipt of the criminal history record information for an  
4 applicant from the Federal Bureau of Investigation and the Division of  
5 State Police, the Commissioner of Education shall notify the applicant,  
6 in writing, of the applicant's qualification or disqualification for  
7 employment or service under this act. If the applicant is disqualified,  
8 the convictions which constitute the basis for the disqualification shall  
9 be identified in the written notice ~~and a copy of the notice shall be~~  
10 ~~forwarded to the State Board of Examiners] to the applicant.~~ The  
11 applicant shall have ~~[30]~~ 14 days from the date of the written notice  
12 of disqualification to <sup>2</sup>~~petition the Commissioner of Education for a~~  
13 ~~[hearing on] determination of] challenge<sup>2</sup> the accuracy of the criminal~~  
14 ~~history record information [or to establish his or her rehabilitation~~  
15 ~~under subsection c. of section 1 of this act]. If no <sup>2</sup>[petition]~~  
16 ~~challenge<sup>2</sup> is filed or if the determination of the accuracy of the~~  
17 ~~criminal history record information upholds the disqualification, the~~  
18 ~~commissioner shall notify the employing board of education that the~~  
19 ~~applicant has been disqualified from employment, and a copy of the~~  
20 ~~written notice of disqualification for applicants who hold a certificate~~  
21 ~~issued by the State Board of Examiners shall be forwarded to that~~  
22 ~~board.~~

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

31 (cf: P.L.1986, c.116, s.3)

32

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

35 4. The Commissioner of Education may maintain the ~~[records]~~  
36 <sup>2</sup>~~criminal record and<sup>2</sup> application documents~~ on a candidate for no  
37 longer than ~~[one year]~~ three years from the date of determination as  
38 to the candidate's qualification or disqualification for employment with  
39 an employer. The three-year retention <sup>2</sup>[period] limitation<sup>2</sup> shall not  
40 apply to statistical data on <sup>1</sup>[crimes and] <sup>1</sup> <sup>2</sup>crimes and any other <sup>2</sup>  
41 offenses or an ongoing list of candidates who are qualified or  
42 disqualified. All documents submitted by a candidate and all criminal  
43 history record information shall be maintained by the commissioner in  
44 a confidential manner.

45 (cf: P.L.1987, c.164 s.3)

1 10. 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  
7 **【State or municipal】** law enforcement agency. No criminal history  
8 record check shall be furnished without his or her written consent to  
9 such a check. <sup>2</sup>The applicant shall bear the cost for the criminal  
10 history record check, including all costs for administering and  
11 processing the check.<sup>2</sup>

12 Upon receipt of the criminal history record information for an  
13 applicant from the Federal Bureau of Investigation and the Division of  
14 State Police, the Commissioner of Education shall notify the applicant,  
15 in writing, of the applicant's qualification or disqualification as a  
16 school bus driver. If the applicant is disqualified, the convictions  
17 which constitute the basis for the disqualification shall be identified in  
18 the written notice to the applicant. A school bus driver <sup>2</sup>,except as  
19 provided in subsection e. of this section,<sup>2</sup> shall be permanently  
20 disqualified from employment or service if the individual's criminal  
21 history record reveals a record of conviction 【of】 for <sup>1</sup>【any of the  
22 【following】 crimes and offenses <sup>2</sup>【an】 a crime or any  
23 other<sup>2</sup> offense<sup>1</sup>【:

24 a. A crime or offense bearing upon or involving a sexual offense or  
25 child molestation or endangering the welfare of children or  
26 incompetents, as specified in section 1 of P.L.1986, c.116  
27 (C.18A:6-7.1).

28 b. A crime or offense involving the manufacture, transportation,  
29 sale, possession, or habitual use of a "controlled dangerous substance"  
30 as defined in the "New Jersey Controlled Dangerous Substances Act,"  
31 P.L.1970, c.226 (C.24:21-1 et seq.).

32 c. A crime or offense involving the use of force or the threat of  
33 force to or upon a person or property including: armed robbery,  
34 assault, kidnapping, arson, manslaughter and murder **】 for which public**  
35 school employment candidates are disqualified pursuant to section 1  
36 of P.L.1986, c.116 (C.18A:6-7.1).

37 A school bus driver shall **【also be disqualified】** not be eligible to  
38 operate a school bus if the individual's bus driver's license is currently  
39 revoked or suspended by the Division of Motor **【Vehicles】** Vehicle  
40 Services in accordance with R.S.39:3-10.1.

41 b. Notwithstanding the provisions of this section, an individual  
42 shall not be disqualified from employment or service under this act on  
43 the basis of any conviction disclosed by a criminal history record check  
44 performed pursuant to this section without an opportunity to  
45 <sup>2</sup>【appeal】 challenge<sup>2</sup> the accuracy of the disqualifying criminal history  
46 record.

1     c. When charges are pending for <sup>1</sup>[a crime or] <sup>2</sup>[an<sup>1</sup>] a crime or  
2 any other<sup>2</sup> offense enumerated in section 1 of P.L.1986, c.116  
3 (C.18A:6-7.1), the employing board of education or contractor shall  
4 be notified that the candidate <sup>1</sup>[is] may<sup>1</sup> not <sup>1</sup>be<sup>1</sup> eligible for  
5 employment <sup>2</sup>[The commissioner shall make no determination  
6 regarding the qualification or disqualification until the pending charges  
7 are adjudicated] until the commissioner has made a determination  
8 regarding qualification or disqualification upon adjudication of the  
9 pending charges<sup>2</sup>.

10     d. The applicant shall have [30] 14 days from the date of the  
11 written notice of disqualification to <sup>2</sup>[petition the Commissioner of  
12 Education for a [hearing on] determination of] challenge<sup>2</sup> the  
13 accuracy of the criminal history record information [or to establish the  
14 applicant's rehabilitation under subsection c. of section 1 of P.L.1986,  
15 c.116 (C.18A:6-7.1). If the applicant is disqualified, the convictions  
16 which constitute the basis for disqualification shall be identified in the  
17 written notice with copies. If no <sup>2</sup>[petition] challenge<sup>2</sup> is filed or if  
18 the determination of the accuracy of the criminal history record  
19 information upholds the disqualification, notification of the applicant's  
20 disqualification for employment shall be forwarded to the Division of  
21 Motor [Vehicles] Vehicle Services. The local board of education[,]  
22 or the school bus contractor and the County Superintendent of  
23 Schools shall also be notified of the disqualification. Notwithstanding  
24 the provisions of any law to the contrary, the Director of the Division  
25 of Motor [Vehicles] Vehicle Services shall, upon notice of  
26 disqualification from the Commissioner of Education, immediately  
27 revoke the applicant's special license issued pursuant to R.S.39:3-10.1  
28 without necessity of a further hearing. Candidates' records shall be  
29 maintained in accordance with the provisions of section 4 of P.L.1986,  
30 c.116 (C.18A:6-7.4).

31     <sup>2</sup>e. This section shall first apply to criminal history record checks  
32 conducted on or after the effective date of P.L. , c. (C. ) (now  
33 pending before the Legislature as this bill); except that in the case of  
34 a school bus driver employed by a board of education or a contracted  
35 service provider who is required to undergo a check <sup>3</sup>[upon  
36 employment with another board of education or contracted service  
37 provider or]<sup>3</sup> upon application for renewal of a school bus driver's  
38 license, the individual shall be disqualified only for the following  
39 offenses:

40     (1) any offense enumerated in this section prior to the effective  
41 date of P.L. , c. (C. ) (now pending before the Legislature as this  
42 bill); and

43     (2) any offense enumerated in this section which had not been  
44 enumerated in this section prior to the effective date of P.L. , c.  
45 (C. ) (now pending before the Legislature as this bill), if the person

1 was convicted of that offense on or after the effective date of that act.<sup>2</sup>  
2 (cf: P.L.1989, c.104, s.6)

3  
4 11. N.J.S.18A:39-20 is amended to read as follows:

5 18A:39-20. No board of education or contractor shall approve or  
6 assign **【a driver】** an individual, as a driver or substitute driver of a  
7 school bus, without first complying with the provisions of this chapter,  
8 and any person violating, or failing to comply with**【,】** such provisions  
9 shall be guilty of a **【misdemeanor】** disorderly persons offense and  
10 subject to a fine of not more than \$500.00.

11 **【However, a board of education or a contractor may employ a bus**  
12 **driver provisionally for a period not to exceed six months, pending**  
13 **completion of a criminal history record check required pursuant to**  
14 **section 6 of P.L.1989, c.104 (C.18A:39-19.1); provided that the**  
15 **candidate submits to the commissioner a sworn statement attesting**  
16 **that the candidate has not been convicted of any crime or disorderly**  
17 **persons offense as described in that section.】**

18 (cf: P.L.1989, c.104, s.3)

19

20 <sup>1</sup>12. (New section) <sup>2</sup>**【a.】**<sup>2</sup> A board of education or contracted  
21 service provider may employ an applicant on an emergent basis for a  
22 period not to exceed three months, pending completion of a criminal  
23 history records check if the board or service provider demonstrates to  
24 the Commissioner of Education that special circumstances exist which  
25 justify the emergent employment. The board's or service provider's  
26 request to the commissioner shall include: (1) a description of the  
27 vacant position that needs to be filled; (2) a statement describing the  
28 board's or contract provider's good faith efforts to fill the position on  
29 a timely basis or a statement describing the unanticipated need for the  
30 applicant's employment; and (3) a sworn statement submitted by the  
31 applicant attesting that the applicant has not been convicted<sup>2</sup>**【of】**<sup>2</sup>  
32 or does not have a charge pending for a crime or<sup>2</sup>any<sup>2</sup>other<sup>2</sup>offense  
33 <sup>2</sup>**【as】**<sup>2</sup> enumerated in section 1 of P.L.1986, c.116 (C.18A:6-7.1).

34 <sup>2</sup>**【b. Upon approval of the request for the employment of an**  
35 **applicant on an emergent basis, the commissioner shall grant the**  
36 **criminal history records check priority status.】**<sup>2</sup> In the event that the  
37 background check is not completed within three months, the board or  
38 contracted service provider may petition the commissioner for an  
39 extension of time, not to exceed two months, in order to retain the  
40 employee.<sup>1</sup>

41

42 <sup>1</sup>**【12.】** <sup>1</sup>13. (New section) The Commissioner of Education is  
43 authorized to:

44 a. receive all criminal history data necessary to complete the  
45 criminal history records check as required pursuant to P.L.1986, c.116

1 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104 (C.18A:39-  
2 19.1), or as permitted pursuant to P.L.1989, c.229 (C.18A:6-4.13 et  
3 seq.); and

4 b. adjust the fees <sup>2</sup>set by the Department of Education<sup>2</sup> for the  
5 criminal history records checks.

6

7 <sup>1</sup>[13.] 14.<sup>1</sup> Section 1 of P.L.1987, c.164 (C.18A:6-7.1a) is  
8 repealed.

9

10 <sup>1</sup>[14.]<sup>2</sup>[ 15.<sup>1</sup> There is appropriated \$285,000 from the General  
11 Fund to the Department of Education to effectuate the purposes of this  
12 act.]<sup>2</sup>

13

14 <sup>1</sup>[15.] <sup>2</sup>[16.<sup>1</sup> 15.<sup>2</sup> This act shall take effect immediately <sup>2</sup>[and  
15 shall first apply to persons initially employed by a board of education  
16 or initially employed as a bus driver, and to criminal history record  
17 checks conducted, on and after the effective date of this act] <sup>2</sup>.

# SENATE, No. 851

## STATE OF NEW JERSEY 208th LEGISLATURE

INTRODUCED MARCH 2, 1998

**Sponsored by:**

**Senator JOSEPH A. PALAIA**

**District 11 (Monmouth)**

**Senator NORMAN M. ROBERTSON**

**District 34 (Essex and Passaic)**

**Co-Sponsored by:**

**Senators Baer and Turner**

**SYNOPSIS**

Revises statutes providing for criminal history record checks of school employees and school bus drivers; appropriates \$285,000.

**CURRENT VERSION OF TEXT**

As introduced.





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2

1 AN ACT concerning criminal history record checks of school  
2 employees, amending various parts of the statutory law,  
3 supplementing chapter 6 of Title 18A of the New Jersey Statutes,  
4 repealing section 1 of P.L.1987, c.164, and making an  
5 appropriation.

6

7 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
8 *of New Jersey:*

9

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

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

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

28 (cf: P.L.1989, c.229, s.1)

29

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

32 2. An applicant for employment or service in any of the positions  
33 covered by this act shall submit to the Commissioner of Education his  
34 or her name, address and fingerprints taken on standard fingerprint  
35 cards by a [State or municipal] law enforcement agency. The  
36 commissioner is hereby authorized to exchange fingerprint data with  
37 and to receive criminal history record information from the Federal  
38 Bureau of Investigation and the Division of State Police for use in

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1 check, including all costs for administering and processing the check.  
2 (cf: P.L.1989, c.229, s.2)

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

6 3. The commissioner shall apply the same requirements, procedures  
7 and standards and shall proceed in the same manner as is prescribed in  
8 P.L.1986, c.116 (C.18A:6-7.1 et seq.) for determining whether the  
9 applicant would be qualified or disqualified for employment in the  
10 public schools and shall inform the applicant of his determination in  
11 writing. [It shall be the applicant's responsibility to present a copy of  
12 the commissioner's letter to the nonpublic school which requires the  
13 criminal history records check as a condition of employment.] The  
14 commissioner shall also provide written notification to the chief  
15 administrator of the nonpublic school, which requires the criminal  
16 history record check as a condition of employment, of his  
17 determination as to whether the candidate would be qualified or  
18 disqualified for employment in the public schools.

19 (cf: P.L.1989, c.229, s.3)

20  
21 4. Section 4 of P.L.1989, c.229 (C.18A:6-4.16) is amended to read  
22 as follows:

23 4. The commissioner may maintain the [records] application  
24 documents on a candidate for no longer than [one year] three years  
25 from the date of a determination as to the candidate's qualification or  
26 disqualification for employment with an employer. The three-year  
27 retention period shall not apply to statistical data on crimes and  
28 offenses or an ongoing list of candidates who are qualified or  
29 disqualified. All documents submitted by a candidate and all criminal  
30 history record information shall be maintained by the commissioner in  
31 a confidential manner.

32 (cf: P.L.1989, c.229, s.4)

33  
34 5. Section 1 of P.L.1986, c.116 (C.18A:6-7.1) is amended to read  
35 as follows:

36 1. A facility, center, school, or school system under the supervision  
37 of the Department of Education and board of education which cares  
38 for, or is involved in the education of children under the age of 18

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4

1 history record information exists on file in the Federal Bureau of  
2 Investigation, Identification Division, or the State Bureau of  
3 Identification which would disqualify that individual from being  
4 employed or utilized in such capacity or position. An individual  
5 employed by a board of education or a school bus contractor holding  
6 a contract with a board of education, in the capacity of a school bus  
7 driver, shall be required to meet the criminal history record  
8 requirements pursuant to section 6 of P.L.1989, c.104  
9 (C.18A:39-19.1). This section shall not apply to any individual who  
10 provides services on a voluntary basis.

11 An individual [other than a school bus driver] shall be permanently  
12 disqualified from employment or service under this act if the  
13 individual's criminal history record check reveals a record of  
14 conviction [of] for any [of the following crimes and offenses:] crime  
15 of the first or second degree; or

16 a. In New Jersey, any crime [or disorderly persons offense]:

17 (1) bearing upon or involving sexual offense or child molestation  
18 as set forth in N.J.S.2C:14-1 et seq.; or public indecency as set forth  
19 in N.J.S.2C:34-1b. (5) through (7); or

20 (2) endangering the welfare of children or incompetents, as set  
21 forth in N.J.S.2C:24-4 and N.J.S.2C:24-7; or

22 (3) abuse, abandonment or neglect of a child as set forth in R.S.  
23 9:6-1 et seq.; or

24 b. A crime or offense involving the manufacture, transportation,  
25 sale, possession, distribution or [habitual] use of a "controlled  
26 dangerous substance" as defined in the ["New Jersey Controlled  
27 Dangerous Substances Act," P.L.1970, c.226 (C.24:21-1 et seq.)]  
28 "Comprehensive Drug Reform Act of 1987," N.J.S. 2C:35-1 et al. or  
29 "drug paraphernalia" as defined pursuant to N.J.S. 2C:36-1 et seq.; or

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

34 (2) [A simple assault involving the use of force which results in  
35 bodily injury;] A crime or offense as listed below:

36

37 Aggravated assault . . . . . N.J.S.2C:12-1b.

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

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1	<u>Causing or risking widespread injury</u>	
2	<u>or damage</u>	<u>N.J.S.2C:17-</u>
3		<u>2b.,c.,d.and e.</u>
4	<u>Criminal mischief</u>	<u>N.J.S.2C:17-3</u>
5	<u>Burglary</u>	<u>N.J.S.2C:18-2</u>
6	<u>Theft</u>	<u>N.J.S.2C:20-2b.(2)</u>
7	<u>Usury</u>	<u>N.J.S.2C:21-19a.,c.</u>
8		<u>and f.</u>
9	<u>Threats and other improper influence</u>	<u>N.J.S.2C:27-3</u>
10	<u>Perjury and false swearing</u>	<u>N.J.S.2C:28-3</u>
11	<u>Resisting arrest</u>	<u>N.J.S.2C:29-2</u>
12	<u>Escape</u>	<u>N.J.S.2C:29-5</u>
13	<u>Prohibited weapons and devices</u>	<u>N.J.S.2C:39-3</u>
14		<u>N.J.S.2C:39-4</u>
15		<u>N.J.S.2C:39-5</u>
16		<u>N.J.S.2C:39-7</u>
17		<u>P.L.1987,c.228</u>
18		<u>(C.2C:39-9.1)</u>
19		<u>P.L.1991, c.437</u>
20		<u>(C.2C:39-9.2)</u>

21  
22 or

23 (3) Conspiracy to commit or the attempt to commit any of the  
24 crimes described in this act; or

25 d. In any other state or jurisdiction, a conviction involving conduct  
26 which, if committed in New Jersey, would constitute any of the crimes  
27 or [disorderly persons] offenses described in this section of this act.

28 e. Notwithstanding the provisions of this section, an individual  
29 shall not be disqualified from employment or service under this act on  
30 the basis of any conviction disclosed by a criminal record check  
31 performed pursuant to this act [if the individual has affirmatively  
32 demonstrated to the Commissioner of Education clear and convincing  
33 evidence of his or her rehabilitation. In determining whether an  
34 individual has affirmatively demonstrated rehabilitation, the following  
35 factors shall be considered:

36 (1) The nature and responsibility of the position which the  
37 convicted individual would hold;

38 (2) The nature and seriousness of the offense;

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6

1 received, acquisition of additional academic or vocational schooling,  
2 successful participation in correctional work-release programs, or the  
3 recommendation of persons who have had the individual under their  
4 supervision] without an opportunity to appeal the accuracy of the  
5 disqualifying criminal history record.

6 f. When charges are pending for a crime or offense enumerated in  
7 this section, the employing board of education shall be notified that the  
8 candidate is not eligible for employment. The commissioner shall  
9 make no determination regarding the qualification or disqualification  
10 until the pending charges are adjudicated.  
11 (cf: P.L.1989, c.156, s.1)

12  
13 6. Section 2 of P.L.1987, c.164 (C.18A:6-7.1b) is amended to read  
14 as follows:

15 2. An individual employed by a board of education in any substitute  
16 capacity or position, who is rehired annually by that board, shall only  
17 be required to undergo a criminal history record check as required  
18 pursuant to P.L.1986, c.116 (C.18A:6-7.1 et seq.) upon initial  
19 employment, provided the substitute continues in the employ of at  
20 least one of the districts at which the substitute was employed within  
21 one year of the approval of the criminal history record check.

22 (cf: P.L.1987, c.164, s.2)

23  
24 7. Section 2 of P.L.1986, c.116 (C.18A:6-7.2) is amended to read  
25 as follows:

26 2. An applicant for employment or service in any of the positions  
27 covered by this act shall submit to the Commissioner of Education his  
28 or her name, address and fingerprints taken on standard fingerprint  
29 cards by a [State or municipal] law enforcement agency. The  
30 Commissioner of Education is hereby authorized to exchange  
31 fingerprint data with and receive criminal history record information  
32 from the federal Bureau of Investigation and the Division of State  
33 Police for use in making the determinations required by this act. No  
34 criminal history record check shall be performed pursuant to this act  
35 unless the applicant shall have furnished his or her written consent to  
36 such a check. The applicant shall bear the cost for the criminal history  
37 record check.

38 (cf: P.L.1986, c.116, s.2)

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7

1 the convictions which constitute the basis for the disqualification shall  
2 be identified in the written notice [and a copy of the notice shall be  
3 forwarded to the State Board of Examiners] to the applicant. The  
4 applicant shall have [30] 14 days from the date of the written notice  
5 of disqualification to petition the Commissioner of Education for a  
6 [hearing on] determination of the accuracy of the criminal history  
7 record information [or to establish his or her rehabilitation under  
8 subsection c. of section 1 of this act]. If no petition is filed or if the  
9 determination of the accuracy of the criminal history record  
10 information upholds the disqualification, the commissioner shall notify  
11 the employing board of education that the applicant has been  
12 disqualified from employment, and a copy of the written notice of  
13 disqualification for applicants who hold a certificate issued by the  
14 State Board of Examiners shall be forwarded to that board.

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

23 (cf: P.L.1986, c.116, s.3)

24

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

27 4. The Commissioner of Education may maintain the [records]  
28 application documents on a candidate for no longer than [one year]  
29 three years from the date of determination as to the candidate's  
30 qualification or disqualification for employment with an employer.  
31 The three-year retention period shall not apply to statistical data on  
32 crimes and offenses or an ongoing list of candidates who are qualified  
33 or disqualified. All documents submitted by a candidate and all  
34 criminal history record information shall be maintained by the  
35 commissioner in a confidential manner.

36 (cf: P.L.1987, c.164, s.3)

37

38 10. Section 6 of P.L.1989, c.104 (C.18A:39-19.1) is amended to

1       Upon receipt of the criminal history record information for an  
2 applicant from the Federal Bureau of Investigation and the Division of  
3 State Police, the Commissioner of Education shall notify the applicant,  
4 in writing, of the applicant's qualification or disqualification as a  
5 school bus driver. If the applicant is disqualified, the convictions  
6 which constitute the basis for the disqualification shall be identified in  
7 the written notice to the applicant. A school bus driver shall be  
8 permanently disqualified from employment or service if the individual's  
9 criminal history record reveals a record of conviction [of] for any of  
10 the [following] crimes and offenses[:

11       a. A crime or offense bearing upon or involving a sexual offense or  
12 child molestation or endangering the welfare of children or  
13 incompetents, as specified in section 1 of P.L.1986, c.116  
14 (C.18A:6-7.1).

15       b. A crime or offense involving the manufacture, transportation,  
16 sale, possession, or habitual use of a "controlled dangerous substance"  
17 as defined in the "New Jersey Controlled Dangerous Substances Act,"  
18 P.L.1970, c.226 (C.24:21-1 et seq.).

19       c. A crime or offense involving the use of force or the threat of  
20 force to or upon a person or property including: armed robbery,  
21 assault, kidnapping, arson, manslaughter and murder] for which public  
22 school employment candidates are disqualified pursuant to section 1  
23 of P.L.1986, c.116 (C.18A:6-7.1).

24       A school bus driver shall [also be disqualified] not be eligible to  
25 operate a school bus if the individual's bus driver's license is currently  
26 revoked or suspended by the Division of Motor [Vehicles] Vehicle  
27 Services in accordance with R.S.39:3-10.1.

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

33       c. When charges are pending for a crime or offense enumerated in  
34 section 1 of P.L.1986, c.116 (C.18A:6-7.1), the employing board of  
35 education or contractor shall be notified that the candidate is not  
36 eligible for employment. The commissioner shall make no  
37 determination regarding the qualification or disqualification until the  
38 pending charges are adjudicated.

1 accuracy of the criminal history record information upholds the  
2 disqualification, notification of the applicant's disqualification for  
3 employment shall be forwarded to the Division of Motor [Vehicles]  
4 Vehicle Services. The local board of education[,] or the school bus  
5 contractor and the County Superintendent of Schools shall also be  
6 notified of the disqualification. Notwithstanding the provisions of any  
7 law to the contrary, the Director of the Division of Motor [Vehicles]  
8 Vehicle Services shall, upon notice of disqualification from the  
9 Commissioner of Education, immediately revoke the applicant's special  
10 license issued pursuant to R.S.39:3-10.1 without necessity of a further  
11 hearing. Candidates' records shall be maintained in accordance with  
12 the provisions of section 4 of P.L.1986, c.116 (C.18A:6-7.4).  
13 (cf: P.L.1989, c.104, s.6)

14

15 11. N.J.S.18A:39-20 is amended to read as follows:

16 18A:39-20. No board of education or contractor shall approve or  
17 assign [a driver] an individual, as a driver or substitute driver of a  
18 school bus, without first complying with the provisions of this chapter,  
19 and any person violating, or failing to comply with[,] such provisions  
20 shall be guilty of a [misdemeanor] disorderly persons offense and  
21 subject to a fine of not more than \$500.00.

22 [However, a board of education or a contractor may employ a bus  
23 driver provisionally for a period not to exceed six months, pending  
24 completion of a criminal history record check required pursuant to  
25 section 6 of P.L.1989, c.104 (C.18A:39-19.1); provided that the  
26 candidate submits to the commissioner a sworn statement attesting  
27 that the candidate has not been convicted of any crime or disorderly  
28 persons offense as described in that section.]

29 (cf: P.L.1989, c.104, s.3)

30

31 12. (New section) The Commissioner of Education is authorized  
32 to:

33 a. receive all criminal history data necessary to complete the  
34 criminal history records check as required pursuant to P.L.1986, c.  
35 116 (C.18A:6-7.1 et seq.) and section 6 of P.L.1989, c.104  
36 (C.18A:39-19.1), or as permitted pursuant to P.L.1989, c.229  
37 (C.18A:6-4.13 et seq.); and

38 b. adjust the fees for the criminal history records checks.



1 employed as a bus driver, and to criminal history record checks  
2 conducted, on and after the effective date of this act.

3  
4 STATEMENT

5  
6 This bill revises the statutes that provide for criminal history record  
7 checks of school employees and school bus drivers. In the bill, there  
8 is an expanded list of crimes and offenses for which a person may be  
9 disqualified from employment. If charges are pending for one of those  
10 crimes or offenses, the applicant would not be eligible for employment,  
11 and no determination as to qualification would be made until the  
12 pending charges are adjudicated. Under the bill, a provision is deleted  
13 which permitted a person who had been convicted of a disqualifying  
14 crime or offense to be employed after demonstrating evidence of  
15 rehabilitation. A person who is disqualified may, however, petition the  
16 Commissioner of Education for a determination of the accuracy of the  
17 criminal history record information. The revisions in the bill would  
18 also not preclude the qualification of a person who reapplied for a job  
19 following the expunging of a criminal history record.

20 A statute which permitted a school board to employ a candidate  
21 provisionally for up to six months, pending completion of a criminal  
22 history record check, is repealed, and a similar provision in the statutes  
23 for school bus drivers is deleted.

24 The bill adds language which permits a nonpublic school to require  
25 criminal history record checks not only for candidates for employment,  
26 but also candidates for service under contract with the school, and  
27 language which permits the commissioner to provide written notice of  
28 a candidate's qualification to the chief administrator of the nonpublic  
29 school.

30 A person who is employed by a board of education as a substitute  
31 would be required to undergo a criminal history record check only  
32 upon initial employment as long as the substitute continues in the  
33 employ of at least one of the districts at which the substitute was  
34 employed within one year of the approval of the record check.

35 Under the bill, the Commissioner of Education is authorized to  
36 receive all criminal history data necessary to complete the records  
37 checks and to adjust the fees for conducting the checks.

38 There is an appropriation of \$285,000 to the Department of

# SENATE EDUCATION COMMITTEE

## STATEMENT TO

### **SENATE, No. 851**

with committee amendments

# **STATE OF NEW JERSEY**

DATED: MAY 14, 1998

The Senate Education Committee reports favorably Senate Bill No. 851 with committee amendments.

As amended, this bill revises the statutes that provide for criminal history record checks of school employees and school bus drivers. In the bill, there is an expanded list of crimes and offenses for which a person may be disqualified from employment. If charges are pending for one of those crimes or offenses, the applicant may not be eligible for employment, and no determination as to qualification would be made until the pending charges are adjudicated. Under the bill, a provision is deleted which permitted a person who had been convicted of a disqualifying crime or offense to be employed after demonstrating evidence of rehabilitation. A person who is disqualified may, however, petition the Commissioner of Education for a determination of the accuracy of the criminal history record information. The revisions in the bill would also not preclude the qualification of a person who reapplied for a job following the expunging of a criminal history record.

A statute which permitted a school board to employ a candidate provisionally for up to six months, pending completion of a criminal history record check, is repealed, and a similar provision in the statutes for school bus drivers is deleted. In its place, a provision is added which authorizes a board of education or a contracted service provider to employ a person on an emergent basis for a period not to exceed three months, pending completion of a criminal history record check if the board or service provider demonstrates to the commissioner that special circumstances exist which justify the emergent employment. Upon approval of the request for the emergent employment, the commissioner is to grant the background check priority status.

The bill adds language which permits a nonpublic school to require criminal history record checks not only for candidates for employment, but also candidates for service under contract with the school, and language which permits the commissioner to provide written notice of a candidate's qualification to the chief administrator of the nonpublic school.

A person who is employed by a board of education as a substitute

would be required to undergo a criminal history record check only upon initial employment as long as the substitute continues in the employ of at least one of the districts at which the substitute was employed within one year of the approval of the record check.

Under the bill, the Commissioner of Education is authorized to receive all criminal history data necessary to complete the records checks and to adjust the fees for conducting the checks.

There is an appropriation of \$285,000 to the Department of Education for the hiring of staff and the acquisition of equipment and technology that will expedite the time required to conduct a criminal history record check.

The provisions of the bill would apply to persons initially employed, and to criminal history record checks conducted, on and after the effective date of the act.

The committee amended the bill to further refine the list of crimes and offenses for which an individual may be disqualified from employment in a school district. In addition, the committee added a provision which authorizes a board of education or contracted service provider to employ an applicant on an emergent basis for a period not to exceed three months, pending completion of a criminal background check, if the board or service provider demonstrates to the commissioner that special circumstances exist which justify the emergent employment.

STATEMENT TO  
[First Reprint]  
**SENATE, No. 851**

with Senate Floor Amendments  
(Proposed By Senator PALAIA)

ADOPTED: JUNE 11, 1998

These floor amendments do the following:

1. make technical changes to the terms crime and offense in various sections of the bill;
2. clarify that the Commissioner of Education may retain not only the application documents but the criminal record documents for a three year period;
3. include a provision in the bill for school employees and school bus drivers who are employed on the bill's effective date by either a board of education or a contracted service provider to clarify the crimes for which such individuals could be disqualified if they have to undergo a new background check as a result of employment with a new board of education or contracted service provider or, in the case of a school bus driver, in the course of the renewal of his license;
4. clarify that an individual with a pending charge may not be employed until a determination on qualification for employment is made by the commissioner following the adjudication of the charge;
5. add language to clarify that the applicant for the position of school bus driver bears the cost of the criminal background check. This is already the current practice and the section of law dealing with school employees (N.J.S.A.18A:6-7.2) already includes such language;
6. include language in section 12 of the bill on emergent hiring, to specify that the sworn statement submitted by an applicant in an emergent hiring situation must certify that the individual does not have a charge pending which would result in disqualification;
7. clarify that the fees which may be adjusted by the commissioner are those which are set by the Department of Education in the criminal background check process; and
8. eliminate the bill's appropriation.

STATEMENT TO  
[Second Reprint]  
**SENATE, No. 851**

with Senate Floor Amendments  
(Proposed By Senator PALAIA)

ADOPTED: JUNE 22, 1998

This amendment clarifies that a school bus driver is required to undergo a subsequent criminal history record check only upon application for renewal of a bus driver's license and not also upon employment with another board of education or contracted service provider.

STATEMENT TO  
[Third Reprint]  
**SENATE, No. 851**

with Assembly Floor Amendments  
(Proposed By Assemblyman BATEMAN)

ADOPTED: JUNE 25, 1998

These amendments eliminate the provision from the bill that the commission of any third degree crime would disqualify a person seeking employment with a public school district. As amended, a person would be disqualified for the commission of any first or second degree crime, for any offense, regardless of the degree, listed in subsections a., b. and c. (1) of the amended section, and for a crime set forth in chapter 39 of Title 2C and for theft and related offenses under chapter 20 of Title 2C. The amendments also reinsert a list of specific crimes for which a prospective employee may be disqualified which had appeared in an earlier version of the bill. The list is revised somewhat from the earlier version due to the fact that a number of the crimes are already covered under subsections a. and c.

**ASSEMBLY, No. 1569**

**STATE OF NEW JERSEY**  
**208th LEGISLATURE**

PRE-FILED FOR INTRODUCTION IN THE 1998 SESSION

**Sponsored by:**

**Assemblyman CHRISTOPHER "KIP" BATEMAN**

**District 16 (Morris and Somerset)**

**SYNOPSIS**

Reduces maximum period of provisional employment by a school board from six to three months.

**CURRENT VERSION OF TEXT**

As Introduced.



A1569 BATEMAN

2

1 AN ACT concerning provisional employment by boards of education  
2 and amending P.L.1987, c.164.

3

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

6

7 1. Section 1 of P.L.1987, c.164 (C.18A:6-7.1a) is amended to read  
8 as follows:

9 1. A board of education may employ a candidate provisionally for  
10 a period not to exceed **[six]** three months, pending completion of a  
11 criminal history records check required pursuant to P.L.1986, c.116  
12 (C.18A:6-7.1 et seq.); provided that the candidate submits to the  
13 commissioner a sworn statement attesting that the candidate has not  
14 been convicted of any crime or disorderly persons offense as described  
15 by that act.

16 (cf: P.L.1987, c.164, s.1)

17

18 2. This act shall take effect immediately and shall first apply to  
19 persons who are employed provisionally on and after the effective  
20 date.

21

22

23

STATEMENT

24

25 This bill reduces from six months to three months the maximum  
26 period of time a person may be provisionally employed by a board of  
27 education pending completion of a criminal history records check.

**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.**



# ASSEMBLY EDUCATION COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1569**

# **STATE OF NEW JERSEY**

DATED: MAY 7, 1998

The Assembly Education Committee reports favorably an Assembly Committee Substitute for Assembly Bill No. 1569.

The Assembly Committee Substitute for Assembly Bill No. 1569 revises the statutes that provide for criminal history record checks of school employees and school bus drivers. In the substitute, there is an expanded list of crimes and offenses for which a person may be disqualified from employment. If charges are pending for one of those crimes or offenses, the applicant would not be eligible for employment, and no determination as to qualification would be made until the pending charges are adjudicated. Under the substitute, a provision is deleted which permitted a person who had been convicted of a disqualifying crime or offense to be employed after demonstrating evidence of rehabilitation. A person who is disqualified may, however, petition the Commissioner of Education for a determination of the accuracy of the criminal history record information. The revisions in the substitute would also not preclude the qualification of a person who reapplied for a job following the expunging of a criminal history record.

A statute which permitted a school board to employ a candidate provisionally for up to six months, pending completion of a criminal history record check, is repealed, and a similar provision in the statutes for school bus drivers is deleted.

The substitute adds language which permits a nonpublic school to require criminal history record checks not only for candidates for employment, but also candidates for service under contract with the school, and language which permits the commissioner to provide written notice of a candidate's qualification to the chief administrator of the nonpublic school.

A person who is employed by a board of education as a substitute would be required to undergo a criminal history record check only upon initial employment as long as the substitute continues in the employ of at least one of the districts at which the substitute was employed within one year of the approval of the record check.

Under the committee substitute, the Commissioner of Education is authorized to receive all criminal history data necessary to complete

the records checks and to adjust the fees for conducting the checks.

There is an appropriation of \$285,000 to the Department of Education for the hiring of staff and the acquisition of equipment and technology that will expedite the time required to conduct a criminal history record check.

The provisions of the substitute would apply to persons initially employed, and to criminal history record checks conducted, on and after the substitute's effective date.

As reported by committee, this substitute is identical to Senate Bill No. 851.

# ASSEMBLY APPROPRIATIONS COMMITTEE

## STATEMENT TO

### ASSEMBLY COMMITTEE SUBSTITUTE FOR **ASSEMBLY, No. 1569**

with Assembly committee amendments

# **STATE OF NEW JERSEY**

DATED: JUNE 22, 1998

The Assembly Appropriations Committee reports favorably Assembly Bill No. 1569 (ACS) with committee amendments.

The Assembly Bill No. 1569 (ACS), as amended, revises the statutes that provide for criminal history record checks of school employees and school bus drivers. The bill provides an expanded list of crimes and offenses for which a person may be disqualified from employment. If charges are pending for one of those crimes or offenses, the applicant will not be eligible for employment, and no determination as to qualification will be made until the pending charges are adjudicated. The bill deletes a provision which now permits a person who had been convicted of a disqualifying crime or offense to be employed after demonstrating evidence of rehabilitation. A person who is disqualified may, however, petition the Commissioner of Education for a determination of the accuracy of the criminal history record information. The bill does not preclude the qualification of a person who reapplied for a job following the expungement of a criminal history record.

The bill repeals a statute which permitted a school board to employ a candidate provisionally for up to six months, pending completion of a criminal history record check and deletes a similar provision in the statutes for school bus drivers. In its place, the bill authorizes a board of education or a contracted service provider to employ a person on an emergent basis for a period not to exceed three months, pending completion of a criminal history record check if the board or service provider demonstrates to the commissioner that special circumstances exist which justify the emergent employment. Upon approval of the request for the emergent employment, the commissioner is to grant the background check priority status.

The bill permits a nonpublic school to require criminal history record checks not only for candidates for employment, but also candidates for service under contract with the school, and permits the commissioner to provide written notice of a candidate's qualification to the chief administrator of the nonpublic school.

The bill requires a person who is employed by a board of education as a substitute to undergo a criminal history record check only upon initial employment so long as the substitute continues in the employ of at least one of the districts at which the substitute was employed within one year of the approval of the record check.

The bill authorizes the Commissioner of Education to receive all criminal history data necessary to complete the records checks and to adjust the fees for conducting the checks.

The bill applies to persons initially employed, and to criminal history record checks conducted, on and after the effective date of the act.

This bill, as amended and reported by the committee, is identical to Senate Bill No. 851 (2R) Sa.

FISCAL IMPACT:

The committee amendments delete the appropriation of \$285,000 to the Department of Education for staff and equipment to expedite criminal history record checks. The costs of record checks, including the costs of administering and processing the record checks, are borne by applicants pursuant to fee schedules set by the Department of Education.

COMMITTEE AMENDMENTS:

The amendments make technical changes to the terms "crime" and "offense" in various sections of the bill; clarify that the three year limitation period for which the commissioner may retain application documents also applies to the criminal record documents; provide for school employees and school bus drivers who are employed on the bill's effective date; clarify that an individual with a pending charge may not be employed until a determination on qualification for employment is made by the commissioner following the adjudication of the charge; clarify that the applicant bears the cost of the criminal background check; and clarify that the fees which may be adjusted by the commissioner are those which are set by the Department of Education in the criminal background check process.

The amendments also eliminate the bill's appropriation.

*Office of the Governor*  
**NEWS RELEASE**

PO BOX 004  
TRENTON, NJ 08625

CONTACT: Jayne O'Connor  
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RELEASE: June 30, 1998

Gov. Christie Whitman today signed the following legislation:

**S-2001**, sponsored by Senator Robert Littell (R- Sussex/Hunterdon/Morris) and Assembly Members Richard Bagger (R- Middlesex/Morris/Somerset/Union) and Joseph Charles (D-Hudson), makes various FY 1998 supplemental appropriations totaling \$105,403,932 in state funds and \$579,254 in federal funds and appropriates \$15 million in bond funds. Projects funded through this bill include: \$400,000 for the purchase of protective vests for law enforcement, \$750,000 to support a toll free telephone system for dealing with the Division of Motor Vehicles services, \$285,000 for computer equipment to run criminal history background checks on school employees, and \$15 million in property tax relief aid to the City of Camden and the creation of a financial oversight board for the city, and \$15 million for sewer overflow abatement projects for the Passaic River/Newark Bay Restoration Program.

**A-2141**, sponsored by Assembly Member Francis Blee (R-Atlantic) and Senators Louis Bassano (R-Essex/Union) and Leonard Connors (R-Atlantic/Burlington/Ocean), establishes an annual assessment of 5.8 percent of gross revenue on all intermediate care facilities for the mentally retarded. The revenue generated by the assessment will be used to reduce the Developmental Disabilities waiting list for placement in community residences.

**A-673**, sponsored by Assembly Members Jack Gibson and Nicholas Asselta and Senator James Cafiero (all R-Cape May/Atlantic/Cumberland), authorizes municipalities to regulate skateboards and roller skates upon roadways and public properties under their jurisdiction. This law supplements legislation signed January 19, requiring helmets for skaters under 14 years of, by ensuring that municipalities have the ability to regulate skating activities to protect skaters, motorists and other pedestrians in their communities.

**A-553**, sponsored by Assembly Members David Russo (R- Bergen/Passaic) and Gerald Zecker (R-Essex/Passaic) and Senators Jack Sinagra (R-Middlesex) and John Adler (D-Camden), prohibits smoking in child care centers when children are present.

**A-1902**, sponsored by Assembly Member Richard Bagger (R-Middlesex/Morris/Somerset/Union) and Louis Romano (D-Hudson) and Senator Robert Littell (R-Sussex/Hunterdon/Morris), authorizes the State Treasurer to determine the salary of the Director and Deputy Director of the Division of Investment and authorizes the Treasurer to designate an additional deputy director.

**S-851**, sponsored by Senators Joseph Palaia (R-Monmouth) and Norman M.

Robertson (R-Essex/Passaic) and Assembly Member Christopher "Kip" Bateman (R-Morris/Somerset), revises statutes providing for criminal history record checks of school employees and school bus drivers. The bill expands the list of disqualifying crimes; deletes a provision authorizing the employment of a persons with a disqualifying crime if rehabilitation has been demonstrated and prohibits schools from provisionally hiring candidates pending completion of their criminal history record checks, except in limited circumstances.

**A-1996**, gives the state Treasurer the authority to bundle old, difficult to collect tax debt represented as tax certificates and enter into a contract with a financial institution after public bidding. The financial institution would assume ownership of the debt and replace the state as the collector. The bill was sponsored by Assembly Members Paul DiGaetano (R- Bergen/Essex/Passaic) and Richard Bagger (R-Middlesex/Morris /Somerset/Union) and Senators Walter Kavanaugh (R-Morris/Somerset) and Peter Inverso (R-Mercer/Middlesex).

**S-1002**, which amends the state's Business Employment Incentive Program (BEIP) Act to encourage partnerships and limited liability companies to participate in the BEIP program and locate or expand in New Jersey. Companies that create jobs in New Jersey by either moving to the state or expanding operations are eligible to receive incentive grants which are based upon the income taxes paid by the newly-hired employees. The new legislation amends the law to allow estimated taxes paid by partners to be included in the BEIP calculation, thereby increasing the amount of the BEIP grant for partnerships and limited liability companies and providing them with an incentive to move to New Jersey. The bill was sponsored by Senators Joseph Kyrillos, Jr. (R- Middlesex/Monmouth) and Bernard Kenny, Jr. (D-Hudson) and Assembly Members Steve Corodemus (R-Monmouth) and Joseph Azzolina (R- Middlesex/Monmouth).

**A-2190**, sponsored by Assembly Members Francis Blee (R-Atlantic) and Carol Murphy (R-Essex/Morris/Passaic), expands the Drug Utilization Review Board in the Department of Human Services for state-funded pharmaceutical benefits programs. The powers of the Board will include review of the Pharmaceutical Assistance to the Aged and Disabled (PAAD) and the AIDS Drug Distribution programs. Membership of the Board shall include individuals with expertise in the prescribing of medication to the geriatric and AIDS populations to address specific needs of these individuals. The bill appropriates \$90,000 for establishment of the Review Board.

**A- 1690**, eliminates the requirement in the current charity care law that the Commissioner of Health and Senior Services (DHSS) seek federal approval to establish a permanent state-wide program for providing hospital charity care services on a managed care basis. The bill permits the Commissioner of Human Services to seek federal approval to establish a demonstration managed charity care program, within a single region or county, for a two-year period in order to test the programmatic and fiscal viability of delivering charity care services by this alternative means. The bill was sponsored by Assembly Members Nicholas Asselta (R-Cape May/Atlantic/Cumberland) and Joseph Doria, Jr. ((D-Hudson) and by Senators John Matheussen (R-Camden/Gloucester) and John Bennett (R-Monmouth).

**S-990**, sponsored by Senator Louis Bassano (R-Essex/Union) and Bernard Kenny (D-Hudson), establishes the New Jersey Supplementary Food Stamp Program in the Department of Human Services. The legislation, an administration initiative,

extends the availability of food stamps to certain noncitizens covered under E.O. 74, which expires today. The program provides broader coverage than the legislation passed in Congress earlier this month. The bill will also provide coverage for individuals who are considered unemployable under the WorkFirst New Jersey Program and are ineligible for federal Supplemental Security Income benefits.