

1 criminal records checks; requiring the cost of
2 background screening requirements to be borne
3 by certain parties; providing a cap on fees
4 that may be charged; providing a list of
5 violations that such persons must not have
6 committed if they are to satisfy the screening
7 requirements; providing sanctions for failure
8 to meet requirements; providing grounds for
9 contesting denial of access to school grounds;
10 providing reporting requirements; providing
11 that the failure to meet requirements is a
12 misdemeanor of the first degree; allowing
13 certain educational entities to share
14 information derived from checks of criminal
15 history records; authorizing the Department of
16 Law Enforcement to adopt rules; providing
17 immunity from civil or criminal liability;
18 creating s. 1012.468, F.S.; specifying
19 exemptions for contractors; providing criteria
20 and conditions; providing that exempted
21 contractors are subject to a search of certain
22 databases that list sexual predators and sexual
23 offenders; providing consequences of a failure
24 to meet the screening requirements; prohibiting
25 school districts from conducting additional
26 criminal history checks; creating s. 1012.321,
27 F.S.; creating an exception for certain
28 instructional personnel; providing criteria;
29 providing effective dates.

30
31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Effective August 1, 2006, section 322.141,
2 Florida Statutes, is amended to read:

3 322.141 Color or markings of certain licenses or
4 identification cards.--

5 (1) All licenses originally issued or reissued by the
6 department to persons under the age of 21 years for the
7 operation of motor vehicles shall have markings or color which
8 shall be obviously separate and distinct from all other
9 licenses issued by the department for the operation of motor
10 vehicles.

11 (2)(a) All licenses for the operation of motor
12 vehicles originally issued or reissued by the department to
13 persons who have insulin-dependent diabetes may, at the
14 request of the applicant, have distinctive markings separate
15 and distinct from all other licenses issued by the department.

16 (b) At the time of application for original license or
17 reissue, the department shall require such proof as it deems
18 appropriate that a person has insulin-dependent diabetes.

19 (3) All licenses for the operation of motor vehicles
20 or identification cards originally issued or reissued by the
21 department to persons who are designated as sexual predators
22 under s. 775.21 or subject to registration as sexual offenders
23 under s. 943.0435 shall have on the front of the license the
24 following:

25 (a) For a person designated as a sexual predator under
26 s. 775.21, the marking "775.21, F.S."

27 (b) For a person subject to registration as a sexual
28 offender under s. 943.0435, the marking "943.0435, F.S."

29 Section 2. Effective August 15, 2006, paragraph (c) is
30 added to subsection (5) of section 322.212, Florida Statutes,
31 to read:

1 322.212 Unauthorized possession of, and other unlawful
2 acts in relation to, driver's license or identification
3 card.--

4 (5)

5 (c) It is unlawful for any person to have in his or
6 her possession a driver's license or identification card upon
7 which the sexual predator or sexual offender markings required
8 by s. 322.141 are not displayed or have been altered.

9 Section 3. Paragraph (f) of subsection (6) of section
10 775.21, Florida Statutes, is amended to read:

11 775.21 The Florida Sexual Predators Act.--

12 (6) REGISTRATION.--

13 (f) Within 48 hours after the registration required
14 under paragraph (a) or paragraph (e), a sexual predator who is
15 not incarcerated and who resides in the community, including a
16 sexual predator under the supervision of the Department of
17 Corrections, shall register in person at a driver's license
18 office of the Department of Highway Safety and Motor Vehicles
19 and shall present proof of registration. At the driver's
20 license office the sexual predator shall:

21 1. If otherwise qualified, secure a Florida driver's
22 license, renew a Florida driver's license, or secure an
23 identification card. The sexual predator shall identify
24 himself or herself as a sexual predator who is required to
25 comply with this section, provide his or her place of
26 permanent or temporary residence, including a rural route
27 address and a post office box, and submit to the taking of a
28 photograph for use in issuing a driver's license, renewed
29 license, or identification card, and for use by the department
30 in maintaining current records of sexual predators. A post
31 office box shall not be provided in lieu of a physical

1 residential address. If the sexual predator's place of
2 residence is a motor vehicle, trailer, mobile home, or
3 manufactured home, as defined in chapter 320, the sexual
4 predator shall also provide to the Department of Highway
5 Safety and Motor Vehicles the vehicle identification number;
6 the license tag number; the registration number; and a
7 description, including color scheme, of the motor vehicle,
8 trailer, mobile home, or manufactured home. If a sexual
9 predator's place of residence is a vessel, live-aboard vessel,
10 or houseboat, as defined in chapter 327, the sexual predator
11 shall also provide to the Department of Highway Safety and
12 Motor Vehicles the hull identification number; the
13 manufacturer's serial number; the name of the vessel,
14 live-aboard vessel, or houseboat; the registration number; and
15 a description, including color scheme, of the vessel,
16 live-aboard vessel, or houseboat.

17 2. Pay the costs assessed by the Department of Highway
18 Safety and Motor Vehicles for issuing or renewing a driver's
19 license or identification card as required by this section.
20 The driver's license or identification card issued shall
21 comply with s. 322.141(3).

22 3. Provide, upon request, any additional information
23 necessary to confirm the identity of the sexual predator,
24 including a set of fingerprints.

25
26 The sheriff shall promptly provide to the department the
27 information received from the sexual predator.

28 Section 4. Subsection (3) of section 943.0435, Florida
29 Statutes, is amended to read:

30 943.0435 Sexual offenders required to register with
31 the department; penalty.--

1 (3) Within 48 hours after the report required under
2 subsection (2), a sexual offender shall report in person at a
3 driver's license office of the Department of Highway Safety
4 and Motor Vehicles, unless a driver's license or
5 identification card that complies with the requirements of s.
6 322.141(3) was previously secured or updated under s. 944.607.
7 At the driver's license office the sexual offender shall:

8 (a) If otherwise qualified, secure a Florida driver's
9 license, renew a Florida driver's license, or secure an
10 identification card. The sexual offender shall identify
11 himself or herself as a sexual offender who is required to
12 comply with this section and shall provide proof that the
13 sexual offender reported as required in subsection (2). The
14 sexual offender shall provide any of the information specified
15 in subsection (2), if requested. The sexual offender shall
16 submit to the taking of a photograph for use in issuing a
17 driver's license, renewed license, or identification card, and
18 for use by the department in maintaining current records of
19 sexual offenders.

20 (b) Pay the costs assessed by the Department of
21 Highway Safety and Motor Vehicles for issuing or renewing a
22 driver's license or identification card as required by this
23 section. The driver's license or identification card issued
24 shall comply with s. 322.141(3).

25 (c) Provide, upon request, any additional information
26 necessary to confirm the identity of the sexual offender,
27 including a set of fingerprints.

28 Section 5. Subsection (9) of section 944.607, Florida
29 Statutes, is amended to read:

30 944.607 Notification to Department of Law Enforcement
31 of information on sexual offenders.--

1 (9) A sexual offender, as described in this section,
2 who is under the supervision of the Department of Corrections
3 but who is not incarcerated shall, in addition to the
4 registration requirements provided in subsection (4), register
5 and obtain a distinctive driver's license or identification
6 card in the manner provided in s. 943.0435(3), (4), and (5),
7 unless the sexual offender is a sexual predator, in which case
8 he or she shall register and obtain a distinctive driver's
9 license or identification card as required under s. 775.21. A
10 sexual offender who fails to comply with the requirements of
11 s. 943.0435 is subject to the penalties provided in s.
12 943.0435(9).

13 Section 6. Subsection (1) of section 1012.465, Florida
14 Statutes, is amended to read:

15 1012.465 Background screening requirements for certain
16 noninstructional school district employees and contractors.--

17 (1) Except as provided in s. 1012.467,
18 noninstructional school district employees or contractual
19 personnel who are permitted access on school grounds when
20 students are present, who have direct contact with students or
21 who have access to or control of school funds must meet level
22 2 screening requirements as described in s. 1012.32.
23 Contractual personnel shall include any vendor, individual, or
24 entity under contract with a school or the school board.

25 Section 7. Section 1012.467, Florida Statutes, is
26 created to read:

27 1012.467 Noninstructional contractors who are
28 permitted access to school grounds when students are present;
29 background screening requirements.--

30 (1) As used in this section, the term:
31

1 (a) "Noninstructional contractor" means any vendor,
2 individual, or entity under contract with a school or with the
3 school board who receives remuneration for services performed
4 for the school district or a school, but who is not otherwise
5 considered an employee of the school district. The term also
6 includes any employee of a contractor who performs services
7 for the school district or school under the contract and any
8 subcontractor and its employees.

9 (b) "Convicted" has the same meaning as in s.
10 943.0435.

11 (c) "School grounds" means the buildings and grounds
12 of any public prekindergarten, kindergarten, elementary
13 school, middle school, junior high school, high school, or
14 secondary school, or any combination of grades prekindergarten
15 through grade 12, together with the school district land on
16 which the buildings are located. The term does not include:

17 1. Any other facility or location where school classes
18 or activities may be located or take place;

19 2. The buildings and grounds of any public
20 prekindergarten, kindergarten, elementary school, middle
21 school, junior high school, high school, or secondary school,
22 or contiguous school district land, during any time period in
23 which students are not permitted access; or

24 3. Any building described in this paragraph during any
25 period in which it is used solely as a career or technical
26 center under part IV of chapter 1004 for postsecondary and
27 adult education.

28 (2)(a) A fingerprint-based criminal history check
29 shall be performed on the noninstructional contractors who are
30 permitted access to school grounds when students are present
31 and who do not have direct contact with students. Criminal

1 history checks shall be performed at least once every 3 years.
2 For the initial criminal history check, each noninstructional
3 contractor who is subject to the criminal history check shall
4 file with the Department of Law Enforcement a complete set of
5 fingerprints taken by an authorized law enforcement agency or
6 an employee of a school district, a public school, or a
7 private company who is trained to take fingerprints. The
8 fingerprints shall be submitted for state processing to the
9 Department of Law Enforcement, which shall in turn submit the
10 fingerprints to the Federal Bureau of Investigation for
11 federal processing. The results of each criminal history check
12 shall be reported to the school district in which the
13 individual is seeking access. The school district shall screen
14 the results using the disqualifying offenses in paragraph (c)
15 and promptly provide the results to the shared system
16 described in subsection (7). The cost of the criminal history
17 check may be borne by the district school board, the school,
18 or the contractor. A fee that is charged by a district school
19 board for such checks may not exceed 30 percent of the total
20 amount charged by the Department of Law Enforcement and the
21 Federal Bureau of Investigation.

22 (b) A noninstructional contractor who is subject to a
23 criminal history check under this section shall inform a
24 school district that he or she has completed a criminal
25 history check in another school district within the last 3
26 years. The school district shall verify the results of the
27 contractor's criminal history check using the shared system
28 described in subsection (7). The school district shall not
29 charge the contractor a fee for verifying the results of his
30 or her criminal history check.

31

1 (c) A noninstructional contractor for whom a criminal
2 history check is required under this section may not have been
3 convicted of any of the following offenses designated in the
4 Florida Statutes, any similar offense in another jurisdiction,
5 or any similar offense committed in this state that has been
6 redesignated from a former provision of the Florida Statutes
7 to one of the following offenses:

8 1. Any offense listed in s. 943.0435(1)(a)1., relating
9 to the registration of an individual as a sexual offender.

10 2. Section 393.135, relating to sexual misconduct with
11 certain developmentally disabled clients and the reporting of
12 such sexual misconduct.

13 3. Section 394.4593, relating to sexual misconduct
14 with certain mental health patients and the reporting of such
15 sexual misconduct.

16 4. Section 775.30, relating to terrorism.

17 5. Section 782.04, relating to murder.

18 6. Section 787.01, relating to kidnapping.

19 7. Any offense under chapter 800, relating to lewdness
20 and indecent exposure.

21 8. Section 826.04, relating to incest.

22 9. Section 827.03, relating to child abuse, aggravated
23 child abuse, or neglect of a child.

24 (3) If it is found that a noninstructional contractor
25 has been convicted of any of the offenses listed in paragraph
26 (c), the individual shall be immediately suspended from having
27 access to school grounds and shall remain suspended until
28 final resolution of any appeals.

29 (4) A noninstructional contractor who has been
30 convicted of any of the offenses listed in paragraph (2)(c)
31 may not be permitted on school grounds when students are

1 present, unless the contractor has received a full pardon or
2 has had his or her civil rights restored.

3 (5) If a school district has reasonable cause to
4 believe that grounds exist for the denial of a contractor's
5 access to school grounds when students are present, it shall
6 notify the contractor in writing, stating the specific record
7 that indicates noncompliance with the standards set forth in
8 this section. It is the responsibility of the affected
9 contractor to contest his or her denial. The only basis for
10 contesting the denial is proof of mistaken identity.

11 (6) Each contractor who is subject to the requirements
12 of this section shall agree to inform his or her employer or
13 the party to whom he or she is under contract and the school
14 district within 48 hours if he or she is charged with any of
15 the disqualifying offenses in paragraph (2)(c). A contractor
16 who willfully fails to comply with this subsection commits a
17 misdemeanor of the first degree, punishable as provided in s.
18 775.082 or s. 775.083.

19 (7)(a) The Department of Law Enforcement shall
20 implement a system that allows for the results of a criminal
21 history check provided to a school district to be shared with
22 other school districts through a secure Internet website or
23 other secure electronic means. The Department of Law
24 Enforcement may adopt rules under ss. 120.536(1) and 120.54 to
25 implement this provision.

26 (b) An employee of a school district, a charter
27 school, a lab school, a charter lab school, or the Florida
28 School for the Deaf and the Blind who requests or shares
29 criminal history information under this section is immune from
30 civil or criminal liability for any good-faith conduct that
31

1 occurs during the performance of and within the scope of
2 responsibilities related to the record check.

3 Section 8. Section 1012.468, Florida Statutes, is
4 created to read:

5 1012.468 Exceptions to certain fingerprinting and
6 criminal history checks.--

7 (1) As used in this section, the term
8 "noninstructional contractor" means any vendor, individual, or
9 entity under contract with a school or with the school board
10 who receives remuneration for services performed for the
11 school district or a school, but who is not otherwise
12 considered an employee of the school district. The term also
13 includes any employee of a contractor who performs services
14 for the school district or school under the contract and any
15 subcontractor and its employees.

16 (2) A district school board shall exempt from the
17 screening requirements set forth in ss. 1012.465 and 1012.467
18 the following noninstructional contractors:

19 (a)1. Noninstructional contractors who are under the
20 direct supervision of a school district employee or contractor
21 who has had a criminal history check and meets the screening
22 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
23 1012.56. For purposes of this paragraph, the term "direct
24 supervision" means that a school district employee or
25 contractor is physically present with a noninstructional
26 contractor when the contractor has access to a student and the
27 access remains in the school district employee's or the
28 contractor's line of sight.

29 2. If a noninstructional contractor who is exempt
30 under this subsection no longer is under direct supervision as
31 specified in subparagraph 1., the contractor is not permitted

1 on school grounds when students are present until the
2 contractor meets the screening requirements in s. 1012.465 or
3 s. 1012.467.

4 (b) Noninstructional contractors who are required by
5 law to undergo a level 2 background screening pursuant to s.
6 435.04 for licensure, certification, employment, or other
7 purposes and who submit evidence of meeting the following
8 criteria:

9 1. The contractor meets the screening standards in s.
10 435.04;

11 2. The contractor's license or certificate is active
12 and in good standing, if the contractor is a licensee or
13 certificateholder; and

14 3. The contractor completed the criminal history check
15 within the 5 years prior to seeking access to school grounds
16 when students are present.

17 (c) A law enforcement officer, as defined in s.
18 943.10, who is assigned or dispatched to school grounds by his
19 or her employer.

20 (d) A noninstructional contractor who remains at a
21 separate and secure site that has perimeter fencing on school
22 grounds.

23 (3)(a) A noninstructional contractor who is exempt
24 under this section from the screening requirements set forth
25 in s. 1012.465 or s. 1012.467 is subject to a search of his or
26 her name or other identifying information against the
27 registration information regarding sexual predators and sexual
28 offenders maintained by the Department of Law Enforcement
29 under s. 943.043 and the national sex offender public registry
30 maintained by the United States Department of Justice. The
31

1 school district shall conduct the search required under this
2 subsection.

3 (b) A noninstructional contractor who is identified as
4 a sexual predator or sexual offender in the registry search
5 required in paragraph (a) is not permitted on school grounds
6 when students are present.

7 (4) A school district may not subject a contractor who
8 meets the requirements in subsection (2) to an additional
9 criminal history check. Upon submission of evidence and
10 verification by the school district, the school district must
11 accept the results of the criminal history check for the
12 contractor.

13 Section 9. Section 1012.321, Florida Statutes, is
14 created to read:

15 1012.321 Exceptions for certain instructional
16 personnel from background screening
17 requirements.--Instructional personnel who are required to
18 undergo level 2 background screening under s. 393.0655 or s.
19 402.305 and who meet the level 2 screening standards in s.
20 435.04 are not required to be rescreened in order to satisfy
21 the screening requirements in s. 1012.32 if the instructional
22 personnel:

23 (1) Have completed the criminal history check within 5
24 years prior to having direct contact with students; and

25 (2) Are rescreened every 5 years and meet the level 2
26 screening standards.

27 Section 10. Except as otherwise expressly provided in
28 this act, this act shall take effect July 1, 2006.

29
30
31

1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 CS Senate Bill 2280

4 The committee substitute exempts from the screening
5 requirements in s. 1012.32, F.S., certain instructional
6 personnel who work with children with disabilities and who
7 have already undergone and meet Level 2 background screening
8 requirements. It also provides criteria for retaining this
9 exempt status. The committee substitute exempts certain
10 noninstructional contractors from the fingerprint-based check
11 if they are separated from students by a fence and have
12 undergone a search of the state and national registry of
13 sexual predators and sexual offenders.
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31