

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

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1 Be It Enacted by the Legislature of the State of Florida:

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

5 322.141 Color or markings of certain licenses or
6 identification cards.--

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

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

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

21 (3) All licenses for the operation of motor vehicles
22 or identification cards originally issued or reissued by the
23 department to persons who are designated as sexual predators
24 under s. 775.21 or subject to registration as sexual offenders
25 under s. 943.0435 or s. 944.607 shall have on the front of the
26 license the following:

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

29 (b) For a person subject to registration as a sexual
30 offender under s. 943.0435 or s. 944.607, the marking
31 "943.0435, F.S."

1 Section 2. Effective February 1, 2007, paragraph (c)
2 is added to subsection (5) of section 322.212, Florida
3 Statutes, to read:

4 322.212 Unauthorized possession of, and other unlawful
5 acts in relation to, driver's license or identification
6 card.--

7 (5)

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

12 Section 3. Paragraph (f) of subsection (6) of section
13 775.21, Florida Statutes, is amended to read:

14 775.21 The Florida Sexual Predators Act.--

15 (6) REGISTRATION.--

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

24 1. If otherwise qualified, secure a Florida driver's
25 license, renew a Florida driver's license, or secure an
26 identification card. The sexual predator shall identify
27 himself or herself as a sexual predator who is required to
28 comply with this section, provide his or her place of
29 permanent or temporary residence, including a rural route
30 address and a post office box, and submit to the taking of a
31 photograph for use in issuing a driver's license, renewed

1 license, or identification card, and for use by the department
2 in maintaining current records of sexual predators. A post
3 office box shall not be provided in lieu of a physical
4 residential address. If the sexual predator's place of
5 residence is a motor vehicle, trailer, mobile home, or
6 manufactured home, as defined in chapter 320, the sexual
7 predator shall also provide to the Department of Highway
8 Safety and Motor Vehicles the vehicle identification number;
9 the license tag number; the registration number; and a
10 description, including color scheme, of the motor vehicle,
11 trailer, mobile home, or manufactured home. If a sexual
12 predator's place of residence is a vessel, live-aboard vessel,
13 or houseboat, as defined in chapter 327, the sexual predator
14 shall also provide to the Department of Highway Safety and
15 Motor Vehicles the hull identification number; the
16 manufacturer's serial number; the name of the vessel,
17 live-aboard vessel, or houseboat; the registration number; and
18 a description, including color scheme, of the vessel,
19 live-aboard vessel, or houseboat.

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

25 3. Provide, upon request, any additional information
26 necessary to confirm the identity of the sexual predator,
27 including a set of fingerprints.

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29 The sheriff shall promptly provide to the department the
30 information received from the sexual predator.

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

3 943.0435 Sexual offenders required to register with
4 the department; penalty.--

5 (3) Within 48 hours after the report required under
6 subsection (2), a sexual offender shall report in person at a
7 driver's license office of the Department of Highway Safety
8 and Motor Vehicles, unless a driver's license or
9 identification card that complies with the requirements of s.
10 322.141(3) was previously secured or updated under s. 944.607.
11 At the driver's license office the sexual offender shall:

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

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

29 (c) Provide, upon request, any additional information
30 necessary to confirm the identity of the sexual offender,
31 including a set of fingerprints.

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

3 944.607 Notification to Department of Law Enforcement
4 of information on sexual offenders.--

5 (9) A sexual offender, as described in this section,
6 who is under the supervision of the Department of Corrections
7 but who is not incarcerated shall, in addition to the
8 registration requirements provided in subsection (4), register
9 and obtain a distinctive driver's license or identification
10 card in the manner provided in s. 943.0435(3), (4), and (5),
11 unless the sexual offender is a sexual predator, in which case
12 he or she shall register and obtain a distinctive driver's
13 license or identification card as required under s. 775.21. A
14 sexual offender who fails to comply with the requirements of
15 s. 943.0435 is subject to the penalties provided in s.
16 943.0435(9).

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

19 1012.465 Background screening requirements for certain
20 noninstructional school district employees and contractors.--

21 (1) Except as provided in s. 1012.467,
22 noninstructional school district employees or contractual
23 personnel who are permitted access on school grounds when
24 students are present, who have direct contact with students or
25 who have access to or control of school funds must meet level
26 2 screening requirements as described in s. 1012.32.
27 Contractual personnel shall include any vendor, individual, or
28 entity under contract with a school or the school board.

29 Section 7. Section 1012.467, Florida Statutes, is
30 created to read:
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1 1012.467 Noninstructional contractors who are
2 permitted access to school grounds when students are present;
3 background screening requirements.--

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

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

13 (b) "Convicted" has the same meaning as in s.
14 943.0435.

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

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

23 2. The buildings and grounds of any public
24 prekindergarten, kindergarten, elementary school, middle
25 school, junior high school, high school, or secondary school,
26 or any combination of grades prekindergarten through grade 12,
27 or contiguous school district land, during any time period in
28 which students are not permitted access; or

29 3. Any building described in this paragraph during any
30 period in which it is used solely as a career or technical
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1 center under part IV of chapter 1004 for postsecondary or
2 adult education.

3 (2)(a) A fingerprint-based criminal history check
4 shall be performed on the noninstructional contractors who are
5 permitted access to school grounds when students are present
6 and who do not have direct contact with students. Criminal
7 history checks shall be performed at least once every 3 years.
8 For the initial criminal history check, each noninstructional
9 contractor who is subject to the criminal history check shall
10 file with the Department of Law Enforcement a complete set of
11 fingerprints taken by an authorized law enforcement agency or
12 an employee of a school district, a public school, or a
13 private company who is trained to take fingerprints. The
14 fingerprints shall be electronically submitted for state
15 processing to the Department of Law Enforcement, which shall
16 in turn submit the fingerprints to the Federal Bureau of
17 Investigation for national processing. The results of each
18 criminal history check shall be reported to the school
19 district in which the individual is seeking access and entered
20 into the shared system described in subsection (7). The school
21 district shall screen the results using the disqualifying
22 offenses in paragraph (g). The cost of the criminal history
23 check may be borne by the district school board, the school,
24 or the contractor. A fee that is charged by a district school
25 board for such checks may not exceed 30 percent of the total
26 amount charged by the Department of Law Enforcement and the
27 Federal Bureau of Investigation.

28 (b) As authorized by law, the Department of Law
29 Enforcement shall retain the fingerprints submitted by the
30 school districts pursuant to this subsection to the Department
31 of Law Enforcement for a criminal history background screening

1 in a manner provided by rule and enter the fingerprints in the
2 statewide automated fingerprint identification system
3 authorized by s. 943.05(2)(b). The fingerprints shall
4 thereafter be available for all purposes and uses authorized
5 for arrest fingerprint cards entered into the statewide
6 automated fingerprint identification system under s. 943.051.

7 (c) As authorized by law, the Department of Law
8 Enforcement shall search all arrest fingerprint cards received
9 under s. 943.051 against the fingerprints retained in the
10 statewide automated fingerprint identification system under
11 paragraph (b).

12 (d) School districts may participate in the search
13 process described in this subsection by payment of an annual
14 fee to the Department of Law Enforcement.

15 (e) A fingerprint retained pursuant to this subsection
16 shall be purged from the automated fingerprint identification
17 system 3 years following the date the fingerprint was
18 initially submitted. The Department of Law Enforcement shall
19 set the amount of the annual fee to be imposed upon each
20 participating agency for performing these searches and
21 establishing the procedures for the retention of fingerprints
22 and the dissemination of search results. The fee may be borne
23 as provided by law. Fees may be waived or reduced by the
24 executive director of the Department of Law Enforcement for
25 good cause shown.

26 (f) A noninstructional contractor who is subject to a
27 criminal history check under this section shall inform a
28 school district that he or she has completed a criminal
29 history check in another school district within the last 3
30 years. The school district shall verify the results of the
31 contractor's criminal history check using the shared system

1 described in subsection (7). The school district shall not
2 charge the contractor a fee for verifying the results of his
3 or her criminal history check.

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

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

13 2. Section 393.135, relating to sexual misconduct with
14 certain developmentally disabled clients and the reporting of
15 such sexual misconduct.

16 3. Section 394.4593, relating to sexual misconduct
17 with certain mental health patients and the reporting of such
18 sexual misconduct.

19 4. Section 775.30, relating to terrorism.

20 5. Section 782.04, relating to murder.

21 6. Section 787.01, relating to kidnapping.

22 7. Any offense under chapter 800, relating to lewdness
23 and indecent exposure.

24 8. Section 826.04, relating to incest.

25 9. Section 827.03, relating to child abuse, aggravated
26 child abuse, or neglect of a child.

27 (3) If it is found that a noninstructional contractor
28 has been convicted of any of the offenses listed in paragraph
29 (g), the individual shall be immediately suspended from having
30 access to school grounds and shall remain suspended unless and
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1 until the conviction has been set aside in any postconviction
2 proceeding.

3 (4) A noninstructional contractor who has been
4 convicted of any of the offenses listed in paragraph (2)(g)
5 may not be permitted on school grounds when students are
6 present, unless the contractor has received a full pardon or
7 has had his or her civil rights restored.

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

16 (6) Each contractor who is subject to the requirements
17 of this section shall agree to inform his or her employer or
18 the party to whom he or she is under contract and the school
19 district within 48 hours if he or she is arrested for any of
20 the disqualifying offenses in paragraph (2)(g). A contractor
21 who willfully fails to comply with this subsection commits a
22 misdemeanor of the first degree, punishable as provided in s.
23 775.082 or s. 775.083.

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

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1 (b) An employee of a school district, a charter
2 school, a lab school, a charter lab school, or the Florida
3 School for the Deaf and the Blind who requests or shares
4 criminal history information under this section is immune from
5 civil or criminal liability for any good-faith conduct that
6 occurs during the performance of and within the scope of
7 responsibilities related to the record check.

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

10 1012.468 Exceptions to certain fingerprinting and
11 criminal history checks.--

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

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

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

1 access remains in the school district employee's or the
2 contractor's line of sight.

3 2. If a noninstructional contractor who is exempt
4 under this subsection no longer is under direct supervision as
5 specified in subparagraph 1., the contractor is not permitted
6 on school grounds when students are present until the
7 contractor meets the screening requirements in s. 1012.465 or
8 s. 1012.467.

9 (b) Noninstructional contractors who are required by
10 law to undergo a level 2 background screening pursuant to s.
11 435.04 for licensure, certification, employment, or other
12 purposes and who submit evidence of meeting the following
13 criteria:

14 1. The contractor meets the screening standards in s.
15 435.04;

16 2. The contractor's license or certificate is active
17 and in good standing, if the contractor is a licensee or
18 certificateholder; and

19 3. The contractor completed the criminal history check
20 within the 5 years prior to seeking access to school grounds
21 when students are present.

22 (c) A law enforcement officer, as defined in s.
23 943.10, who is assigned or dispatched to school grounds by his
24 or her employer.

25 (d) A noninstructional contractor who remains at a
26 separate and secure site that has perimeter fencing on school
27 grounds.

28 (3)(a) A noninstructional contractor who is exempt
29 under this section from the screening requirements set forth
30 in s. 1012.465 or s. 1012.467 is subject to a search of his or
31 her name or other identifying information against the

1 registration information regarding sexual predators and sexual
2 offenders maintained by the Department of Law Enforcement
3 under s. 943.043 and the national sex offender public registry
4 maintained by the United States Department of Justice. The
5 school district shall conduct the search required under this
6 subsection.

7 (b) A noninstructional contractor who is identified as
8 a sexual predator or sexual offender in the registry search
9 required in paragraph (a) is not permitted on school grounds
10 when students are present.

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

17 Section 9. Section 1012.321, Florida Statutes, is
18 created to read:

19 1012.321 Exceptions for certain instructional
20 personnel from background screening
21 requirements.--Instructional personnel who are required to
22 undergo level 2 background screening under s. 393.0655 or s.
23 402.305 and who meet the level 2 screening standards in s.
24 435.04 are not required to be rescreened in order to satisfy
25 the screening requirements in s. 1012.32 if the instructional
26 personnel:

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

29 (2) Are rescreened every 5 years and meet the level 2
30 screening standards; and
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1 (3) Have their fingerprints retained by the Department
2 of Law Enforcement.

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

5
6 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
7 COMMITTEE SUBSTITUTE FOR
8 CS for CS for Senate Bill 2280

9 Adds clarifying cross references to sex offender registration
10 provisions in s. 944.607, F.S.

11 Delays the effective date from August 15, 2006, to February 1,
12 2007, for the criminal penalty for unlawful possession of a
13 driver's license without the sex offender designation.

14 Authorizes FDLE to retain fingerprints submitted by the school
15 districts in certain circumstances and purge the fingerprints
16 after three years.

17 Clarifies that suspended noninstitutional contractors shall
18 remain suspended unless and until the disqualifying conviction
19 has been set aside in any postconviction proceeding.

20 Requires contractors who are arrested for a disqualifying
21 offense to inform his or her employer within 48 hours.

22 Specifies that exemptions to screening requirements set forth
23 in s. 1012.321, F.S., are contingent upon having fingerprints
24 retained by FDLE.