

1 A bill to be entitled
2 An act relating to high-risk offenders;
3 amending s. 322.141, F.S.; requiring
4 distinctive markings for driver's licenses and
5 identification cards issued to persons who are
6 designated as sexual predators or subject to
7 registration as sexual offenders; amending s.
8 322.212, F.S.; prohibiting the alteration of
9 sexual predator or sexual offender markings on
10 driver's licenses or identification cards, for
11 which there are criminal penalties; amending s.
12 775.21, F.S.; redefining the terms "permanent
13 residence" and "temporary residence" in order
14 to reduce the number of consecutive days and
15 days in the aggregate which constitute the
16 residence of a sexual predator for purposes of
17 requirements that the predator register with
18 the Department of Law Enforcement, the
19 sheriff's office, or the Department of
20 Corrections; requiring sexual predators to
21 obtain a distinctive driver's license or
22 identification card; amending s. 943.0435,
23 F.S.; requiring sexual offenders to obtain a
24 distinctive driver's license or identification
25 card; amending s. 944.607, F.S.; requiring
26 specified offenders who are under the
27 supervision of the Department of Corrections
28 but are not incarcerated to obtain a
29 distinctive driver's license or identification
30 card; amending s. 1012.465, F.S.; amending
31 background screening requirements for certain

1 noninstructional school district employees and
2 contractors; adding noninstructional
3 contractors to those who must meet the
4 screening requirements; defining the terms
5 "noninstructional contractor," "convicted," and
6 "school grounds"; creating s. 1012.467, F.S.;
7 providing for the submission of fingerprints;
8 requiring school districts to screen results of
9 criminal records checks; requiring the cost of
10 background screening requirements to be borne
11 by certain parties; providing a cap on fees
12 that may be charged; authorizing the retention
13 of fingerprints; providing a list of violations
14 that such persons must not have committed if
15 they are to satisfy the screening requirements;
16 providing penalties; providing grounds for
17 contesting denial of access to school grounds;
18 providing reporting requirements; providing
19 that the failure to meet requirements is a
20 misdemeanor of the first degree; allowing
21 certain educational entities to share
22 information derived from checks of criminal
23 history records; authorizing the Department of
24 Law Enforcement to adopt rules; providing
25 immunity from civil or criminal liability;
26 creating s. 1012.468, F.S.; specifying
27 exemptions for contractors; providing criteria
28 and conditions; providing for rulemaking by the
29 State Board of Education; providing that
30 exempted contractors are subject to a search of
31 certain databases that list sexual predators

1 and sexual offenders; providing consequences of
2 a failure to meet the screening requirements;
3 prohibiting school districts from conducting
4 additional criminal history checks; creating s.
5 1012.321, F.S.; creating an exception for
6 certain instructional personnel; providing
7 criteria; providing effective dates.
8

9 Be It Enacted by the Legislature of the State of Florida:
10

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

13 322.141 Color or markings of certain licenses or
14 identification cards.--

15 (1) All licenses originally issued or reissued by the
16 department to persons under the age of 21 years for the
17 operation of motor vehicles shall have markings or color which
18 shall be obviously separate and distinct from all other
19 licenses issued by the department for the operation of motor
20 vehicles.

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

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

29 (3) All licenses for the operation of motor vehicles
30 or identification cards originally issued or reissued by the
31 department to persons who are designated as sexual predators

1 under s. 775.21 or subject to registration as sexual offenders
2 under s. 943.0435 or s. 944.607 shall have on the front of the
3 license the following:

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

6 (b) For a person subject to registration as a sexual
7 offender under s. 943.0435 or s. 944.607, the marking
8 "943.0435, F.S."

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

12 322.212 Unauthorized possession of, and other unlawful
13 acts in relation to, driver's license or identification
14 card.--

15 (5)

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

20 Section 3. Paragraphs (f) and (g) of subsection (2)
21 and paragraph (f) of subsection (6) of section 775.21, Florida
22 Statutes, are amended to read:

23 775.21 The Florida Sexual Predators Act.--

24 (2) DEFINITIONS.--As used in this section, the term:

25 (f) "Permanent residence" means a place where the
26 person abides, lodges, or resides for 5 ~~14~~ or more consecutive
27 days.

28 (g) "Temporary residence" means a place where the
29 person abides, lodges, or resides for a period of 5 ~~14~~ or more
30 days in the aggregate during any calendar year and which is
31 not the person's permanent address or, for a person whose

1 permanent residence is not in this state, a place where the
2 person is employed, practices a vocation, or is enrolled as a
3 student for any period of time in this state; ~~or a place where~~
4 ~~the person routinely abides, lodges, or resides for a period~~
5 ~~of 4 or more consecutive or nonconsecutive days in any month~~
6 ~~and which is not the person's permanent residence, including~~
7 ~~any out of state address.~~

8 (6) REGISTRATION.--

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

17 1. If otherwise qualified, secure a Florida driver's
18 license, renew a Florida driver's license, or secure an
19 identification card. The sexual predator shall identify
20 himself or herself as a sexual predator who is required to
21 comply with this section, provide his or her place of
22 permanent or temporary residence, including a rural route
23 address and a post office box, and submit to the taking of a
24 photograph for use in issuing a driver's license, renewed
25 license, or identification card, and for use by the department
26 in maintaining current records of sexual predators. A post
27 office box shall not be provided in lieu of a physical
28 residential address. If the sexual predator's place of
29 residence is a motor vehicle, trailer, mobile home, or
30 manufactured home, as defined in chapter 320, the sexual
31 predator shall also provide to the Department of Highway

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

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

18 3. Provide, upon request, any additional information
19 necessary to confirm the identity of the sexual predator,
20 including a set of fingerprints.

21
22 The sheriff shall promptly provide to the department the
23 information received from the sexual predator.

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

26 943.0435 Sexual offenders required to register with
27 the department; penalty.--

28 (3) Within 48 hours after the report required under
29 subsection (2), a sexual offender shall report in person at a
30 driver's license office of the Department of Highway Safety
31 and Motor Vehicles, unless a driver's license or

1 identification card that complies with the requirements of s.
2 322.141(3) was previously secured or updated under s. 944.607.

3 At the driver's license office the sexual offender shall:

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

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

21 (c) Provide, upon request, any additional information
22 necessary to confirm the identity of the sexual offender,
23 including a set of fingerprints.

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

26 944.607 Notification to Department of Law Enforcement
27 of information on sexual offenders.--

28 (9) A sexual offender, as described in this section,
29 who is under the supervision of the Department of Corrections
30 but who is not incarcerated shall, in addition to the
31 registration requirements provided in subsection (4), register

1 and obtain a distinctive driver's license or identification
2 card in the manner provided in s. 943.0435(3), (4), and (5),
3 unless the sexual offender is a sexual predator, in which case
4 he or she shall register and obtain a distinctive driver's
5 license or identification card as required under s. 775.21. A
6 sexual offender who fails to comply with the requirements of
7 s. 943.0435 is subject to the penalties provided in s.
8 943.0435(9).

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

11 1012.465 Background screening requirements for certain
12 noninstructional school district employees and contractors.--

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

21 Section 7. Section 1012.467, Florida Statutes, is
22 created to read:

23 1012.467 Noninstructional contractors who are
24 permitted access to school grounds when students are present;
25 background screening requirements.--

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

27 (a) "Noninstructional contractor" means any vendor,
28 individual, or entity under contract with a school or with the
29 school board who receives remuneration for services performed
30 for the school district or a school, but who is not otherwise
31 considered an employee of the school district. The term also

1 includes any employee of a contractor who performs services
2 for the school district or school under the contract and any
3 subcontractor and its employees.

4 (b) "Convicted" has the same meaning as in s.
5 943.0435.

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

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

14 2. The buildings and grounds of any public
15 prekindergarten, kindergarten, elementary school, middle
16 school, junior high school, high school, or secondary school,
17 or any combination of grades prekindergarten through grade 12,
18 or contiguous school district land, during any time period in
19 which students are not permitted access; or

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

24 (2)(a) A fingerprint-based criminal history check
25 shall be performed on the noninstructional contractors who are
26 permitted access to school grounds when students are present
27 and who do not have direct contact with students. Criminal
28 history checks shall be performed at least once every 3 years.
29 For the initial criminal history check, each noninstructional
30 contractor who is subject to the criminal history check shall
31 file with the Department of Law Enforcement a complete set of

1 fingerprints taken by an authorized law enforcement agency or
2 an employee of a school district, a public school, or a
3 private company who is trained to take fingerprints. The
4 fingerprints shall be electronically submitted for state
5 processing to the Department of Law Enforcement, which shall
6 in turn submit the fingerprints to the Federal Bureau of
7 Investigation for national processing. The results of each
8 criminal history check shall be reported to the school
9 district in which the individual is seeking access and entered
10 into the shared system described in subsection (7). The school
11 district shall screen the results using the disqualifying
12 offenses in paragraph (g). The cost of the criminal history
13 check may be borne by the district school board, the school,
14 or the contractor. A fee that is charged by a district school
15 board for such checks may not exceed 30 percent of the total
16 amount charged by the Department of Law Enforcement and the
17 Federal Bureau of Investigation.

18 (b) As authorized by law, the Department of Law
19 Enforcement shall retain the fingerprints submitted by the
20 school districts pursuant to this subsection to the Department
21 of Law Enforcement for a criminal history background screening
22 in a manner provided by rule and enter the fingerprints in the
23 statewide automated fingerprint identification system
24 authorized by s. 943.05(2)(b). The fingerprints shall
25 thereafter be available for all purposes and uses authorized
26 for arrest fingerprint cards entered into the statewide
27 automated fingerprint identification system under s. 943.051.

28 (c) As authorized by law, the Department of Law
29 Enforcement shall search all arrest fingerprint cards received
30 under s. 943.051 against the fingerprints retained in the
31

1 statewide automated fingerprint identification system under
2 paragraph (b).

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

6 (e) A fingerprint retained pursuant to this subsection
7 shall be purged from the automated fingerprint identification
8 system 3 years following the date the fingerprint was
9 initially submitted. The Department of Law Enforcement shall
10 set the amount of the annual fee to be imposed upon each
11 participating agency for performing these searches and
12 establishing the procedures for the retention of fingerprints
13 and the dissemination of search results. The fee may be borne
14 as provided by law. Fees may be waived or reduced by the
15 executive director of the Department of Law Enforcement for
16 good cause shown.

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

26 (g) A noninstructional contractor for whom a criminal
27 history check is required under this section may not have been
28 convicted of any of the following offenses designated in the
29 Florida Statutes, any similar offense in another jurisdiction,
30 or any similar offense committed in this state that has been
31

1 redesignated from a former provision of the Florida Statutes
2 to one of the following offenses:

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

5 2. Section 393.135, relating to sexual misconduct with
6 certain developmentally disabled clients and the reporting of
7 such sexual misconduct.

8 3. Section 394.4593, relating to sexual misconduct
9 with certain mental health patients and the reporting of such
10 sexual misconduct.

11 4. Section 775.30, relating to terrorism.

12 5. Section 782.04, relating to murder.

13 6. Section 787.01, relating to kidnapping.

14 7. Any offense under chapter 800, relating to lewdness
15 and indecent exposure.

16 8. Section 826.04, relating to incest.

17 9. Section 827.03, relating to child abuse, aggravated
18 child abuse, or neglect of a child.

19 (3) If it is found that a noninstructional contractor
20 has been convicted of any of the offenses listed in paragraph
21 (g), the individual shall be immediately suspended from having
22 access to school grounds and shall remain suspended unless and
23 until the conviction has been set aside in any postconviction
24 proceeding.

25 (4) A noninstructional contractor who has been
26 convicted of any of the offenses listed in paragraph (2)(g)
27 may not be permitted on school grounds when students are
28 present, unless the contractor has received a full pardon or
29 has had his or her civil rights restored. A noninstructional
30 contractor who is present on school grounds in violation of
31

1 this subsection commits a felony of the third degree,
2 punishable as provided in s. 775.082 or s. 775.083.

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 arrested for any of
15 the disqualifying offenses in paragraph (2)(g). A contractor
16 who willfully fails to comply with this subsection commits a
17 felony of the third degree, punishable as provided in s.
18 775.082 or s. 775.083. If the employer of a contractor or the
19 party to whom the contractor is under contract knows the
20 contractor has been arrested for any of the disqualifying
21 offenses in paragraph (2)(g) and authorizes the contractor to
22 be present on school grounds when students are present, such
23 employer or such party commits a felony of the third degree,
24 punishable as provided in s. 775.082 or s. 775.083.

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

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. The State Board of Education shall adopt rules to
28 develop uniform specifications for what constitutes a separate
29 and secure site that has perimeter fencing. These
30 specifications shall be binding on the school districts.

31

1 (e) A noninstructional contractor who provides pick-up
2 or delivery services and those services involve brief visits
3 on school grounds when students are present.

4 (3)(a) A noninstructional contractor who is exempt
5 under this section from the screening requirements set forth
6 in s. 1012.465 or s. 1012.467 is subject to a search of his or
7 her name or other identifying information against the
8 registration information regarding sexual predators and sexual
9 offenders maintained by the Department of Law Enforcement
10 under s. 943.043 and the national sex offender public registry
11 maintained by the United States Department of Justice. The
12 school district shall conduct the search required under this
13 subsection without charge or fee to the contractor.

14 (b) A noninstructional contractor who is identified as
15 a sexual predator or sexual offender in the registry search
16 required in paragraph (a) is not permitted on school grounds
17 when students are present. Upon determining that a
18 noninstructional contractor is not permitted on school grounds
19 pursuant to this subsection, the school district shall notify
20 the vendor, individual, or entity under contract within three
21 business days.

22 (4) A school district may not subject a contractor who
23 meets the requirements in subsection (2) to an additional
24 criminal history check. Upon submission of evidence and
25 verification by the school district, the school district must
26 accept the results of the criminal history check for the
27 contractor.

28 Section 9. Section 1012.321, Florida Statutes, is
29 created to read:

30 1012.321 Exceptions for certain instructional
31 personnel from background screening

1 requirements.--Instructional personnel who are required to
2 undergo level 2 background screening under s. 393.0655 or s.
3 402.305 and who meet the level 2 screening standards in s.
4 435.04 are not required to be rescreened in order to satisfy
5 the screening requirements in s. 1012.32 if the instructional
6 personnel:

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

9 (2) Are rescreened every 5 years and meet the level 2
10 screening standards; and

11 (3) Have their fingerprints retained by the Department
12 of Law Enforcement.

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

15
16
17
18
19
20
21
22
23
24
25
26
27
28
29
30
31