

HB 7117

2006

1                   A bill to be entitled  
2           An act relating to sexual predators and offenders;  
3           amending s. 322.141, F.S.; requiring distinctive markings  
4           for driver's licenses and identification cards issued to  
5           persons who are designated as sexual predators or subject  
6           to registration as sexual offenders; amending s. 322.212,  
7           F.S.; prohibiting the alteration of sexual predator or  
8           sexual offender markings on driver's licenses or  
9           identification cards, for which there are criminal  
10          penalties; amending s. 775.21, F.S.; requiring sexual  
11          predators to obtain a distinctive driver's license or  
12          identification card; amending s. 943.0435, F.S.; requiring  
13          sexual offenders to obtain a distinctive driver's license  
14          or identification card; amending s. 944.607, F.S.;;  
15          requiring specified offenders who are under the  
16          supervision of the Department of Corrections but are not  
17          incarcerated to obtain a distinctive driver's license or  
18          identification card; amending s. 1012.465, F.S.; revising  
19          provisions relating to background screenings of certain  
20          noninstructional school district employees and other  
21          specified individuals; creating s. 1012.4561, F.S.;;  
22          providing definitions; prohibiting authorized individuals  
23          who are designated as sexual predators, subject to  
24          registration as a sexual offenders, or who appear on the  
25          National Sex Offender Public Registry from being present  
26          on school grounds; providing criminal penalties; requiring  
27          authorized individuals working on school grounds to be  
28          subject to a check of Florida driver's licenses or

Page 1 of 14

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

hb7117-00

29 identification cards for the purposes of ascertaining  
 30 their sexual offender and sexual predator status and  
 31 checked against the National Sex Offender Public Registry;  
 32 providing duties for certain authorized individuals;  
 33 providing penalties; allowing school superintendents on a  
 34 case-by-case basis to require certain individuals to  
 35 undergo a fingerprint-based background screening to meet  
 36 specified standards; providing for submission of  
 37 fingerprints; providing for fees; requiring creation of an  
 38 electronic system for sharing screening results among  
 39 school districts; providing for storage, use, and purging  
 40 of fingerprints submitted for background checks; providing  
 41 rulemaking authority to the Department of Law Enforcement;  
 42 requiring certain individuals to report certain offenses;  
 43 providing penalties; providing exceptions; providing that  
 44 no provision of the section shall give rise to private  
 45 civil liability or create a private cause of action for  
 46 monetary damages; providing rulemaking authority to school  
 47 boards; providing effective dates.

48

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

50

51 Section 1. Effective August 1, 2006, subsection (3) is  
 52 added to section 322.141, Florida Statutes, to read:

53 322.141 Color or markings of certain licenses or  
 54 identification cards.--

55 (3) All licenses for the operation of motor vehicles or  
 56 identification cards originally issued or reissued by the

HB 7117

2006

57 department to persons who are designated as sexual predators  
58 under s. 775.21 or subject to registration as sexual offenders  
59 under s. 943.0435 shall have on the front of the license or  
60 identification card the following:

61 (a) For a person designated as a sexual predator under s.  
62 775.21, the marking "775.21, F.S."

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

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

68 322.212 Unauthorized possession of, and other unlawful  
69 acts in relation to, driver's license or identification card.--

70 (5)

71 (c) It is unlawful for any person to have in his or her  
72 possession a driver's license or identification card upon which  
73 the sexual predator or sexual offender markings required by s.  
74 322.141 are not displayed or have been altered.

75 Section 3. Paragraph (f) of subsection (6) of section  
76 775.21, Florida Statutes, is amended to read:

77 775.21 The Florida Sexual Predators Act.--

78 (6) REGISTRATION.--

79 (f) Within 48 hours after the registration required under  
80 paragraph (a) or paragraph (e), a sexual predator who is not  
81 incarcerated and who resides in the community, including a  
82 sexual predator under the supervision of the Department of  
83 Corrections, shall register in person at a driver's license  
84 office of the Department of Highway Safety and Motor Vehicles

HB 7117

2006

85 and shall present proof of registration. At the driver's license  
86 office the sexual predator shall:

87 1. If otherwise qualified, secure a Florida driver's  
88 license, renew a Florida driver's license, or secure an  
89 identification card. The sexual predator shall identify himself  
90 or herself as a sexual predator who is required to comply with  
91 this section, provide his or her place of permanent or temporary  
92 residence, including a rural route address and a post office  
93 box, and submit to the taking of a photograph for use in issuing  
94 a driver's license, renewed license, or identification card, and  
95 for use by the department in maintaining current records of  
96 sexual predators. A post office box shall not be provided in  
97 lieu of a physical residential address. If the sexual predator's  
98 place of residence is a motor vehicle, trailer, mobile home, or  
99 manufactured home, as defined in chapter 320, the sexual  
100 predator shall also provide to the Department of Highway Safety  
101 and Motor Vehicles the vehicle identification number; the  
102 license tag number; the registration number; and a description,  
103 including color scheme, of the motor vehicle, trailer, mobile  
104 home, or manufactured home. If a sexual predator's place of  
105 residence is a vessel, live-aboard vessel, or houseboat, as  
106 defined in chapter 327, the sexual predator shall also provide  
107 to the Department of Highway Safety and Motor Vehicles the hull  
108 identification number; the manufacturer's serial number; the  
109 name of the vessel, live-aboard vessel, or houseboat; the  
110 registration number; and a description, including color scheme,  
111 of the vessel, live-aboard vessel, or houseboat.

HB 7117

2006

112           2. Pay the costs assessed by the Department of Highway  
 113 Safety and Motor Vehicles for issuing or renewing a driver's  
 114 license or identification card as required by this section. The  
 115 driver's license or identification card issued shall comply with  
 116 s. 322.141(3).

117           3. Provide, upon request, any additional information  
 118 necessary to confirm the identity of the sexual predator,  
 119 including a set of fingerprints.

120

121 The sheriff shall promptly provide to the department the  
 122 information received from the sexual predator.

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

125           943.0435 Sexual offenders required to register with the  
 126 department; penalty.--

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

134           (a) If otherwise qualified, secure a Florida driver's  
 135 license, renew a Florida driver's license, or secure an  
 136 identification card. The sexual offender shall identify himself  
 137 or herself as a sexual offender who is required to comply with  
 138 this section and shall provide proof that the sexual offender  
 139 reported as required in subsection (2). The sexual offender

HB 7117

2006

140 shall provide any of the information specified in subsection  
 141 (2), if requested. The sexual offender shall submit to the  
 142 taking of a photograph for use in issuing a driver's license,  
 143 renewed license, or identification card, and for use by the  
 144 department in maintaining current records of sexual offenders.

145 (b) Pay the costs assessed by the Department of Highway  
 146 Safety and Motor Vehicles for issuing or renewing a driver's  
 147 license or identification card as required by this section. The  
 148 driver's license or identification card issued shall comply with  
 149 s. 322.141(3).

150 (c) Provide, upon request, any additional information  
 151 necessary to confirm the identity of the sexual offender,  
 152 including a set of fingerprints.

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

155 944.607 Notification to Department of Law Enforcement of  
 156 information on sexual offenders.--

157 (9) A sexual offender, as described in this section, who  
 158 is under the supervision of the Department of Corrections but  
 159 who is not incarcerated shall, in addition to the registration  
 160 requirements provided in subsection (4), register and obtain a  
 161 distinctive driver's license or identification card in the  
 162 manner provided in s. 943.0435(3), (4), and (5), unless the  
 163 sexual offender is a sexual predator, in which case he or she  
 164 shall register and obtain a distinctive driver's license or  
 165 identification card as required under s. 775.21. A sexual  
 166 offender who fails to comply with the requirements of s.  
 167 943.0435 is subject to the penalties provided in s. 943.0435(9).

HB 7117

2006

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

170 1012.465 Background screening requirements for certain  
171 noninstructional school district employees and other specified  
172 individuals ~~contractors~~.--

173 (1) The following individuals ~~Noninstructional school~~  
174 ~~district employees or contractual personnel who are permitted~~  
175 ~~access on school grounds when students are present, who have~~  
176 ~~direct contact with students or who have access to or control of~~  
177 ~~school funds~~ must meet level 2 screening requirements as  
178 described in s. 1012.32:--

179 (a) Noninstructional school district employees who have  
180 direct contact with students.

181 (b) Other individuals who are specifically authorized by  
182 the school district to perform services for compensation that  
183 involve direct contact with students.

184 (c) Noninstructional school district personnel who have  
185 access to or control of school funds.

186 (d) Any other individuals who, for compensation, are  
187 authorized to have access to or control of school funds.

188 ~~Contractual personnel shall include any vendor, individual, or~~  
189 ~~entity under contract with the school board.~~

190 Section 7. Section 1012.4561, Florida Statutes, is created  
191 to read:

192 1012.4561 Individuals permitted access to school grounds  
193 for business or employment purposes when students are present;  
194 exclusions.--

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

HB 7117

2006

196        (a) "Authorized individual" means any individual who is  
197 authorized to have access to school grounds for business or  
198 employment purposes when students are present, other than a  
199 school district employee or any other individual referred to in  
200 s. 1012.465(1).

201        (b) "Contractor" means a person or an entity, regardless  
202 of form, that is engaged by the school district to provide goods  
203 or services and that, in furtherance of such engagement, employs  
204 authorized individuals or subcontracts with others who employ  
205 authorized individuals. The term "contractor" also includes an  
206 authorized individual who is directly engaged by the school  
207 district to provide goods or services.

208        (c) "School grounds" means the buildings and grounds of  
209 any public prekindergarten, kindergarten, elementary school,  
210 middle school, junior high school, high school, or secondary  
211 school, together with the school district land on which the  
212 buildings are located. The term "school grounds" does not  
213 include:

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

216            2. The buildings and grounds of any public  
217 prekindergarten, kindergarten, elementary school, middle school,  
218 junior high school, high school, or secondary school or  
219 contiguous school district land during any time period in which  
220 students are not permitted access; or

221            3. Any building described in this paragraph during any  
222 period in which it is used solely as a career or technical  
223 center under part IV of chapter 1004.

224           (2) An authorized individual who is designated as a sexual  
 225 predator under s. 775.21, who is subject to registration as a  
 226 sexual offender under s. 943.0435, or who appears on the  
 227 National Sex Offender Public Registry maintained by the United  
 228 States Department of Justice shall not be entitled to be present  
 229 on school grounds. An authorized individual who is present on  
 230 school grounds in violation of this subsection commits a  
 231 misdemeanor of the first degree, punishable as provided in s.  
 232 775.082 or s. 775.083.

233           (3) (a) Before allowing an authorized individual to have  
 234 access to school grounds, a contractor must provide the school  
 235 district with certification that the contractor has:

236           1. For an individual who holds a Florida driver's license  
 237 or identification card, examined the individual's driver's  
 238 license or identification card and confirmed that the driver's  
 239 license or identification card does not have the markings  
 240 required by s. 322.141, indicating that the person is a sexual  
 241 predator or subject to registration as a sexual offender.

242           2. Checked the individual against the National Sex  
 243 Offender Public Registry and confirmed that nothing in the  
 244 registry requires that the individual be denied access to school  
 245 grounds.

246  
 247 The contractor shall make its records supporting the  
 248 certification available for inspection at the request of the  
 249 school district.

250           (b)1. Each authorized individual who has been issued a  
 251 Florida driver's license or identification card shall possess

HB 7117

2006

252 the card at all times while working on school grounds and shall  
253 show it to any school district employee upon request.

254 2. Each authorized individual who has not been issued or  
255 does not have in his or her possession a Florida driver's  
256 license or identification card shall submit to a check against  
257 the National Sex Offender Public Registry upon request of any  
258 school district employee to confirm that nothing in that  
259 registry requires that the individual be denied access to school  
260 grounds.

261 (c) Any person who knowingly and willfully violates this  
262 subsection and who holds a professional license under chapter  
263 455 commits an act constituting grounds for discipline as  
264 described in s. 455.227(1)(a). Any person who knowingly and  
265 willfully violates this subsection and who holds a professional  
266 license under chapter 456 commits an act constituting grounds  
267 for discipline as described in s. 456.072(1)(a).

268 (d) Each authorized individual must inform his or her  
269 employer or the party with whom he or she is under contract  
270 within 48 hours if charged, while he or she is employed or under  
271 contract in that capacity, with an offense for which a  
272 conviction could lead to the person being designated as a sexual  
273 predator under s. 775.21 or subject to registration as a sexual  
274 offender under s. 943.0435. A person who willfully fails to  
275 comply with this paragraph commits a felony of the third degree,  
276 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

277 (4) On a case-by-case basis, a superintendent may require  
278 any authorized individual to undergo a fingerprint-based  
279 background screening and meet level 2 screening requirements as

HB 7117

2006

280 described in s. 1012.32. A recheck of such authorized individual  
281 shall be performed at least once every 3 years.

282 (a) For the initial check of each individual subject to  
283 the background criminal history check requirements in this  
284 subsection, the individual shall file a complete set of  
285 fingerprints. Fingerprints shall be submitted to the Department  
286 of Law Enforcement for state processing and to the Federal  
287 Bureau of Investigation for federal processing.

288 (b) The results of each fingerprint-based background  
289 screening shall be reported to the requesting district.

290 (c) The cost of the initial check of state and federal  
291 criminal history and a recheck every 3 years may be borne by the  
292 district school board, the individual fingerprinted, or the  
293 individual's employer. Any fee for the initial check of state  
294 and federal criminal history and a recheck every 3 years per  
295 person fingerprinted charged by a district school board may not  
296 exceed the sum of fees charged by the Department of Law  
297 Enforcement, the Federal Bureau of Investigation, and the  
298 Department of Education, plus an additional administrative fee  
299 specified by the school board, which shall not exceed 25 percent  
300 of the sum of the other fees specified in this paragraph.

301 (d) For any required checks during the 3-year period  
302 subsequent to the initial check or the 3-year period subsequent  
303 to a recheck, the individual shall inform the district school  
304 board requiring the check that he or she has already completed a  
305 current records check and that district shall, without charge to  
306 the individual, check the individual's history using the shared  
307 system provided in subsection (5).

HB 7117

2006

308       (e) An authorized individual who is subject to the case-  
309 by-case screening provisions of this subsection must inform the  
310 contractor and the school district within 48 hours if he or she  
311 is charged with any offense that would require him or her to be  
312 barred from school grounds under subsection (2). A person who  
313 willfully fails to comply with this paragraph commits a felony  
314 of the third degree, punishable as provided in s. 775.082, s.  
315 775.083, or s. 775.084.

316       (5) (a) The Department of Law Enforcement shall implement a  
317 system that allows for criminal history record information  
318 provided to a school district to be shared with other school  
319 districts through a secure website or other electronic means.

320       (b) As authorized by law, the Department of Law  
321 Enforcement shall retain the fingerprints submitted by the  
322 school districts pursuant to this subsection to the Department  
323 of Law Enforcement for a criminal history background screening  
324 in a manner provided by rule and enter the fingerprints in the  
325 statewide automated fingerprint identification system authorized  
326 by s. 943.05(2) (b). The fingerprints shall thereafter be  
327 available for all purposes and uses authorized for arrest  
328 fingerprint cards entered into the statewide automated  
329 fingerprint identification system under s. 943.051.

330       (c) As authorized by law, the Department of Law  
331 Enforcement shall search all arrest fingerprint cards received  
332 under s. 943.051 against the fingerprints retained in the  
333 statewide automated fingerprint identification system under  
334 paragraph (b).

HB 7117

2006

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

338 (e) A fingerprint retained pursuant to this subsection  
339 shall be purged from the automated fingerprint identification  
340 system 3 years from the date the fingerprint was initially  
341 submitted. The Department of Law Enforcement shall set the  
342 amount of the annual fee to be imposed upon each participating  
343 agency for performing these searches and establishing the  
344 procedures for the retention of fingerprints and the  
345 dissemination of search results. The fee may be borne as  
346 provided by law. Fees may be waived or reduced by the executive  
347 director of the Department of Law Enforcement for good cause  
348 shown.

349 (f) The Department of Law Enforcement may adopt rules  
350 under ss. 120.536(1) and 120.54 to implement the provisions of  
351 this subsection.

352 (6) This section does not apply to law enforcement  
353 officers, as defined in s. 943.10, assigned by their employing  
354 agencies to work on school grounds as part of their official  
355 duties or first responder personnel responding to a request for  
356 assistance. For purposes of this subsection, the term "first  
357 responder personnel" includes law enforcement officers, as  
358 defined in s. 943.10, emergency medical technicians, paramedics,  
359 and firefighters.

360 (7) No provision of this section shall give rise to any  
361 private civil liability, nor shall this section be construed to  
362 create a private cause of action for monetary damages.

HB 7117

2006

363           (8) A school board may adopt rules under ss. 120.536(1)  
364 and 120.54 to implement the provisions of this section.

365           Section 8. Except as otherwise expressly provided in this  
366 act, this act shall take effect July 1, 2006.