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1 A bill to be entitled
2 An act relating to high-risk offenders; amending s.
3 322.141, F.S.; requiring distinctive markings for driver's
4 licenses and identification cards issued to persons who
5 are designated as sexual predators or subject to
6 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; requiring sexual predators and sexual offenders
11 to obtain an updated or renewed driver's license or
12 identification card; amending s. 775.21, F.S.; requiring
13 sexual predators to obtain a distinctive driver's license
14 or identification card; amending s. 943.0435, F.S.;
15 requiring sexual offenders to obtain a distinctive
16 driver's license or identification card; amending s.
17 944.607, F.S.; requiring specified offenders who are under
18 the supervision of the Department of Corrections but are
19 not incarcerated to obtain a distinctive driver's license
20 or identification card; amending s. 1012.465, F.S.;
21 revising background screening requirements for certain
22 noninstructional school district employees and
23 contractors; creating s. 1012.467, F.S.; adding
24 noninstructional contractors to those who must meet the
25 screening requirements; defining the terms
26 "noninstructional contractor," "convicted," and "school
27 grounds"; providing for the submission of fingerprints;
28 requiring school districts to screen results of criminal

29 records checks; requiring the cost of background screening
 30 requirements to be borne by certain parties; providing a
 31 cap on fees that may be charged; authorizing the retention
 32 of fingerprints; providing a list of violations that such
 33 persons must not have committed if they are to satisfy the
 34 screening requirements; providing penalties; providing
 35 grounds for contesting denial of access to school grounds;
 36 providing reporting requirements; providing penalties for
 37 the failure to meet certain requirements; authorizing the
 38 Department of Law Enforcement to adopt rules; providing
 39 immunity from civil or criminal liability; creating s.
 40 1012.468, F.S.; specifying exemptions for contractors;
 41 providing criteria and conditions; providing that exempted
 42 contractors are subject to a search of certain databases
 43 that list sexual predators and sexual offenders; providing
 44 consequences of a failure to meet the screening
 45 requirements; prohibiting school districts from conducting
 46 additional criminal history checks; specifying that the
 47 act does not create a private cause of action or a new
 48 duty of care or basis of liability; creating s. 1012.321,
 49 F.S.; creating an exception for certain instructional
 50 personnel; providing criteria; providing effective dates.

51
 52 Be It Enacted by the Legislature of the State of Florida:

53
 54 Section 1. Effective August 1, 2007, section 322.141,
 55 Florida Statutes, is amended to read:

56 322.141 Color or markings of certain licenses or

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57 identification cards.--

58 (1) All licenses originally issued or reissued by the
59 department to persons under the age of 21 years for the
60 operation of motor vehicles shall have markings or color which
61 shall be obviously separate and distinct from all other licenses
62 issued by the department for the operation of motor vehicles.

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

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

71 (3) All licenses for the operation of motor vehicles or
72 identification cards originally issued or reissued by the
73 department to persons who are designated as sexual predators
74 under s. 775.21 or subject to registration as sexual offenders
75 under s. 943.0435 or s. 944.607 shall have on the front of the
76 license or identification card the following:

77 (a) For a person designated as a sexual predator under s.
78 775.21, the marking "775.21, F.S."

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

82 (4) Unless previously secured or updated, each sexual
83 offender and sexual predator shall report to the department
84 during the month of his or her reregistration requirement as

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85 required under s. 775.21(8), s. 943.0435(14), or s. 944.607(13)
86 in order to obtain an updated or renewed driver's license or
87 identification card containing the markings required by
88 subsection (3).

89 Section 2. Effective February 1, 2008, paragraphs (c) is
90 added to subsection (5) of section 322.212, Florida Statutes, to
91 read:

92 322.212 Unauthorized possession of, and other unlawful
93 acts in relation to, driver's license or identification card.--

94 (5)

95 (c) It is unlawful for any person to have in his or her
96 possession a driver's license or identification card upon which
97 the sexual predator or sexual offender markings required by s.
98 322.141 are not displayed or have been altered.

99 Section 3. Paragraph (f) of subsection (6) of section
100 775.21, Florida Statutes, are amended to read:

101 775.21 The Florida Sexual Predators Act.--

102 (6) REGISTRATION.--

103 (f) Within 48 hours after the registration required under
104 paragraph (a) or paragraph (e), a sexual predator who is not
105 incarcerated and who resides in the community, including a
106 sexual predator under the supervision of the Department of
107 Corrections, shall register in person at a driver's license
108 office of the Department of Highway Safety and Motor Vehicles
109 and shall present proof of registration. At the driver's license
110 office the sexual predator shall:

111 1. If otherwise qualified, secure a Florida driver's
112 license, renew a Florida driver's license, or secure an

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113 identification card. The sexual predator shall identify himself
114 or herself as a sexual predator who is required to comply with
115 this section, provide his or her place of permanent or temporary
116 residence, including a rural route address and a post office
117 box, and submit to the taking of a photograph for use in issuing
118 a driver's license, renewed license, or identification card, and
119 for use by the department in maintaining current records of
120 sexual predators. A post office box shall not be provided in
121 lieu of a physical residential address. If the sexual predator's
122 place of residence is a motor vehicle, trailer, mobile home, or
123 manufactured home, as defined in chapter 320, the sexual
124 predator shall also provide to the Department of Highway Safety
125 and Motor Vehicles the vehicle identification number; the
126 license tag number; the registration number; and a description,
127 including color scheme, of the motor vehicle, trailer, mobile
128 home, or manufactured home. If a sexual predator's place of
129 residence is a vessel, live-aboard vessel, or houseboat, as
130 defined in chapter 327, the sexual predator shall also provide
131 to the Department of Highway Safety and Motor Vehicles the hull
132 identification number; the manufacturer's serial number; the
133 name of the vessel, live-aboard vessel, or houseboat; the
134 registration number; and a description, including color scheme,
135 of the vessel, live-aboard vessel, or houseboat.

136 2. Pay the costs assessed by the Department of Highway
137 Safety and Motor Vehicles for issuing or renewing a driver's
138 license or identification card as required by this section. The
139 driver's license or identification card issued to the sexual
140 predator must be in compliance with s. 322.141(3).

141 3. Provide, upon request, any additional information
 142 necessary to confirm the identity of the sexual predator,
 143 including a set of fingerprints.

144
 145 The sheriff shall promptly provide to the department the
 146 information received from the sexual predator.

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

149 943.0435 Sexual offenders required to register with the
 150 department; penalty.--

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

158 (a) If otherwise qualified, secure a Florida driver's
 159 license, renew a Florida driver's license, or secure an
 160 identification card. The sexual offender shall identify himself
 161 or herself as a sexual offender who is required to comply with
 162 this section and shall provide proof that the sexual offender
 163 reported as required in subsection (2). The sexual offender
 164 shall provide any of the information specified in subsection
 165 (2), if requested. The sexual offender shall submit to the
 166 taking of a photograph for use in issuing a driver's license,
 167 renewed license, or identification card, and for use by the
 168 department in maintaining current records of sexual offenders.

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169 (b) Pay the costs assessed by the Department of Highway
 170 Safety and Motor Vehicles for issuing or renewing a driver's
 171 license or identification card as required by this section. The
 172 driver's license or identification card issued must be in
 173 compliance with s. 322.141(3).

174 (c) Provide, upon request, any additional information
 175 necessary to confirm the identity of the sexual offender,
 176 including a set of fingerprints.

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

179 944.607 Notification to Department of Law Enforcement of
 180 information on sexual offenders.--

181 (9) A sexual offender, as described in this section, who
 182 is under the supervision of the Department of Corrections but
 183 who is not incarcerated shall, in addition to the registration
 184 requirements provided in subsection (4), register and obtain a
 185 distinctive driver's license or identification card in the
 186 manner provided in s. 943.0435(3), (4), and (5), unless the
 187 sexual offender is a sexual predator, in which case he or she
 188 shall register and obtain a distinctive driver's license or
 189 identification card as required under s. 775.21. A sexual
 190 offender who fails to comply with the requirements of s.
 191 943.0435 is subject to the penalties provided in s. 943.0435(9).

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

194 1012.465 Background screening requirements for certain
 195 noninstructional school district employees and contractors.--

196 (1) Except as provided in s. 1012.467 or s. 1012.468,

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197 noninstructional school district employees or contractual
 198 personnel who are permitted access on school grounds when
 199 students are present, who have direct contact with students or
 200 who have access to or control of school funds must meet level 2
 201 screening requirements as described in s. 1012.32. Contractual
 202 personnel shall include any vendor, individual, or entity under
 203 contract with a school or the school board.

204 Section 7. Section 1012.467, Florida Statutes, is created
 205 to read:

206 1012.467 Noninstructional contractors who are permitted
 207 access to school grounds when students are present; background
 208 screening requirements.--

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

210 (a) "Noninstructional contractor" means any vendor,
 211 individual, or entity under contract with a school or with the
 212 school board who receives remuneration for services performed
 213 for the school district or a school, but who is not otherwise
 214 considered an employee of the school district. The term also
 215 includes any employee of a contractor who performs services for
 216 the school district or school under the contract and any
 217 subcontractor and its employees.

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

219 (c) "School grounds" means the buildings and grounds of
 220 any public prekindergarten, kindergarten, elementary school,
 221 middle school, junior high school, high school, or secondary
 222 school, or any combination of grades prekindergarten through
 223 grade 12, together with the school district land on which the
 224 buildings are located. The term does not include:

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

227 2. The buildings and grounds of any public
228 prekindergarten, kindergarten, elementary school, middle school,
229 junior high school, high school, or secondary school, or any
230 combination of grades prekindergarten through grade 12, or
231 contiguous school district land, during any time period in which
232 students are not permitted access; or

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

237 (2) (a) A fingerprint-based criminal history check shall be
238 performed on each noninstructional contractor who is permitted
239 access to school grounds when students are present, whose
240 performance of the contract with the school or school board is
241 not anticipated to result in direct contact with students, and
242 for whom any unanticipated contact would be infrequent and
243 incidental. Criminal history checks shall be performed at least
244 once every 5 years. For the initial criminal history check, each
245 noninstructional contractor who is subject to the criminal
246 history check shall file with the Department of Law Enforcement
247 a complete set of fingerprints taken by an authorized law
248 enforcement agency or an employee of a school district, a public
249 school, or a private company who is trained to take
250 fingerprints. The fingerprints shall be electronically submitted
251 for state processing to the Department of Law Enforcement, which
252 shall in turn submit the fingerprints to the Federal Bureau of

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253 Investigation for national processing. The results of each
254 criminal history check shall be reported to the school district
255 in which the individual is seeking access and entered into the
256 shared system described in subsection (7). The school district
257 shall screen the results using the disqualifying offenses in
258 paragraph (g). The cost of the criminal history check may be
259 borne by the district school board, the school, or the
260 contractor. A fee that is charged by a district school board for
261 such checks may not exceed 30 percent of the total amount
262 charged by the Department of Law Enforcement and the Federal
263 Bureau of Investigation.

264 (b) As authorized by law, the Department of Law
265 Enforcement shall retain the fingerprints submitted by the
266 school districts pursuant to this subsection to the Department
267 of Law Enforcement for a criminal history background screening
268 in a manner provided by rule and enter the fingerprints in the
269 statewide automated fingerprint identification system authorized
270 by s. 943.05(2)(b). The fingerprints shall thereafter be
271 available for all purposes and uses authorized for arrest
272 fingerprint cards entered into the statewide automated
273 fingerprint identification system under s. 943.051.

274 (c) As authorized by law, the Department of Law
275 Enforcement shall search all arrest fingerprint cards received
276 under s. 943.051 against the fingerprints retained in the
277 statewide automated fingerprint identification system under
278 paragraph (b).

279 (d) School districts may participate in the search process
280 described in this subsection by paying an annual fee to the

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281 Department of Law Enforcement.

282 (e) A fingerprint retained pursuant to this subsection
283 shall be purged from the automated fingerprint identification
284 system 5 years following the date the fingerprint was initially
285 submitted. The Department of Law Enforcement shall set the
286 amount of the annual fee to be imposed upon each participating
287 agency for performing these searches and establishing the
288 procedures for retaining fingerprints and disseminating search
289 results. The fee may be borne as provided by law. Fees may be
290 waived or reduced by the executive director of the Department of
291 Law Enforcement for good cause shown.

292 (f) A noninstructional contractor who is subject to a
293 criminal history check under this section shall inform a school
294 district that he or she has completed a criminal history check
295 in another school district within the last 5 years. The school
296 district shall verify the results of the contractor's criminal
297 history check using the shared system described in subsection
298 (7). The school district may not charge the contractor a fee for
299 verifying the results of his or her criminal history check.

300 (g) A noninstructional contractor for whom a criminal
301 history check is required under this section may not have been
302 convicted of any of the following offenses designated in the
303 Florida Statutes, any similar offense in another jurisdiction,
304 or any similar offense committed in this state which has been
305 redesignated from a former provision of the Florida Statutes to
306 one of the following offenses:

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

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309 2. Section 393.135, relating to sexual misconduct with
310 certain developmentally disabled clients and the reporting of
311 such sexual misconduct.

312 3. Section 394.4593, relating to sexual misconduct with
313 certain mental health patients and the reporting of such sexual
314 misconduct.

315 4. Section 775.30, relating to terrorism.

316 5. Section 782.04, relating to murder.

317 6. Section 787.01, relating to kidnapping.

318 7. Any offense under chapter 800, relating to lewdness and
319 indecent exposure.

320 8. Section 826.04, relating to incest.

321 9. Section 827.03, relating to child abuse, aggravated
322 child abuse, or neglect of a child.

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

329 (4) A noninstructional contractor who has been convicted
330 of any of the offenses listed in paragraph (2)(g) may not be
331 permitted on school grounds when students are present unless the
332 contractor has received a full pardon or has had his or her
333 civil rights restored. A noninstructional contractor who is
334 present on school grounds in violation of this subsection
335 commits a felony of the third degree, punishable as provided in
336 s. 775.082 or s. 775.083.

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337 (5) If a school district has reasonable cause to believe
338 that grounds exist for the denial of a contractor's access to
339 school grounds when students are present, it shall notify the
340 contractor in writing, stating the specific record that
341 indicates noncompliance with the standards set forth in this
342 section. It is the responsibility of the affected contractor to
343 contest his or her denial. The only basis for contesting the
344 denial is proof of mistaken identity or that an offense from
345 another jurisdiction is not disqualifying under paragraph
346 (2) (g).

347 (6) Each contractor who is subject to the requirements of
348 this section shall agree to inform his or her employer or the
349 party to whom he or she is under contract and the school
350 district within 48 hours if he or she is arrested for any of the
351 disqualifying offenses in paragraph (2) (g). A contractor who
352 willfully fails to comply with this subsection commits a felony
353 of the third degree, punishable as provided in s. 775.082 or s.
354 775.083. If the employer of a contractor or the party to whom
355 the contractor is under contract knows the contractor has been
356 arrested for any of the disqualifying offenses in paragraph
357 (2) (g) and authorizes the contractor to be present on school
358 grounds when students are present, such employer or such party
359 commits a felony of the third degree, punishable as provided in
360 s. 775.082 or s. 775.083.

361 (7) (a) The Department of Law Enforcement shall implement a
362 system that allows for the results of a criminal history check
363 provided to a school district to be shared with other school
364 districts through a secure Internet website or other secure

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365 electronic means. The Department of Law Enforcement may adopt
366 rules under ss. 120.536(1) and 120.54 to implement this
367 paragraph.

368 (b) An employee of a school district, a charter school, a
369 lab school, a charter lab school, or the Florida School for the
370 Deaf and the Blind who requests or shares criminal history
371 information under this section is immune from civil or criminal
372 liability for any good-faith conduct that occurs during the
373 performance of and within the scope of responsibilities related
374 to the record check.

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

377 1012.468 Exceptions to certain fingerprinting and criminal
378 history checks.--

379 (1) As used in this section, the term "noninstructional
380 contractor" means any vendor, individual, or entity under
381 contract with a school or with the school board who receives
382 remuneration for services performed for the school district or a
383 school, but who is not otherwise considered an employee of the
384 school district. The term also includes any employee of a
385 contractor who performs services for the school district or
386 school under the contract and any subcontractor and its
387 employees.

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

391 (a)1. Noninstructional contractors who are under the
392 direct supervision of a school district employee or contractor

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393 who has had a criminal history check and meets the screening
394 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
395 1012.56. For purposes of this paragraph, the term "direct
396 supervision" means that a school district employee or contractor
397 is physically present with a noninstructional contractor when
398 the contractor has access to a student and the access remains in
399 the school district employee's or the contractor's line of
400 sight.

401 2. If a noninstructional contractor who is exempt under
402 this subsection is no longer under direct supervision as
403 specified in subparagraph 1., the contractor may not be
404 permitted on school grounds when students are present until the
405 contractor meets the screening requirements in s. 1012.465 or s.
406 1012.467.

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

411 1. The contractor meets the screening standards in s.
412 435.04;

413 2. The contractor's license or certificate is active and
414 in good standing, if the contractor is a licensee or
415 certificateholder; and

416 3. The contractor completed the criminal history check
417 within 5 years prior to seeking access to school grounds when
418 students are present.

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

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421 employer.

422 (d) An employee or medical director of an ambulance
423 provider, licensed pursuant to chapter 401, who is providing
424 services within the scope of part III of chapter 401 on behalf
425 of such ambulance provider.

426 (e) Noninstructional contractors who remain at a site
427 where students are not permitted if the site is separated from
428 the remainder of the school grounds by a single chain-link fence
429 of 6 feet in height.

430 (f) A noninstructional contractor who provides pick-up or
431 delivery services and those services involve brief visits on
432 school grounds when students are present.

433 (3) (a) A noninstructional contractor who is exempt under
434 this section from the screening requirements set forth in s.
435 1012.465 or s. 1012.467 is subject to a search of his or her
436 name or other identifying information against the registration
437 information regarding sexual predators and sexual offenders
438 maintained by the Department of Law Enforcement under s. 943.043
439 and the national sex offender public registry maintained by the
440 United States Department of Justice. The school district shall
441 conduct the search required under this subsection without charge
442 or fee to the contractor.

443 (b) A noninstructional contractor who is identified as a
444 sexual predator or sexual offender in the registry search
445 required in paragraph (a) may not be permitted on school grounds
446 when students are present. Upon determining that a
447 noninstructional contractor may not be permitted on school
448 grounds pursuant to this subsection, the school district shall

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449 notify the vendor, individual, or entity under contract within 3
450 business days.

451 (4) A school district may not subject a contractor who
452 meets the requirements in subsection (2) to an additional
453 criminal history check. Upon submission of evidence and
454 verification by the school district, the school district must
455 accept the results of the criminal history check for the
456 contractor.

457 (5) This section and ss. 1012.465 and 1012.467 do not
458 create or imply any private cause of action for a violation of
459 these sections and do not create any new duty of care or basis
460 of liability.

461 Section 9. Section 1012.321, Florida Statutes, is created
462 to read:

463 1012.321 Exceptions for certain instructional personnel
464 from background screening requirements.--Instructional personnel
465 who are required to undergo level 2 background screening under
466 s. 393.0655 or s. 402.305 and who meet the level 2 screening
467 standards in s. 435.04 are not required to be rescreened in
468 order to satisfy the screening requirements in s. 1012.32 if the
469 instructional personnel:

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

472 (2) Are rescreened every 5 years and meet the level 2
473 screening standards; and

474 (3) Have their fingerprints retained by the Department of
475 Law Enforcement.

476 Section 10. Except as otherwise expressly provided in this

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477 | act, this act shall take effect July 1, 2007. |