

By Senator Argenziano

3-868-07

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.; requiring sexual predators to
13 obtain a distinctive driver's license or
14 identification card; amending s. 943.0435,
15 F.S.; requiring sexual offenders to obtain a
16 distinctive driver's license or identification
17 card; amending s. 944.607, F.S.; requiring
18 specified offenders who are under the
19 supervision of the Department of Corrections
20 but are not incarcerated to obtain a
21 distinctive driver's license or identification
22 card; amending s. 1012.465, F.S.; revising
23 background screening requirements for certain
24 noninstructional school district employees and
25 contractors; creating s. 1012.467, F.S.; adding
26 noninstructional contractors to those who must
27 meet the screening requirements; defining the
28 terms "noninstructional contractor,"
29 "convicted," and "school grounds"; providing
30 for the submission of fingerprints; requiring
31 school districts to screen results of criminal

1 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 penalties; providing grounds for
9 contesting denial of access to school grounds;
10 providing reporting requirements; providing
11 that the failure to meet requirements is a
12 misdemeanor of the first degree; allowing
13 certain educational entities to share
14 information derived from checks of criminal
15 history records; authorizing the Department of
16 Law Enforcement to adopt rules; providing
17 immunity from civil or criminal liability;
18 creating s. 1012.468, F.S.; specifying
19 exemptions for contractors; providing criteria
20 and conditions; providing for rulemaking by the
21 State Board of Education; providing that
22 exempted contractors are subject to a search of
23 certain databases that list sexual predators
24 and sexual offenders; providing consequences of
25 a failure to meet the screening requirements;
26 prohibiting school districts from conducting
27 additional criminal history checks; creating s.
28 1012.321, F.S.; creating an exception for
29 certain instructional personnel; providing
30 criteria; providing 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, 2007, 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, 2008, 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, are 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 to the
24 sexual predator must be in compliance 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 must be in compliance 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 each noninstructional contractor who is
5 permitted access to school grounds when students are present
6 and who does 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 paying an annual fee
14 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 retaining fingerprints and
22 disseminating search results. The fee may be borne as provided
23 by law. Fees may be waived or reduced by the executive
24 director of the Department of Law Enforcement for good cause
25 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 may 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 which 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 (2)(g), the individual shall be immediately suspended from
30 having access to school grounds and shall remain suspended
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1 unless and until the conviction is set aside in any
2 postconviction 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. A noninstructional
8 contractor who is present on school grounds in violation of
9 this subsection commits a felony of the third degree,
10 punishable as provided in s. 775.082 or s. 775.083.

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

19 (6) Each contractor who is subject to the requirements
20 of this section shall agree to inform his or her employer or
21 the party to whom he or she is under contract and the school
22 district within 48 hours if he or she is arrested for any of
23 the disqualifying offenses in paragraph (2)(g). A contractor
24 who willfully fails to comply with this subsection commits a
25 felony of the third degree, punishable as provided in s.
26 775.082 or s. 775.083. If the employer of a contractor or the
27 party to whom the contractor is under contract knows the
28 contractor has been arrested for any of the disqualifying
29 offenses in paragraph (2)(g) and authorizes the contractor to
30 be present on school grounds when students are present, such
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1 employer or such party commits a felony of the third degree,
2 punishable as provided in s. 775.082 or s. 775.083.

3 (7)(a) The Department of Law Enforcement shall
4 implement a system that allows for the results of a criminal
5 history check provided to a school district to be shared with
6 other school districts through a secure Internet website or
7 other secure electronic means. The Department of Law
8 Enforcement may adopt rules under ss. 120.536(1) and 120.54 to
9 implement this paragraph.

10 (b) An employee of a school district, a charter
11 school, a lab school, a charter lab school, or the Florida
12 School for the Deaf and the Blind who requests or shares
13 criminal history information under this section is immune from
14 civil or criminal liability for any good-faith conduct that
15 occurs during the performance of and within the scope of
16 responsibilities related to the record check.

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

19 1012.468 Exceptions to certain fingerprinting and
20 criminal history checks.--

21 (1) As used in this section, the term
22 "noninstructional contractor" means any vendor, individual, or
23 entity under contract with a school or with the school board
24 who receives remuneration for services performed for the
25 school district or a school, but who is not otherwise
26 considered an employee of the school district. The term also
27 includes any employee of a contractor who performs services
28 for the school district or school under the contract and any
29 subcontractor and its employees.

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

4 (a)1. Noninstructional contractors who are under the
5 direct supervision of a school district employee or contractor
6 who has had a criminal history check and meets the screening
7 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
8 1012.56. For purposes of this paragraph, the term "direct
9 supervision" means that a school district employee or
10 contractor is physically present with a noninstructional
11 contractor when the contractor has access to a student and the
12 access remains in the school district employee's or the
13 contractor's line of sight.

14 2. If a noninstructional contractor who is exempt
15 under this subsection is no longer under direct supervision as
16 specified in subparagraph 1., the contractor may not be
17 permitted on school grounds when students are present until
18 the contractor meets the screening requirements in s. 1012.465
19 or s. 1012.467.

20 (b) Noninstructional contractors who are required by
21 law to undergo a level 2 background screening pursuant to s.
22 435.04 for licensure, certification, employment, or other
23 purposes and who submit evidence of meeting the following
24 criteria:

25 1. The contractor meets the screening standards in s.
26 435.04;

27 2. The contractor's license or certificate is active
28 and in good standing, if the contractor is a licensee or
29 certificateholder; and
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1 3. The contractor completed the criminal history check
2 within 5 years prior to seeking access to school grounds when
3 students are present.

4 (c) A law enforcement officer, as defined in s.
5 943.10, who is assigned or dispatched to school grounds by his
6 or her employer.

7 (d) A noninstructional contractor who remains at a
8 separate and secure site that has perimeter fencing on school
9 grounds. The State Board of Education shall adopt rules to
10 develop uniform specifications for what constitutes a separate
11 and secure site that has perimeter fencing. These
12 specifications shall be binding on the school districts.

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

16 (3)(a) A noninstructional contractor who is exempt
17 under this section from the screening requirements set forth
18 in s. 1012.465 or s. 1012.467 is subject to a search of his or
19 her name or other identifying information against the
20 registration information regarding sexual predators and sexual
21 offenders maintained by the Department of Law Enforcement
22 under s. 943.043 and the national sex offender public registry
23 maintained by the United States Department of Justice. The
24 school district shall conduct the search required under this
25 subsection without charge or fee to the contractor.

26 (b) A noninstructional contractor who is identified as
27 a sexual predator or sexual offender in the registry search
28 required in paragraph (a) may not be permitted on school
29 grounds when students are present. Upon determining that a
30 noninstructional contractor may not be permitted on school
31 grounds pursuant to this subsection, the school district shall

1 notify the vendor, individual, or entity under contract within
2 3 business days.

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

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

11 1012.321 Exceptions for certain instructional
12 personnel from background screening
13 requirements.--Instructional personnel who are required to
14 undergo level 2 background screening under s. 393.0655 or s.
15 402.305 and who meet the level 2 screening standards in s.
16 435.04 are not required to be rescreened in order to satisfy
17 the screening requirements in s. 1012.32 if the instructional
18 personnel:

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

21 (2) Are rescreened every 5 years and meet the level 2
22 screening standards; and

23 (3) Have their fingerprints retained by the Department
24 of Law Enforcement.

25 Section 10. Except as otherwise expressly provided in
26 this act, this act shall take effect July 1, 2007.

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SENATE SUMMARY

Requires that a distinctive marking be placed on the driver's license or identification card issued to a sexual predator or sexual offender. Provides criminal penalties for altering such a marking. Revises the requirements for background screening of noninstructional employees of a school district. Requires that contractors working on school grounds undergo background screening. Requires that the Department of Law Enforcement and the State Board of Education adopt rules. (See bill for details.)