

By the Committee on Criminal Justice; and Senator Argenziano

604-1995-07

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; requiring
12 sexual predators and sexual offenders to obtain
13 an updated or renewed driver's license or
14 identification card; amending s. 775.21, F.S.;
15 requiring sexual predators to obtain a
16 distinctive driver's license or identification
17 card; amending s. 943.0435, F.S.; requiring
18 sexual offenders to obtain a distinctive
19 driver's license or identification card;
20 amending s. 944.607, F.S.; requiring specified
21 offenders who are under the supervision of the
22 Department of Corrections but are not
23 incarcerated to obtain a distinctive driver's
24 license or identification card; amending s.
25 1012.465, F.S.; revising background screening
26 requirements for certain noninstructional
27 school district employees and contractors;
28 creating s. 1012.467, F.S.; adding
29 noninstructional contractors to those who must
30 meet the screening requirements; defining the
31 terms "noninstructional contractor,"

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

1 action or a new duty of care or basis of
2 liability; creating s. 1012.321, F.S.; creating
3 an exception for certain instructional
4 personnel; providing criteria; providing
5 effective dates.

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

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9 Section 1. Effective August 1, 2007, section 322.141,
10 Florida Statutes, is amended to read:

11 322.141 Color or markings of certain licenses or
12 identification cards.--

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

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

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

27 (3) All licenses for the operation of motor vehicles
28 or identification cards originally issued or reissued by the
29 department to persons who are designated as sexual predators
30 under s. 775.21 or subject to registration as sexual offenders

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1 under s. 943.0435 or s. 944.607 shall have on the front of the
2 license the following:

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

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

8 Section 2. Effective February 1, 2008, paragraphs (c)
9 and (d) are added to subsection (5) of section 322.212,
10 Florida Statutes, to read:

11 322.212 Unauthorized possession of, and other unlawful
12 acts in relation to, driver's license or identification
13 card.--

14 (5)

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

19 (d) Unless previously secured or updated as required
20 under s. 322.141 or this section, each sexual offender and
21 sexual predator shall report to the department during the
22 month of his or her reregistration requirement as required
23 under s. 775.21(8), s. 943.0435(14), or s. 994.607(13) in
24 order to obtain an updated or renewed driver's license or
25 identification card as required under s. 322.141.

26 Section 3. Paragraph (f) of subsection (6) of section
27 775.21, Florida Statutes, are amended to read:

28 775.21 The Florida Sexual Predators Act.--

29 (6) REGISTRATION.--

30 (f) Within 48 hours after the registration required
31 under paragraph (a) or paragraph (e), a sexual predator who is

1 not incarcerated and who resides in the community, including a
2 sexual predator under the supervision of the Department of
3 Corrections, shall register in person at a driver's license
4 office of the Department of Highway Safety and Motor Vehicles
5 and shall present proof of registration. At the driver's
6 license office the sexual predator shall:

7 1. If otherwise qualified, secure a Florida driver's
8 license, renew a Florida driver's license, or secure an
9 identification card. The sexual predator shall identify
10 himself or herself as a sexual predator who is required to
11 comply with this section, provide his or her place of
12 permanent or temporary residence, including a rural route
13 address and a post office box, and submit to the taking of a
14 photograph for use in issuing a driver's license, renewed
15 license, or identification card, and for use by the department
16 in maintaining current records of sexual predators. A post
17 office box shall not be provided in lieu of a physical
18 residential address. If the sexual predator's place of
19 residence is a motor vehicle, trailer, mobile home, or
20 manufactured home, as defined in chapter 320, the sexual
21 predator shall also provide to the Department of Highway
22 Safety and Motor Vehicles the vehicle identification number;
23 the license tag number; the registration number; and a
24 description, including color scheme, of the motor vehicle,
25 trailer, mobile home, or manufactured home. If a sexual
26 predator's place of residence is a vessel, live-aboard vessel,
27 or houseboat, as defined in chapter 327, the sexual predator
28 shall also provide to the Department of Highway Safety and
29 Motor Vehicles the hull identification number; the
30 manufacturer's serial number; the name of the vessel,
31 live-aboard vessel, or houseboat; the registration number; and

1 a description, including color scheme, of the vessel,
2 live-aboard vessel, or houseboat.

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

8 3. Provide, upon request, any additional information
9 necessary to confirm the identity of the sexual predator,
10 including a set of fingerprints.

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12 The sheriff shall promptly provide to the department the
13 information received from the sexual predator.

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

16 943.0435 Sexual offenders required to register with
17 the department; penalty.--

18 (3) Within 48 hours after the report required under
19 subsection (2), a sexual offender shall report in person at a
20 driver's license office of the Department of Highway Safety
21 and Motor Vehicles, unless a driver's license or
22 identification card that complies with the requirements of s.
23 322.141(3) was previously secured or updated under s. 944.607.

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

25 (a) If otherwise qualified, secure a Florida driver's
26 license, renew a Florida driver's license, or secure an
27 identification card. The sexual offender shall identify
28 himself or herself as a sexual offender who is required to
29 comply with this section and shall provide proof that the
30 sexual offender reported as required in subsection (2). The
31 sexual offender shall provide any of the information specified

1 | in subsection (2), if requested. The sexual offender shall
2 | submit to the taking of a photograph for use in issuing a
3 | driver's license, renewed license, or identification card, and
4 | for use by the department in maintaining current records of
5 | sexual offenders.

6 | (b) Pay the costs assessed by the Department of
7 | Highway Safety and Motor Vehicles for issuing or renewing a
8 | driver's license or identification card as required by this
9 | section. The driver's license or identification card issued
10 | must be in compliance with s. 322.141(3).

11 | (c) Provide, upon request, any additional information
12 | necessary to confirm the identity of the sexual offender,
13 | including a set of fingerprints.

14 | Section 5. Subsection (9) of section 944.607, Florida
15 | Statutes, is amended to read:

16 | 944.607 Notification to Department of Law Enforcement
17 | of information on sexual offenders.--

18 | (9) A sexual offender, as described in this section,
19 | who is under the supervision of the Department of Corrections
20 | but who is not incarcerated shall, in addition to the
21 | registration requirements provided in subsection (4), register
22 | and obtain a distinctive driver's license or identification
23 | card in the manner provided in s. 943.0435(3), (4), and (5),
24 | unless the sexual offender is a sexual predator, in which case
25 | he or she shall register and obtain a distinctive driver's
26 | license or identification card as required under s. 775.21. A
27 | sexual offender who fails to comply with the requirements of
28 | s. 943.0435 is subject to the penalties provided in s.
29 | 943.0435(9).

30 | Section 6. Subsection (1) of section 1012.465, Florida
31 | Statutes, is amended to read:

1 1012.465 Background screening requirements for certain
2 noninstructional school district employees and contractors.--

3 (1) Except as provided in s. 1012.467 or s. 1012.468,
4 noninstructional school district employees or contractual
5 personnel who are permitted access on school grounds when
6 students are present, who have direct contact with students or
7 who have access to or control of school funds must meet level
8 2 screening requirements as described in s. 1012.32.

9 Contractual personnel shall include any vendor, individual, or
10 entity under contract with a school or the school board.

11 Section 7. Section 1012.467, Florida Statutes, is
12 created to read:

13 1012.467 Noninstructional contractors who are
14 permitted access to school grounds when students are present;
15 background screening requirements.--

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

17 (a) "Noninstructional contractor" means any vendor,
18 individual, or entity under contract with a school or with the
19 school board who receives remuneration for services performed
20 for the school district or a school, but who is not otherwise
21 considered an employee of the school district. The term also
22 includes any employee of a contractor who performs services
23 for the school district or school under the contract and any
24 subcontractor and its employees.

25 (b) "Convicted" has the same meaning as in s.
26 943.0435.

27 (c) "School grounds" means the buildings and grounds
28 of any public prekindergarten, kindergarten, elementary
29 school, middle school, junior high school, high school, or
30 secondary school, or any combination of grades prekindergarten
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1 through grade 12, together with the school district land on
2 which the buildings are located. The term does not include:
3 1. Any other facility or location where school classes
4 or activities may be located or take place;
5 2. The buildings and grounds of any public
6 prekindergarten, kindergarten, elementary school, middle
7 school, junior high school, high school, or secondary school,
8 or any combination of grades prekindergarten through grade 12,
9 or contiguous school district land, during any time period in
10 which students are not permitted access; or
11 3. Any building described in this paragraph during any
12 period in which it is used solely as a career or technical
13 center under part IV of chapter 1004 for postsecondary or
14 adult education.
15 (2)(a) A fingerprint-based criminal history check
16 shall be performed on each noninstructional contractor who is
17 permitted access to school grounds when students are present,
18 whose performance of the contract with the school or school
19 board is not anticipated to result in direct contact with
20 students, and for whom any unanticipated contact would be
21 infrequent and incidental. Criminal history checks shall be
22 performed at least once every 5 years. For the initial
23 criminal history check, each noninstructional contractor who
24 is subject to the criminal history check shall file with the
25 Department of Law Enforcement a complete set of fingerprints
26 taken by an authorized law enforcement agency or an employee
27 of a school district, a public school, or a private company
28 who is trained to take fingerprints. The fingerprints shall be
29 electronically submitted for state processing to the
30 Department of Law Enforcement, which shall in turn submit the
31 fingerprints to the Federal Bureau of Investigation for

1 national processing. The results of each criminal history
2 check shall be reported to the school district in which the
3 individual is seeking access and entered into the shared
4 system described in subsection (7). The school district shall
5 screen the results using the disqualifying offenses in
6 paragraph (a). The cost of the criminal history check may be
7 borne by the district school board, the school, or the
8 contractor. A fee that is charged by a district school board
9 for such checks may not exceed 30 percent of the total amount
10 charged by the Department of Law Enforcement and the Federal
11 Bureau of Investigation.

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

22 (c) As authorized by law, the Department of Law
23 Enforcement shall search all arrest fingerprint cards received
24 under s. 943.051 against the fingerprints retained in the
25 statewide automated fingerprint identification system under
26 paragraph (b).

27 (d) School districts may participate in the search
28 process described in this subsection by paying an annual fee
29 to the Department of Law Enforcement.

30 (e) A fingerprint retained pursuant to this subsection
31 shall be purged from the automated fingerprint identification

1 system 5 years following the date the fingerprint was
2 initially submitted. The Department of Law Enforcement shall
3 set the amount of the annual fee to be imposed upon each
4 participating agency for performing these searches and
5 establishing the procedures for retaining fingerprints and
6 disseminating search results. The fee may be borne as provided
7 by law. Fees may be waived or reduced by the executive
8 director of the Department of Law Enforcement for good cause
9 shown.

10 (f) A noninstructional contractor who is subject to a
11 criminal history check under this section shall inform a
12 school district that he or she has completed a criminal
13 history check in another school district within the last 5
14 years. The school district shall verify the results of the
15 contractor's criminal history check using the shared system
16 described in subsection (7). The school district may not
17 charge the contractor a fee for verifying the results of his
18 or her criminal history check.

19 (g) A noninstructional contractor for whom a criminal
20 history check is required under this section may not have been
21 convicted of any of the following offenses designated in the
22 Florida Statutes, any similar offense in another jurisdiction,
23 or any similar offense committed in this state which has been
24 redesignated from a former provision of the Florida Statutes
25 to one of the following offenses:

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

28 2. Section 393.135, relating to sexual misconduct with
29 certain developmentally disabled clients and the reporting of
30 such sexual misconduct.

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1 3. Section 394.4593, relating to sexual misconduct
2 with certain mental health patients and the reporting of such
3 sexual misconduct.

4 4. Section 775.30, relating to terrorism.

5 5. Section 782.04, relating to murder.

6 6. Section 787.01, relating to kidnapping.

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

9 8. Section 826.04, relating to incest.

10 9. Section 827.03, relating to child abuse, aggravated
11 child abuse, or neglect of a child.

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

18 (4) A noninstructional contractor who has been
19 convicted of any of the offenses listed in paragraph (2)(g)
20 may not be permitted on school grounds when students are
21 present unless the contractor has received a full pardon or
22 has had his or her civil rights restored. A noninstructional
23 contractor who is present on school grounds in violation of
24 this subsection commits a felony of the third degree,
25 punishable as provided in s. 775.082 or s. 775.083.

26 (5) If a school district has reasonable cause to
27 believe that grounds exist for the denial of a contractor's
28 access to school grounds when students are present, it shall
29 notify the contractor in writing, stating the specific record
30 that indicates noncompliance with the standards set forth in
31 this section. It is the responsibility of the affected

1 contractor to contest his or her denial. The only basis for
2 contesting the denial is proof of mistaken identity or that an
3 offense from another jurisdiction is not disqualifying under
4 paragraph (2)(g).

5 (6) Each contractor who is subject to the requirements
6 of this section shall agree to inform his or her employer or
7 the party to whom he or she is under contract and the school
8 district within 48 hours if he or she is arrested for any of
9 the disqualifying offenses in paragraph (2)(g). A contractor
10 who willfully fails to comply with this subsection commits a
11 felony of the third degree, punishable as provided in s.
12 775.082 or s. 775.083. If the employer of a contractor or the
13 party to whom the contractor is under contract knows the
14 contractor has been arrested for any of the disqualifying
15 offenses in paragraph (2)(g) and authorizes the contractor to
16 be present on school grounds when students are present, such
17 employer or such party commits a felony of the third degree,
18 punishable as provided in s. 775.082 or s. 775.083.

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

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

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

5 1012.468 Exceptions to certain fingerprinting and
6 criminal history checks.--

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

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

19 (a)1. Noninstructional contractors who are under the
20 direct supervision of a school district employee or contractor
21 who has had a criminal history check and meets the screening
22 requirements under s. 1012.32, s. 1012.465, s. 1012.467, or s.
23 1012.56. For purposes of this paragraph, the term "direct
24 supervision" means that a school district employee or
25 contractor is physically present with a noninstructional
26 contractor when the contractor has access to a student and the
27 access remains in the school district employee's or the
28 contractor's line of sight.

29 2. If a noninstructional contractor who is exempt
30 under this subsection is no longer under direct supervision as
31 specified in subparagraph 1., the contractor may not be

1 permitted on school grounds when students are present until
2 the contractor meets the screening requirements in s. 1012.465
3 or s. 1012.467.

4 (b) Noninstructional contractors who are required by
5 law to undergo a level 2 background screening pursuant to s.
6 435.04 for licensure, certification, employment, or other
7 purposes and who submit evidence of meeting the following
8 criteria:

9 1. The contractor meets the screening standards in s.
10 435.04;

11 2. The contractor's license or certificate is active
12 and in good standing, if the contractor is a licensee or
13 certificateholder; and

14 3. The contractor completed the criminal history check
15 within 5 years prior to seeking access to school grounds when
16 students are present.

17 (c) A law enforcement officer, as defined in s.
18 943.10, who is assigned or dispatched to school grounds by his
19 or her employer.

20 (d) An employee or medical director of an ambulance
21 provider, licensed pursuant to chapter 401, who is providing
22 services within the scope of part III of chapter 401 on behalf
23 of such ambulance provider.

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

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

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

11 (b) A noninstructional contractor who is identified as
12 a sexual predator or sexual offender in the registry search
13 required in paragraph (a) may not be permitted on school
14 grounds when students are present. Upon determining that a
15 noninstructional contractor may not be permitted on school
16 grounds pursuant to this subsection, the school district shall
17 notify the vendor, individual, or entity under contract within
18 3 business days.

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

25 (5) This section and ss. 1012.465 and 1012.467 do not
26 create or imply any private cause of action for a violation of
27 these sections and do not create any new duty of care or basis
28 of liability.

29 Section 9. Section 1012.321, Florida Statutes, is
30 created to read:
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1 1012.321 Exceptions for certain instructional
2 personnel from background screening
3 requirements.--Instructional personnel who are required to
4 undergo level 2 background screening under s. 393.0655 or s.
5 402.305 and who meet the level 2 screening standards in s.
6 435.04 are not required to be rescreened in order to satisfy
7 the screening requirements in s. 1012.32 if the instructional
8 personnel:

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

11 (2) Are rescreened every 5 years and meet the level 2
12 screening standards; and

13 (3) Have their fingerprints retained by the Department
14 of Law Enforcement.

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

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1 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
2 COMMITTEE SUBSTITUTE FOR
3 Senate Bill 988

4 - Requires sexual offenders and sexual predators to report
5 to a driver's license office to get his or her driver's
6 license or identification card distinctively marked as
7 required by the bill before or during the month that they
8 are required to reregister.

9 - Provides clarification that a Level 2 background
10 screening is not required for a contractor who is not
11 anticipated to have direct contact with students, and for
12 whom any unanticipated contact would be infrequent and
13 incidental.

14 - Changes the period for rescreening and new fingerprint
15 submission from 3 to 5 years.

16 - Extends reasons for contesting a finding that a
17 contractor has a disqualifying offense to include appeal
18 of a determination that an offense in another
19 jurisdiction is similar enough to a Florida offense to be
20 disqualifying.

21 - Exempts employees and medical directors of ambulance
22 providers who are providing such services on school
23 grounds from the screening requirement.

24 - Provides an exemption from the screening requirement for
25 contractors who work at a separate site on school grounds
26 if it is surrounded by a 6-foot chain link fence.

27 - Provides that the new statutes do not create a new
28 private right to sue or create a new duty of care or
29 basis of liability.

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