

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; requiring  
8           sexual predators and sexual offenders to obtain  
9           an updated or a renewed driver's license or  
10          identification card; amending s. 322.212, F.S.;  
11          prohibiting the alteration of sexual predator  
12          or sexual offender markings on driver's  
13          licenses or identification cards, for which  
14          there are criminal penalties; amending s.  
15          775.21, F.S.; requiring sexual predators to  
16          obtain a distinctive driver's license or  
17          identification card; amending s. 943.0435,  
18          F.S.; requiring sexual offenders to obtain a  
19          distinctive driver's license or identification  
20          card; amending s. 944.607, F.S.; requiring  
21          specified offenders who are under the  
22          supervision of the Department of Corrections  
23          but are not incarcerated to obtain a  
24          distinctive driver's license or identification  
25          card; amending s. 1012.465, F.S.; revising  
26          background screening requirements for certain  
27          noninstructional school district employees and  
28          contractors; 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 felony of the third degree; allowing certain  
16 educational entities to share information  
17 derived from checks of criminal history  
18 records; authorizing the Department of Law  
19 Enforcement to adopt rules; providing immunity  
20 from civil or criminal liability; creating s.  
21 1012.468, F.S.; specifying exemptions for  
22 contractors; providing criteria and conditions;  
23 providing that exempted contractors are subject  
24 to a search of certain databases that list  
25 sexual predators and sexual offenders;  
26 providing consequences of a failure to meet the  
27 screening requirements; prohibiting school  
28 districts from conducting additional criminal  
29 history checks; specifying that the act does  
30 not create a private cause of action or a new  
31 duty of care or basis of liability; creating s.

1           1012.321, F.S.; creating an exception for  
2           certain instructional personnel; providing  
3           criteria; providing effective dates.  
4

5 Be It Enacted by the Legislature of the State of Florida:  
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7           Section 1. Effective August 1, 2007, section 322.141,  
8 Florida Statutes, is amended to read:

9           322.141 Color or markings of certain licenses or  
10 identification cards.--

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

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

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

25           (3) All licenses for the operation of motor vehicles  
26 or identification cards originally issued or reissued by the  
27 department to persons who are designated as sexual predators  
28 under s. 775.21 or subject to registration as sexual offenders  
29 under s. 943.0435 or s. 944.607 shall have on the front of the  
30 license or identification card the following:  
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1       (a) For a person designated as a sexual predator under  
2 s. 775.21, the marking "775.21, F.S."

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

6       (4) Unless previously secured or updated, each sexual  
7 offender and sexual predator shall report to the department  
8 during the month of his or her reregistration as required  
9 under s. 775.21(8), s. 943.0435(14), or s. 944.607(13) in  
10 order to obtain an updated or renewed driver's license or  
11 identification card as required by subsection (3).

12       Section 2. Effective February 1, 2008, paragraph (c)  
13 is added to subsection (5) of section 322.212, Florida  
14 Statutes, to read:

15       322.212 Unauthorized possession of, and other unlawful  
16 acts in relation to, driver's license or identification  
17 card.--

18       (5)

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

24       Section 3. Paragraph (f) of subsection (6) of section  
25 775.21, Florida Statutes, are amended to read:

26       775.21 The Florida Sexual Predators Act.--

27       (6) REGISTRATION.--

28       (f) Within 48 hours after the registration required  
29 under paragraph (a) or paragraph (e), a sexual predator who is  
30 not incarcerated and who resides in the community, including a  
31 sexual predator under the supervision of the Department of

1 Corrections, shall register in person at a driver's license  
2 office of the Department of Highway Safety and Motor Vehicles  
3 and shall present proof of registration. At the driver's  
4 license office the sexual predator shall:

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

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

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

9  
10 The sheriff shall promptly provide to the department the  
11 information received from the sexual predator.

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

14           943.0435 Sexual offenders required to register with  
15 the department; penalty.--

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

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

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

1 driver's license, renewed license, or identification card, and  
2 for use by the department in maintaining current records of  
3 sexual offenders.

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

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

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

14 944.607 Notification to Department of Law Enforcement  
15 of information on sexual offenders.--

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

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

30 1012.465 Background screening requirements for certain  
31 noninstructional school district employees and contractors.--

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

9           Section 7. Section 1012.467, Florida Statutes, is  
 10 created to read:

11           1012.467 Noninstructional contractors who are  
 12 permitted access to school grounds when students are present;  
 13 background screening requirements.--

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

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

23           (b) "Convicted" has the same meaning as in s.  
 24 943.0435.

25           (c) "School grounds" means the buildings and grounds  
 26 of any public prekindergarten, kindergarten, elementary  
 27 school, middle school, junior high school, high school, or  
 28 secondary school, or any combination of grades prekindergarten  
 29 through grade 12, together with the school district land on  
 30 which the buildings are located. The term does not include:

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

3           2. The buildings and grounds of any public  
4 prekindergarten, kindergarten, elementary school, middle  
5 school, junior high school, high school, or secondary school,  
6 or any combination of grades prekindergarten through grade 12,  
7 or contiguous school district land, during any time period in  
8 which students are not permitted access; or

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

13           (2)(a) A fingerprint-based criminal history check  
14 shall be performed on each noninstructional contractor who is  
15 permitted access to school grounds when students are present,  
16 whose performance of the contract with the school or school  
17 board is not anticipated to result in direct contact with  
18 students, and for whom any unanticipated contact would be  
19 infrequent and incidental. Criminal history checks shall be  
20 performed at least once every 5 years. For the initial  
21 criminal history check, each noninstructional contractor who  
22 is subject to the criminal history check shall file with the  
23 Department of Law Enforcement a complete set of fingerprints  
24 taken by an authorized law enforcement agency or an employee  
25 of a school district, a public school, or a private company  
26 who is trained to take fingerprints. The fingerprints shall be  
27 electronically submitted for state processing to the  
28 Department of Law Enforcement, which shall in turn submit the  
29 fingerprints to the Federal Bureau of Investigation for  
30 national processing. The results of each criminal history  
31 check shall be reported to the school district in which the

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

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

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

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

28 (e) A fingerprint retained pursuant to this subsection  
29 shall be purged from the automated fingerprint identification  
30 system 5 years following the date the fingerprint was  
31 initially submitted. The Department of Law Enforcement shall

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

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

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

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

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

29 3. Section 394.4593, relating to sexual misconduct  
30 with certain mental health patients and the reporting of such  
31 sexual misconduct.

1       4. Section 775.30, relating to terrorism.

2       5. Section 782.04, relating to murder.

3       6. Section 787.01, relating to kidnapping.

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

6       8. Section 826.04, relating to incest.

7       9. Section 827.03, relating to child abuse, aggravated  
8 child abuse, or neglect of a child.

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

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

23       (5) If a school district has reasonable cause to  
24 believe that grounds exist for the denial of a contractor's  
25 access to school grounds when students are present, it shall  
26 notify the contractor in writing, stating the specific record  
27 that indicates noncompliance with the standards set forth in  
28 this section. It is the responsibility of the affected  
29 contractor to contest his or her denial. The only basis for  
30 contesting the denial is proof of mistaken identity or that an  
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1 offense from another jurisdiction is not disqualifying under  
2 paragraph (2)(g).

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

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

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

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1           Section 8. Section 1012.468, Florida Statutes, is  
2 created to read:

3           1012.468 Exceptions to certain fingerprinting and  
4 criminal history checks.--

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

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

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

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

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

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

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

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

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

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

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

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

30 (3)(a) A noninstructional contractor who is exempt  
31 under this section from the screening requirements set forth

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

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

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

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

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

29 1012.321 Exceptions for certain instructional  
30 personnel from background screening  
31 requirements.--Instructional personnel who are required to



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

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

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

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

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

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