

By Senator Ring

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1 A bill to be entitled
 2 An act relating to volunteers for organized youth
 3 sports and recreation programs; amending s. 943.0438,
 4 F.S.; defining the terms "volunteer" and "youth sports
 5 or recreation authority"; expanding provisions
 6 relating to athletic coaches for independent
 7 sanctioning authorities to require youth sports or
 8 recreation authorities to conduct specified background
 9 screening of all volunteers with any youth athletic
 10 team or organized youth recreational program using
 11 publicly owned facilities; providing that the duty may
 12 not be delegated; requiring that specified
 13 documentation be maintained for a specified period by
 14 such authorities; requiring authorities to provide
 15 copies of such documentation to certain governmental
 16 entities; requiring governmental entities to retain
 17 documentation for a specified period; conforming
 18 provisions to changes made by the act; providing an
 19 effective date.

20
 21 Be It Enacted by the Legislature of the State of Florida:

22
 23 Section 1. Section 943.0438, Florida Statutes, is amended
 24 to read:

25 943.0438 Volunteers ~~Athletic coaches~~ for organized youth
 26 sports and recreation ~~independent sanctioning~~ authorities.-

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

28 (a) "Volunteer" ~~Athletic coach~~" means a person who:

29 1. Is authorized by a youth sports or recreation an

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30 ~~independent sanctioning~~ authority to work ~~for 20 or more hours~~
31 ~~within a calendar year~~, whether for compensation or as a
32 volunteer, for a youth athletic team or organized youth
33 recreational program using publicly owned facilities based in
34 this state; and

35 2. Has direct contact with one or more minors on the youth
36 athletic team or organized youth recreational program.

37 (b) "Youth sports or recreation ~~Independent sanctioning~~
38 authority" means a private, nongovernmental entity that
39 organizes, operates, or coordinates a youth athletic team or
40 organized youth recreational program using publicly owned
41 facilities in this state if the team or program includes one or
42 more minors and is not affiliated with a private school as
43 defined in s. 1002.01.

44 (2) A youth sports or recreation ~~An independent sanctioning~~
45 authority shall:

46 (a)1. Conduct a background screening of each current and
47 prospective volunteer ~~athletic coach~~. The authority may not
48 delegate this responsibility to an individual team or program
49 and may not authorize any ~~No person shall be authorized by the~~
50 ~~independent sanctioning authority~~ to act as a volunteer ~~an~~
51 ~~athletic coach~~ after July 1, 2013 ~~2010~~, unless a background
52 screening is ~~has been~~ conducted and does ~~did~~ not result in
53 disqualification under paragraph (b). Background screenings
54 shall be conducted annually for each volunteer ~~athletic coach~~.
55 For purposes of this section, a background screening shall be
56 conducted with a search of the volunteer's ~~athletic coach's~~ name
57 or other identifying information against state and federal
58 registries of sexual predators and sexual offenders, which are

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59 available to the public on Internet sites provided by:

60 a. The Department of Law Enforcement under s. 943.043; and

61 b. The Attorney General of the United States under 42

62 U.S.C. s. 16920.

63 2. For purposes of this section, a background screening
64 conducted by a commercial consumer reporting agency in
65 compliance with the federal Fair Credit Reporting Act using the
66 identifying information referenced in subparagraph 1. which ~~and~~
67 ~~that~~ includes a check of ~~searching~~ that information against the
68 sexual predator and sexual offender Internet sites specified
69 ~~listed~~ in sub-subparagraphs 1.a. and b. satisfies ~~shall be~~
70 ~~deemed in compliance with~~ the requirements of this paragraph
71 ~~section~~.

72 (b) Disqualify any person from acting as a volunteer ~~an~~
73 ~~athletic coach~~ if he or she is identified on a registry
74 described in paragraph (a).

75 (c) Provide, within 7 business days following the
76 background screening under paragraph (a), written notice to a
77 person disqualified under this section advising the person of
78 the results and of his or her disqualification.

79 (d) 1. Maintain for at least 5 years documentation of:

80 a.1. The results for each person screened under paragraph
81 (a); and

82 b.2. The written notice of disqualification provided to
83 each person under paragraph (c).

84 2. Provide copies of all the documentation required under
85 subparagraph 1. to each municipality with jurisdiction over a
86 publicly owned facility used by the authority or, for any
87 facility not located within a municipality, the county with

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88 jurisdiction over the facility. Each governmental entity
89 provided with documentation under this subparagraph must retain
90 that documentation for at least 5 years.

91 (e) Adopt guidelines to educate volunteers ~~athletic~~
92 ~~coaches~~, officials, administrators, and youth athletes and their
93 parents or guardians of the nature and risk of concussion and
94 head injury.

95 (f) Adopt bylaws or policies that require the parent or
96 guardian of a youth who is participating in athletic competition
97 or other recreation programs or who is a candidate for an
98 athletic team or recreation program to sign and return an
99 informed consent that explains the nature and risk of concussion
100 and head injury, including the risk of continuing to play after
101 concussion or head injury, each year before participating in
102 athletic competition or other recreational programs or engaging
103 in any practice, tryout, workout, or other physical activity
104 associated with the youth's candidacy for an athletic team or
105 recreational program.

106 (g) Adopt bylaws or policies that require each youth
107 athlete or recreational program participant who is suspected of
108 sustaining a concussion or head injury in a practice or
109 competition to be immediately removed from the activity. A youth
110 athlete or recreational program participant who is ~~has been~~
111 removed from an activity may not return to practice or
112 competition until the youth or participant submits to a
113 volunteer or volunteer supervisor ~~the athletic coach~~ a written
114 medical clearance to return stating that he or she ~~the youth~~
115 ~~athlete~~ no longer exhibits signs, symptoms, or behaviors
116 consistent with a concussion or other head injury. Medical

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117 clearance must be authorized by the appropriate health care
118 practitioner trained in the diagnosis, evaluation, and
119 management of concussions as defined by the Sports Medicine
120 Advisory Committee of the Florida High School Athletic
121 Association.

122 (3) In a civil action for the death of, or injury or damage
123 to, a third person caused by the intentional tort of a volunteer
124 ~~an athletic coach~~ that relates to alleged sexual misconduct by
125 the volunteer ~~athletic coach~~, there is a rebuttable presumption
126 that the youth sports or recreation ~~independent sanctioning~~
127 authority was not negligent in authorizing the volunteer
128 ~~athletic coach~~ if the authority complied with the background
129 screening and disqualification requirements of subsection (2)
130 before ~~prior to~~ such authorization.

131 (4) The Legislature encourages youth sports and recreation
132 ~~independent sanctioning~~ authorities ~~for youth athletic teams~~ to
133 participate in the Volunteer and Employee Criminal History
134 System, as authorized by the National Child Protection Act of
135 1993 and s. 943.0542.

136 Section 2. This act shall take effect July 1, 2013.