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1 A bill to be entitled
 2 An act relating to high-risk offenders; amending s.
 3 322.141, F.S.; requiring distinctive markings for driver's
 4 licenses and identification cards issued to persons who
 5 are designated as sexual predators or subject to
 6 registration as sexual offenders; amending s. 322.212,
 7 F.S.; prohibiting the alteration of sexual predator or
 8 sexual offender markings on driver's licenses or
 9 identification cards, for which there are criminal
 10 penalties; requiring sexual predators and sexual offenders
 11 to obtain an updated or renewed driver's license or
 12 identification card; amending s. 775.21, F.S.; requiring
 13 sexual predators to obtain a distinctive driver's license
 14 or identification card; amending s. 943.0435, F.S.;
 15 requiring sexual offenders to obtain a distinctive
 16 driver's license or identification card; amending s.
 17 944.607, F.S.; requiring specified offenders who are under
 18 the supervision of the Department of Corrections but are
 19 not incarcerated to obtain a distinctive driver's license
 20 or identification card; amending s. 1012.465, F.S.;
 21 revising background screening requirements for certain
 22 noninstructional school district employees and
 23 contractors; creating s. 1012.467, F.S.; adding
 24 noninstructional contractors to those who must meet the
 25 screening requirements; defining the terms
 26 "noninstructional contractor," "convicted," and "school
 27 grounds"; providing for the submission of fingerprints;
 28 requiring school districts to screen results of criminal
 29 records checks; requiring the cost of background screening

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

55 .

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

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

61 322.141 Color or markings of certain licenses or
62 identification cards.--

63 (1) All licenses originally issued or reissued by the
64 department to persons under the age of 21 years for the operation
65 of motor vehicles shall have markings or color which shall be
66 obviously separate and distinct from all other licenses issued by
67 the department for the operation of motor vehicles.

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

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

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

82 (a) For a person designated as a sexual predator under s.
83 775.21, the marking "775.21, F.S."

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

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88 (4) Unless previously secured or updated, each sexual
 89 offender and sexual predator shall report to the department
 90 during the month of his or her reregistration requirement as
 91 required under s. 775.21(8), s. 943.0435(14), or s. 944.607(13)
 92 in order to obtain an updated or renewed driver's license or
 93 identification card containing the markings required by
 94 subsection (3).

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

98 322.212 Unauthorized possession of, and other unlawful acts
 99 in relation to, driver's license or identification card.--

100 (5)

101 (c) It is unlawful for any person to have in his or her
 102 possession a driver's license or identification card upon which
 103 the sexual predator or sexual offender markings required by s.
 104 322.141 are not displayed or have been altered.

105 Section 3. Paragraph (f) of subsection (6) of section
 106 775.21, Florida Statutes, are amended to read:

107 775.21 The Florida Sexual Predators Act.--

108 (6) REGISTRATION.--

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

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117 | 1. If otherwise qualified, secure a Florida driver's
 118 | license, renew a Florida driver's license, or secure an
 119 | identification card. The sexual predator shall identify himself
 120 | or herself as a sexual predator who is required to comply with
 121 | this section, provide his or her place of permanent or temporary
 122 | residence, including a rural route address and a post office box,
 123 | and submit to the taking of a photograph for use in issuing a
 124 | driver's license, renewed license, or identification card, and
 125 | for use by the department in maintaining current records of
 126 | sexual predators. A post office box shall not be provided in lieu
 127 | of a physical residential address. If the sexual predator's place
 128 | of residence is a motor vehicle, trailer, mobile home, or
 129 | manufactured home, as defined in chapter 320, the sexual predator
 130 | shall also provide to the Department of Highway Safety and Motor
 131 | Vehicles the vehicle identification number; the license tag
 132 | number; the registration number; and a description, including
 133 | color scheme, of the motor vehicle, trailer, mobile home, or
 134 | manufactured home. If a sexual predator's place of residence is a
 135 | vessel, live-aboard vessel, or houseboat, as defined in chapter
 136 | 327, the sexual predator shall also provide to the Department of
 137 | Highway Safety and Motor Vehicles the hull identification number;
 138 | the manufacturer's serial number; the name of the vessel, live-
 139 | aboard vessel, or houseboat; the registration number; and a
 140 | description, including color scheme, of the vessel, live-aboard
 141 | vessel, or houseboat.

142 | 2. Pay the costs assessed by the Department of Highway
 143 | Safety and Motor Vehicles for issuing or renewing a driver's
 144 | license or identification card as required by this section. The
 145 | driver's license or identification card issued to the sexual

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146 predator must be in compliance with s. 322.141(3).

147 3. Provide, upon request, any additional information
 148 necessary to confirm the identity of the sexual predator,
 149 including a set of fingerprints.

150

151 The sheriff shall promptly provide to the department the
 152 information received from the sexual predator.

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

155 943.0435 Sexual offenders required to register with the
 156 department; penalty.--

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

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

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

180 (c) Provide, upon request, any additional information
 181 necessary to confirm the identity of the sexual offender,
 182 including a set of fingerprints.

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

185 944.607 Notification to Department of Law Enforcement of
 186 information on sexual offenders.--

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

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

200 1012.465 Background screening requirements for certain
 201 noninstructional school district employees and contractors.--

202 (1) Except as provided in s. 1012.467 or s. 1012.468,
 203 noninstructional school district employees or contractual

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204 personnel who are permitted access on school grounds when
 205 students are present, who have direct contact with students or
 206 who have access to or control of school funds must meet level 2
 207 screening requirements as described in s. 1012.32. Contractual
 208 personnel shall include any vendor, individual, or entity under
 209 contract with a school or the school board.

210 Section 7. Section 1012.467, Florida Statutes, is created
 211 to read:

212 1012.467 Noninstructional contractors who are permitted
 213 access to school grounds when students are present; background
 214 screening requirements.--

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

216 (a) "Noninstructional contractor" means any vendor,
 217 individual, or entity under contract with a school or with the
 218 school board who receives remuneration for services performed for
 219 the school district or a school, but who is not otherwise
 220 considered an employee of the school district. The term also
 221 includes any employee of a contractor who performs services for
 222 the school district or school under the contract and any
 223 subcontractor and its employees.

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

225 (c) "School grounds" means the buildings and grounds of any
 226 public prekindergarten, kindergarten, elementary school, middle
 227 school, junior high school, high school, or secondary school, or
 228 any combination of grades prekindergarten through grade 12,
 229 together with the school district land on which the buildings are
 230 located. The term does not include:

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

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233 2. The buildings and grounds of any public prekindergarten,
 234 kindergarten, elementary school, middle school, junior high
 235 school, high school, or secondary school, or any combination of
 236 grades prekindergarten through grade 12, or contiguous school
 237 district land, during any time period in which students are not
 238 permitted access; or

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

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

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262 shared system described in subsection (7). The school district
 263 shall screen the results using the disqualifying offenses in
 264 paragraph (g). The cost of the criminal history check may be
 265 borne by the district school board, the school, or the
 266 contractor. A fee that is charged by a district school board for
 267 such checks may not exceed 30 percent of the total amount charged
 268 by the Department of Law Enforcement and the Federal Bureau of
 269 Investigation.

270 (b) As authorized by law, the Department of Law Enforcement
 271 shall retain the fingerprints submitted by the school districts
 272 pursuant to this subsection to the Department of Law Enforcement
 273 for a criminal history background screening in a manner provided
 274 by rule and enter the fingerprints in the statewide automated
 275 fingerprint identification system authorized by s. 943.05(2)(b).
 276 The fingerprints shall thereafter be available for all purposes
 277 and uses authorized for arrest fingerprint cards entered into the
 278 statewide automated fingerprint identification system under s.
 279 943.051.

280 (c) As authorized by law, the Department of Law Enforcement
 281 shall search all arrest fingerprint cards received under s.
 282 943.051 against the fingerprints retained in the statewide
 283 automated fingerprint identification system under paragraph (b).

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

287 (e) A fingerprint retained pursuant to this subsection
 288 shall be purged from the automated fingerprint identification
 289 system 5 years following the date the fingerprint was initially
 290 submitted. The Department of Law Enforcement shall set the amount

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291 of the annual fee to be imposed upon each participating agency
 292 for performing these searches and establishing the procedures for
 293 retaining fingerprints and disseminating search results. The fee
 294 may be borne as provided by law. Fees may be waived or reduced by
 295 the executive director of the Department of Law Enforcement for
 296 good cause shown.

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

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

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

314 2. Section 393.135, relating to sexual misconduct with
 315 certain developmentally disabled clients and the reporting of
 316 such sexual misconduct.

317 3. Section 394.4593, relating to sexual misconduct with
 318 certain mental health patients and the reporting of such sexual
 319 misconduct.

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320 4. Section 775.30, relating to terrorism.
 321 5. Section 782.04, relating to murder.
 322 6. Section 787.01, relating to kidnapping.
 323 7. Any offense under chapter 800, relating to lewdness and
 324 indecent exposure.
 325 8. Section 826.04, relating to incest.
 326 9. Section 827.03, relating to child abuse, aggravated
 327 child abuse, or neglect of a child.
 328 (3) If it is found that a noninstructional contractor has
 329 been convicted of any of the offenses listed in paragraph (2)(g),
 330 the individual shall be immediately suspended from having access
 331 to school grounds and shall remain suspended unless and until the
 332 conviction is set aside in any postconviction proceeding.
 333 (4) A noninstructional contractor who has been convicted of
 334 any of the offenses listed in paragraph (2)(g) may not be
 335 permitted on school grounds when students are present unless the
 336 contractor has received a full pardon or has had his or her civil
 337 rights restored. A noninstructional contractor who is present on
 338 school grounds in violation of this subsection commits a felony
 339 of the third degree, punishable as provided in s. 775.082 or s.
 340 775.083.
 341 (5) If a school district has reasonable cause to believe
 342 that grounds exist for the denial of a contractor's access to
 343 school grounds when students are present, it shall notify the
 344 contractor in writing, stating the specific record that indicates
 345 noncompliance with the standards set forth in this section. It is
 346 the responsibility of the affected contractor to contest his or
 347 her denial. The only basis for contesting the denial is proof of
 348 mistaken identity or that an offense from another jurisdiction is

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349 not disqualifying under paragraph (2)(g).

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

364 (7)(a) The Department of Law Enforcement shall implement a
 365 system that allows for the results of a criminal history check
 366 provided to a school district to be shared with other school
 367 districts through a secure Internet website or other secure
 368 electronic means. The Department of Law Enforcement may adopt
 369 rules under ss. 120.536(1) and 120.54 to implement this
 370 paragraph.

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

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378 Section 8. Section 1012.468, Florida Statutes, is created
 379 to read:

380 1012.468 Exceptions to certain fingerprinting and criminal
 381 history checks.--

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

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

394 (a)1. Noninstructional contractors who are under the direct
 395 supervision of a school district employee or contractor who has
 396 had a criminal history check and meets the screening requirements
 397 under s. 1012.32, s. 1012.465, s. 1012.467, or s. 1012.56. For
 398 purposes of this paragraph, the term "direct supervision" means
 399 that a school district employee or contractor is physically
 400 present with a noninstructional contractor when the contractor
 401 has access to a student and the access remains in the school
 402 district employee's or the contractor's line of sight.

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

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407 meets the screening requirements in s. 1012.465 or s. 1012.467.
 408 (b) Noninstructional contractors who are required by law to
 409 undergo a level 2 background screening pursuant to s. 435.04 for
 410 licensure, certification, employment, or other purposes and who
 411 submit evidence of meeting the following criteria:
 412 1. The contractor meets the screening standards in s.
 413 435.04;
 414 2. The contractor's license or certificate is active and in
 415 good standing, if the contractor is a licensee or
 416 certificateholder; and
 417 3. The contractor completed the criminal history check
 418 within 5 years prior to seeking access to school grounds when
 419 students are present.
 420 (c) A law enforcement officer, as defined in s. 943.10, who
 421 is assigned or dispatched to school grounds by his or her
 422 employer.
 423 (d) An employee or medical director of an ambulance
 424 provider, licensed pursuant to chapter 401, who is providing
 425 services within the scope of part III of chapter 401 on behalf of
 426 such ambulance provider.
 427 (e) Noninstructional contractors who remain at a site where
 428 students are not permitted if the site is separated from the
 429 remainder of the school grounds by a single chain-link fence of 6
 430 feet in height.
 431 (f) A noninstructional contractor who provides pick-up or
 432 delivery services and those services involve brief visits on
 433 school grounds when students are present.
 434 (3) (a) A noninstructional contractor who is exempt under
 435 this section from the screening requirements set forth in s.

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436 1012.465 or s. 1012.467 is subject to a search of his or her name
 437 or other identifying information against the registration
 438 information regarding sexual predators and sexual offenders
 439 maintained by the Department of Law Enforcement under s. 943.043
 440 and the national sex offender public registry maintained by the
 441 United States Department of Justice. The school district shall
 442 conduct the search required under this subsection without charge
 443 or fee to the contractor.

444 (b) A noninstructional contractor who is identified as a
 445 sexual predator or sexual offender in the registry search
 446 required in paragraph (a) may not be permitted on school grounds
 447 when students are present. Upon determining that a
 448 noninstructional contractor may not be permitted on school
 449 grounds pursuant to this subsection, the school district shall
 450 notify the vendor, individual, or entity under contract within 3
 451 business days.

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

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

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

464 1012.321 Exceptions for certain instructional personnel

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

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

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

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

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