

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Transportation Committee

BILL: CS/SB 1192

INTRODUCER: Transportation Committee and Senator Lynn

SUBJECT: Persons with Disabilities

DATE: January 26, 2012 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Buford	TR	Fav/CS
2.			CJ	
3.			BC	
4.				
5.				
6.				

Please see Section VIII. for Additional Information:

- | | | |
|------------------------------|-------------------------------------|---|
| A. COMMITTEE SUBSTITUTE..... | <input checked="" type="checkbox"/> | Statement of Substantial Changes |
| B. AMENDMENTS..... | <input type="checkbox"/> | Technical amendments were recommended |
| | <input type="checkbox"/> | Amendments were recommended |
| | <input type="checkbox"/> | Significant amendments were recommended |

I. Summary:

This bill creates a new unnumbered section of the Florida Statutes which requires law enforcement agencies to report crimes affecting persons with disabilities, legally blind persons, and persons who are mobility impaired to the Florida Department of Law Enforcement (FDLE); and to report violations of s. 316.1301, F.S., entitled “traffic regulations to assist blind persons”, any other violations of traffic laws to assist legally blind persons and mobility impaired persons, and incidents of crashes involving such persons to the Department of Highway Safety and Motor Vehicles (DHSMV). FDLE and DHSMV are authorized to provide procedures to collect and maintain such reports in the same manner as other similar reports are collected.

This bill amends s. 322.12, F.S., so that driver license exams for Class E and commercial licenses must include one question testing the applicants knowledge of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, with particular emphasis given to pedestrian right of way when a driver is making a right turn at an intersection.

This bill amends ss. 318.1451, 322.0261, 322.095, F.S., in order to add the study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to

the course curricula for driver improvement courses as well as traffic law and substance abuse education courses.

This bill amends s. 943.17, F.S., to add the study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to the curricula of every basic skills course required for law enforcement officers to obtain initial certification.

This bill amends s. 1003.48, F.S., in order to add the mandatory study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to the course curricula of driver education programs available in secondary schools in the state.

II. Present Situation:

Law Enforcement Reporting:

FDLE

Currently, the FDLE collects data on crimes across the state through its uniform crime report (UCR) program. The current program, which was implemented for the first full year of crime reporting in 1989¹, collects data according to the following hierarchy of types of crime²:

- Murder and Non-Negligent Manslaughter
- Sex Offenses
- Robbery
- Aggravated Assault
- Aggravated Stalking
- Burglary/Breaking and Entering
- Larceny/Theft
- Motor Vehicle Theft
- Simple Assault
- Arson

Between 1989 and 1995, the UCR system relied on monthly reports from the various law enforcement agencies around the state. However, since 1996, the system has moved to a semi-annual or annual reporting system.³ Currently, no crime data is collected by FDLE relating to crimes against persons with disabilities, legally blind persons, and persons who are mobility impaired.⁴

DHSMV

¹ "Understanding Florida's UCR Data", The Florida Department of Law Enforcement, last viewed on 1/23/2012, <http://www.fdle.state.fl.us/Content/getdoc/685508bc-ce34-4423-b867-827ed0dc6fac/datahistory.aspx>

² "Uniform Crime Reports Guide Manual", The Florida Department of Law Enforcement, 2008, last viewed on 1/23/2012, http://www.fdle.state.fl.us/Content/getdoc/7fad02e4-96bd-46d9-82fc-4a5c46f0be22/datahistory_ucrmanual-1-.aspx, p. 8.

³ See note 1.

⁴ "SENATE BILL #1192 Relating to Persons With Disabilities" analysis, the Florida Department of Law Enforcement, Jan 13, 2012, on file with the Transportation Committee.

Currently, in accordance with s. 316.066, F.S., all accidents must be recorded through the use of either a long form report or a short form report. The long form report is used to record accidents which involve death, personal injury, damage to a vehicle or property, or DUI. The short form is used to report all other types of accidents. Long form reports must be submitted to DHSMV within ten days completing the investigation. Short form reports are maintained by the agency for which the officer works.

Currently, DHSMV keeps a database of all uniform traffic citations (UTCs) which are issued statewide and also collects records of citation and disposition information which it receives from the county clerks of court.⁵ DHSMV does not note the number of traffic citations involving disabled persons, legally blind persons, or mobility impaired persons.

Driver License Examinations:

Currently, the Florida Driver's Handbook, 2012, contains section 5.16.3 entitled "Persons Who are Blind" which includes advice as to how to recognize a blind pedestrian and which also states that "[d]rivers must always yield the right-of-way to persons who are blind. When a pedestrian is crossing a street or highway guided by a dog or carrying a white cane (or a white cane with a red tip), vehicles must come to a complete stop." Also, the Florida Driver's Handbook, 2012, contains section 5.16.4, entitled "Mobility-Impaired Persons", which states that "[d]rivers must yield the right-of-way to mobility-impaired persons and pedestrians utilizing the assistance of a guide dog or service animal. When a pedestrian is crossing a public street or highway and the pedestrian is using a walker, a crutch, or an orthopedic cane or wheelchair, **vehicles must come to a complete stop.**"

Currently, Driver's License exams are formulated by pulling random questions from a large pool of questions. Questions about mobility impaired persons or blind pedestrians may be, but are not guaranteed to be, tested on current driver's license examinations.

Traffic Law and Substance Abuse Education Courses:

Currently, s. 318.1451, F.S., requires that "[i]n determining whether to approve the courses referenced in this section, the department [of Highway Safety and Motor Vehicles] shall consider course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint"; s. 322.0261, F.S., requires that "[i]n determining whether to approve a driver improvement course for the purposes of this section, the department shall consider course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint"; and s. 322.095, F.S., requires that the curricula for the courses developed under that section "must provide instruction on the physiological and psychological consequences of the abuse of alcohol and other drugs, the societal and economic costs of alcohol and drug abuse, the effects of alcohol and drug abuse on the driver of a motor vehicle, and the laws of this State relating to the operation of a motor vehicle."

⁵ "2010 Florida Uniform Traffic Citation Statistics Report" cover letter, Department of Highway Safety and Motor Vehicles, last viewed on 1/23/2012, <http://www.flhsmv.gov/reports/2010UTCStats/UTCCoverLetter.pdf>

There is not presently any requirement to include s. 316.1301, F.S., or the traffic laws to assist legally blind and mobility impaired persons in the curricula under s. 322.095, F.S.

Law Enforcement Basic Skills Course Curricula:

According to FDLE, “the study of traffic laws to assist the blind is specifically covered throughout the law enforcement basic recruit training curriculum. The curriculum addresses types of blindness and their definitions, and additionally directs the basic recruit student to make special accommodations for suspects, victims and witnesses who are visually impaired. Law enforcement basic recruit trainees are provided similar guidance with regard to traffic regulations to assist the blind.”⁶

The following is excerpted from the 2010 law enforcement basic recruit textbook:

Chapter 4—Human Issues

According to the ADA, an individual with a disability is a person who has a physical or mental impairment that substantially limits a major life activity, has a record of such impairment, or is regarded as having such an impairment (IN006.1.I.6.). An **impairment** is defined as any mental or physiological condition that impedes the completion of daily tasks using traditional methods. Examples of impairments are blindness, severe breathing limitation, deafness, inability to use arms or legs, paranoia, or schizophrenia.

IN006.1.J.3. Define blindness and partially sighted.

Vision Impairments

Vision impairment refers to a loss or partial loss of vision. There are several types and degrees of visual impairments. People who have visual impairments, such as blindness or partial sight, meet the ADA definition of disability.

The types of vision impairments that an officer will encounter most often are blindness and partial sight. **Blindness** is a functional loss of vision. This definition applies both to people who cannot see at all (are unable to distinguish light from dark) and people who have some vision in one or both eyes. In fact, 80 to 90 percent of people who are blind or visually impaired have some vision. **Partial sight** is a visual impairment in which, after correction, objects still look dim or out of focus. People with partial sight may not see color well or at all or may lack peripheral vision, but they can still see and even read with magnifiers or other aids. (IN006.1.J.3.)

An officer should make special accommodations for suspects, victims, and witnesses who are visually impaired. When people cannot see, they may be afraid. The officer should reassure a crime victim that the assailant is no longer present. A person with a visual

⁶ “SENATE BILL #1192 Relating to Persons With Disabilities” analysis, the Florida Department of Law Enforcement, Jan 13, 2012, on file with the Transportation Committee.

impairment who is arrested must be given large-print versions of any written documents that require the suspect's signature or have the documents read to him or her. A witness with a visual impairment may provide useful and reliable nonvisual observations. People deprived of one sense often develop their four other senses to make up for the loss. Their nonvisual observations may assist with investigations. (IN006.2.D.)

Chapter 5: Patrol 1

IN006.1.J.4. Identify traffic regulations to assist the blind.

An officer's job when directing traffic is to maintain safety for drivers and pedestrians. Officers should be especially aware of pedestrians who are totally or partially blind, guided by a dog, or carrying a white cane or a white cane tipped in red. F.S. § 316.1301 states:

Whenever a pedestrian is crossing, or attempting to cross, a public street or highway, guided by a dog guide or carrying in a raised or extended position a cane or walking stick which is white in color or white tipped with red, the driver of every vehicle approaching the intersection or place where the pedestrian is attempting to cross shall bring his or her vehicle to a full stop before arriving at such intersection or place of crossing and, before proceeding, shall take such precautions as may be necessary to avoid injuring such pedestrian. A person who is convicted of a violation of this subsection is guilty of a moving violation.

While a white tipped cane or guide dog are clues of a pedestrian's partial or total blindness, all pedestrians should be afforded the same rights when crossing a public street or highway. Officers should also be aware that it is unlawful for any person not partially or totally blind or otherwise incapacitated to carry a white cane in a raised or extended way. Any person convicted of such a violation is guilty of a misdemeanor of the second degree. (IN006.1.J.4.)⁷

Driver's Education Courses in Secondary Schools:

Currently, the district school board determines the manner in which the curricula for courses is developed pursuant to s. 1003.48, F.S. As such, the curricula may vary between districts and there is no set requirement to study s. 316.1301, F.S., or traffic laws to assist legally blind and mobility impaired persons.

III. Effect of Proposed Changes:

Section 1 of this bill creates a new unnumbered section of the Florida Statutes which requires law enforcement agencies to report crimes affecting persons with disabilities, legally blind persons, and persons who are mobility impaired to the Florida Department of Law Enforcement (FDLE); and to report violations of s. 316.1301, F.S., entitled "traffic regulations to assist blind persons," any other violations of traffic laws to assist legally blind persons and mobility impaired

⁷ For complete descriptions, go to [http://www.fdle.state.fl.us/Content/getdoc/8c0fb0b7-3ef5-4cf2-ab9e-6627bb0f2037/FLBRC-LEV1-2011-07-\(1\).aspx](http://www.fdle.state.fl.us/Content/getdoc/8c0fb0b7-3ef5-4cf2-ab9e-6627bb0f2037/FLBRC-LEV1-2011-07-(1).aspx)

persons, and incidents of crashes involving such persons to the Department of Highway Safety and Motor Vehicles (DHSMV). FDLE and DHSMV are authorized to provide procedures to collect and maintain such reports in the same manner as other similar reports are collected.

Section 2 of this bill amends s. 322.12, F.S., so that driver license exams for Class E and commercial licenses must include one question testing the applicants knowledge of s. 316.1301, F.S, and other traffic laws to assist legally blind persons and mobility impaired persons, with particular emphasis given to pedestrian right of way when a driver is making a right turn at an intersection.

Section 3 of this bill amends ss. 318.1451, 322.0261, 322.095, F.S., in order to add the study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to the course curricula for driver improvement courses as well as traffic law and substance abuse education courses.

Section 4 of this bill amends s. 943.17, F.S., to add the study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to the curricula of every basic skills course required for law enforcement officers to obtain initial certification.

Section 5 of this bill amends s. 1003.48, F.S., in order to add the mandatory study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to the course curricula of driver education programs available in secondary schools in the state.

Section 6 of this bill creates an effective date of July 1, 2012.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Section 3: There are 22 organizations that provide courses amended by this bill and which will likely experience a direct, but indeterminate fiscal impact due to the need to expand the curricula to meet the bill requirements.

C. Government Sector Impact:

FDLE: “There is no cost associated with including these provisions in the law enforcement basic recruit training [section 4] because the existing curriculum already addresses the issue. Also, FDLE would require 512 hours of contract programming (\$38,400) and equipment in the amount of \$2,000 to complete this project” (section 1).⁸

DHSMV: The provisions of section 1 will likely cause an indeterminate fiscal impact on DHSMV. The provisions of section 2 may cause an indeterminate fiscal impact on DHSMV which will likely be minor because, according to DHSMV, “[t]he modifications to include the question would be simple.”⁹

Local Law Enforcement Agencies: The provisions of section 1 will likely cause an indeterminate but significant fiscal impact on local law enforcement agencies due to having to rework their current reporting systems.

School Districts: The provisions of section 5 may cause an indeterminate fiscal impact on local school districts; however, it will likely be minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

FDLE requests the effective date be moved to January 1, 2013 in order to begin collection in line with current UCR submission guidelines.¹⁰

⁸ “SENATE BILL #1192 Relating to Persons With Disabilities” analysis, the Florida Department of Law Enforcement, Jan 13, 2012, on file with the Transportation Committee.

⁹ Florida Department of Highway Safety and Motor Vehicles, *Agency Bill Analysis, SB 1974* (on file with the Senate Transportation Committee)

¹⁰ “SENATE BILL #1192 Relating to Persons With Disabilities” analysis, the Florida Department of Law Enforcement, Jan 13, 2012, on file with the Transportation Committee.

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on January 26, 2012:

The CS adds language mandating the study of s. 316.1301, F.S, as well as other traffic laws to assist legally blind persons and mobility impaired persons, to ss. 322.0261 and 318.1451, F.S., in order to fully cover all of the driver improvement courses which are mandated for various traffic offenses.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
