

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 733 Registry of Persons with Special Needs
SPONSOR(S): Children, Families & Seniors Subcommittee, Plasencia and others
TIED BILLS: HB 735 **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	14 Y, 1 N, As CS	Guzzo	Brazzell
2) Infrastructure & Tourism Appropriations Subcommittee	13 Y, 0 N	Hicks	Davis
3) Health & Human Services Committee			

SUMMARY ANALYSIS

Many behaviors associated with autism, Alzheimer's disease and other dementia-related disorders can increase a person's chances of interacting with law enforcement because those behaviors are similar to behaviors typically associated with criminals. These include things such as the inability to follow instructions, acting out, inappropriate verbal statements, or other actions that may be mistakenly perceived as an indication of hostility, criminal intent, or alcohol or drug intoxication.

Current law allows individuals to voluntarily request a designation of "D" on their driver licenses if they have a developmental disability, including but not limited to autism, to indicate that they have a developmental disability.

The bill revises driver license and identification card statutes to allow law enforcement to be better able to identify an individual as having a developmental disability or Alzheimer's disease prior to interacting with the individual.

Specifically, the bill requires the Department of Highway Safety and Motor Vehicles (DHSMV) to:

- Share the information contained on the driver license or identification card of an individual who requests to have a "D" on their identification card or driver license with the Driver and Vehicle Information Database (DAVID) and the Florida Crime Information Center (FCIC) system, and
- Allow an individual with Alzheimer's disease or a dementia-related disorder to have an "AD" identifier on their identification card and/or driver license and requires the information to be shared with DAVID and the FCIC system.

As a result, for individuals who have voluntarily provided this information when applying for or renewing a driver license or identification card, law enforcement will know if an individual has a developmental disability or Alzheimer's disease or a dementia-related disorder before interacting with the individual during a traffic stop or when they are dispatched to an incident in which they know the individual's name prior to interaction.

The bill has an unknown, but likely insignificant negative fiscal impact on the DHSMV for programming costs associated with updating data systems and printers. See Fiscal Analysis section.

The bill provides an effective date of July 1, 2022.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Developmental Disabilities

The Agency for Persons with Disabilities serves more than 58,000 Floridians with developmental disabilities including autism, cerebral palsy, spina bifida, intellectual disabilities, Down syndrome, Prader-Willi syndrome, and Phelan-McDermid syndrome.¹

- Cerebral palsy is a group of disabling symptoms of extended duration, which results from damage to the developing brain that may occur before, during, or after birth and that results in the loss or impairment of control over voluntary muscles.²
- Spina bifida is a birth defect in the vertebral column in which part of the spinal cord, which is normally protected within the vertebral column, is exposed. Spina bifida is caused by the failure of the neural tube to close during embryonic development. The neural tube is the embryonic structure that gives rise to the brain and spinal cord. People with spina bifida can have difficulty with bladder and bowel incontinence, cognitive (learning) problems, and limited mobility.³
- Intellectual disability means significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior. An individual with an intellectual disability has certain limitations in both mental functioning and in adaptive skills such as communicating, self-care, and social skills. These limitations will cause a person to learn and develop more slowly. People with intellectual disabilities may take longer to learn to speak, walk, and take care of their personal needs such as dressing or eating.⁴
- Down syndrome is a genetic disorder caused when abnormal cell division results in extra genetic material from chromosome 21. This genetic disorder, also known as trisomy 21, varies in severity, causes lifelong intellectual disability and developmental delays, and, in some people, causes health problems.⁵
- Prader-Willi syndrome is a complex genetic condition that affects many parts of the body. In infancy, this condition is characterized by weak muscle tone, feeding difficulties, poor growth, and delayed development. Beginning in childhood, affected individuals develop an insatiable appetite and chronic overeating. As a result, most experience rapid weight gain leading to obesity. People with Prader-Willi syndrome typically have an intellectual disability or a learning disability and behavioral problems.⁶
- Phelan-McDermid syndrome is a rare condition due to a chromosomal abnormality. Symptoms vary in range and severity but often include low muscle tone, difficulty moving, absent-to-severely delayed speech, autistic features, moderate-to-profound intellectual disability, and epilepsy.⁷

Autism

¹ Agency for Persons with Disabilities, *Long-Range Program Plan (2021)*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=23172&DocType=PDF> (last accessed January 23, 2022).

² Id.

³ Id.

⁴ Id.

⁵ Id.

⁶ Id.

⁷ Id.

Autism is a pervasive, neurologically-based developmental disability of extended duration that has onset during infancy or childhood, which causes severe learning, communication, and behavioral disorders.⁸ Autism spectrum disorder (ASD) includes autism, Asperger's syndrome, and any other pervasive developmental disorder.⁹ The Centers for Disease Control and Prevention (CDC) estimates that approximately one in 44 children has ASD.¹⁰ The CDC also estimates that over 5.4 million adults have ASD.¹¹

Interactions with Law Enforcement for Individuals with Autism

A person's developmental disability may make interactions with law enforcement more challenging. For example, identifying a person with ASD can be confusing to any person unfamiliar with the condition, including law enforcement.¹² Law enforcement can mistake the signs of autism with behaviors typically associated with those of criminals.¹³ Common attributes of autism are communication differences and behaviors or thinking that are repetitive or restricted to an area of interest. These traits could be interpreted by law enforcement as not being compliant with questioning or direct instructions. A characteristic of ASD known as escalation poses a particular problem in encounters with law enforcement.¹⁴ Escalation describes the response of a person with ASD under stress or in an unfamiliar situation. Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, become combative, or simply shut down. The individual may cover his or her ears and shriek, not knowing how or where to get help.¹⁵ The presence of police lights and sirens, uniforms, loud and unfamiliar voices, or barking dogs often makes a difficult situation worse by contributing to the individual's sensory overload.¹⁶

Alzheimer's Disease

Alzheimer's disease is a form of dementia, a general term for memory loss, in which dementia symptoms worsen gradually over time. It is a progressive brain disorder that damages and eventually destroys brain cells, leading to memory loss and changes in the functions of the brain. Alzheimer's disease accounts for 60 to 80 percent of dementia cases. In the early stages of Alzheimer's disease, memory loss is mild; in late-stages, individuals lose the ability to carry on a conversation and respond to their environment. Currently, the disease has no cure, but treatment can temporarily slow the worsening of symptoms.¹⁷

Florida has an increasing number of individuals with Alzheimer's disease. An estimated 580,000 Floridians have Alzheimer's disease.¹⁸ The projected number of Floridians with Alzheimer's disease is estimated to increase by 24 percent to 720,000 individuals by 2025.¹⁹

Interactions with Law Enforcement

⁸ S. 393.063(5), F.S.

⁹ S. 627.6686(2)(b), F.S.

¹⁰ Centers for Disease Control and Prevention, *Data & Statistics on Autism Spectrum Disorder*, available at <https://www.cdc.gov/ncbddd/autism/data.html> (last accessed January 22, 2022).

¹¹ Centers for Disease Control and Prevention, *Key Findings: CDC Releases First Estimates of the Number of Adults Living with Autism Spectrum Disorder in the United States*, available at <https://www.cdc.gov/ncbddd/autism/features/adults-living-with-autism-spectrum-disorder.html> (last accessed January 22, 2022).

¹² Bernard J. Farber, *Police Interaction With Autistic Persons: The Need For Training*, *Aele Monthly Law Journal*, 101, 102 (2009), available at <https://www.aele.org/law/2009al07/2009-07MLJ101.pdf> (last accessed January 22, 2022).

¹³ Lambert, Randy (2018) "How Changing the Wes Kleinert Fair Interview Act and Establishing Law Enforcement Academy Training Standards Will Help the Autism Community," *Child and Family Law Journal*: Vol. 6 : Iss. 1 , Article 3, available at: <https://lawpublications.barry.edu/cfj/vol6/iss1/3> (last accessed January 22, 2022).

¹⁴ *Supra* at note 8.

¹⁵ *Id.*

¹⁶ *Id.*

¹⁷ Alzheimer's Association, *2021 Alzheimer's Disease Facts and Figures*, available at <https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf> (last accessed January 20, 2022).

¹⁸ Florida Department of Elder Affairs, *2021 Alzheimer's Disease Advisory Committee Annual Report*, available at https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021_FINAL.pdf (last accessed January 20, 2022).

¹⁹ *Id.*

Many behaviors associated with Alzheimer's disease and dementia tend to increase a person's chance of interacting with law enforcement. Because these individuals are often unable to explain their unusual behavior, their actions are more easily misunderstood.²⁰ Common instances that can cause someone with Alzheimer's disease to interact with law enforcement include wandering, auto accidents, erratic driving, accidental breaking and entering due to confusion, and unintentional shoplifting.²¹

Driver Licenses and Identification Cards

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) provides services by partnering with county tax collectors and local, state, and federal law enforcement agencies to promote a safe driving environment.²² DHSMV is responsible for enforcing laws relating to driver licenses and identification cards.²³ DHSMV is required to contract with county tax collectors who issue driver licenses and identification cards.²⁴

Disability Designations

Any person who is five years of age or older, or any person who has a disability and who applies for a disabled parking permit (regardless of age), may be issued an identification card upon completion of an application and payment of an application fee.²⁵ Current law authorizes an individual with a developmental disability²⁶ to get a "D" placed on that individual's driver license or identification card.²⁷ A request for the "D" designation may be made by the individual with a developmental disability, or by a parent or guardian of a child or ward who has a developmental disability. To receive the "D" designation, an individual with a developmental disability is required to pay a \$1 fee and submit proof of a developmental disability diagnosis by a licensed physician.²⁸ However, an individual with a developmental disability is *not* required to request a "D" designation; the request for a "D" designation is made voluntarily by the individual with a developmental disability or by another authorized requestor.

Driver and Vehicle Information Database

The Driver and Vehicle Information Database (DAVID) provides easy-to-use, secure web-based access to driver license identity information, driver license transactions, driver license records, and vehicle titles and registrations. In order for an agency to gain access to the information in DAVID, DHSMV and the requesting agency must enter into a Memorandum of Understanding (MOU). The MOU establishes the purposes for and conditions of electronic access to DAVID. DAVID may only be used by law enforcement for official law enforcement purposes such as traffic stops, investigations, missing persons, automobile crashes, and natural disasters.

Florida Crime Information Center (FCIC) System

The FCIC system is a database that provides criminal justice agencies with access to federal and state criminal justice information. The FCIC system is used for rapid communications such as:

²⁰ Alzheimer's Association, *Alzheimer's Disease Guide for Law Enforcement*, available at https://www.alz.org/national/documents/safereturn_lawenforcement.pdf (last accessed January 22, 2022).

²¹ *Id.*

²² Florida Department of Highway Safety and Motor Vehicles, *Statement of Agency Organization and Operation*, available at <https://www.flhsmv.gov/pdf/department/orgstatement.pdf> (last accessed January 22, 2022).

²³ Ss. 322.02(2), F.S., 322.14, F.S., and 322.051, F.S.

²⁴ S. 322.02(1), F.S.

²⁵ S. 322.051(1), F.S.

²⁶ S. 393.063(12), F.S., defines "development disability" as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

²⁷ Ss. 322.14(1)(f), F.S., and 322.051(8)(e), F.S.

²⁸ *Id.*

- Be On the Look Out (BOLO) notices, used to notify the public and law enforcement when assistance is needed finding a suspect; and
- All Points Bulletins (APB), used as broadcast alerts from one police station to all others in a particular area or state with instructions to arrest a suspect.

Additionally, the FCIC system provides connectivity to DHSMV and the National Crime Information Center (NCIC).

Effect of the Bill

The bill revises driver license and identification card statutes to allow law enforcement to be able to identify an individual as having a developmental disability or Alzheimer’s disease prior to interacting with the individual, if the individual has voluntarily provided this information when applying for or renewing a driver license or identification card.

The bill requires the Department to share the information contained on the driver license or identification card of an individual who requests to have a “D” designation on their identification card or driver license with DAVID and the FCIC system.

The bill also allows an individual with Alzheimer’s disease or a dementia-related disorder to have an “AD” identifier on their identification card or driver license, and requires the information to be shared with DAVID and the FCIC system. A request for the “AD” designation may be made by the individual with Alzheimer’s disease or a dementia-related disorder, or by a legal guardian or immediate family member²⁹ of an individual with Alzheimer’s disease or a dementia-related disorder.

As a result, for individuals voluntarily providing information regarding their developmental disability or that they have Alzheimer’s disease or a dementia-related disorder, law enforcement will know if an individual has a developmental disability or Alzheimer’s disease or a dementia-related disorder before interacting with the individual during a traffic stop or when they are dispatched to an incident in which they know the individual’s name prior to interaction.

The bill provides an effective date of July 1, 2022.

B. SECTION DIRECTORY:

Section 1: Amends s. 322.051, F.S., relating to identification cards.

Section 2: Amends s. 322.14, F.S., relating to licenses issued to drivers.

Section 3: Provides an effective date of July 1, 2022.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

DHSMV will incur programming costs associated with updating data systems and printers to recognize and acknowledge the new “AD” designation to identify an individual with Alzheimer’s disease or a dementia-related disorder. The programming costs are unknown, but likely insignificant, and can be absorbed within existing resources.

²⁹ “Immediate family member” means a parent, spouse, child, sibling, grandchild, brother-in-law, sister-in-law, son-in-law, daughter-in-law, mother-in-law, or father-in-law.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

Any one that voluntarily requests an "AD" identifier on the identification card and/or driver license for an individual with Alzheimer's disease or a dementia-related disorder will not be required to pay an additional \$1 fee for the placement of the "AD" identifier.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable. The bill does not appear to affect county or municipal governments.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

DHSMV has sufficient rule-making authority to implement the provisions of the bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES