

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 Committee on Criminal Justice

BILL: CS/SB 784

INTRODUCER: Criminal Justice Committee and Senator Burgess

SUBJECT: Special Persons Registry

DATE: April 5, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	Favorable
2.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 784, known as the “Protect Our Loved Ones” Act, authorizes a local law enforcement agency to develop and maintain a database, known as the “Special Needs Registry,” of persons who may have certain developmental, psychological, or other disabilities or conditions.

Parents and guardians may voluntarily enroll minors and incapacitated individuals in the registry. The registry may include:

- An enrollee’s demographic and contact information, and information related to the enrollee’s disability or condition;
- Contact information of persons who have enrolled individuals on the registry; and
- Certification of the disability or condition.

The bill requires that proof of parentage, guardianship, or other legal authority be provided to local law enforcement at the time of registration, and lists the documents law enforcement may accept as requisite proof.

The bill provides notification requirements for enrollment onto the registry and a process for removing oneself from the registry.

The bill authorizes local law enforcement agencies to provide information from the registry to law enforcement officers to assist in performance of their official duties.

The bill does not have a fiscal impact on state government. The bill may have an indeterminate negative fiscal impact on those law enforcement agencies that choose to create and maintain a Special Needs Registry. See Section V. Fiscal Impact Statement.

The bill is effective January 1, 2024.

II. Present Situation:

Developmental Disabilities

Developmental disabilities¹ include autism, cerebral palsy, spina bifida, intellectual disabilities, Down syndrome, Prader-Willi syndrome, and Phelan-McDermid syndrome.²

Cerebral palsy³ 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.⁴

Spina bifida⁵ 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.⁶

Individuals suffering from intellectual disabilities have significantly sub-average general intellectual functioning existing concurrently with deficits in adaptive behavior, which manifests before the age of 18.⁷ Such individuals have 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.⁸

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

¹ Developmental disability is defined 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.

² Agency for Persons with Disabilities, *Long-Range Program Plan (2022)*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=23172&DocType=PDF> (last visited March 30, 2023) (hereinafter cited as “The Long-Range Plan”).

³ Section 393.063(6), F.S.

⁴ *Id.*

⁵ Spina bifida is defined in statute as a medical diagnosis of spina bifida cystica or myelomeningocele. Section 393.063(41), F.S.

⁶ The Long-Range Plan, p. 79.

⁷ Section 393.063(24)(a), F.S. For the purposes of this definition, the term “adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community. The term “significantly sub-average general intellectual functioning” means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency.

⁸ The Long-Range Plan, p. 73.

severity, causes lifelong intellectual disability and developmental delays, and, in some people, causes health problems.^{9, 10}

Prader-Willi syndrome¹¹ 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.¹²

Phelan-McDermid syndrome¹³ 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.¹⁴

Autism

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.¹⁵ Autism spectrum disorder (ASD) includes autism, Asperger's syndrome, and any other pervasive developmental disorder.¹⁶ The Centers for Disease Control and Prevention (CDC) estimates that approximately one in 44 children has ASD.¹⁷ The CDC also estimates that over 5.4 million adults have ASD.¹⁸

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 an ASD can be confusing to any person unfamiliar with the condition, including law enforcement. Law enforcement can mistake the

⁹ *Id.* at 69.

¹⁰ Down syndrome is defined in statute as a disorder caused by the presence of an extra chromosome 21. Section 393.063(15), F.S.

¹¹ Prader-Willi syndrome is defined in statute as an inherited condition typified by neonatal hypotonia with failure to thrive, hyperphagia or an excessive drive to eat which leads to obesity usually at 18 to 36 months of age, mild to moderate intellectual disability, hypogonadism, short stature, mild facial dysmorphism, and a characteristic neurobehavior. Section 393.063(29), F.S.

¹² The Long-Range Plan, p. 77.

¹³ Phelan-McDermid Syndrome is defined in statute as a disorder caused by the loss of the terminal segment of the long arm of chromosome 22, which occurs near the end of the chromosome at a location designated q13.3, typically leading to developmental delay, intellectual disability, dolicocephaly, hypotonia, or absent or delayed speech. Section 393.063(28), F.S.

¹⁴ The Long-Range Plan, p. 77.

¹⁵ Section 393.063(5), F.S.

¹⁶ Section 627.6686(2)(b), F.S.

¹⁷ The Centers for Disease Control and Prevention (The CDC), *Data & Statistics on Autism Spectrum Disorder*, available at <https://www.cdc.gov/ncbddd/autism/data.html> (last visited March 30, 2023).

¹⁸ The CDC, *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 visited March 30, 2023).

signs of autism with behaviors typically associated with those of criminals.¹⁹ 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.²⁰ Escalation describes the response of a person with ASD under stress or in an unfamiliar situation.²¹ Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, become combative, or simply shut down.²² The individual may cover his or her ears and shriek, not knowing how or where to get help.²³ 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.²⁴

Mental Health and Mental Illness

Mental health is a state of well-being in which the individual realizes his or her own abilities, can cope with the normal stresses of life, can work productively and fruitfully, and is able to contribute to his or her community.²⁵

The primary indicators used to evaluate an individual's mental health are:

- **Emotional well-being-** Perceived life satisfaction, happiness, cheerfulness, peacefulness;
- **Psychological well-being-** Self-acceptance, personal growth including openness to new experiences, optimism, hopefulness, purpose in life, control of one's environment, spirituality, self-direction, and positive relationships; and
- **Social well-being-** Social acceptance, beliefs in the potential of people and society as a whole, personal self-worth and usefulness to society, sense of community.

Mental illness is collectively all diagnosable mental disorders or health conditions that are characterized by alterations in thinking, mood, or behavior (or some combination thereof) associated with distress or impaired functioning.²⁶ Thus, mental health refers to an individual's mental state of well-being whereas mental illness signifies an alteration of that well-being. Mental illness affects millions of people in the United States each year. Nearly one in five adults lives with a mental illness.²⁷ During their childhood and adolescence, almost half of children will

¹⁹ Randy Lambert, *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, p. 48 (2018), available at <https://lawpublications.barry.edu/cflj/vol6/iss1/3> (last visited March 30, 2023).

²⁰ Bernard J. Farber, *Police Interaction With Autistic Persons: The Need For Training*, Aele Monthly Law Journal, p. 106 (2009), available at <https://www.aele.org/law/2009all07/2009-07MLJ101.pdf> (last visited March 30, 2023).

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ *Id.*

²⁵ World Health Organization, *Mental Health: Strengthening Our Response*, <https://www.who.int/news-room/factsheets/detail/mental-health-strengthening-our-response> (last visited March 30, 2023).

²⁶ *Id.*

²⁷ National Institute of Mental Health (NIH), *Mental Illness*, <https://www.nimh.nih.gov/health/statistics/mental-illness> (last visited March 30, 2023).

experience a mental disorder, though the proportion experiencing severe impairment during childhood and adolescence is much lower, at about 22 percent.²⁸

Some examples of common mental health illnesses or disorders that can negatively impact how a person interacts with others, such as law enforcement officers, include schizophrenia, bipolar disorder, borderline personality disorder, and antisocial personality disorder.²⁹

Alzheimer's Disease

Alzheimer's disease is a form of dementia, a general term for memory loss. 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. 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.³⁰

Florida has an increasing number of individuals with Alzheimer's disease. An estimated 580,000 Floridians have Alzheimer's disease.³¹ The projected number of Floridians with Alzheimer's disease is estimated to increase by 24 percent to 720,000 individuals by 2025.³²

Interactions with Law Enforcement for Individuals with Alzheimer's and Dementia

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.³³ 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.³⁴

Voluntary Registry Systems

Law enforcement agencies nationwide have begun utilizing voluntary registry systems that provide officers with relevant information on individuals with special needs, including those with Alzheimer's disease.³⁵ Law enforcement agencies have found that such registries can:

²⁸ *Id.*

²⁹ See National Alliance Mental Illness, *Mental Health Disorders*, available at <https://www.nami.org/About-Mental-Illness/Mental-Health-Conditions>; Psychiatry Online, *Contact Between Police and People With Mental Disorders: A Review of Rates*, available at <https://ps.psychiatryonline.org/doi/10.1176/appi.ps.201500312> (all sites last visited March 30, 2023).

³⁰ Alzheimer's Association, *2021 Alzheimer's Disease Facts and Figures* available at <https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf> (last visited March 30, 2023).

³¹ The Department of Elder Affairs, *2021 Alzheimer's Disease Advisory Committee Annual Report*, p. 4, available at https://elderaffairs.org/wp-content/uploads/ADAC-Report-2021_FINAL.pdf (last visited March 30, 2023).

³² *Id.*

³³ Alzheimer's Association, *Alzheimer's Disease Guide for Law Enforcement*, available at https://www.alz.org/national/documents/safereturn_lawenforcement.pdf (last visited March 30, 2023).

³⁴ *Id.*

³⁵ The International Association of Chiefs of Police (IACP), *A Guide to Law Enforcement on Voluntary Registry Programs for Vulnerable Populations*, p. 2, available at

- Promote community safety;
- Improve officer safety;
- Increase the speed and efficiency in which officers are able to respond, decreasing department liability;
- Reduce strain on department resources, both human and financial, during emergencies;
- Give community members peace of mind; and
- Promote community partnerships in responding to special needs community members.³⁶

Voluntary registry systems allow law enforcement to obtain information that assists in response to calls for service involving individuals with conditions such as Alzheimer’s disease.³⁷

Voluntary registry systems have also proven helpful in responding to individuals in other special needs populations. Departments utilize the system for community members living with ASD, developmental disabilities, attention deficit/hyperactivity disorder (ADHD), epilepsy, brain injury, mental illness, and other disabilities that may affect the way individuals interact and respond to law enforcement officers and other first responders.³⁸

Project Safe and Sound

In 2007, the Polk County Sheriff’s Office (PCSO) began utilizing a voluntary registry system, called Project Safe and Sound (PSS), which provides bracelets to registrants in an effort to help identify wandering individuals with Alzheimer’s disease and special needs children.³⁹

Caregivers choosing to participate are asked to complete an application/authorization form which requires specific information about the child or adult being registered. The agency then enters the information into the PSS database, making the information accessible to all Polk County first responders. After the information is entered, the special needs person will be issued a “Safe & Sound” bracelet, which includes an assigned number. The bracelet also includes emergency contact information engraved on the plate of the bracelet. In the event a special needs child or adult wanders off and is found, responding law enforcement personnel will be able to contact the PCSO and confirm the identity of the individual.⁴⁰ First responders will be provided the caregiver’s contact information so that the special needs person can be reunited with their caregiver.⁴¹

The PCSO was highlighted in *A Guide to Law Enforcement on Voluntary Registry Programs for Vulnerable Adults* for using existing grant funds to build and sustain the PSS program and leveraging a partnership with a local engraver who engraves PSS bracelets with ID numbers at no cost to the program.⁴²

https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry_0.pdf (last visited March 30, 2023)(hereinafter cited as “The IACP Guide”).

³⁶ *Id.*

³⁷ *Id.*

³⁸ *Id.* at 3.

³⁹ Polk County Sheriff’s Office, *Project Safe & Sound*, available at <http://www.polksheriff.org/programs-services/crime-prevention-programs-for-adults/project-safe-sound> (last visited March 30, 2023).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² The IACP Guide at 32 and 24.

III. Effect of Proposed Changes:

The bill creates s. 402.88, F.S., providing that the bill may be cited as the “Protect Our Loved Ones Act.” The bill authorizes a local law enforcement agency to develop and maintain a database, known as the “Special Needs Registry” of persons who may have developmental, psychological, or other disability or condition that may be relevant to their interactions with a law enforcement officer, including but not limited to, a confirmed diagnosis of the following:

- Autism spectrum disorder;
- Alzheimer’s disease or a related dementia disorder; and
- Down syndrome.

Confirmation of a disability or condition must be certified by a licensed physician or licensed physician assistant or a licensed advanced practice registered nurse. Confirmation of a psychological condition must be certified by a licensed psychologist, licensed mental health counselor, or a psychiatrist.

Any adult with a disability may enroll himself or herself in the registry. If an individual with a disability is a minor or has been declared incapacitated a parent or legal guardian may enroll the individual in the registry.

The bill requires proof of parentage, guardianship, or other legal authority be provided to local law enforcement at the time of registration. Documentation of legal authority for a parent or legal guardian to enroll a child or ward, which may include, but need not be limited to, proof of parentage or guardianship, as applicable:

- A birth certificate as described in s. 382.013, F.S.;⁴³
- A power of attorney, as defined in s. 709.2102(9), F.S.;⁴⁴
- A court order establishing parental rights or guardianship; or
- Letters of guardianship as described in s. 744.345, F.S.⁴⁵

An adult enrolled onto the registry by another person must be notified of that enrollment by the local law enforcement agency in writing at his or her address of record within five business days after such enrollment. A minor enrolled onto the registry must be notified of that enrollment by the local law enforcement agency in writing at his or her address of record within five business days after his or her 18th birthday.

A registration is valid until the person is removed from the registry. A minor or an incapacitated individual may be removed from the registry by his or her parent or legal guardian. A competent person who is 18 years old may remove himself or herself from the registry. A competent person

⁴³ A birth certificate is described as a certificate of live birth that occurs within this state filed within 5 days with the local registrar of the district in which the birth occurred and shall be registered by the local registrar if the certificate has been completed and filed in accordance with the statute.

⁴⁴ A “power of attorney” means a writing that grants authority to an agent to act in the place of the principal, whether or not the term is used in that writing.

⁴⁵ Letters of guardianship issued to the guardian must specify whether the guardianship pertains to the person, or property, or both of the ward. The letters must state whether the guardianship is plenary or limited, and, if limited, the letters must state the powers and duties of the guardian. The letters shall state whether or not and to what extent the guardian is authorized to act on behalf of the ward with regard to any advance directive previously executed by the ward.

who has reached 18 years of age may also choose to have his or her name removed from the registry. Upon a verbal or written request for removal of a person from the registry, a local law enforcement agency must remove an individual's information from the registry within five business days after the request is made.

The registry may include, but is not limited to the following:

- An enrollee's demographic and contact information, and information related to the enrollee's disability or condition;
- Contact information of those who have enrolled individuals on the registry; and
- Any additional information provided by the enrollee or the person who enrolled the listed person, including the certification of the condition or disability.

The bill expressly permits local law enforcement agencies to provide relevant information from the registry to a law enforcement officer engaged in his or her official duties.

The information provided to law enforcement officers under the bill may assist officers in their official duties by preparing them to respectfully and appropriately interact with an individual enrolled in the registry who has a relevant disability or condition.

The bill takes effect January 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill does not have a fiscal impact on state government. The bill may have a indeterminate negative fiscal impact on those law enforcement agencies that choose to create and maintain a Special Needs Registry.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 402.88 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on April 4, 2023:**

The committee substitute:

- Removes bipolar disorder from the list of confirmed conditions that may be eligible for enrollment in the registry.
- Requires that proof of parentage, guardianship, or other legal authority be provided to local law enforcement at the time of registration, and lists the documents law enforcement may accept as requisite proof of eligibility.

B. Amendments:

None.