

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 Appropriations Subcommittee on Health and Human Services

BILL: PCS/CS/SB 1040 (751752)

INTRODUCER: Appropriations Subcommittee on Health and Human Services; Children, Families, and Elder Affairs Committee; and Senator Brodeur

SUBJECT: Special Persons Registry

DATE: February 24, 2022

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
2.	<u>Gerbrandt</u>	<u>Money</u>	<u>AHS</u>	<u>Recommend: Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>AP</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

PCS/CS/SB 1040, 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 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 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 a negative yet indeterminate fiscal impact on those law enforcement agencies that choose to create and maintain a Special Needs Registry.

The bill takes effect January 1, 2023.

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

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 (2021)*, available at <http://floridafiscalportal.state.fl.us/Document.aspx?ID=23172&DocType=PDF> (last visited February 3, 2022) (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), 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 *Id.* at 73.

⁹ *Id.* Down syndrome is defined in statute as a disorder caused by the presence of an extra chromosome 21. Section 393.063(15), F.S.

Prader-Willi syndrome¹⁰ 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.¹¹

Phelan-McDermid syndrome¹² 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.¹³

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.¹⁴ Autism spectrum disorder (ASD) includes autism, Asperger's syndrome, and any other pervasive developmental disorder.¹⁵ The Centers for Disease Control and Prevention (CDC) estimates that approximately one in 44 children has ASD.¹⁶ The CDC also estimates that over 5.4 million adults have ASD.¹⁷

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 signs of autism with behaviors typically associated with those of criminals.¹⁸ 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

¹⁰ 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.

¹¹ *Id.*

¹² 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.

¹³ *Id.*

¹⁴ Section 393.063(5), F.S.

¹⁵ Section 627.6686(2)(b), F.S.

¹⁶ 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 February 3, 2022).

¹⁷ 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 February 3, 2022).

¹⁸ 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 February 3, 2022).

poses a particular problem in encounters with law enforcement.¹⁹ Escalation describes the response of a person with ASD under stress or in an unfamiliar situation.²⁰ Overwhelmed by the barrage of sensory information, a person with ASD may attempt to flee the uncomfortable situation, become combative, or simply shut down.²¹ The individual may cover his or her ears and shriek, not knowing how or where to get help.²² 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.²³

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.²⁴

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.²⁵ 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.²⁶ During their childhood and adolescence, almost half of children will experience a mental disorder, though the proportion experiencing severe impairment during childhood and adolescence is much lower, at about 22 percent.²⁷

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.²⁸

¹⁹ Bernard J. Farber, *Police Interaction With Autistic Persons: The Need For Training*, *AeL Monthly Law Journal*, p. 106 (2009), available at <https://www.aele.org/law/2009all07/2009-07MLJ101.pdf> (last visited February 3, 2022).

²⁰ *Id.*

²¹ *Id.*

²² *Id.*

²³ *Id.*

²⁴ World Health Organization, *Mental Health: Strengthening Our Response*, <https://www.who.int/news-room/factsheets/detail/mental-health-strengthening-our-response> (last visited February 4, 2022).

²⁵ *Id.*

²⁶ National Institute of Mental Health (NIH), *Mental Illness*, <https://www.nimh.nih.gov/health/statistics/mental-illness> (last visited Feb.4, 2022).

²⁷ *Id.*

²⁸ 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 February 5, 2022).

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.²⁹

Florida has an increasing number of individuals with Alzheimer's disease. An estimated 580,000 Floridians have Alzheimer's disease.³⁰ The projected number of Floridians with Alzheimer's disease is estimated to increase by 24% to 720,000 individuals by 2025.³¹

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.³² 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.³³

Florida Crime Information Center (FCIC) System

The Florida Crime Information Center (FCIC) system is an electronic database that provides criminal justice agencies with access to federal and state criminal justice information. The FCIC is managed by FDLE and contains information as reported to FDLE by law enforcement agencies through the state.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:

²⁹ Alzheimer's Association, *2021 Alzheimer's Disease Facts and Figures*, p. 69, available at <https://www.alz.org/media/documents/alzheimers-facts-and-figures.pdf> (last visited February 3, 2022).

³⁰ 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 February 3, 2022).

³¹ *Id.*

³² Alzheimer's Association, *Alzheimer's Disease Guide for Law Enforcement*, available at https://www.alz.org/national/documents/safereturn_lawenforcement.pdf (last visited February 3, 2022).

³³ *Id.*

³⁴ The FDLE, *The FCIC*, available at <https://web.fdle.state.fl.us/pas/restricted/PAS/home/home.jsf> (last visited February 3, 2022).

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 https://www.theiacp.org/sites/default/files/Alz%20Voluntary%20Registry_0.pdf (last visited February 3, 2022)(hereinafter cited as "The IACP Guide").

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

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 February 3, 2022).

⁴⁰ *Id.*

⁴¹ *Id.*

⁴² The IACP Guide at 32 and 24.

Florida Special Needs Registry

The DOH, in coordination with its county health departments and each local emergency management agency in the state, developed a registry for persons with special needs to register with their local emergency management agency to receive assistance during a disaster. The statewide registry provides first responders with valuable information to prepare for disasters or other emergencies.⁴³ All records, data, information, correspondence, and communications relating to the registry are confidential and exempt from Florida's public records laws.⁴⁴

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; Dementia; Bipolar 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.

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

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. 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.

⁴³ Florida Department of Health, *Florida Special Needs Registry*, available at: <https://snr.flhealthresponse.com/> (last visited February 17, 2022).

⁴⁴ Sections 252.905, and 252.355(4), F.S., both provide a public records exemption for information related to the Florida Special Needs Registry.

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;

Any additional information including the certification of the condition or disability; and

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, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, Section 18 of the Florida Constitution.

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 negative yet indeterminate 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 Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

Recommended CS/CS by Appropriations Subcommittee on Health and Human Services on February 22, 2022:

The committee substitute:

- Authorizes a local law enforcement agency, rather than the DOH, to develop and maintain Special Persons Registry databases. Each local law enforcement agency has discretion in whether or not they wish to establish such a database.
- Revises who can enroll an individual 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. Deletes caregivers from the list of persons that may enroll an individual on the registry.
- Requires that an individual be notified in writing by the local law enforcement agency that they have been enrolled in the registry. A minor must be notified in writing that they are enrolled in the registry five days after his or her 18th birthday.
- Revises who can be enrolled onto the registry from those who may have a developmental, psychological, or other disability or condition to those with a confirmed diagnosis. Confirmation of the disability or condition must be made by a licensed physician, physician's assistant, or advanced practice registered nurse. Confirmation of a psychological condition must be made by a certified psychologist, mental health counselor, or a psychiatrist.
- Provides a means to remove an individual from the registry. Specifically:
 - Any competent person over the age of 18 years old may remove oneself from the registry.
 - A minor may be removed by his or her parents or legal guardian.
 - An incapacitated adult may be removed by his or her legal guardian.

- Requires a law enforcement agency to remove a person from the registry upon a verbal or written request. The person must be removed from the registry within five business days after the request is made.
- Revises the information that may be included in the registry. Specifically:
 - Adds the certification of the condition or disability.
 - Removes a provision allowing any information requested by the DOH or the FDLE or otherwise held by a law enforcement agency, a county emergency management agency, or a local fire department for the purpose of assisting law enforcement officers, emergency medical personnel, or fire personnel in responding to a call.
- Authorizes a local law enforcement agency, rather than the FDLE, to provide relevant information from the registry to a law enforcement officer engaged in his or her official duties.
- Removes from the underlying bill a requirement that the DOH provide certain information to a law enforcement officer engaged in their duties upon an officer's request made through the Florida Crime Information Center.
- Revises the effective date from March 1, 2023, to January 1, 2023.

CS by Children, Families, and Elder Affairs on February 8, 2022:

The Committee Substitute:

- Changes the name of the voluntary registry created by the bill from “Registry of Persons with Special Needs” to the “Special Persons Registry”.
- Changes the entity creating and maintaining the registry from the APD to the DOH.
- Revises the effective date to March 1, 2023.

B. Amendments:

None.