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FISCAL IMPACT REPORT

ORIGINAL DATE 02/17/21

SPONSOR Thomson LAST UPDATED _____ HB 223

SHORT TITLE Nontraditional Comm or Disability Registry SB _____

ANALYST Glenn

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT (dollars in thousands)

	FY21	FY22	FY23	3 Year Total Cost	Recurring or Nonrecurring	Fund Affected
	\$0	\$269.0	\$0	\$269.0	Nonrecurring	General Fund
	\$0	\$6.0	\$6.0	\$12.0	Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Department of Public Safety (DPS)

Commission for Deaf & Hard-of-Hearing Persons (CDHH)

SUMMARY

Synopsis of Bill

House Bill 223 adds a new section to the Motor Vehicle Code requiring TRD to “create and maintain a statewide registry referred to as the ‘nontraditional communication or disability registry’ to identify motor vehicles that may be driven or occupied by a person who has been diagnosed by a licensed health practitioner with a condition or disability that may cause the person to fail to be able to communicate with a law enforcement officer or to respond appropriately to a law enforcement officer’s commands.” Conditions and disabilities contemplated by the bill include “autism spectrum disorder, deafness, a brain injury, an intellectual disability or seizure disorder.”

HB223 provides that participation in the registry is optional. A person may add a vehicle to the registry when the person applies for the registration of the vehicle and certificate of title. The bill requires an applicant to submit “evidence satisfactory to” the Motor Vehicle Division (MVD) that the vehicle will regularly be driven or occupied by a person diagnosed by a licensed health practitioner with a condition or disability that may affect that person’s ability to interact with a

law enforcement officer. The registry would be available online to members of law enforcement agencies that enforce traffic laws, but otherwise would not be publicly available. HB223 exempts the registry from the Inspection of Public Records Act.

HB223 adds a new section to the Human Rights Act that requires law enforcement officers to consult the registry prior to interacting with a person in a motor vehicle, if practicable. If the motor vehicle is on the registry, the law enforcement officer must “take appropriate precaution” during the interaction. If the registry reveals that a driver or occupant of the vehicle has a seizure disorder or photosensitive epilepsy, the officer must minimize the use of flashing lights to the extent possible, taking safety into consideration.

HB223 has an effective date of January 1, 2022.

FISCAL IMPLICATIONS

TRD states that implementation, support and maintenance of the registry would impact TRD’s Information Technology Division. The estimated time to develop, test and implement the necessary changes is approximately 960 hours or 6 months, with a cost of approximately \$269 thousand (\$219 thousand for contractual resources and \$50 thousand for staff workload costs). There will be an additional annual recurring effort of approximately 120 hours or \$6,000 in staff workload costs for ongoing maintenance of the registry.

SIGNIFICANT ISSUES

In its analysis of an identical bill introduced during the 2019 legislative session (HB136), the Developmental Disabilities Planning Council states that the safety of drivers that either communicate in nontraditional ways or have disabilities that affect their reactions when they are stopped by police have been a concern within the disability community for the past few years. Incidents where communication between police and these individuals was either unclear or confusing have led to drivers being placed at risk. DDPC states the bill would provide a way for officers to know if a driver could potentially face communication or behavioral difficulties during a police stop. It would also let the police adapt their communication and operations during traffic stops to accommodate a range of people with diverse disabilities. In doing this, the probability of incidents where police are unable to communicate with a driver and ascertain whether the driver poses a threat can be significantly decreased.

TRD notes that the bill raises potential HIPAA issues. MVD would need to work with the Human Services Department’s Office of General Counsel to make sure that any authorization an applicant with medical conditions will sign authorizing their medical conditions to go into the registry or MVD vehicle records complies with HSD rules pertaining to HIPAA.

CDHH notes that HB223 provides no clear process for transportation agencies that use fleet or multipurpose vehicles to transport individuals with medical conditions or disabilities to include eligible occupants or drivers on the registry.

CDHH also notes that the registry identifies persons who have a “medical diagnosis by a licensed health professional” of a condition or disability. According to CDHH, medical documentation of hearing loss such as audiograms are not always performed by a licensed health practitioner. They are sometimes done by hearing aid dispensers, who are licensed but are not

considered health care practitioners.

ADMINISTRATIVE IMPLICATIONS

TRD states that MVD systems currently do not capture autism, brain injury, or intellectual disability. Implementation of this bill would require changes to MVD's medical report to capture these medical conditions. TRD states that application and configuration changes are required to add additional medical questions to the registration and titling of the vehicle processes and new database fields/tables will be required to create the registry. Additionally, the bill requires changes to the application and approval process for MVD driver transactions and to the NIC interface for communication with law enforcement agencies. In light of the considerable effort necessary to implement the bill, TRD suggests an amended effective date of July 1, 2022.

TECHNICAL ISSUES

DPS suggests that diabetes be added to the bill's list of conditions or disabilities. According to DPS, traffic stops appearing to be DWI investigations occasionally turn out to be a person showing signs of insulin or diabetic shock. Notification through the registry could expedite an appropriate medical response.

ALTERNATIVES

TRD states that it may not be necessary to create a registry if MVD is able to accommodate the information necessary to satisfy the intent of HB223 within the data fields of its vehicle system (Tapestry). Law enforcement officers are able to view MVD driver and vehicle records through an interface within Tapestry. TRD believes that adding data fields to Tapestry would accomplish the same goal of creating a registry.

BG/al