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FISCAL IMPACT REPORT

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| SPONSOR <u>Thomson</u> | LAST UPDATED <u>2/8/23</u> ORIGINAL DATE <u>1/24/23</u> |
| SHORT TITLE <u>Nontraditional Communication Registry</u> | BILL NUMBER <u>House Bill 40/aHJC</u> |
| ANALYST <u>Anderson</u> | |

ESTIMATED ADDITIONAL OPERATING BUDGET IMPACT* (dollars in thousands)

| | FY23 | FY24 | FY25 | 3 Year Total Cost | Recurring or Nonrecurring | Fund Affected |
|--------------|------------------|----------------|--------------|-------------------|---------------------------|--|
| | No fiscal impact | \$235.2 | | | Nonrecurring | TRD Information Technology Division- <i>Contractual Costs</i> |
| | | \$62.2 | | | Nonrecurring | TRD Information Technology Division- <i>Contractual Costs</i> |
| | | \$6.7 | \$6.7 | \$13.4 | Recurring | TRD Information Technology Division- <i>Contractual Costs</i> |
| Total | | \$322.1 | \$6.7 | \$13.4 | | |

Sources of Information

LFC Files

Responses Received From

Taxation and Revenue Department (TRD)

Commission for the Deaf and Hard-of-Hearing Persons (CDHH)

Governor’s Commission on Disabilities (GCD)

No Response Received

Department of Public Safety (DPS)

SUMMARY

Synopsis of HJC Amendment to House Bill 40

On page 2, line 7, “dementia” has been added to the list of conditions or disabilities that could interfere with an individual’s ability to communicate with a peace officer. Dementia has also been added to the list of health conditions on page 6 of the bill language to add continuity with individuals listed on page 2.

Amendments to House Bill 40 also included the addition of “if practicable” after the word “To” on page 1, line 13. “If practicable” previously occurred in a later line and does not change the context in the situation that a peace officer shall consult the national crime information center system or other electronic motor vehicle record management system to determine if a vehicle is on the nontraditional communication register. The language “if practicable” has replaced “shall” on page 3 to add continuity with this amendment on page 1. The striking of “if practicable” later in the paragraph moves the verbiage to an earlier part of the paragraph and provides no substantive changes with the adjustment.

Finally, “January” has been replaced with “July” on the final page of the bill. This change will alter the effective date of the legislation to a later time in 2024.

Synopsis of House Bill 40

House Bill 40 adds a new section to the Motor Vehicle Code requiring the creation and maintenance of a statewide “nontraditional communication or disability registry” to identify motor vehicles that may be driven or occupied by a person who has a medical diagnosis of a condition or disability that may cause the person to be unable to communicate with a law enforcement officer or respond appropriately to commands. This registry is to be checked by law enforcement before approaching the driver of a motor vehicle to make sure that proper precautions are used during the interaction. Medical diagnosis of a condition or disability that may cause the person to “fail to be able to communicate” include deafness, brain injury, autism spectrum disorder, and behavioral health disorders.

The registry will have pertinent information regarding the conditions and disabilities of drivers and or occupants of the motor vehicle. The peace officer would be able to access this registry, which would be exempt from the Inspection of Public Record Act (IPRA) and maintained in a secure, agency-maintained, database. The Taxation Revenue Department (TRD) must provide online access to the registry to members of law enforcement agencies that enforce traffic laws.

This bill amends Section 66-3-4 NMSA 1978 to require the Motor Vehicle Division (MVD) to include in the application for registration and certificate of title a place for vehicle owners to provide the necessary information that will add them to this registry. The bill also adds a new section to Chapter 29, Article 1, NMSA 1978 to require all law enforcement personnel to consult the registry prior to interacting with a person inside a motor vehicle.

The effective date of this bill is January 1, 2024, however the amendment changes the effective date to July.

FISCAL IMPLICATIONS

TRD states the cost of developing, implementing, securing, and maintaining a new registry on a statewide basis will require coordination among various departments but primarily outlined the costs for the Information Technology Division (ITD). MVD might need additional FTE to implement, support, and maintain the registry. In a 2017 analysis of House Bill 283, TRD responded the total time to complete, test, and implement changes would be approximately 480 hours (three months) or \$133,600 (\$33.6 thousand in state resources and \$100 thousand for contractual resources). The MVD systems, at that time, did not capture autism, brain injury, and intellectual disability and would need to be changed to capture these conditions, along with the

systems used to report and approve medical conditions. That analysis stated IT contract costs for communication with law enforcement agencies could be absorbed by the MVD operating budget. Establishing a registry could create an expectation that the program will continue in future fiscal years; therefore, TRD contract costs are assumed to be recurring.

Another fiscal component would be the potential additional training for peace officers in both accessing the registry and using the appropriate steps to interact with individuals who qualify for the registry. Consideration should also be given to the potential cost of public communications for notifying the affected communities to register. Peace officers can be appropriately trained to use the tools and methods to recognize an individual has a nontraditional communication method or disability without the need for information in the directory. However, at this time the bill does not indicate there will be additional training with or without the directory. As such, the bill does not address what will happen after the driver's status has been determined.

SIGNIFICANT ISSUES

An optional registry of vehicles would likely fall short of ensuring peace officers were prepared for all affected drivers. The registry would not capture a driver who qualifies as a nontraditional communicator if the driver is in a vehicle owned by someone else. An optional registry could exclude anyone who declined to register due to privacy concerns or because they were not directly responsible for registration after purchasing a new vehicle.

Privacy issues may arise if any agency uses fleet or multipurpose vehicles to transport individuals with nontraditional communication and the bill does not address a process for how a transport agency would include occupants or drivers on the registry.

In addition, the requirement in House Bill 40 that the medical condition be verified by a licensed healthcare provider could exclude medical documents for hearing loss, such as audiograms, which can be done by hearing aid dispensers.

Finally, the bill improves the likelihood of recognition of a disability but it does not clarify who will advise or train the law enforcement officers on the best practices for the communication barriers. Many state agencies are available to communicate and work with law enforcement but have not been contacted. The agencies that focus on nontraditional communication barriers may already have best practices guidelines which will expedite the training process.

PERFORMANCE IMPLICATIONS

This bill may slow the response time of a peace officer during an ongoing traffic situation while the officer checks the registry.

ADMINISTRATIVE IMPLICATIONS

TRD stated in the 2017 analysis of House Bill 283 that adding driver information pertaining to an individual's health to a vehicle record is risky. Implementation of MVD's Tapestry system has been very successful; however, despite extensive data cleansing there are occasions when MVD did not have sufficient data in the legacy system completely link a customer's driver and vehicle information in the new system, resulting in data on the wrong record, outdated data, and

missing data. It would be preferential to have the registry pertain to the driver record so MVD will have sufficient unique identifying information and can establish the relationship to any vehicle they may be driving. Doing this may require a change to the registration renewal notice to allow vehicle owners to write in a condition and submit a medical document. This would also require additional FTE resources at MVD to administer the program.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

Relates to similar House Bill 223 from the 2021 session and House Bill 283 from the 2017 session.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

In the last several years, there have been several well-known incidents, including some involving traffic stops, of a peace officer interacting with a person with a disability or condition and the incident escalated to the use of force. In 2021, a traffic stop involving a person who was deaf escalated and resulted in injuries to the officer and the individual and substantial litigation costs. Inaction on this issue leaves the state vulnerable to similar incidents and costs.

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