

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 5281

By Delegate Kirby, Toney and Brooks

[Introduced; Introduced January 29, 2024; Referred to
the Committee on Health and Human Resources then
the Judiciary]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new article,
 2 designated §61-7C-1, relating to the creation of a Persons with Disabilities Registry; and
 3 providing for a public records exemption.

Be it enacted by the Legislature of West Virginia:

ARTICLE 7C. PERSONS WITH DISABILITIES REGISTRY.

§61-7C-1. Persons with Disabilities Registry; public records exemption.

1 (a)(1) A local law enforcement agency may develop and maintain a database, to be known
 2 as a "Persons with Disabilities Registry," listing persons who have developmental, psychological,
 3 or other disabilities or conditions that may be relevant to their interactions with law enforcement
 4 officers. Persons with any type of confirmed developmental, psychological, or other disability or
 5 condition, including, but not limited to, autism spectrum disorder, Alzheimer’s disease or a
 6 dementia-related disorder, or Downs syndrome, may be enrolled in a registry.

7 (2) An adult with a disability or condition may enroll himself or herself in a registry. If a
 8 person with a disability has been declared incapacitated under §61-2-29 of this code, a parent or
 9 legal guardian of the person may enroll him or her in a registry. An incapacitated adult enrolled by
 10 another person must be notified of that enrollment by the local law enforcement agency in writing
 11 at his or her address of record within five business days after enrollment in a registry.

12 (3) A minor with a disability or condition may be enrolled in a registry by his or her parent or
 13 legal guardian. A minor who was enrolled by another person must be notified by the local law
 14 enforcement agency in writing of that enrollment at his or her address of record within five
 15 business days after he or she reaches 18 years of age.

16 (4) At the time of registration, proof of eligibility for enrollment in a registry must be
 17 submitted to the local law enforcement agency. The local law enforcement agency may accept any
 18 of the following documents for proof of eligibility:

19 (A) Certification of the disability or condition from a:

20 (i) Physician or physician assistant licensed under §30-3-1 et seq. of this code or an

21 advanced practice registered nurse licensed under §30-3-1 et seq. of this code; or

22 (ii) Psychologist licensed under §27-1-10 of this code, a mental health counselor licensed
23 under §30-31-3 of this code, or a psychiatrist as defined in this code, if the registration is based on
24 psychological conditions.

25 (B) Documentation of the legal authority for a parent or legal guardian to enroll a child or
26 ward, including, but not limited to, proof of parentage or guardianship, through:

27 (i) A birth certificate as described in §16-5-10 of this code;

28 (ii) A power of attorney, as defined in §39B-1-1 et seq. of this code;

29 (iii) A court order establishing parental rights or guardianship; or

30 (iv) Letters of guardianship as described in §44-10-3 of this code.

31 (5) A registration is valid until the person is removed from the registry. A minor or an
32 incapacitated adult may be removed from a registry by the minor's parent or legal guardian or the
33 adult's legal guardian, respectively. A competent person who has reached 18 years of age may
34 also choose to have his or her name removed from a registry. Upon a valid verbal or written
35 request for removal of a person from a registry, the local law enforcement agency must remove the
36 person's information from the registry within five business days after the request is made.

37 (b) A registry may include, but need not be limited to, any of the following information:

38 (1) The listed person's name, contact information, personal identifying information, and
39 disability or condition that may be relevant to interactions with law enforcement officers.

40 (2) If a person did not enroll himself or herself, the name, contact information, and personal
41 identifying information of the person who enrolled the listed person in the registry.

42 (3) Any additional information provided by the enrollee or the person who enrolled the
43 listed person in the registry, including the certification of the disability or condition.

44 (4) A local law enforcement agency may provide relevant information from a registry to a
45 law enforcement officer engaged in his or her official duties.

46 (c) All records and personal identifying information relating to the enrollment of persons in

47 a persons with disabilities registry held by a local law enforcement agency are confidential and
48 exempt from disclosure under FOIA. It is the intent of the Legislature that this exemption apply to
49 persons with disabilities registries held by a local law enforcement agency before, on, or after the
50 effective date of this paragraph.

51 (d) Information made confidential and exempt by this subsection may be disclosed upon a
52 showing of good cause before a court of competent jurisdiction, or in furtherance of the official
53 duties and responsibilities of the agency holding the information, to:

54 (1) Another local law enforcement agency;

55 (2) A county emergency management agency;

56 (3) A local fire department; or

57 (4) Another local, state, or federal agency.

58 (e) The entities or persons receiving such information shall maintain the exempt status of
59 the information.

NOTE: The purpose of this bill is to create a Persons with Disabilities Registry; and provide for a public records exemption.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.