

Disclosure Without Duty:

Illinois's Disability Designation and the Standard It Inverts

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Abstract

On August 21, 2026, Illinois enacted a statute permitting driver's license applicants to request an intellectual disability or autism spectrum disorder designation on the credential. The measure joins three existing instruments aimed at the same encounter, awareness registration plates, awareness decals, and the Blue Envelope Program enacted three months earlier, and like each of its predecessors, it moves information from the disabled person toward the officer while attaching no obligation to the officer who receives it. This Article argues that the designation inverts the allocation of duty that federal disability law already fixes. Under Title II of the Americans with Disabilities Act and its implementing regulations, the obligation to communicate effectively rests on the public entity and is not conditioned on self-identification, and the governing wrongful-arrest standard asks whether the officer knew *or should have known* of the disability. A designation regime converts that constructive-knowledge standard into an actual-notice production burden carried by the protected class. The Article further contends that the statute's voluntariness defense fails on its own terms. Survey evidence establishes that a majority of autistic adults decline to disclose a diagnosis to police, and that the stated reason is fear of how police will respond, so the statute solicits from the protected class precisely the conduct that class has already declined for reasons the record supplies. Finally, the designation is keyed to the one encounter in which a licensed driver produces a credential, while the encounters that generate serious injury are pedestrian stops, welfare checks, and family emergency calls, several of them cases in which the disability was already known to the responding agency. The enrolled text confirms a further asymmetry. The same statute amends the Vehicle Code's confidentiality section to add confirmation of an intellectual disability or autism spectrum disorder to the documents held by the Secretary of State, and then exempts from confidentiality both law enforcement officials conducting any civil or criminal investigation and any other entities the Secretary may authorize by rule. Three months earlier the same legislature enacted a companion disclosure tool that expressly forbids entering the same information into any database. The Article closes by identifying what a duty-creating statute would contain, using a sister-state enactment that paired an identical designation with a mandatory training requirement.

Keywords: disability civil rights; ADA Title II; effective communication; constructive knowledge; wrongful arrest; autism; intellectual disability; police encounters; disclosure burden; surcharge prohibition; coerced disclosure; Illinois Vehicle Code.

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I. Introduction

On Friday, August 21, 2026, the Governor of Illinois signed Senate Bill 2524, which allows a driver's license applicant to request that an intellectual disability or autism spectrum disorder designation appear on the license.¹ The measure takes effect July 1, 2027.² An earlier version required a specialist's form confirming the diagnosis; the House removed that requirement before passage, so no medical form is demanded at the point of application, while the form of the mark is left to the Secretary of State and the statute's confidentiality section continues to contemplate a confirmation document in the Secretary's hands.³

The measure is presented as an accommodation. It is better understood as a transfer. Federal disability law already assigns the communication obligation in an encounter between a public entity and a disabled person, and it assigns it to the entity.⁴ The federal standard governing wrongful arrests of disabled people asks whether the officer knew or should have known of the disability, a constructive-knowledge test that does not depend on what the disabled person managed to produce.⁵ Illinois has now created a mechanism whose entire operation consists of supplying the actual notice that the constructive standard does not require, and has attached to it no obligation on the receiving side.

1. Office of the Governor, *Gov. Pritzker Takes Bill Action* (Aug. 21, 2026) (describing S.B. 2524 as allowing driver's license applicants to request an intellectual disability or autism spectrum disorder designation on their driver's license).

2. *Id.*; see also Dominic Genetti, *Illinois Autism Driver's License Bill Facing May 22 Deadline*, Jacksonville J.-Courier (May 20, 2026) (reporting the July 1, 2027 effective date and the absence of any specified emblem).

3. Dominic Genetti, *Pritzker to Decide Illinois Bills on Autism IDs, Court Texts and More*, Alton Telegraph (June 1, 2026) (reporting the removal of the medical form requirement); see *infra* Parts II.A, VI (tracing the amendment history and the confirmation document through the enrolled text).

4. 28 C.F.R. § 35.160(a)(1) (2026) ("A public entity shall take appropriate steps to ensure that communications with applicants, participants, members of the public, and companions with disabilities are as effective as communications with others.").

5. *Leibel v. City of Buckeye*, 556 F. Supp. 3d 1042 (D. Ariz. 2021) (holding Title II reaches investigative detentions and applying the wrongful-detention elements); see also *Leibel v. City of Buckeye*, 364 F. Supp. 3d 1027 (D. Ariz. 2019) (earlier order on the motion to dismiss). The elements originate in district court practice rather than circuit holding. See *Lawman v. City & County of San Francisco*, 159 F. Supp. 3d 1130, 1147 (N.D. Cal. 2016). Part III.B states this qualification.

The Article proceeds in six parts. Part II establishes what the statute does and situates it as the fourth Illinois instrument aimed at the same encounter, none of which imposes a duty on the officer. Part III shows that the duty already runs the other way, drawing on the effective-communication regulation, the constructive-knowledge standard in wrongful-arrest doctrine, and the surcharge prohibition at 28 C.F.R. § 35.130(f). Part IV takes up the voluntariness defense and argues that it fails on the empirical record, because a majority of autistic adults decline to disclose to police and the recorded reason is fear of the response. Part V shows that the designation is keyed to the wrong encounter. Part VI identifies what the enacted text does not constrain. Part VII sets out what a duty-creating statute contains, using a sister-state enactment that paired the same designation with a training mandate.

A. A Note on Scope

This Article addresses the allocation of legal obligation, not the sincerity of the measure’s sponsors or the preferences of families who may want the designation. Nothing here turns on legislative motive. The argument is that a statute which solicits disclosure without attaching a duty leaves the protected class worse positioned than the existing federal baseline, because it supplies an actual-notice practice that can be pointed to in place of the constructive standard the law already imposes.

II. The Statute and Its Predecessors

A. What Senate Bill 2524 Does

The enrolled bill amends Sections 6-104, 6-110, and 6-110.2 of the Illinois Vehicle Code and adds Sections 1-104.7 and 1-131.7.⁶ The operative provision is a new subsection: upon request by an applicant who has an intellectual disability or autism spectrum disorder, the driver’s license of the applicant shall indicate, in a manner and form determined by the Secretary of State, that

6. S.B. 2524, 104th Gen. Assemb., Reg. Sess. (Ill. 2026) (enrolled) (LRB104 12319 LNS 22477 b), § 5.

the applicant has an intellectual disability or autism spectrum disorder.⁷ The Act takes effect July 1, 2027.⁸

The two new definitional sections are worth noting because they fix the class the designation identifies. Autism spectrum disorder is defined by reference to the Diagnostic and Statistical Manual, in the most recent edition or the edition current at the time of diagnosis.⁹ Intellectual disability is defined by onset before a stated age together with measured subaverage intellectual functioning on a standardized instrument and significant limitations in adaptive behavior.¹⁰

The legislative history matters to the voluntariness question taken up in Part IV. As introduced, the bill required documentation confirming the diagnosis and provided that such documentation is confidential.¹¹ Senate Committee Amendment No. 1 tightened that requirement into a form prescribed by the Secretary of State, completed and signed by a competent medical specialist, confirming both the diagnosis and that the applicant is mentally fit to operate a motor vehicle.¹² House Floor Amendment No. 1 removed the mandatory form and replaced the option language with the mandatory-indication provision now codified at 6-104(a-5).¹³ What survived is a designation that need not be accompanied by a specialist's form at the point of application, while the confidentiality section continues to contemplate a confirmation document in the Secretary's hands. Part VI takes up what the enrolled text does with that document.

What the measure does not contain is equally load-bearing. It does not state what a peace officer must do upon observing the designation. It does not create a training requirement. It does not create a response protocol. It does not require that an encounter in which the designation was present be recorded as such.

7. *Id.* (adding 625 ILCS 5/6-104(a-5)).

8. *Id.* § 99.

9. *Id.* (adding 625 ILCS 5/1-104.7).

10. *Id.* (adding 625 ILCS 5/1-131.7).

11. S.B. 2524, Synopsis as Introduced (Ill. 2026).

12. S.B. 2524, Senate Comm. Amend. No. 1 (Ill. 2026).

13. S.B. 2524, House Floor Amend. No. 1 (Ill. 2026).

B. The Fourth Instrument Aimed at the Same Encounter

Senate Bill 2524 is not an isolated enactment. Illinois already carried two vehicle-based autism markers before this Act. The Vehicle Code authorizes Autism Awareness registration plates, and the universal special license plate provision authorizes the Department of Public Health to issue autism awareness decals designed with input from autism organizations.¹⁴ On June 26, 2026 the Blue Envelope Program became law.¹⁵ That Act directs the Secretary of State to design and make available blue envelopes in which a person diagnosed with autism spectrum disorder may hold the documents required to operate a motor vehicle, and makes participation voluntary.¹⁶ It also does something the license designation does not do, and Part VI returns to it.¹⁷ The four instruments, plate, decal, envelope, and now license, differ in medium. They are identical in structure. Each moves information from the disabled person in the direction of the officer. None of the four attaches an obligation to the officer once the information arrives.

That structural identity is the pattern the Article addresses. A single voluntary disclosure tool is a policy choice. Four instruments with no corresponding duty enacted alongside any of them is a settled legislative approach to a class of encounters, and the approach places the entire operative burden on one side of the window.

14. 625 ILCS 5/3-670 (Autism Awareness license plates) (Source: Pub. Act 103-843, eff. Jan. 1, 2025); 625 ILCS 5/3-699.14(17) (authorizing the Illinois Department of Public Health to issue autism awareness decals “designed with input from autism advocacy organizations”). The decal provision’s source note aggregates nine public acts and does not isolate the one that added subsection (17), so no single act is cited for it here.

15. Blue Envelope Program, Pub. Act 104-0492 (Ill. 2026) (H.B. 4472) (adding 15 ILCS 305/38), eff. Jan. 1, 2027.

16. *Id.*

17. *Id.* (providing that information on the outside of the envelope shall be used solely to support safe and effective communication during interactions with first responders and law enforcement officers and shall not be entered into any federal, State, or local database).

III. The Duty Already Runs the Other Way

A. *Effective Communication Is the Public Entity's Obligation*

Title II of the Americans with Disabilities Act provides that no qualified individual with a disability shall, by reason of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.¹⁸ Title II reaches state and local law enforcement, and the Supreme Court has read the statute's coverage of public entities without an implied carve-out for disfavored settings.¹⁹

The implementing regulation states the communication obligation in the imperative and directs it at the entity: a public entity shall take appropriate steps to ensure that communications with members of the public with disabilities are as effective as communications with others.²⁰ The regulation requires the entity to furnish appropriate auxiliary aids and services where necessary to afford an equal opportunity to participate in and enjoy the benefits of a service, program, or activity.²¹ It further specifies that to be effective, auxiliary aids and services must be provided in accessible formats, in a timely manner, and in such a way as to protect the privacy and independence of the individual with a disability.²²

Two observations follow. The first is textual. The obligation in subsection (a)(1) is not conditioned on the disabled person identifying herself, requesting an accommodation, or producing a credential. The condition is the encounter. The second observation concerns the privacy clause. A permanent designation printed on a state-issued credential and surrendered on demand is not a format that protects the privacy or the independence of the person carrying it. It

18. 42 U.S.C. § 12132. *See also* 28 C.F.R. § 35.130(a) (2026) (restating the general prohibition in identical terms).

19. *Pennsylvania Dep't of Corrs. v. Yeskey*, 524 U.S. 206 (1998) (holding Title II's plain text unambiguously extends to state prisons, and declining to imply exclusions the statute does not contain); *see also* *Tennessee v. Lane*, 541 U.S. 509 (2004) (sustaining Title II as applied to the fundamental right of access to the courts).

20. 28 C.F.R. § 35.160(a)(1) (2026).

21. 28 C.F.R. § 35.160(b)(1) (2026).

22. 28 C.F.R. § 35.160(b)(2) (2026).

is the opposite of the delivery method the regulation contemplates, and the statute makes it the price of the accommodation.

B. Constructive Knowledge Is Already the Standard

The prevailing framework for a wrongful-arrest claim under Title II does not require the disabled person to have announced anything. In *Leibel v. City of Buckeye*, a district court addressed claims arising from the detention of a fourteen-year-old autistic boy whose self-stimulatory behavior a drug recognition officer read as inhalant use.²³ The court, following Ninth Circuit law, held that Title II applies to arrests and is violated where police wrongly arrest someone with a disability because they misperceive the effects of that disability as criminal activity.²⁴ The elements are that the plaintiff was disabled, that the officer knew or should have known he was disabled, and that the officer arrested him because of legal conduct related to the disability.²⁵

One qualification belongs on the face of the argument rather than in a defensive footnote. The three-element formulation is district court practice, not circuit holding. The *Leibel* court said so expressly, observing that the Ninth Circuit has never delineated the elements of such a claim and that district courts within the circuit have supplied them.²⁶ The argument advanced here does not depend on the formulation being settled. It depends on the direction the formulation points, which is that constructive knowledge suffices, and on the absence of any authority requiring the disabled person to produce documentary proof of diagnosis as a precondition of protection.

23. *Leibel v. City of Buckeye*, 364 F. Supp. 3d 1027 (D. Ariz. 2019) (order on motion to dismiss); *Leibel v. City of Buckeye*, 556 F. Supp. 3d 1042 (D. Ariz. 2021) (order on cross-motions for summary judgment).

24. *Leibel*, 364 F. Supp. 3d 1027 (quoting *Sheehan v. City & County of San Francisco*, 743 F.3d 1211, 1232 (9th Cir. 2014), *rev'd in part on other grounds and cert. dismissed as improvidently granted in part*, *City & County of San Francisco v. Sheehan*, 575 U.S. 600 (2015)).

25. *Leibel*, 556 F. Supp. 3d 1042 (quoting *Lawman v. City & County of San Francisco*, 159 F. Supp. 3d 1130, 1147 (N.D. Cal. 2016)). The formulation is older than *Lawman*. The Tenth Circuit traced it in 1999 to *Lewis v. Truitt*, 960 F. Supp. 175, 178 (S.D. Ind. 1997), which stated that a plaintiff may recover where he shows that he was disabled, that the defendants knew or should have known that he was disabled, and that they arrested him because of legal conduct related to his disability, citing *Barber v. Guay*, 910 F. Supp. 790, 802 (D. Me. 1995). *See Gohier v. Enright*, 186 F.3d 1216, 1220 (10th Cir. 1999).

26. *Leibel*, 556 F. Supp. 3d 1042.

The 2021 opinion also closed the gap the 2019 order left open. Reasoning from the Ninth Circuit’s statement that Title II applies to anything a public entity does, the court held that a disabled plaintiff may assert a Title II claim premised on a wrongful investigative detention and not only a wrongful arrest.²⁷ That extension matters here, because the encounters this Article is concerned with are overwhelmingly investigative detentions rather than arrests.

The middle element is the one this Article is about. The standard is disjunctive, and the second disjunct is constructive. An officer who did not know may still be liable if the officer should have known. The same constructive formulation governs the Fourth Amendment reasonableness inquiry in the Ninth Circuit, where it is or should be apparent to officers that the individual is emotionally disturbed, that apparentness is a factor that must be considered in assessing the force employed.²⁸

Leibel also marks the limits of the doctrine, and stating those limits plainly is the only way the argument survives contact with the record. The court dismissed the ADA claim against the individual officer, because the term public entity as used in the ADA does not include individuals.²⁹ It held that a failure-to-accommodate claim lies only where the underlying arrest was lawful and unrelated to the disability.³⁰ And it declined to hold that an officer who learns mid-arrest that a subject is autistic must thereupon refrain from any use of force, reasoning that the right to make a lawful arrest carries with it the right to use some degree of physical coercion.³¹

27. *Leibel*, 556 F. Supp. 3d 1042 (citing *Barden v. City of Sacramento*, 292 F.3d 1073, 1076 (9th Cir. 2002), and noting that defense counsel conceded at argument that investigative detentions are something a public entity does). The *Barden* citation is independently verified.

28. *Deorle v. Rutherford*, 272 F.3d 1272, 1283 (9th Cir. 2001) (“[W]here it is or should be apparent to the officers that the individual involved is emotionally disturbed, that is a factor that must be considered in determining, under *Graham*, the reasonableness of the force employed.”), *quoted in Leibel*, 364 F. Supp. 3d 1027. Quotation verified against the opinion text; the page pin is as given by the citing court. *Deorle* adds that the governmental interest in using force is diminished where officers are confronted with a mentally ill individual rather than a person who has committed a serious crime against others, and that increasing force against an unarmed, emotionally distraught individual may exacerbate the situation. *Id.*

29. *Leibel*, 364 F. Supp. 3d 1027 (quoting *Voiles v. Reavis*, No. 13-cv-0166, 2014 WL 5092664, at *15 (S.D. Cal. Oct. 10, 2014)). The *Voiles* citation is reproduced from *Leibel* and requires independent verification.

30. *Id.* (citing *Sheehan*, 743 F.3d at 1232).

31. *Id.* (citing *Graham v. Connor*, 490 U.S. 386, 396 (1989)); *see Terry v. Ohio*, 392 U.S. 1 (1968).

Two further limits emerged at summary judgment and cut against the intuitive reading of the Buckeye encounter. First, the court held that reasonable suspicion did not dissipate when the boy displayed the string, crediting the officer’s testimony that strings are dipped in inhalants, so the officer retained authority to complete the stop.³² Second, the court held that no reasonable jury could find the encounter was an arrest, and that force used to prevent a subject from leaving before an investigative stop has run its course does not convert the stop into one.³³ What survived for trial was the ADA question and the reasonableness of the force, including whether the officer should have known the boy was autistic, which the court treated as a disputed issue of material fact.³⁴ That is the shape of the doctrine as it stands. The constructive-knowledge question reaches a jury. It does not resolve at the threshold, and it does not turn on production of a credential.

Circuit law elsewhere is less favorable, and the adverse authority is squarely stated rather than minimized. The Fifth Circuit has held that Title II does not apply to an officer’s on-the-street responses to reported disturbances or similar incidents, whether or not those calls involve subjects with mental disabilities, prior to the officer securing the scene and ensuring there is no threat to human life.³⁵ The Sixth Circuit has reached a comparable result.³⁶ The Tenth Circuit recognized both theories in principle while rejecting the wrongful-arrest theory on the facts, and clarified that a broad rule categorically excluding arrests from the scope of Title II is not the law.³⁷ The Fourth

32. Leibel, 556 F. Supp. 3d 1042.

33. *Id.* (citing *United States v. Hensley*, 469 U.S. 221, 235 (1985)). The *Hensley* citation is independently verified.

34. *Id.*

35. *Hainze v. Richards*, 207 F.3d 795, 801 (5th Cir. 2000). *Hainze* carries a caution treatment flag and has been cited several hundred times; the caution reflects the breadth of its exigency rule and the refusal of other circuits to adopt it, not any reversal. The holding is verified verbatim against the opinion text: “Despite Hainze’s claims, we hold that Title II does not apply to an officer’s on-the-street responses to reported disturbances or other similar incidents, whether or not those calls involve subjects with mental disabilities, prior to the officer’s securing the scene and ensuring that there is no threat to human life.” *Id.* at 801. The court added that its decision does not deprive disabled individuals of all avenues of redress, because Title II does not preempt other remedies. *Id.*

36. *Thompson v. Williamson County*, 219 F.3d 555 (6th Cir. 2000), as characterized in *Sudac ex rel. Sudac v. Hoang*, 378 F. Supp. 2d 1298, 1305 (D. Kan. 2005). Both citations independently verified.

37. *Gohier v. Enright*, 186 F.3d 1216, 1221 (10th Cir. 1999). Verified verbatim: the court “merely clarifies that a broad rule categorically excluding arrests from the scope of Title II . . . is not the law,” while leaving open whether the circuit would adopt the wrongful-arrest or the reasonable-accommodation-during-arrest theory. *Id.* at 1221.

Circuit has treated the exigency question as bearing on the reasonableness of the accommodation rather than as a categorical exclusion, as has the Eleventh.³⁸

The Supreme Court granted certiorari on the question whether Title II requires accommodation of an armed and violent suspect during an arrest and then dismissed that question as improvidently granted, leaving the split intact.³⁹ Commentators reading the dismissal at the time observed that police organizations had opposed application of the Act to arrests, and that the Court's refusal to decide left an interval in which the Act could still be used to press for better training and more cautious conduct.⁴⁰

None of this circuit variation disturbs the point, and the least favorable reading of it sharpens the point. Where Title II applies to a police encounter, the knowledge element is satisfied by constructive knowledge, and where a circuit excludes the pre-secured scene altogether, a designation on a license is worth even less, because the encounter is outside the statute's reach no matter what the officer read on the card. Illinois has narrowed nothing. It has built a mechanism whose function is to convert a constructive standard into actual notice supplied by the person the standard protects.

C. The Surcharge Prohibition and the Currency of Disclosure

The Title II regulations forbid a public entity from placing a surcharge on a particular individual with a disability, or on any group of individuals with disabilities, to cover the costs of measures required to provide the nondiscriminatory treatment the Act requires.⁴¹ The rule is ordinarily

38. Waller *ex rel.* Estate of Hunt v. City of Danville, 556 F.3d 171, 174–75 (4th Cir. 2009); Seremeth v. Board of County Commissioners Frederick County, 673 F.3d 333 (4th Cir. 2012); Bircoll v. Miami-Dade County, 480 F.3d 1072 (11th Cir. 2007).

39. City & County of San Francisco v. Sheehan, 575 U.S. 600 (2015). The decision carries a caution treatment flag. The caution attaches to the qualified immunity holding rather than to the ADA question, which the Court did not decide, and the Ninth Circuit has continued to apply the framework of its own prior opinion. *See* Vos v. City of Newport Beach, 892 F.3d 1024, 1036 (9th Cir. 2018); Sheehan v. City of San Francisco, 793 F.3d 1009 (9th Cir. 2015) (order on remand).

40. Paul S. Appelbaum, *Can the Americans With Disabilities Act Reduce the Death Toll From Police Encounters With Persons With Mental Illness?*, 66 Psychiatric Servs. 1012 (2015).

41. 28 C.F.R. § 35.130(f) (2026).

litigated in dollars, and its text names auxiliary aids and program accessibility as the paradigm measures.⁴²

The extension this Article proposes is that the prohibited surcharge need not be monetary. The State owes effective communication in the encounter. The State has not supplied it, in the sense that no training standard or response protocol accompanies the designation. What the State has done instead is offer the disabled person a route to being treated safely, and set the price of that route at a diagnosis recorded on a government credential. That is a cost imposed on a group of individuals with disabilities, and it is imposed to obtain treatment the entity already owes. The doctrinal question is whether disclosure of a protected characteristic counts as a cost within the meaning of subsection (f). This Article contends it does, and marks the contention as novel.

The regulation supplies a second and less novel route to the same place. A public entity may not utilize criteria or methods of administration that have the effect of subjecting qualified individuals with disabilities to discrimination.⁴³ A method of administration under which safe treatment is available on disclosure and unaddressed otherwise is a method that operates on the basis of disability by design, and effects analysis under the Rehabilitation Act and its Title II analogue does not require proof of animus.⁴⁴ Department of Justice guidance under Title II has been read to direct that a public entity should not make unnecessary inquiries concerning disability, which is a posture in tension with a state program built to elicit and record a diagnosis in advance of any encounter.⁴⁵

42. *Id.* The regulation does not enumerate every measure that may be required, and the surcharge theory advanced here is an extension of the rule rather than a settled application of it.

43. 28 C.F.R. § 35.130(b)(3)(i) (2026).

44. *Alexander v. Choate*, 469 U.S. 287 (1985).

45. Elizabeth Pendo, Robert Gatter & Seema Mohapatra, *Resolving Tensions Between Disability Rights Law and COVID-19 Mask Policies* (2020) (SSRN No. 3625840) (describing Department of Justice Title II guidance as advising public entities against unnecessary disability-related inquiries). The proposition is carried here on the secondary source rather than on the guidance document itself, which is cited as authority nowhere in this Article.

IV. The Option Problem

A. Voluntariness Is a Description of the Form, Not the Choice

The defense of the statute is that no one has to take the designation. That defense describes the form of the transaction and not the conditions under which the transaction is entered.

The State's own conduct sets those conditions. The reason a designation of this kind is proposed at all is that encounters between disabled people and law enforcement are dangerous. The danger is a product of how the State trains, supervises, and disciplines its officers, which is to say it is a product of the State's own administration of the program. Having produced the danger and having declined to address it directly, the State then offers relief from the danger on a condition, and the condition is a permanent disclosure of diagnosis on a credential. A parent choosing under those conditions is not selecting among options. The parent is paying to reduce a risk the payee created.

Illinois supplies its own illustration of why the risk is not hypothetical. In August 2026 the Chicago Police Board recommended discharge of an officer who had accumulated the highest number of complaints of any employee in the department, and the sustained findings underlying that recommendation arose from a traffic stop in which the officer detained and searched a driver without justification and filed a false report.⁴⁶ The department was nonetheless unable to effect the discharge, because an unresolved question about whether such cases proceed before the Police Board or an arbitrator was pending before the Illinois Supreme Court.⁴⁷ The relevant point is not the individual officer. It is that the accountability channel a disclosure regime silently assumes ran for six years without producing removal.

46. Heather Cherone, *CPD Officer Arrested for Domestic Battery Day After Ex-Top Cop, Police Board Said He Should Be Fired*, WTTW News (Aug. 25, 2026).

47. *Id.* (reporting that oral argument was scheduled for the September term and that a decision was unlikely before the end of the year).

B. The Protected Class Has Already Priced the Choice

The voluntariness defense also fails empirically, and it fails on evidence that predates the statute by a decade.

Crane and colleagues surveyed 394 police officers in England and Wales together with thirty-one autistic adults and forty-nine parents.⁴⁸ On the officer side, forty-two percent reported satisfaction with how they had worked with autistic people, and thirty-seven percent had received any autism training.⁴⁹ On the community side, the disclosure findings are the ones that matter here. Of the autistic adults asked whether they disclose a diagnosis to police, thirty-nine percent said always, thirty-six percent said never, and twenty-five percent said on some occasions.⁵⁰ The study reports that the decision was often linked to a fear of discrimination or victimization by police officers, and that respondents who withheld did so for fear of being negatively stereotyped.⁵¹ Parents behaved differently, with seventy-six percent disclosing every time or sometimes and only ten percent deliberately withholding.⁵²

Sixty-one percent of autistic adults in that sample therefore do not reliably disclose, and the recorded reason is an assessment of what the officer will do with the information. A statute premised on voluntary disclosure asks the protected class for precisely the conduct that class has already declined, and the class declined it on a risk judgment that the statute does nothing to change. The measure does not address the reason for the refusal. It restates the request.

The refusal is not idiosyncratic to policing. A systematic review characterizes autism as a concealable stigmatized identity and finds concealment, camouflaging, and selective disclosure among the principal strategies autistic people use to manage anticipated judgment.⁵³

48. Laura Crane et al., *Experiences of Autism Spectrum Disorder and Policing in England and Wales: Surveying Police and the Autism Community*, 46 J. Autism & Developmental Disorders 2028 (2016).

49. *Id.* at 2028.

50. *Id.* (reporting the disclosure distribution for the twenty-eight adult respondents who answered the item).

51. *Id.*

52. *Id.*

53. Emeline Han, Katrina Scior & Katerina Avramides, *A Systematic Review on Autistic People's Experiences of Stigma and Coping Strategies*, 15 Autism Research 12, 12–26 (2022).

A theoretical model of autism stigma treats diagnostic disclosure as a moderating variable rather than a neutral act.⁵⁴ And the literature on strategic self-disclosure identifies a difficulty that bears directly on a permanent credential: calibrating disclosure requires reading the immediate social context, which is precisely the operation the population in question finds hardest.⁵⁵ A designation printed on a license removes the calibration entirely. It discloses to every officer, in every encounter, without regard to whether disclosure is safe in that encounter.

There is a further finding in Crane’s survey that closes the loop. Where a disclosure was made, ninety percent of officers reported that the diagnosis reached them at or before first contact.⁵⁶ The arrival of information is not the constraint. What happens after arrival is the constraint, and that is the variable the statute leaves untouched.

V. The Designation Addresses the Wrong Encounter

A. *The Credential Surfaces in One Setting*

A driver’s license designation operates when a licensed driver produces a license. Illinois requires a driver to carry and display a license upon demand.⁵⁷ That is the setting in which the designation can do work, and it is a real setting: flat affect, absent eye contact, and delayed verbal response are readily misread as impairment or evasion, and the misreading has consequences for the driver.

It is not, however, the setting in which the serious injuries occur, and the mismatch is not incidental. Illinois does not oblige a person to identify himself in the ordinary street encounter.

The Code of Criminal Procedure authorizes an officer who reasonably infers criminal activity to

54. Alice Turnock, Kate Langley & Catherine R. G. Jones, *Understanding Stigma in Autism: A Narrative Review and Theoretical Model*, 4 *Autism in Adulthood* 76, 76–91 (2022).

55. A. Henry Eliassen, *Stigma, Stereotypes, and Self-Disclosure: Disability and Empowerment in Older Adults on the Autism Spectrum*, 65 *The Gerontologist*, no. 2 (2024), DOI 10.1093/geront/gnae182 (observing that strategic self-disclosure, based on reading of immediate social contexts, can be problematic for autistic persons who have difficulty processing social cues demarcating situationally appropriate boundaries).

56. *Id.* (reporting that among officers responding to the disclosure item, most indicated the diagnosis was always or sometimes made known prior to or during first contact).

57. 625 ILCS 5/6-112.

stop a person in a public place and to demand name, address, and an explanation of his actions.⁵⁸ The authorization runs to the officer's conduct. Nevada's statute in *Hiibel* expressly commanded that a person detained under suspicious circumstances shall identify himself, and the Supreme Court sustained the resulting conviction for refusal on that statutory footing.⁵⁹ Illinois has no comparable command. An Illinois appellate court, rejecting the State's contention that the officer's power to demand a name implies a duty to give one, observed that section 107-14 sits in the Code of Criminal Procedure rather than the Criminal Code and governs the conduct of police officers, and that no corresponding duty to identify appears in the Criminal Code.⁶⁰

Fernandez is not an outlier. The court collected authority holding almost uniformly that an initial failure to provide basic identifying information is not criminal.⁶¹ And before any detention at all, in the consensual encounter, a person need not answer and is free to leave.⁶² That there are limits on this freedom is not in dispute.⁶³

The consequence is structural. The encounters in which an autistic or intellectually disabled person is most exposed are frequently encounters in which no license is required, no license is requested, and no opportunity to produce one arises before force is applied.

58. 725 ILCS 5/107-14(a).

59. *Hiibel v. Sixth Judicial Dist. Court of Nev., Humboldt Cty.*, 542 U.S. 177 (2004).

60. *People v. Fernandez*, 2011 IL App (2d) 100473, ¶¶ 11–13. The court reasoned that although the State's argument had "some superficial appeal," section 107-14 sits in the Code of Criminal Procedure of 1963 rather than the Criminal Code of 1961 and governs the conduct of police officers, and that "there is no corresponding duty in the Criminal Code of 1961 for a suspect to identify himself or herself." *Id.* ¶ 11. It distinguished *Hiibel* on the ground that the Nevada statute expressly provided that a person subjected to a *Terry* stop "shall identify himself," while "[t]he Illinois statute does not specifically require a suspect to identify himself or herself." *Id.* ¶¶ 12–13. It then reversed the obstruction conviction. *Id.* ¶ 13. Paragraph pins and quotations verified against the opinion text.

61. *Id.* ¶ 8 (collecting *People v. Ramirez*, 151 Ill. App. 3d 731 (1986); *People v. Hilgenberg*, 223 Ill. App. 3d 286, 289 (1991); and *Williams v. Jaglowski*, 269 F.3d 778, 782–83 (7th Cir. 2001)). The collected citations are reproduced from *Fernandez*.

62. *Florida v. Bostick*, 501 U.S. 429 (1991).

63. *Illinois v. Wardlow*, 528 U.S. 119 (2000) (unprovoked flight in a high crime area may supply reasonable suspicion); see also 720 ILCS 5/31-1 (obstruction of a peace officer), which is the provision reached for in practice when a subject does not respond.

B. The Cases in Which the Information Was Already There

The record on this point is not thin. In Buckeye, Arizona, the subject was fourteen years old, seated in a neighborhood park, and holding a piece of string.⁶⁴ He had no driver's license and was never asked for identification. He said the word for what he was doing and the officer did not recognize it.

In Chicago, an eighteen-year-old autistic man was walking near his home at approximately five in the morning when an off-duty sergeant stopped, identified himself, and began questioning him. The man moved, and the sergeant shot him. Investigators determined he had been reaching for a cellphone.⁶⁵ His foster mother had filed a missing person report hours earlier. That report recorded autism and schizophrenia. The information was inside the department, filed by a family member, before the encounter began, and it changed nothing about the outcome. The oversight agency found the shooting objectively unreasonable, the officer retained his position after admitting the absence of legal justification, and the city paid a settlement.⁶⁶

These are not outliers selected for effect. They are the shape of the problem. A credential designed to be handed across a car window does not reach a boy on a park bench, a pedestrian at five in the morning, a person in a movie theater, or a household in which a family member has already told a dispatcher what the responding officers are walking into.

64. Leibel, 364 F. Supp. 3d 1027 (describing the encounter as alleged).

65. Patrick Smith, *Chicago Set to Pay \$2.25M for Unjustified Shooting of Unarmed Teen with Disabilities*, WBEZ Chicago (May 14, 2020), <https://www.wbez.org/stories/chicago-set-to-pay-225m-for-unjustified-shooting-of-unarmed-teen-with-disabilities/542c204a-de40-4bf6-8328-a350eef576d2>; Fran Spielman, *\$2.25M Settlement Proposed in Chicago Police Shooting of an Unarmed, Developmentally Disabled Man in 2017*, Chi. Sun-Times (May 14, 2020), <https://chicago.suntimes.com/city-hall/2020/5/14/21258767/chicago-police-shooting-settlement-khalil-muhammad-richard-hayes>.

66. *Four Years After CPD Sergeant Shoots Teen on Far South Side, Officers' Lawsuits Against City Continue*, WGN-TV (Aug. 5, 2021), <https://wgntv.com/news/four-years-after-cpd-sergeant-shoots-teen-on-far-south-side>; *CPD Whistleblower: 'I Did What Was Right and I Got Screwed'*, FOX 32 Chicago (Dec. 1, 2022), <https://www.fox32chicago.com/news/cpd-whistleblower-i-did-what-was-right-and-i-got-screwed> (reporting the missing person report listing autism and schizophrenia and the retaliation testimony).

C. The Rate Is Not Small and the Data Do Not Exist

Police contact is a routine feature of autistic life rather than a rare event. In a nationally representative sample, approximately twenty percent of autistic youth had been stopped and questioned by police by age twenty-one, and nearly five percent had been arrested.⁶⁷ In a cohort of forty autistic adults without intellectual disability followed for twelve to eighteen months, 32.5 percent reported police interactions within that window.⁶⁸

The severity data are consistent. Analyzing 812 fatalities resulting from on-duty use of lethal force across seventeen states, researchers found evidence in 21.7 percent of cases that the decedent's mental or behavioral health was directly related to the contact or the use of force, and reported prior estimates placing the range of fatal encounters involving people with mental illness between twenty-five and more than fifty percent.⁶⁹ People with untreated mental illness are sixteen times more likely to be killed during a police encounter than other civilians.⁷⁰

What does not exist is the measure that would tell a legislature whether a designation works. Federal data collection on police encounters does not record disability status, a gap that has been the express premise of proposed federal legislation.⁷¹ Illinois does collect stop data, and the contents of that collection make the point sharper than a federal gap would. Section 11-212 of the Vehicle Code requires an officer to record, for every traffic citation, warning, non-citation stop, and pedestrian detention, the subject's gender and the officer's subjective determination of race from a fixed list of six categories, along with the alleged violation, the vehicle make and year, the start and end time, the location, whether a consent search was requested and its

67. Julianna Rava et al., *The Prevalence and Correlates of Involvement in the Criminal Justice System Among Youth on the Autism Spectrum*, 47 J. Autism & Developmental Disorders 340 (2017).

68. Ami Tint et al., *Emergency Service Experiences of Adults with Autism Spectrum Disorder Without Intellectual Disability*, 23 Autism 792 (2019).

69. Sarah DeGue, Katherine A. Fowler & Cynthia Calkins, *Deaths Due to Use of Lethal Force by Law Enforcement*, 51 Am. J. Preventive Med. S173 (2016).

70. Rohan Khazanchi & Destiny G. Tolliver, *Carceral Systems and Mental Health Crises: Health Care, Not Handcuffs*, 7 JAMA Network Open e2443645 (2024).

71. Press Release, U.S. Senate Special Comm. on Aging, *Casey Introduces Bill to Strengthen Data Collection and Transparency in Police Interactions with People with Disabilities* (noting that current data collection methods fail to collect information on disability status).

outcome, whether a search was conducted and by what means, whether a police dog performed a sniff and whether it alerted, whether contraband was found, the type and amount of any contraband seized, the disposition, and the officer's name and badge number.⁷² The statute contains no field for disability, developmental disability, autism, or communication disability, and it does not require age.⁷³

The State therefore records the breed behavior of a dog and the weight of a seized substance, and records nothing about the characteristic its new credential is designed to announce. When the designation takes effect in July 2027, Illinois will have created a disability marker with no baseline preceding it and no field capable of registering whether an officer saw it, what the officer did next, or whether outcomes for marked drivers differ in any measurable way from outcomes for unmarked ones. The statute is unfalsifiable by construction.

VI. What the Enacted Text Does Not Constrain

The enrolled text answers the record question, and the answer is the strongest evidence in this Article.

Section 6-110.2 of the Vehicle Code is the confidentiality provision governing documents submitted with a license application. Before this Act it covered proof of identity, social security number, signature, residency, and citizenship or immigration status. Senate Bill 2524 adds to that list confirmation of an intellectual disability or autism spectrum disorder.⁷⁴ The designation is therefore not merely a mark on a card. It is backed by a document the Secretary of State holds.

The confidentiality that attaches to that document is qualified by an enumerated list of permitted recipients. Two of the four entries deserve attention. The third permits disclosure to law enforcement officials for a civil or criminal law enforcement investigation, subject only to the restrictions of Section 6-110.3.⁷⁵ The predicate is any investigation, civil or criminal, and is

72. 625 ILCS 5/11-212(a), (b), (b-5).

73. *Id.* A full analysis of the section returns no such requirement anywhere in its text.

74. S.B. 2524 (enrolled), § 5 (amending 625 ILCS 5/6-110.2).

75. *Id.*

not limited to an encounter with the person who requested the designation. The fourth permits disclosure to other entities that the Secretary may authorize by rule.⁷⁶ That entry places no statutory ceiling on who may receive the record. The class of recipients is delegated.

Read together, the statute creates a state-held record of intellectual disability or autism diagnosis, declares it confidential, and then exempts from that confidentiality the entire law enforcement function and an open set of further entities to be named administratively. Nothing in the Act restricts downstream use once a permitted recipient has the record.

The comparison that establishes the legislature knew how to do otherwise is three months old and sits in the same subject area, administered by the same officer. The Blue Envelope Act provides that information on the outside of the envelope shall be used solely to support safe and effective communication during interactions with first responders and law enforcement officers, and shall not be entered into any federal, State, or local database.⁷⁷ That is a use limitation and a database prohibition, drafted for the same population and the same encounter. Senate Bill 2524 contains neither. The difference between the two instruments is not a drafting oversight available to be corrected by construction. It is a choice the same General Assembly made twice in one session, in opposite directions.

There is a second and independently drafted use limitation already sitting in the same article of the Vehicle Code, and its shape confirms the point. Section 6-110.3 provides that notwithstanding any other provision of law, the Secretary may not release documents described in Section 6-110.2 to an immigration agent as defined in the Illinois TRUST Act unless production is specifically required by a lawful court order, a judicial warrant signed by an Article III judge, or a subpoena for individual records issued by a federal or State court.⁷⁸ The Secretary must disclose only what is specifically requested, and must notify the individual within three business days that the demand was made and who made it.⁷⁹ The Secretary may not enter or maintain an

76. *Id.*

77. Pub. Act 104-0492 (Ill. 2026) (adding 15 ILCS 305/38).

78. 625 ILCS 5/6-110.3(a).

79. *Id.*

information-sharing agreement covering those documents unless every other party certifies that the information will not be used for civil immigration purposes or knowingly passed to a third party for civil immigration enforcement.⁸⁰

That is a fully realized protective architecture: a judicial-process requirement, a minimization rule, a notice duty, and a contractual certification. It attaches to the same document set that now includes the disability confirmation. Its coverage, however, is defined by the identity of the requester rather than by the sensitivity of the record. It reaches immigration agents. It does not reach a federal agency requesting the record for a purpose unrelated to civil immigration enforcement, and it does not narrow the law enforcement investigation exception in 6-110.2(3) or the Secretary's rulemaking authority in 6-110.2(4).

The disability designation therefore arrives into a statutory scheme that already demonstrates, twice over, that this legislature knows how to write a limitation when it wants one. It wrote a warrant requirement and a notice duty for immigration. It wrote a use restriction and a database prohibition for the Blue Envelope. For the credential that announces intellectual disability and autism to every officer who reads it, it wrote neither.

One question remains open. The Act does not state what verification, if any, the Secretary applies to a request unaccompanied by a specialist's confirmation, or what becomes of a request the Secretary declines to credit.

VII. What a Duty-Creating Statute Contains

The comparison that disposes of the argument that no more was possible comes from a sister state. In 2020, Louisiana enacted a designation materially similar to Illinois's, authorizing an applicant with autism spectrum disorder to request that the designation be placed on his driver's license. In the same act, the legislature required the Department of Public Safety and Corrections to establish and implement a law enforcement training course on officer interactions with persons who have autism spectrum disorder, and specified that the course instruct officers on sensitivity

80. 625 ILCS 5/6-110.3(b).

and awareness to ensure equitable treatment, on effective communication and interaction, and on identification of indicators that a person has autism.⁸¹

Louisiana's version is not a model in every respect. It conditions the designation on a sworn statement from a qualified professional and criminalizes false representation, features Illinois deliberately removed.⁸² The relevant comparison is narrower. A legislature enacting this kind of designation had before it, six years ago, a template in which the disclosure mechanism and the officer obligation were enacted together in a single instrument. Illinois enacted one half of that instrument.

The same litigation supplies the reason the obligation has to come from a statute rather than from tort. At summary judgment in *Leibel*, the negligent training claim failed because the plaintiffs' own expert conceded he was aware of no national standard requiring any law enforcement agency to provide autism training, and could point to no professional standard of care, characterizing such training instead as a best practice.⁸³ The court held that testimony of that kind cannot establish a standard of care.⁸⁴ The consequence is precise. Where no professional standard exists, the common law supplies no duty to train, and the gap cannot be closed by litigation after an injury. It can be closed by a legislature before one, and Louisiana closed it in the same instrument that created the designation.

What the missing half would require is not exotic. A training standard for peace officers on interactions with people with intellectual and developmental disabilities. A response protocol stating what an officer does upon observing the designation, at minimum a de-escalation posture and a prohibition on treating absent eye contact, delayed response, or repetitive movement as evidence of impairment or resistance. A recording requirement, so that the presence of the

81. 2020 La. Acts 137 (H.B. 317), Résumé Digest. The digest states that new law "requires the Dept. of Public Safety and Corrections, public safety services, to establish and implement a law enforcement training course relative to law enforcement officers' interactions with persons who have autism spectrum disorder, in addition to the requirements of existing law," and that the course must instruct officers "on sensitivity and awareness to ensure equitable treatment." Digest text verified against the enrolled act as published by the Louisiana Legislature.

82. *Id.*

83. *Leibel*, 556 F. Supp. 3d 1042.

84. *Id.*

designation in an encounter becomes a data point the State can evaluate. And a use limitation, so that the disclosure does not travel.

VIII. Conclusion

Federal law places the communication obligation on the public entity and does not condition it on the disabled person's disclosure. Federal law asks whether the officer knew or should have known. Illinois has responded to that constructive standard by building a mechanism through which the protected class supplies actual notice, and by attaching no obligation to the receipt of that notice.

The measure will be defended as optional. The empirical record establishes that a majority of the adults it addresses already decline to disclose to police, and that they decline because of what they expect the officer to do. The statute asks again without answering the reason. And it asks in a form that reaches only the encounter in which a licensed driver has the composure and the seconds to hand a card through a window, while the encounters that produce the injuries occur on sidewalks, in parks, in doorways, and on calls a family member placed.

A designation that carries no duty is not an accommodation. It is a record. The State should say what the officer is required to do differently, and should say it in the same instrument.

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