

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: SB 1810

SPONSOR: Senator Burt

SUBJECT: Department of Law Enforcement

DATE: April 18, 2001 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rhea	Wilson	GO	Favorable
2.	_____	_____	APJ	_____
3.	_____	_____	AP	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

I. Summary:

The bill requires any agency of the state to notify the Florida Department of Law Enforcement if the agency believes it has been the victim of a crime that involves the misappropriation or illegal use of the agency’s name or authority or one of its employees or agents; if the agency has been the victim of a crime involving the use of its technology; or if the records of the agency have been used in an identity theft.

This bill amends section 943.03 of the Florida Statutes.

II. Present Situation:

The Florida Department of Law Enforcement (FDLE) is created in s. 20.201, F.S. Three programs are established in the FDLE:

- < The Criminal Justice Investigations and Forensic Science Program;
- < The Criminal Justice Information Program; and
- < The Criminal Justice Professionalism Program.

Section 20.03(11), F.S., defines “agency”

. . . as the context requires, means an official, officer, commission, authority, council, committee, department, division, bureau, board, section, or another unit or entity of government.

On July 31, 2000, pursuant to s. 282.3095, F.S., the Governor appointed 17 citizens to serve on a statewide Task Force on Privacy and Technology (“Task Force”).¹ The Task Force was charged with a three-pronged mission:

- < Defining legal parameters for new identity protection and privacy policies that are consistent with the state and federal constitutions, federal law, and Florida’s traditional openness under the State’s Sunshine Laws and Public Records Act.
- < Strengthening identity protection policies to address threats arising from technology fraud and the increasing ease with which access may be gained to sensitive identity markers (e.g., medical records, credit, social security numbers, and personal behavioral profiles); and
- < Strengthening and revising privacy policies relating to the collection, sharing, sale or release of sensitive personal and private information collected by governmental entities.

The Task Force held its first meeting and public hearing on August 25, 2000, in Tallahassee. Subsequent meetings were held in Orlando, Miami. The last meeting was held in Tallahassee on December 7, 2000.

The Task Force made a number of recommendations. One recommendation was to increase the role of the FDLE. The Task Force summary report states on page 4:

Increase Role of FDLE: Law enforcement officers indicated to the Task Force that existing efforts to deter, investigate and prosecute identity theft and other technology-based crimes are hampered by a dearth of high-tech resources and trained investigative personnel. The Task Force believes these concerns are well-founded, and recommends that the Governor and Legislature support an increased role for the Florida Department of Law Enforcement (FDLE) in technology-based and identity theft-related law enforcement efforts. Specifically, the Task Force recommends that FDLE be given original jurisdiction to investigate technology-based and identity theft-related crimes where the State of Florida is the victim. The Task Force further recommends that the FDLE Computer Crime Center be expanded and that the expansion include a pilot project for up to ten cyber-crime investigators with jurisdiction over technology-based identity theft investigations of a multi-jurisdictional nature where losses potentially exceed \$50,000.

III. Effect of Proposed Changes:

The bill adds a new subsection to s. 943.03, F.S., which relates to the Florida Department of Law Enforcement (FDLE). The new subsection requires an agency of the state to immediately notify the FDLE if the agency suspects that:

¹ The members of the Task Force on Privacy and Technology were: Reginald Brown, Chair; Thomas H. Barkdull, Jr., Diane Carr, Melanie Hines, Robert Horowitz, Ed Kennedy, Mike Jennings, Allen McKenna, Tim Moore, Justice Ben Overton, Barbara Petersen, Michael Roby, Annie Neasman, Robert Wight, Brian Yablonski, Maria Beguiristain, and Robert West.

- < The agency is, could be, or has been the victim of an attempted or actual crime that involves the misappropriation or illegal use of its name or authority or the name, title, or identity of one of its employees, agents, or representatives which is related to that person's duties and responsibilities with the state.
- < The agency is, could be, or has been the victim of an attempted or actual crime that involves technology used by the agency, including its computers, computer programs, computer systems, or communications systems.
- < Records of the agency have been used by an employee, a person acting on behalf of the agency, or any party acting upon direction of an employee or representative, in an attempted or actual crime that involves the misappropriations or illegal use of another person's name or identity.

The bill requires the FDLE to evaluate each report it receives and to determine whether a criminal investigation should be conducted and whether the investigation should be performed by the FDLE or referred to another criminal investigative agency.

The bill authorizes the FDLE to refer the information to the Office of Statewide Technology or any other entity for review and response or to defer action by returning the matter to the reporting agency for appropriate action. The bill requires the FDLE to notify the reporting agency of its determination.

The act takes effect July 1, 2001.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Reporting costs for most agencies should be minimal. There likely will be a fiscal impact on the FDLE as it will be required to review each report. There is no baseline data to use to project the actual number of reports. The FDLE states in its fiscal analysis:

Fiscal impact should be manageable, since the only referrals we will get will be from State Agencies. However, due to the increasing utilization of technology in the commission of various types of fraud against the State, it would be wise to anticipate some level of growth in this area.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.

This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.
