

The Florida Senate
PROFESSIONAL STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

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

Prepared By: Criminal Justice Committee

BILL: CS/SB 2864

INTRODUCER: Criminal Justice Committee and Senator Constantine

SUBJECT: Missing and Unidentified Persons

DATE: April 11, 2007

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Clodfelter	Cannon	CJ	Fav/CS
2.			JA	
3.				
4.				
5.				
6.				

I. Summary:

This bill amends s. 937.021, F.S., to provide for reporting on missing persons under the age of 26 in addition to missing children under 18 years of age. It also expands the scope of the Missing Children Information Clearinghouse to include information concerning persons under the age of 26. Finally, it creates a new database for information concerning unidentified deceased persons within the Missing Children Information Clearinghouse.

This bill amends sections 937.021 and 937.022 of the Florida Statutes, and creates an unnumbered section of the Florida Statutes.

II. Present Situation:

Florida's statutes concerning missing person investigations are found in ch. 927, F.S. Except for a requirement for obtaining dental records, these statutes deal exclusively with missing children. Investigations concerning missing adults are conducted as criminal investigations if the law enforcement agency with jurisdiction believes that foul play or fraud has occurred. Otherwise, law enforcement agencies must be aware of privacy issues, including the fact that adults who are not mentally incompetent can legally choose to relocate or disappear without informing their loved ones. This can lead to frustration and additional grief for family members and friends who are left behind without information as to what happened.

Missing Child Reports

Section 937.021, F.S., specifies actions to be taken when a parent or guardian reports that a child under the age of 18 is missing. The law enforcement agency to which the report is made must immediately inform all of its on-duty officers of the report, communicate the report to all other

law enforcement agencies in the county, and transmit the information to be included in the Florida Crime Information Center (FCIC) computer within 2 hours. The statute also provides immunity from civil liability for agencies, media, and their personnel who comply with the request in good faith with a request relating to Amber Alert or Missing Child Alert information.

Missing Children Information Clearinghouse

In 1982, the Legislature appropriated funds to establish the first state-level missing child information clearinghouse in the nation. The responsibilities of FDLE's Missing Children Information Clearinghouse (MCIC) are found in s. 937.022, F.S. MCIC collects and disseminates information to assist law enforcement agencies, public and private organizations, and the public in locating missing children. It is intended to serve as a complement to state and federal computerized missing persons files. Criteria for acceptance of a case are that the child must be under 18 years old and either missing from or believed to be in Florida, have been reported missing by a law enforcement agency, and have been entered into the FBI's National Crime Information Center (NCIC) database. While the statutory mission of MCIC is limited to missing children, its web page includes a link to FDLE's public missing person search database. This database includes information about both adults and children. On the national level, the National Center for Missing and Exploited Children was opened in 1984. The National Center for Missing Adults was established by federal law in 2000.

Identification of Human Remains

In May 2006, the Commissioner of FDLE and the Chairman of the Florida Medical Examiner's Commission (MEC) sent a letter to all district medical examiners concerning a joint MCIC/MEC initiative to identify Florida's homeless deceased. The letter noted that Florida has over 500 unidentified deceased person cases entered into the NCIC database, and that each of those represents a family that lost a loved one and received no closure. The initiative is modeled after the District 13 Medical Examiner's Office (Hillsborough County) effort that resulted in resolving 14 of 25 unidentified deceased cases. The letter urges medical examiners to become familiar with and take advantage of new technologies. Among the resources and strategies that are identified on the MEC website are: use of NCIC; fingerprints; dental records encoded and entered into the NCIC; DNA analysis; forensic composite sketches; the Florida Unidentified Decedents Database (www.fluiddb.com); and forensic anthropology. FLUIDDB was recently used in solving a missing person case when an Ohio investigator used it to link the unidentified victim of a November 1986 Jacksonville murder with a man who had disappeared from Cleveland in March of that year.

Section 406.14, F.S., requires the investigating law enforcement officer to make any evidence that is material to the cause of death available to the medical examiner. If the law enforcement officer is unable to immediately identify the body, s. 406.145, F.S., requires the law enforcement investigator to enter an Unidentified Person Report through the Florida Crime Information Center into the Unidentified Person File of the NCIC. The procedures for medical examiners to follow in identifying a body are set out in the Medical Examiner's Commission rules (Division 11G of the Florida Administrative Code). These rules also require preservation of remains pending identification and return to the next of kin.

Section 937.031, F.S., requires submission of dental records if human remains are not identified within 30 days.

Violent Criminal Apprehension Program (VICAP)

The FBI's ViCAP is a nationwide data information center that collects and analyzes information about crimes of violence. The ViCAP database includes homicides, missing persons and kidnappings, unidentified dead bodies, and sexual assaults. The database enables matching of cases with similar characteristics. Florida is one of the nation's highest users of ViCAP next to the FBI itself. An example of successful use of ViCAP was the linkage of a Key West murderer with a murder that occurred on the West Coast. The murderer bragged about the killing while in jail, and the details were sufficient to create a match. Identification was confirmed by DNA comparison of the murderer's DNA and a cigarette butt found at the murder scene.

III. Effect of Proposed Changes:

This bill establishes procedures for investigating and reporting missing person and unidentified human remains cases.

Section 1 amends s. 937.021, F.S., to provide procedures to be followed when a law enforcement agency is informed that a person who is under the age of 26 is missing. Currently, the section includes procedures relating to missing children, which is defined to include persons under 18 years of age. Because the amended section would include separate provisions relating to missing children and missing persons under the age of 26, the provisions concerning missing persons under the age of 26 would apply to those who are 18 to 25 years of age.

When a parent, guardian, legal custodian, spouse, significant other, or consanguineous relation¹ files a report that a person under the age of 26 is missing, within 2 hours the law enforcement agency is required to transmit the report to be entered into the FCIC and National Crime Information Center (NCIC) computers. The police report is required to be filed with the law enforcement agency that has jurisdiction in the county or municipality where the person was last seen, without regard to residence or whether the person has any significant contacts with the area. This is the current filing requirement for missing children reports.

The section also provides immunity from civil liability for agencies, media, and their personnel for acting in good faith to comply with a request for information or photographs relating to a missing person under the age of 26. This substantive portion of this provision is the same as the current immunity language in missing children requests, except that the Amber Alert and Missing Child Alert program is not applicable to the 18 to 25 year old age range.

Finally, a new subsection of s. 937.021, F.S., is created to provide for obtaining and processing biological samples when a person under the age of 26 has been missing for more than 90 days, although it may be done sooner. This requires the law enforcement agency to get the biological next of kin's consent to obtain the following:

- Biological samples for DNA analysis

¹ "Consanguineous" is defined in the American Heritage College Dictionary (4th addition) as "Of the same lineage or ancestry." "Consanguinity" is defined as "Relationship by blood or by a common ancestor."

- Consent forms to access the Combined DNA Indexing System (CODIS), which includes local, state, and national DNA databases
- Secondary samples belonging to the missing person

The law enforcement agency must send appropriate biological samples and materials to FDLE, which is responsible for coordination to complete the DNA analysis and upload the DNA profiles to CODIS.

Section 2 amends s. 937.022, F.S., to include missing persons between the ages of 18 and 25 within the purview of the Missing Children Information Clearinghouse. The Clearinghouse's statutory responsibilities for the two groups would not differ. The amendment specifically states that missing persons who are age 26 or older do not come under the authority of the Missing Children Information Clearinghouse.

Section 3 creates a new statute requiring FDLE to establish an unidentified deceased person database within the Missing Children Information Clearinghouse. This database is to include forensic photos and other information concerning unidentified deceased persons that is provided by medical examiners and law enforcement agencies in accordance with s. 406.145, F.S. The database must be searchable and accessible to the public by the Internet. Although the database is housed within the Missing Children Information Clearinghouse, it appears that it would apply to the remains of people of all ages.

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:

FDLE estimates that the bill will have a total fiscal impact of \$657,495 for Fiscal Year 2007-2008, with \$285,711 for non-recurring start-up costs including initial computer programming and licensing. The total fiscal impact for Fiscal Years 2008-2009 and 2009-2010 are estimated at \$371,784. The recurring expenses include the addition of 6 additional personnel to meet the requirements of the bill, annual computer maintenance and licensing, and purchase of DNA test kits.

It does not appear that the bill would have a significant fiscal impact upon local law enforcement agencies.

VI. Technical Deficiencies:

If the requirement for obtaining biological samples and other material after a person is missing for more than 90 days is intended to apply to children, new subsection (5) of s. 937.021, F.S., should be amended to clarify that intent.

Section 3 of the bill, relating to establishment of an unidentified deceased database, does not specifically state that it includes unidentified deceased of all ages. Although it would probably be interpreted to include all ages, a specific statement would eliminate any question.

VII. Related Issues:

None.

VIII. Summary of Amendments:

None.

This Senate Professional Staff Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
