

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 223 Missing Persons
SPONSOR(S): Safety & Security Council; Jenne and others
TIED BILLS: **IDEN./SIM. BILLS:** SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	<u>10 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
2) <u>Safety & Security Council</u>	<u>15 Y, 0 N, As CS</u>	<u>Kramer/Davis</u>	<u>Havlicak</u>
3) <u>Policy & Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

SUMMARY ANALYSIS

The bill requires law enforcement agencies in the state to adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults.

The bill provides that if a person who has been reported as missing has not been located within 90 days after the missing person report is filed, the law enforcement agency that accepted the missing person report must attempt to obtain a biological specimen for DNA analysis from the missing person or from appropriate family members of the missing person to enable the agency to use the specimens in conducting searches of DNA databases.

The bill also provides that an entry concerning a missing child or missing adult may not be removed from the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC) databases based solely on the age of the missing child or missing adult.

Additionally, the bill requires that upon the filing of a credible police report that a person is missing, the law enforcement agency must, within 2 hours after receiving the missing person information, transmit the information for entry into the FCIC and NCIC databases.

FDLE maintains a Missing Children Information Clearinghouse (MCIC) which is a central repository of information regarding missing children. The bill changes the name of this entity to the Missing Endangered Persons Information Clearinghouse. The bill also expands the duties of the clearinghouse which currently only relate to missing children to apply to missing persons younger than 26 years of age and missing persons (of any age) suspected by a law enforcement agency of being endangered or the victim of criminal activity.

FDLE estimates that this bill would have a fiscal impact of \$170,000 in the first year, with recurring costs of \$116,512.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill expands the duties of the Missing Children Information Clearinghouse and requires law enforcement agencies to adopt written policies and procedures to be used when investigating missing person reports.

B. EFFECT OF PROPOSED CHANGES:

Missing child reports

Section 937.021, F.S. relates to missing child reports and sets forth procedures to be followed by law enforcement upon the filing of such a report. The bill requires law enforcement agencies in the state to adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults. The bill provides that the policies adopted must ensure that cases involving reported missing children and missing adults are investigated promptly using appropriate resources. The adopted policies must include:

1. Requirements for accepting missing child¹ and missing adult² reports;
2. Procedures for initiating, maintaining, closing, or referring a missing child or missing adult investigation; and
3. Standards for maintaining and clearing computer data of information concerning a missing child and missing adult which is stored in the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC). The standards must require, at a minimum, a monthly review of each case and a determination of whether the case should be maintained in the database.

Currently, section 937.021, F.S. provides that upon the filing of a police report that a child is missing by the parent or guardian, the law enforcement agency receiving the report must immediately inform all on-duty officers of the existence of the report, communicate the report to every other law enforcement agency having jurisdiction in the county, and transmit the report for inclusion in the Florida Crime Information Center.

CS/HB 223 amends this language to require that this information be transmitted for inclusion within two hours to the FCIC database and requires that it also be transmitted to the NCIC database. According to the Florida Department of Law Enforcement (FDLE), information entered into FCIC is also entered into NCIC without any additional action on the part of the person inputting the information. This places state law in conformity with the provision of the federal Adam Walsh Child Protection and Safety Act of 2006 that requires that law enforcement agencies transmit a missing child report to NCIC and to the state agency designated to receive the report within 2 hours of receipt.³ Additionally, the bill requires

¹ The bill defines the term "missing child" as a person younger than 18 years of age whose temporary or permanent residence is in, or is believed to be in, this state, whose location has not been determined and who has been reported as missing to a law enforcement agency.

² The bill defines the term "missing adult" as a person 18 years of age or older whose temporary or permanent residence is in, or is believed to be in, this state, whose location has not been determined, and who has been reported as missing to a law enforcement agency.

³ Public Law 109-248, s. 154.

that upon the filing of a credible police report that an adult is missing, the law enforcement agency must, within 2 hours after receiving the report, transmit the information for entry into the FCIC and NCIC databases.

The bill also provides that an entry concerning a missing child or missing adult may not be removed from FCIC or NCIC databases based solely on the age of the missing child or missing adult. The federal Adam Walsh Child Protection and Safety Act of 2006 provided that each state must ensure that no law enforcement agency establishes or maintains any policy that requires the removal of a missing person entry from its law enforcement system or the NCIC database solely on the age of the person.⁴

Currently, s. 937.021, F.S. provides that a police report that a child is missing may be filed with the law enforcement agency having jurisdiction in the county or municipality in which the child was last seen prior to the filing of the report. The bill removes this language and provides that a report that a child or adult is missing must be accepted by and filed with the law enforcement agency having jurisdiction in the country or municipality in which the child or adult was last seen. This is apparently intended to ensure that the law enforcement agency in the location where the person was last seen takes appropriate action and does not require the person making the report to contact the law enforcement agency where the missing person resides. The bill further provides that this language does not preclude a law enforcement agency from filing or accepting a missing person report when agency jurisdiction cannot be determined.

DNA

The bill provides that if a missing child or missing adult is not located within 90 days after the missing child or missing adult report is filed, the law enforcement agency that accepted the report must attempt to obtain a biological specimen for DNA analysis from the missing child or missing adult or from appropriate family members in addition to obtaining necessary documentation. The bill states that this language does not prevent a law enforcement agency from attempting to obtain information or approved biological specimens for DNA analysis before the expiration of the 90-day period.

The bill requires FDLE to adopt rules specific to cases involving missing children and missing adults which will:

1. Identify biological specimens that are approved by the department for DNA analysis.
2. Identify the documentation necessary for the department to use the biological specimens for DNA analysis.
3. Establish procedures for the collection of biological specimens by law enforcement agencies.
4. Establish procedures for forwarding biological specimens by law enforcement agencies to the department.

The bill provides that these provisions are contingent upon the availability of federal funding for the submission and processing of approved biological specimens for DNA analysis.

Missing Children Information Clearinghouse

Pursuant to s. 937.022, F.S., the Department of Law Enforcement maintains a Missing Children Information Clearinghouse (MCIC) which is a central repository of information regarding missing children. The section outlines the duties of the clearinghouse. The bill changes the name of this entity to the Missing Endangered Persons Information Clearinghouse. The bill also expands the duties of the clearinghouse which currently only relate to missing children to apply to missing endangered persons. The bill defines the term "missing endangered person" as a missing child; a missing adult younger than 26 years of age; or a missing adult 26 year of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

⁴ *Id.*

Currently, only a parent, guardian or legal custodian of a child may submit a missing child report to the clearinghouse subsequent to reporting such child missing to the appropriate local law enforcement agency. The bill authorizes any person having knowledge to submit a missing endangered person report⁵ to the clearinghouse concerning a person younger than 26 years of age subsequent to reporting the person missing to the appropriate law enforcement agency and subsequent to that agency entering the person into the FCIC and MCIC database.

The bill provides that only the law enforcement agency having jurisdiction over the case may submit a missing endangered person report to the clearinghouse involving a missing adult age 26 years or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity.

Amber Alert

In cooperation with several other state agencies, FDLE administers the Amber Alert program to aid in the recovery of missing children. The purpose of the program is to broadcast information relating to a missing or abducted child believed to be in danger to the public, through the use of radio and television broadcasts, road signs and lottery machines. The United States Department of Justice maintains criteria for the use of an Amber Alert.

The bill provides that after receiving a request to record, report, transmit, display or release information and photographs pertaining to a missing adult from the law enforcement agency having jurisdiction over the missing adult, FDLE, a state or local law enforcement agency and their personnel, any radio or television network and certain other entities are immune from civil liability for damages for complying in good faith with the request to provide information and is presumed to have acted in good faith in recording, reporting, transmitting, displaying or releasing information or photographs pertaining to the missing adult. Currently, section 937.021, F.S. contains similar immunity from civil liability for actions taken in good faith relating to information regarding a missing child.

C. SECTION DIRECTORY:

Section 1. Creates s. 937.0201, F.S.; relating to definitions.

Section 2. Amends s. 937.021, F.S., relating to missing child reports.

Section 3. Amends s. 937.022, F.S., relating to the Missing Children Information Clearinghouse.

Section 4. Provides effective date of July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

⁵ The bill defines the term "missing endangered person report" as a report prepared on a form prescribed by the department by rule for use by the public and law enforcement agencies in reporting information to the Missing Endangered Persons Information Clearinghouse about a missing endangered person.

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

FDLE estimates that two government analysts are needed to handle the workload in expanding Missing Children Information Clearinghouse functions through the age of 25. The department further states that adding missing persons who are 18-25 years old will increase the case intakes by an estimated additional 2,400 incidents annually or 47% increase above the current level of case intakes. Costs in the first year are approximately \$170,000, with recurring costs of \$116,512.

	FY 08-09	FY 09-10	FY 10-11
2 Govt Analyst FTE Positions (Salary/Benefits)	94,816	94,816	94,816
Standard Expense Package for 2 Positions	20,176	13,400	13,400
Standard OCO for 2 Positions	2,000		
Standard HR Services for 2 Positions	796	796	796
Subtotal	117,788	109,012	109,012
Programming/Maintenance	52,500	7,500	7,500
TOTAL	\$170,288	\$116,512	\$116,512

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FDLE to adopt rules establishing procedures for the submission of biological specimens approved by the department for DNA analysis in a missing person case and the forwarding

of approved biological specimens by law enforcement agencies for DNA analysis in a missing person case.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

The Homeland Security & Public Safety Committee adopted an amendment which made the following changes to the bill as filed. The amendment:

- Clarified that the provisions of the bill relating to the collection and analysis of DNA of the missing person or family members are contingent upon an appropriation of state funds or the availability of federal funds.
- Renamed the Missing Children Information Clearinghouse as the Missing Persons and Children Clearinghouse.
- Modified the name given to certain forms and reports used by FDLE and local law enforcement agencies.

The Safety & Security Council adopted a substitute strike all amendment which further modified the bill and made the bill a council substitute. The amendment renamed the Missing Children Information Clearinghouse as the Missing Endangered Persons Information Clearinghouse. The amendment also provided definitions of the terms "missing adult", "missing child", "missing endangered person" and "missing endangered person report". This bill analysis is drafted to the council substitute.