

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

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

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Prepared By: The Professional Staff of the Committee on Children, Families, and Elder Affairs

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BILL: CS/SB 1198

INTRODUCER: Children, Families, and Elder Affairs and Senator Berman

SUBJECT: Purple Alert

DATE: February 12, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Miller	IS	<b>Favorable</b>
2.	Hendon	Hendon	CF	<b>Fav/CS</b>
3.			RC	

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**I. Summary:**

CS/SB 1198 establishes criteria and processes for issuing Purple Alerts to assist in finding missing adults with developmental disabilities, brain injuries, or other disabilities not related to substance abuse.

The bill will have a fiscal impact to state and appropriates \$322,836 and 3 FTE to the Department of Law Enforcement (FDLE). The bill takes effect July 1, 2020, but the alert system is effective July 1, 2021.

**II. Present Situation:**

*Florida Statutory Alerts*

Section 937.021, F.S., requires law enforcement agencies (LEAs) in this state to adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults. Section 784.071, F.S., authorizes Blue Alerts with respect to a law enforcement officer who has been killed or assaulted with a deadly weapon, has suffered serious bodily injury, or is missing while in the line of duty under circumstances evidencing concern for the officer's safety. Section 937.022, F.S., creates the Missing Endangered Persons Information Clearinghouse (MEPIC) within the FDLE "to serve as a central repository of information regarding missing endangered persons." That section requires every state, county, or municipal LEA to submit to the clearinghouse information on missing endangered persons, which information must be "collected and disseminated to assist in the location of missing endangered persons."

A Missing Child Alert is intended to enable law enforcement to quickly communicate information on a missing child believed to be in life-threatening danger, but there is no indication

that the child has been abducted.<sup>1</sup> A Missing Child Alert may result in an AMBER Alert if investigation produces an indication that the child has been abducted.<sup>2</sup> A state Silver Alert is intended to aid law enforcement in the rescue or recovery of a missing elderly person who suffers from irreversible deterioration of intellectual faculties<sup>3</sup> and becomes lost while driving a vehicle.<sup>4</sup>

Generally, in each case, the local LEA with jurisdiction contacts the FDLE's MEPIC. The FDLE works with the local LEA to determine whether information will be broadcast on a regional or statewide basis and prepares information for public distribution through the Emergency Alert System, wireless emergency alerts, the Department of Transportation's (FDOT) 511 traveler information system<sup>5</sup> and dynamic message signs, lottery machines, and email, as appropriate.<sup>6</sup>

With respect to use of the FDOT's dynamic message signs, after contact from the FDLE, the appropriate FDOT Regional Transportation Management Center is ultimately responsible for displaying alert messages on those signs. If the alert message is:

- A Missing Child Alert or a Silver Alert, the message is displayed for a maximum of six hours and is re-activated if FDLE requests it, but only in the specific area the law enforcement believes the child may be located.
- An AMBER Alert, the message is displayed until the child is recovered or for a maximum of 24 hours, again re-activated upon FDLE's request only in the specific area law enforcement believes the child may be located.<sup>7</sup>

Section 937.021(5), F.S., provides immunity from civil liability for complying in good faith with a request to record, report, transmit, display, or release Missing Child, AMBER, and Silver Alert information.

The FDLE, in conjunction with the Florida Highway Patrol, the FDOT, and the Department of Lottery, broadcasts information to the public through the Emergency Alert System on television and radio when information about an offender would help avert further harm or assist in apprehending a suspect in connection with killing or harming a law enforcement officer.<sup>8</sup> In such cases, dynamic message signs are also used to display Blue Alerts.<sup>9</sup> These alerts use the technologies employed for Amber Alerts.<sup>10</sup> At the request of a local LEA, the FDLE Intelligence Watch and Warning Regional Special Agency Supervisor works with the investigating agency to

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<sup>1</sup> FDLE Missing Endangered Persons Information Clearinghouse, *Florida's Missing Child Alert*, available at <http://www.fdle.state.fl.us/mcicsearch/MCApage.asp> (last visited Feb. 7, 2020).

<sup>2</sup> FDLE Missing Endangered Persons Information Clearinghouse, *AMBER Alerts*, available at <http://www.fdle.state.fl.us/mcicsearch/Amber.asp> (last visited Feb. 7, 2020).

<sup>3</sup> FDLE Missing Endangered Persons Information Clearinghouse, *Florida's Silver Alert Plan*, available at <http://www.fdle.state.fl.us/mcicsearch/SilverAlerts.asp> (last visited Feb. 7, 2020).

<sup>4</sup> See *Florida Missing Persons and Blue Alert Plans*, Florida Department of Law Enforcement and Florida Department of Transportation, p. 1. (On file in the Senate Infrastructure and Security Committee.) See also FDLE, *Florida's Silver Alert Plan*, available at <http://www.fdle.state.fl.us/Silver-Alert-Plan/Silver-Alert-Plan> (last visited Feb. 7, 2020).

<sup>5</sup> See s. 334.044(31) and s. 334.60, F.S. The 511 System is used only while dynamic message signs are displayed. *Id.* at p. 4.

<sup>6</sup> *Supra* note 4 at pp. 1-5.

<sup>7</sup> *Supra* note 4 at pp. 4-5.

<sup>8</sup> *Supra* note 4.

<sup>9</sup> Section 784.071, F.S.

<sup>10</sup> FDLE, *Florida Blue Alert Notification System*, available at <http://floridabluealert.com/> (last visited Feb. 7, 2020).

prepare information for public release, include suspect and/or vehicle information. The FDLE will issue a Blue Alert if a law enforcement officer has been killed, suffered serious bodily injury, or been assaulted with a deadly weapon; or is missing while in the line of duty or under circumstances indicating concern for an officer's safety; and the suspect has fled the scene and poses an imminent threat to the public or to other law enforcement officers. The FDLE works with the FDOT's Regional Transportation Management Center, which is ultimately responsible for displaying Blue Alert messages on the dynamic message signs. Again, the alert is displayed for a maximum of six hours, with re-activation upon FDLE request in the specific area that law enforcement believes the person may be located.<sup>11</sup>

The FDOT observes the following orders of priority with respect to these alert messages on dynamic message signs:

- If there are multiple alerts activated during the same time: AMBER, Missing Child, Blue, and Silver.
- If there are multiple AMBER, Missing Child, or Blue Alerts activated during the same time, each one is displayed on every other dynamic message sign.<sup>12</sup>

### *Missing Endangered Persons*

Section 937.0201, F.S., defines the term "missing endangered person" for purposes of missing person investigations to mean:

- A missing child,
- A missing adult younger than 26 years of age;
- A missing adult 26 years of age or older who is suspected by an LEA of being endangered or the victim of criminal activity, or
- A missing adult who meets the criteria for activation of the Silver Alert Plan<sup>13</sup> of the FDLE.

### **III. Effect of Proposed Changes:**

The bill establishes criteria and processes for Purple Alerts

**Section 1** of the bill amends s. 252.35, F.S., relating to duties of the Division of Emergency Management, to add a requirement that the division maintain a list structures that can digitally display alerts for missing persons.

**Section 2** amends s. 937.0201, F.S., relating definitions for purposes of missing person investigations. The bill includes in the definition of "missing endangered person" a missing adult who meets the criteria for activation of the Purple Alert of the FDLE pursuant to s. 937.0205, F.S., created by the bill.

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<sup>11</sup> *Supra* note 4 at pp. 4-5.

<sup>12</sup> *Id.* at p. 5.

<sup>13</sup> Both local (missing on foot) and state (missing in vehicle) Silver Alerts are currently used to locate missing persons suffering from an irreversible deterioration of intellectual faculties. See FDLE, *Silver Activation Steps*, available at <http://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps> (last visited January 23, 2020). This site lists the criteria for both local and state Silver Alerts.

**Section 3** creates s. 937.0205, entitled *Purple Alert*. The bill expresses the following Legislative findings:

- A standardized state system is necessary to aid in the search of certain missing adults (identified and discussed below).
- A coordinated local law enforcement and state agency response with prompt and widespread sharing of information will improve the chances of finding the person.

The bill also recites the Legislature’s intent to establish the Purple Alert, implemented in a manner that, to the extent practicable, safeguards the privacy rights and related health diagnostic information of such missing adults.

The bill directs the FDLE, in cooperation with the FDOT, the Department of Highway Safety and Motor Vehicles (DHSMV), the Department of the Lottery, and local LEAs, to establish and implement the Purple Alert. At a minimum, the Purple Alert must:

- Be the only viable means by which the missing adult is likely to be returned to safety;
- Provide, to the greatest extent possible, for the protection of the privacy, dignity, and independence of such missing adults by including standards aimed at safeguarding these civil liberties by preventing the inadvertent or unnecessary broadcasting or dissemination of sensitive health and diagnostic information;
- Provide that the broadcasting and dissemination of alerts and related information be limited to the geographic areas where such missing adult could reasonably be, considering his or her circumstances and physical and mental condition, the potential modes of transportation available to him or her or suspected to be involved, and the known or suspected circumstances of his or her disappearance; and
- Be activated only when there is sufficient descriptive information about the missing adult and the circumstances surrounding the missing adult’s disappearance to indicate that activating the alert is likely to help locate the missing adult.

The bill authorizes (but does not require) a local LEA, under a Purple Alert, to broadcast to the media and to persons who subscribe to receive alert notifications information concerning a missing adult:

- Who has a mental or cognitive disability; an intellectual disability or a development disability, as those terms are defined in s. 393.063;<sup>14</sup> a brain injury; another physical, mental, or emotional disability that is not related to substance abuse; or a combination of any of these;
- Whose disappearance indicates a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by the local LEA;
- Who cannot be returned to safety without law enforcement intervention; and

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<sup>14</sup> That section defines “intellectual disability” to mean significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior which manifests before the age of 18 and can reasonably be expected to continue indefinitely. For the purposes of this definition, the term: (a) “Adaptive behavior” means the effectiveness or degree with which an individual meets the standards of personal independence and social responsibility expected of his or her age, cultural group, and community; (b) “Significantly subaverage general intellectual functioning” means performance that is two or more standard deviations from the mean score on a standardized intelligence test specified in the rules of the agency. “Developmental disability” means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

- Who does not meet the criteria for activation of a local Silver Alert or the Silver Alert Plan of the FDLE.<sup>15</sup>

If a Purple Alert is determined to be necessary and appropriate, the local LEA of jurisdiction is required to notify the media and subscribers in the jurisdiction or jurisdictions where the missing adult is believed to or may be located. The local jurisdictional LEA may also request that the Purple Alert notification be broadcast on lottery terminals within the geographic regions where the missing adult may reasonably be, including, but not limited to, lottery terminals in gas stations, convenience stores, and supermarkets.

The local jurisdictional LEA is also authorized to request that a case be opened with the FDLE's MEPIC. To enhance local or regional efforts when the investigation indicates that an identifiable vehicle is involved, the MEPIC is required to coordinate with the FDOT and the DHSMV for the activation of dynamic message signs on state highways and the immediate distribution of critical information to the public regarding the missing adult in accordance with the alert.

The bill requires the Purple Alert process to include procedures to monitor the use, activation, and results of alerts and a strategy for informing and educating law enforcement, the media, and other stakeholders concerning the alert. Lastly, this section of the bill authorizes the FDLE to adopt rules to implement and administer the new section of law.

Missing adults who meet the criteria for activation of a Purple Alert, their caregivers and families, as well as the general public may benefit from improved communication of emergency information through Purple Alerts. However, to receive Purple Alerts, individuals must be subscribers in the jurisdiction or jurisdictions where the missing adult is believed to or may be located, see the alerts on lottery terminals in gas stations, convenience stores, or supermarkets or on dynamic message signs along the State Highway System, or otherwise gain knowledge of a Purple Alert following notification of the media by the local jurisdictional LEA.

**Section 4** amends s. 937.021, F.S., relating to missing child and missing adult reports, to include Purple Alerts in the existing provisions relating to immunity from civil liability for law enforcement agencies, broadcasters, and other entities acting in good faith when involved in issuing Missing Child Alerts, AMBER Alerts, and Silver Alerts.

**Section 5** amends s. 937.022, F.S., relating to the MEPIC, under which only the LEA having jurisdiction over a case may make a request to the MEPIC for the activation of a state Silver Alert involving a missing adult if circumstances regarding the disappearance have met the criteria for activation of the Silver Alert Plan. The bill includes Purple Alerts in this provision; only the jurisdictional LEA may request the MEPIC for activation of a Purple Alert if the criteria for issuance are met.

**Section 6** amends s. 429.918, F.S., relating to licensure designation as a specialized Alzheimer's services adult day care center, under which, among other requirements:

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<sup>15</sup> *Supra* note 13. See also FDLE Missing Endangered Persons Information Clearinghouse, *Florida's Silver Alert Plan*, available at <http://www.fdle.state.fl.us/mcicsearch/SilverAlerts.asp> (last visited Feb. 7, 2020).

- Employees hired to provide direct care to ADRD participants<sup>16</sup> must receive and review an orientation plan that includes information on the Silver Alert Plan, and
- ADRD participants (or caregivers) must be provided a copy of the participant's plan of care and information regarding resources to assist in ensuring the safety and security of a participant, which must include (among other items) information on the Silver Alert Plan.

The bill includes Purple Alerts in these provisions currently relating only to the Silver Alert Plan.

**Section 7** of the bill appropriates the sums of \$152,836 in recurring funds and \$170,000 in nonrecurring funds from the General Revenue Fund to the FDLE, and authorizes three full-time equivalent positions with an associated salary rate of 83,779, for purposes of implementing the act during the 2020-2021 fiscal year. The alert system must be operational by July 1, 2021.

**Section 8** provides that the sections of the bill that make appropriations and provide the effective date take effect July 1, 2020. The rest of the provisions take effect July 1, 2021.

#### **IV. Constitutional Issues:**

##### A. Municipality/County Mandates Restrictions:

None.

##### B. Public Records/Open Meetings Issues:

None.

##### C. Trust Funds Restrictions:

None.

##### D. State Tax or Fee Increases:

None.

##### E. Other Constitutional Issues:

None identified.

#### **V. Fiscal Impact Statement:**

##### A. Tax/Fee Issues:

None.

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<sup>16</sup> Section 429.918, F.S., defines the term "ADRD participant" to mean a participant who has a documented diagnosis of Alzheimer's disease or a dementia-related disorder (ADRD) from a license physician, licensed physician assistant, or a licensed advanced practice registered nurse.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The FDLE estimates that to implement the bill, it will need three Crime Intelligence Analyst I FTE positions totaling \$168,204 (\$156,519 recurring). Additionally, the FDLE indicates that the cost of necessary modifications to existing information technology will total \$170,000 and take approximately 12 months to complete. The bill appropriates these funds and FTE to the department. The FDLE will be required to create policies and procedures on how to activate and cancel Purple Alerts but the department did not estimate the cost of such activities.<sup>17</sup>

The fiscal impact to the FDOT relating to display of Purple Alerts on dynamic message signs is indeterminate, as the potential increase in volume of alerts cannot be determined.

The DHSMV notes the bill will result in a significant workload increase for the Florida Highway Patrol, especially the regional communications center ultimately assigned to coordinate Purple Alerts. The workload increase however, is expected to be absorbed within existing resources.<sup>18</sup>

Local jurisdictional LEAs will incur indeterminate expenses associated with notifying the media and subscribers as authorized under the bill, and with developing any necessary policies and training and establishing or enhancing necessary infrastructure and systems.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 252.35, 937.0201, 937.021, 937.022, and 429.918.

This bill creates the section 937.0205 of the Florida Statutes.

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<sup>17</sup> See the FDLE 2020 Legislative Bill Analysis for SB 1198 available at <http://abar.laspbs.state.fl.us/ABAR/ABAR.aspx> (last visited Feb. 7, 2020).

<sup>18</sup> See the DHSMV 2020 Legislative Bill Analysis for SB 1198 available at <http://abar.laspbs.state.fl.us/ABAR/ABAR.aspx> (last visited Feb. 7, 2020).

**IX. Additional Information:**

- A. **Committee Substitute – Statement of Changes:**  
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

**CS by Children, Families, and Elder Affairs on February 11, 2020:**

The CS amends s. 252.35, F.S., relating to duties of the Division of Emergency Management, to add a requirement that the division maintain a list structures that can digitally display alerts for missing persons.

- B. **Amendments:**

None.

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

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