

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.)

Prepared By: The Professional Staff of the Committee on Appropriations

BILL: CS/CS/SB 184

INTRODUCER: Transportation Committee and Senator Berman

SUBJECT: Purple Alert

DATE: April 18, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Vickers	TR	Fav/CS
2.	Delia	Cox	CF	Favorable
3.	Dale	Sadberry	AP	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 184 requires the Division of Emergency Management to identify and maintain an inventory of available digitally displayed automatic changeable facing signs capable of providing the immediate distribution of critical information to the public in times of declared emergency and regarding missing endangered persons.

It also 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 provides the FDLE with budget authority of \$199,901 (\$92,790 nonrecurring) in the Operating Trust Fund and 2 FTE in order to accommodate increased workload and make technology improvements. See Section V. Fiscal Impact Statement for additional information.

The bill takes effect July 1, 2021, but the alert system is effective July 1, 2022.

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 937.022, F.S., creates the Missing Endangered Persons Information Clearinghouse (MEPIC) within the Florida Department of Law Enforcement (FDLE) “to serve as a central repository of information regarding missing endangered persons.” Every state, county, or municipal LEA must submit information on missing endangered persons to the clearinghouse and the FDLE must collect and disseminate the information to assist in the location of missing endangered persons.¹

A Missing Child Alert is intended to enable law enforcement to quickly disseminate information when a child is missing and believed to be in life-threatening danger, but there is no indication that the child has been abducted.² A Missing Child Alert may result in an AMBER Alert if investigation produces an indication that the child has been abducted.³ 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 faculties⁴ and becomes lost while driving a vehicle.⁵

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 system⁶ and dynamic message signs, lottery machines, and email, as appropriate.⁷

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 the 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 the FDLE’s request only in the specific area law enforcement believes the child may be located.⁸

¹ Section 937.022(3)(b), F.S.

² The Florida Department of Law Enforcement (the FDLE) Missing Endangered Persons Information Clearinghouse, *Florida’s Missing Child Alert*, available at <http://www.fdle.state.fl.us/mcicsearch/MCApage.asp> (last visited February 10, 2021).

³ The FDLE Missing Endangered Persons Information Clearinghouse, *AMBER Alerts*, available at <http://www.fdle.state.fl.us/mcicsearch/Amber.asp> (last visited February 10, 2021).

⁴ The FDLE Missing Endangered Persons Information Clearinghouse, *Florida’s Silver Alert Plan*, available at <http://www.fdle.state.fl.us/mcicsearch/SilverAlerts.asp> (last visited February 10, 2021).

⁵ See *Florida Missing Persons and Blue Alert Plans*, The FDLE and The Florida Department of Transportation, p. 1. (On file in the Senate Committee on Transportation)(hereinafter cited as “Missing Persons and Blue Alert Plans”). See also FDLE, *Florida’s Silver Alert Plan*, available at <http://www.fdle.state.fl.us/Silver-Alert-Plan/Silver-Alert-Plan> (last visited February 10, 2021).

⁶ See s. 334.044(31) and s. 334.60, F.S. The 511 System is used only while dynamic message signs are displayed. See also *Missing Persons and Blue Alert Plans*, p. 4.

⁷ *Missing Persons and Blue Alert Plans*, pp. 1-5.

⁸ *Missing Persons and Blue Alert Plans*, pp. 4-5.

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.

Section 784.071, F.S., authorizes Blue Alerts and 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, 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.⁹ In such cases, dynamic message signs are also used to display Blue Alerts.¹⁰ These alerts use the technologies employed for Amber Alerts.¹¹ At the request of a local LEA, the FDLE Intelligence Watch and Warning Regional Special Agency Supervisor works with the investigating agency to prepare information for public release, include suspect and/or vehicle information. 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.¹²

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.¹³

Missing Endangered Persons

Section 937.0201(4), 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 Plan¹⁴ of the FDLE.

⁹ Missing Persons and Blue Alert Plans.

¹⁰ Section 784.071(2)(a), F.S.

¹¹ FDLE, *Florida Blue Alert Notification System*, available at <http://floridabluealert.com/> (last visited February 10, 2021).

¹² Missing Persons and Blue Alert Plans, pp. 4-5.

¹³ *Id.* at p. 5.

¹⁴ 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

Alzheimer’s Participants

Section 429.918, F.S., relating to licensure designation as a specialized Alzheimer’s services adult day care center, requires a number of requirements for such day centers to operate, including, among other requirements that:

- Employees hired to provide direct care to ADRD participants¹⁵ 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.

Civil Immunity

Florida law provides civil immunity to certain individuals in specified circumstances who, acting in good faith, attempt to render aid to others.¹⁶ Section 937.021, F.S., currently provides civil immunity for specified entities requested by law enforcement to record, report, transmit, display, or release information pertaining to a missing person if such entity complied with the request in good faith.¹⁷ These entities include:

- The FDLE, a state or local law enforcement agency, and agency personnel;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services as defined in s. 202.11, F.S.¹⁸

Entities who report, transmit, display, or release information pertaining to a missing person are presumed to have acted in good faith.¹⁹ The presumption of good faith is not overcome if a technical or clerical error is made by an agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction or if the missing person information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.²⁰

III. Effect of Proposed Changes:

The bill establishes criteria and processes for Purple Alerts.

<http://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps> (last visited February 11, 2021)(hereinafter cited as “Silver Activation Steps”). This site lists the criteria for both local and state Silver Alerts.

¹⁵ 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 licensed physician, licensed physician assistant, or a licensed advanced practice registered nurse.

¹⁶ For example, Section 768.13, F.S. (also known as Florida’s Good Samaritan Act (GSA)) provides immunity from civil liability for persons acting in good faith who render emergency care and treatment to individuals in need of assistance. Under the GSA, immunity from civil liability is available to any person who gratuitously and in good faith renders emergency assistance without the objection of a victim, if the person acts as a reasonably prudent person would act under similar circumstances.

¹⁷ Section 937.021(5)(a), F.S.

¹⁸ Examples of a dealer of communications services include a cable or satellite television service provider, a telephone service provider, or a mobile communication service provider. s. 937.021, F.S.

¹⁹ Section 937.021(5)(c), F.S.

²⁰ *Id.*

Section 1 amends s. 252.35, F.S., relating to duties of the Division of Emergency Management, to add a requirement that the division identify and maintain an inventory of available digitally displayed automatic changeable facing signs capable of providing the immediate distribution of critical information to the public in times of declared emergency and regarding missing endangered persons.

Section 2 amends s. 937.0201, F.S., relating to 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 the FDLE’s activation of the Purple Alert pursuant to s. 937.0205, F.S., created by the bill.

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 the missing adult 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 the 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 his or her 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 that is not Alzheimer’s disease or a dementia-related disorder; an intellectual disability or a development disability, as those terms are defined in s.

393.063, F.S.;²¹ 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,
- Who does not meet the criteria for activation of a local Silver Alert or the Silver Alert Plan of the FDLE.²²

If a Purple Alert is determined to be necessary and appropriate, the local law enforcement agency having jurisdiction must notify the media and subscribers in the jurisdiction or jurisdictions where the missing adult is believed to or may be located. The local law enforcement agency having jurisdiction 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.

²¹ That section defines "intellectual disability" to mean significantly sub-average 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 sub-average 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.

²² See Silver Activation Steps. 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 February 11, 2021).

Section 5 amends s. 937.022, F.S., relating to the MEPIC, to include Purple Alerts in this provision. This will limit the activation of the Purple Alerts to only allow the LEA having jurisdiction over a case to make a request to the MEPIC for activation of a Purple Alert if the criteria for issuance are met. This is the same limitation for the activation of Silver Alert Plan discussed above.

Section 6 provides \$107,111 in recurring and \$92,790 in nonrecurring budget authority from the Operating Trust Fund to the Department of Law Enforcement, and two full-time equivalent positions with associated salary rate of 55,853 for the purpose of accommodating increased workload and implementing required technology improvements.

Section 7 provides that except as otherwise expressly provided in the act and except for this section, which shall take effect July 1, 2021, the act shall take effect July 1, 2022.

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.

B. Private Sector Impact:

None.

C. Government Sector Impact:**The Florida Department of Law Enforcement (FDLE):**

The FDLE estimates that the bill's provision will result in an additional 146 alerts added to the alert system yearly or, on average, one Purple Alert every 2.5 days. To address this workload, the FDLE is requesting three Crime Intelligence Analyst I FTE positions totaling \$165,735 (\$155,262 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 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.²³

The bill provides \$107,111 in recurring and \$92,790 in nonrecurring budget authority from the Operating Trust Fund to the Department of Law Enforcement, and two full-time equivalent positions with associated salary rate of 55,853 for the purpose of accommodating increased workload and implementing required technology improvements.

The Florida Department of Transportation (FDOT):

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 Florida Department of Highway Safety and Motor Vehicles (DHSMV):

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. At this time, the workload increase is expected to be absorbed within existing resources. However, the DHSMV states that it will monitor the workload increase to determine if additional staff may be necessary at a future time to address the workload.²⁴

Local Law Enforcement Agencies:

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.

²³ See the FDLE 2021 Legislative Bill Analysis for SB 184 on file with the Senate Committee on Transportation.

²⁴ See the DHSMV 2021 Legislative Bill Analysis for SB 184 on file with the Senate Committee on Transportation.

VII. Related Issues:

The FDLE noted that the language in the bill omitting an adult who has Alzheimer's disease or a dementia-related disorder from the alert may significantly complicate the required investigative and verification steps necessary for local law enforcement agencies to assess and confirm a potential alert subject's medical diagnoses. Similarly, the language may complicate details of training criteria and necessitate the FDLE to run through longer and multiple checklists with local agencies requesting an alert, especially if they are unsure of the subject's exact medical history. These complexities could lengthen the time it takes law enforcement to issue the alert, whatever the type. According to the FDLE, timely public notification is crucial for improving the chances of a successful, safe recovery and this language may have the unintended consequence of making both the existing and the new alert types less successful.²⁵

VIII. Statutes Affected:

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

This bill creates section 937.0205 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Appropriations on April 15, 2021:

The committee substitute:

- Clarifies that an individual with Alzheimer's disease or a dementia-related disorder is not included under the Purple Alert as such individuals are included for alerts under the Silver Alert;
- Removes the Purple Alert training requirement for licensed specialized Alzheimer's services adult day care centers; and
- Provides the Department of Law Enforcement with two FTE, salary rate of 55,853, and \$199,901 in budget authority in the Operating Trust Fund to implement the bill.

CS by Transportation on February 2, 2021:

- Removes the appropriation of \$152,836 in recurring funds and \$170,000 in nonrecurring funds from the General Revenue Fund, and the three full-time equivalent positions.

- B. **Amendments:**

None.

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

²⁵ See the FDLE 2021 Legislative Bill Analysis for CS/CS/HB 79 (*Revised on April 7, 2021*) on file with the Senate Appropriations Subcommittee on Criminal and Civil Justice.