

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: CS/HB 1039 Missing Persons
SPONSOR(S): Criminal Justice Subcommittee, Stark
TIED BILLS: **IDEN./SIM. BILLS:** SB 1332

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	18 Y, 0 N, As CS	Leshko	Hall
2) Judiciary Committee	21 Y, 0 N	Leshko	Kramer

SUMMARY ANALYSIS

Florida law enforcement currently enters and maintains missing persons reports in the Florida Crime Information Center (FCIC), the Missing Endangered Persons Clearinghouse, and the National Crime Information Center (NCIC). In 2005, the U.S. Deputy Attorney General created the National Missing Persons Task Force, which identified the need to improve access to information that would help solve missing and unidentified person cases. Based on the recommendations of the Task Force, the National Missing and Unidentified Persons System (NamUs) was created.

Section 937.021, F.S., requires law enforcement agencies in the state to adopt written policies specifying the procedures to be used to investigate reports of missing children and missing adults. Among other things, the policies must include standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in FCIC and 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. Entries concerning a missing child or missing adult may not be removed based solely on the age of the missing person. Law enforcement agencies receiving a report of a missing child from a parent or guardian, Department of Children and Families (DCF), a community-based care provider, or a sheriff's office providing investigative services for DCF, or receiving a credible report of a missing adult, are required to transmit the report to FCIC and NCIC within two hours.

Section 937.022, F.S., requires every state, county, and municipal law enforcement agency to submit information concerning missing endangered persons to the Missing Endangered Persons Clearinghouse. If a missing or endangered person is located, the law enforcement agency having jurisdiction over the case must immediately purge information about the case from the FCIC and NCIC and notify the Clearinghouse.

CS/HB 1039 amends s. 937.021, F.S., to require a law enforcement agency receiving a report of a missing child from a parent or guardian, DCF, a community-based care provider, or a sheriff's office providing investigative services for DCF, or receiving a credible report of a missing adult to transmit the report to NamUs within two hours. The bill also requires law enforcement agencies in the state to adopt policies related to standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in NamUs. The standards must require, at a minimum, a monthly review of each case and a determination of whether the case should be maintained in NamUs. The bill prohibits the removal of a missing child or missing adult entry on the NamUs database based solely on the age of the missing person.

The bill also amends s. 937.022, F.S., to require a law enforcement agency having jurisdiction over a case involving a missing endangered person to immediately purge case information from the NamUs database upon locating the missing endangered person.

The bill may have an indeterminate negative fiscal impact on state and local government by increasing state and local law enforcement agencies' workloads, including any required staff training on the NamUs database, however, any additional costs will likely be absorbed within existing resources.

The bill provides an effective date of July 1, 2023.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Florida Crime Information Center

The Florida Crime Information Center (FCIC) is a statewide information system provided by the Florida Department of Law Enforcement (FDLE) that allows users 18 years of age or older that are members of an agency with statutory access to criminal justice information, the ability to search information relating to missing and stolen property, missing persons, unidentified persons, people that are wanted as a result of ongoing criminal investigations, protection orders, persons on supervised release, and other criminal history information.¹ FCIC deals exclusively with records, persons, and missing items from Florida,² and is tied to the FBI's National Crime Information Center in Washington D.C.³

National Crime Information Center

The National Crime Information Center (NCIC) is an electronic criminal records database that allows criminal justice agencies to enter or search for information related to stolen property, missing or wanted persons, domestic violence protection orders, and criminal histories, and provides access to the National Sex Offender Registry.⁴ NCIC allows federal, state, local, and tribal criminal justice users and law enforcement agencies to enter records into NCIC, which can then be searched by other criminal justice and law enforcement agencies. Agencies must enter, modify, and remove their own records. Additionally, NCIC policy requires, among other things, that agencies regularly validate their records and conduct periodic audits to ensure data quality and adherence to all security rules.⁵

NCIC contains seven property files containing records of stolen articles, boats, guns, license plates, parts, securities, and vehicles, and 15 persons files related to supervised release, the National Sex Offender Registry, foreign fugitives, immigration violators, missing persons, protection orders, extreme risk protection orders, unidentified persons, protective interests, gangs, known or suspected terrorists, wanted persons, identity theft, violent persons, and the National Instant Criminal Background Check System. There are more than 17 million active records within NCIC.⁶

NCIC also contains images that can be matched with NCIC records to help identify people and property items.⁷ As of December 31, 2022, there were 97,127 active missing person entries in NCIC. Children under the age of 18 account for 30,522, or 31 percent, of the records.⁸

Missing Child and Missing Adult Reports

¹ FDLE, *FCIC/NCIC FAQ*, <https://www.fdle.state.fl.us/Limited-Access/FAQ> (last visited Mar. 1, 2023).

² Florida Arrests, *Florida Crime Information Center*, <https://www.flarrests.org/Florida-Crime-Information-Center.html> (last visited Mar. 1, 2023); The Florida Crime Information Center, Public Access System (PAS), <http://pas.fdle.state.fl.us/pas/restricted/PAS/home/home.jsf> (last visited Mar. 1, 2023).

³ Office of Justice Programs, U.S. Department of Justice, *Florida Crime Information Center*, <https://www.ojp.gov/ncjrs/virtual-library/abstracts/florida-crime-information-center> (last visited Mar. 1, 2023).

⁴ U.S. Department of Justice, *National Crime Information Systems*, <https://www.justice.gov/tribal/national-crime-information-systems> (last visited Mar. 1, 2023).

⁵ FBI, *National Crime Information Center (NCIC)*, <https://le.fbi.gov/informational-tools/ncic> (last visited Mar. 1, 2023).

⁶ *Supra* note 5.

⁷ *Id.*

⁸ FBI, *2022 NCIC Missing Person and Unidentified Person Statistics*, <https://www.fbi.gov/file-repository/2022-ncic-missing-person-and-unidentified-person-statistics.pdf/view> (last visited Mar. 1, 2023).

Section 937.021, F.S., requires law enforcement agencies in the state to adopt written policies that specify the procedures to be used to investigate reports of missing children⁹ and missing adults.¹⁰ The policies must ensure that cases are investigated promptly using appropriate resources and must include:

- Requirements for accepting missing child and missing adult reports;
- Procedures for initiating, maintaining, closing, or referring a missing child or missing adult investigation; and
- Standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in FCIC and 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.¹¹

Entries concerning a missing child or missing adult may not be removed based solely on the age of the missing person.¹² A report that a child or adult is missing must be accepted by and filed with the law enforcement agency having jurisdiction in the county or municipality in which the child or adult was last seen.¹³ When a parent or guardian, the Department of and Children and Families (DCF), a community-based care provider, or a sheriff's office providing investigative services for DCF files a police report that a child is missing, the law enforcement agency receiving the report must:

- Immediately inform all on-duty law enforcement officers of the missing child report;
- Communicate the report to every other law enforcement agency having jurisdiction in the county; and
- Transmit the report for inclusion in the FCIC and NCIC databases within two hours of receiving the report.¹⁴

When a credible police report is filed regarding a missing adult, the law enforcement agency receiving the report must transmit the report for inclusion in the FCIC and NCIC databases within two hours of receiving the report.¹⁵

If a missing child or missing adult is not located within 90 days after the 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 appropriate family member.¹⁶

Missing Endangered Persons Clearinghouse

Pursuant to s. 937.022, F.S., FDLE also maintains the Missing Endangered Persons Clearinghouse. The Clearinghouse is designed to provide a centralized repository of information on missing endangered persons¹⁷ and implement intrastate communication and exchange of information relating to missing persons. The Clearinghouse is required to collect, process, maintain, and disseminate accurate and complete information on missing endangered persons.¹⁸ Every state, county, and municipal law

⁹ "Missing child" means 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. S. 937.0201(3), F.S.

¹⁰ "Missing adult" means 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. S. 937.0201(2), F.S.

¹¹ S. 937.021(1), F.S.

¹² S. 937.021(2), F.S.

¹³ S. 937.021(3), F.S. This section does not preclude a law enforcement agency from accepting a missing child or missing adult report when agency jurisdiction cannot be determined.

¹⁴ S. 937.021(4)(a), F.S.

¹⁵ S. 937.021(4)(b), F.S.

¹⁶ S. 937.021(6), F.S. This section does not prevent a law enforcement agency from attempting to obtain a biological specimen for DNA analysis prior to the expiration of the 90-day period. This section is, however, contingent on the availability of federal funding for the submission and processing of DNA samples for analysis.

¹⁷ "Missing endangered person" means any of the following: 1) a missing child; 2) a missing adult younger than 26 years of age; 3) a missing adult 26 years of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity; 4) a missing adult who meets the criteria for activation of the Silver Alert Plan; and 5) a missing adult who meets the criteria for activation of a Purple Alert, pursuant to s. 937.0205, F.S. S. 937.0201(4), F.S.

¹⁸ S. 937.022(3)(c), F.S.

enforcement agency is required to submit information concerning missing endangered persons to the Clearinghouse.¹⁹

Any person with knowledge concerning a child or adult younger than 26 years of age whose whereabouts are unknown may submit a missing endangered person report²⁰ to the Clearinghouse. Such a report, however, may only be submitted to the Clearinghouse after first being reported to the appropriate law enforcement agency within the county in which the child or adult went missing, and after such law enforcement agency has entered the child or person into FCIC and NCIC. If the missing child or adult has been located the individual who submitted the original report must notify law enforcement and the Clearinghouse.²¹

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

If a missing endangered person is located, the law enforcement agency having jurisdiction over the case must immediately purge information about the case from the FCIC and NCIC databases and notify the Clearinghouse.²²

National Missing and Unidentified Persons System

In 2005, the U.S. Deputy Attorney General created the National Missing Persons Task Force, which identified the need to improve access to information that would help solve missing and unidentified person cases.²³ The National Missing and Unidentified Persons System (NamUs) Unidentified Persons database was launched in 2007 and the NamUs Missing Persons database was launched in 2008 as products of the National Missing Persons Task Force's recommendations. The databases were combined in 2009 to expand the ability of NamUs to make associations between missing and unidentified persons cases. NamUs acts as a nationwide information clearinghouse, allowing for the search and entry of missing, unidentified, and unclaimed person cases in the U.S. and provides free-of-charge forensic services, investigative support, and training and outreach.²⁴

Florida law enforcement agencies are not currently required to enter or maintain records of missing persons in the NamUs database.

Effect of Proposed Changes

CS/HB 1039 amends s. 937.021, F.S., to require a law enforcement agency receiving a report of a missing child from a parent or guardian, DCF, a community-based care provider, or a sheriff's office providing investigative services for DCF, or receiving a credible report of a missing adult, to transmit the report to NamUs within two hours. The bill also requires law enforcement agencies in the state to adopt policies related to standards for maintaining and clearing computer data of information concerning a missing child or missing adult which is stored in NamUs. The standards must require, at a minimum, a monthly review of each case and a determination of whether the case should be maintained in NamUs. The bill prohibits the removal of a missing child or missing adult entry on the NamUs database based solely on the age of the missing child or missing adult.

The bill also amends s. 937.022, F.S., and requires a law enforcement agency having jurisdiction over a case involving a missing endangered person to immediately purge information about the case from the NamUs database upon locating the missing endangered person.

¹⁹ S. 937.022(1-2) and (3)(a-b), F.S.

²⁰ A "missing endangered person report" means a report prepared on a form prescribed by FDLE 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. S. 937.0201(5), F.S.

²¹ S. 937.022(4), F.S.

²² S. 937.022(5), F.S.

²³ National Missing and Unidentified Persons System, <https://namus.nij.ojp.gov/about> (last visited Mar. 1, 2023).

²⁴ *Supra* note 26.

The bill provides an effective date of July 1, 2023.

B. SECTION DIRECTORY:

Section 1: Amends s. 937.021, F.S., relating to missing child and missing adult reports.

Section 2: Amends s. 937.022, F.S., relating to missing endangered persons information clearinghouse.

Section 3: Provides an effective date of July 1, 2023.

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:

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The bill may have an indeterminate negative fiscal impact on state and local law enforcement agencies. Under the bill, state and local law enforcement agencies may experience an increased workload by being required to enter and maintain missing persons reports on the NamUs database. However, any additional costs will likely be absorbed within existing resources.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not Applicable. This bill does not appear to require counties or municipalities to spend funds or take action requiring the expenditures of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE CHANGES

On March 7, 2023, the Criminal Justice Subcommittee adopted an amendment and reported the bill favorably as a committee substitute. The amendment required a law enforcement agency having jurisdiction over a case involving a missing endangered person to immediately purge information about the case from the NamUs database upon locating the missing endangered person and made a technical clarifying change.

The analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.