

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 Criminal Justice

BILL: CS/SB 1332

INTRODUCER: Criminal Justice Committee and Senator Martin

SUBJECT: Missing Persons

DATE: March 21, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Stokes</u>	<u>CJ</u>	<u>Fav/CS</u>
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1332 addresses missing person reporting and investigations by requiring 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 the National Missing and Unidentified Persons System (NamUs), a national information clearinghouse and resource center for missing, unidentified, and unclaimed person cases across the United States. 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 requires a law enforcement agency receiving a report of a missing child to 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 within 2 hours after receipt of the report, transmit the report for inclusion in the NamUs database.

The bill also requires a law enforcement agency to transmit to NamUs a credible police report that an adult is missing. The agency must transmit this report within 2 hours after its receipt.

Finally, the bill requires a law enforcement agency having jurisdiction over a case to purge case information from NamUs and notify the Missing Endangered Persons Clearinghouse.

The bill may impact local law enforcement agencies but that impact is indeterminate. There is no information available at present to indicate that this impact cannot be absorbed within existing resources. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

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 over 18 years of age who 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 The FCIC deals exclusively with records, persons, and missing items from Florida,² and is tied to the National Crime Information Center of the Federal Bureau of Investigation (FBI) 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 The NCIC allows federal, state, local, and tribal criminal justice users and law enforcement agencies to enter records into the 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

The 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

¹ *FCIC/NCIC FAQ*, Florida Department of Law Enforcement, available at <https://www.fdle.state.fl.us/Limited-Access/FAQ> (last visited on March 14, 2023).

² *Florida Arrests*, Florida Crime Information Center, Florida Department of Law Enforcement, available at <https://www.flarrests.org/Florida-Crime-Information-Center.html> (last visited on March 14, 2023); *The Florida Crime Information Center, Public Access System (PAS)*, Florida Department of Law Enforcement, available at <http://pas.fdle.state.fl.us/pas/restricted/PAS/home/home.jsf> (last visited on March 14, 2023).

³ *Florida Crime Information Center*, Office of Justice Programs, U.S. Department of Justice, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/florida-crime-information-center> (last visited on March 14, 2023).

⁴ *National Crime Information Systems*, U.S. Department of Justice, available at <https://www.justice.gov/tribal/national-crime-information-systems> (last visited on March 14, 2023).

⁵ *National Crime Information Center (NCIC)*, Federal Bureau of Investigation, available at <https://le.fbi.gov/informational-tools/ncic> (last visited on March 14, 2023).

National Instant Criminal Background Check System. There are more than 17 million active records within NCIC.⁶

The 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 the NCIC. Children under the age of 18 account for 30,522, or 31 percent, of the records.⁸

Missing Child and Missing Adult Reports

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 the FCIC and the 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 Children and Families (DCF), a community-based care provider, or a sheriff's office providing investigative services for the 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 the NCIC databases within two hours of receiving the report.¹⁴

⁶ *Id.*

⁷ *Id.*

⁸ 2022 NCIC Missing Person and Unidentified Person Statistics, Federal Bureau of Investigation, available at <https://www.fbi.gov/file-repository/2022-ncic-missing-person-and-unidentified-person-statistics.pdf/view> (last visited March 15, 2023).

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. Section 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. Section 937.0201(2), F.S.

¹¹ Section 937.021(1), F.S.

¹² Section 937.021(2), F.S.

¹³ Section 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 Section 937.021(4)(a), F.S.

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 the 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., the FDLE maintains the Missing Endangered Persons Clearinghouse (Clearinghouse), which 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 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 known may submit a missing endangered person report²⁰ to the Clearinghouse. This information, however, should first be reported to the appropriate law enforcement agency within the county in which the child or adult went missing, which the law enforcement agency will enter into the FCIC and the 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; or

¹⁵ Section 937.021(4)(b), F.S.

¹⁶ Section 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. However, this section is 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. Section 937.0201(4), F.S.

¹⁸ Section 937.022(3)(c), F.S.

¹⁹ Section 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 the 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. Section 937.0201(5), F.S.

²¹ Section 937.022(4), F.S.

- Make a request to the Clearinghouse to activate a Silver Alert²² or Purple Alert²³ involving a missing adult.²⁴

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 the NCIC databases and notify the Clearinghouse.²⁵

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. The National Missing and Unidentified Persons System (NamUs) was created to improve access to information to help solve missing and unidentified person cases.²⁶ The Unidentified Persons System (UP) database was launched in 2007 and the Missing Persons database (MP) 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 the NamUs to make associations between missing and unidentified persons cases. The 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.²⁷

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

III. Effect of Proposed Changes:

The bill amends s. 937.021, F.S., to require 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 the National Missing and Unidentified Persons System (NamUs), a national information clearinghouse and resource center for missing, unidentified, and unclaimed person cases across the United States. 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

²² The Silver Alert Plan is used to locate missing persons suffering from an irreversible deterioration of intellectual faculties, such as Alzheimer's disease or dementia that has been verified by law enforcement. Additional recommended criteria for activation of the plan include: 1) the person is 60 years of age or older; or 2) the person is 18-59 and law enforcement has determined the missing person lacks the capacity to consent and that a local Silver Alert may be the only possible way to recuse the missing person. FDLE, *Silver Activation Steps*, Florida Department of Law Enforcement, available at <https://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps.aspx> (last visited on March 14, 2023).

²³ A Purple Alert concerns a missing adult: 1) who has a mental or cognitive disability that is not Alzheimer's disease or a dementia-related disorder, an intellectual disability or a developmental disability, as those terms are defined in s. 393.063, F.S., a brain injury, another physical, mental, or emotional disability that is not related to substance abuse, or any combination of these; 2) whose disappearance indicates a credible threat of immediate danger or serious bodily harm to himself or herself, as determined by the local law enforcement agency; 3) who cannot be returned to safety without law enforcement intervention; or 4) who does not meet the criteria for activation of a local Silver Alert Plan. Section 937.0205(4)(a), F.S.

²⁴ Section 937.022(3)(b)3.-4., F.S.

²⁵ Section 937.022(5), F.S.

²⁶ *National Missing and Unidentified Persons System*, Office of Justice Programs, U.S. Department of Justice, available at <https://namus.nij.gov/about> (last visited on March 14, 2023).

²⁷ *Id.*

missing adult entry on the NamUs database based solely on the age of the missing child or missing adult.

The bill also requires a law enforcement agency receiving a report of a missing child from a parent or guardian, the DCF, a community-based care provider, or a sheriff's office providing investigative services for the DCF, or receiving a credible report of a missing adult, to 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 within 2 hours after receipt of the report, transmit the report for inclusion in the NamUs database.²⁸

The bill also requires a law enforcement agency to transmit to NamUs a credible police report that an adult is missing. The agency must transmit this report within 2 hours after its receipt.

Finally, the bill amends s. 937.022, F.S., to require a law enforcement agency having jurisdiction over a case to purge case information from NamUs and notify the Missing Endangered Persons Clearinghouse.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

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.

²⁸ The 2-hour transmittal requirement may not be needed for transmittal of a police report to the NamUs database. *See* e-mail from Jennifer Pritt, Executive Director, Florida Police Chiefs Association, dated March 15, 2023 (on file with the Senate Committee on Criminal Justice).

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate impact on local law enforcement agencies, but there is no information available at present to indicate that this impact cannot be absorbed within existing resources. Staff contacted the Florida Sheriffs Association (FSA) and Florida Police Chiefs Association (FPCA) for any input they may have regarding the fiscal impact of the bill. The FSA indicated they had reviewed the bill and did not oppose it, but did not review the bill for fiscal impact.²⁹ The FPCA also reviewed the bill but did not provide any comments specific to the fiscal impact of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes. 937.021 and 937.022.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on March 20, 2023:

The committee substitute requires a law enforcement agency having jurisdiction over a case to purge case information from NamUs and notify the Missing Endangered Persons Clearinghouse.

²⁹ E-mail from Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriffs Association, dated March 14, 2023 (on file with the Senate Committee on Criminal Justice).

B. Amendments:

None.

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