

Committee Substitute for Senate Bill No. 502

An act relating to missing persons; providing a short title; creating s. 937.0201, F.S.; providing definitions; amending s. 937.021, F.S.; requiring law enforcement agencies to adopt written policies and procedures to be used when investigating missing children and missing adult reports; requiring the law enforcement agency having jurisdiction to accept and file the report; providing a timeframe for transmitting the report to state and national databases; providing immunity from civil liability for certain persons providing information in good faith; requiring that a law enforcement agency obtain a DNA sample after a child or adult has been missing for more than 90 days; authorizing the Department of Law Enforcement to adopt rules; amending s. 937.022, F.S.; renaming the Missing Children Information Clearinghouse as the “Missing Endangered Persons Information Clearinghouse”; revising provisions to conform; requiring the state and national databases to be purged of information about a person who has been located; providing an effective date.

Be It Enacted by the Legislature of the State of Florida:

Section 1. This act may be cited as the “Jennifer Kesse and Tiffany Sessions Missing Persons Act.”

Section 2. Section 937.0201, Florida Statutes, is created to read:

937.0201 Definitions.—As used in this chapter, the term:

(1) “Department” means the Department of Law Enforcement.

(2) “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.

(3) “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.

(4) “Missing endangered person” means:

(a) A missing child;

(b) A missing adult younger than 26 years of age; or

(c) 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.

(5) “Missing endangered person report” means 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.

Section 3. Section 937.021, Florida Statutes, is amended to read:

937.021 Missing child and missing adult reports.—

(1) Law enforcement agencies in this state shall adopt written policies that specify the procedures to be used to investigate reports of missing children and missing adults. The policies must ensure that cases involving missing children and adults are investigated promptly using appropriate resources. The policies must include:

(a) Requirements for accepting missing child and missing adult reports;

(b) Procedures for initiating, maintaining, closing, or referring a missing child or missing adult investigation; and

(c) 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 and the National Crime Information Center. 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.

(2) An entry concerning a missing child or missing adult may not be removed from the Florida Crime Information Center or the National Crime Information Center databases based solely on the age of the missing child or missing adult.

(3) 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. The filing and acceptance of the report imposes the duties specified in this section upon the law enforcement agency receiving the report. This subsection does not preclude a law enforcement agency from accepting a missing child or missing adult report when agency jurisdiction cannot be determined.

(4)(a)(1) Upon the filing of a police report that a child is missing by the parent or guardian, the law enforcement agency receiving the report shall immediately inform all on-duty law enforcement officers of the existence 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 within the Florida Crime Information Center and the National Crime Information Center databases computer.

(b) Upon the filing of a credible police report that an adult is missing, the law enforcement agency receiving the report shall, within 2 hours after receipt of the report, transmit the report for inclusion within the Florida Crime Information Center and the National Crime Information Center databases.

~~(2) 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, without regard to whether the child resides in or has any significant contacts with that county or municipality. The filing of such a report shall impose the duties specified in subsection (1) upon that law enforcement agency.

~~(5)~~⁽³⁾(a) Upon receiving a request to record, report, transmit, display, or release Amber Alert or Missing Child Alert information from the law enforcement agency having jurisdiction over the missing ~~or endangered~~ child, the Department of Law Enforcement as the state Amber Alert coordinator,; any state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or entity is immune from civil liability for damages for complying in good faith with the request and is presumed to have acted in good faith in recording, reporting, transmitting, displaying, or releasing Amber Alert or Missing Child Alert information pertaining to such child.

(b) Upon 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, the department, a state or local law enforcement agency, and the personnel of these agencies; any radio or television network, broadcaster, or other media representative; any dealer of communications services as defined in s. 202.11; or any agency, employee, individual, or person is 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.

~~(c)~~^(b) The presumption of good faith is not overcome if a technical or clerical error is made by any such agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction, or if the Amber Alert, ~~or~~ Missing Child Alert, ~~or missing adult~~ information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.

~~(d)~~^(e) Neither this subsection nor any other provision of law creates a duty of the agency, employee, individual, or entity to record, report, transmit, display, or release the Amber Alert, ~~or~~ Missing Child Alert, ~~or missing adult~~ information received from the local law enforcement agency having jurisdiction. The decision to record, report, transmit, display, or release information is discretionary with the agency, employee, individual, or entity receiving the ~~that~~ information ~~from the local law enforcement agency having jurisdiction.~~

(6) 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 shall 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. This subsection 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.

(7) The department shall adopt rules specific to cases involving missing children and missing adults which will:

(a) Identify biological specimens that are approved by the department for DNA analysis.

(b) Identify the documentation necessary for the department to use the biological specimens for DNA analysis.

(c) Establish procedures for the collection of biological specimens by law enforcement agencies.

(d) Establish procedures for forwarding biological specimens by law enforcement agencies to the department.

(8) Subsections (6) and (7) are contingent upon the availability of federal funding for the submission and processing of approved biological specimens for DNA analysis.

Section 4. Section 937.022, Florida Statutes, is amended to read:

937.022 Missing Endangered Persons Children Information Clearinghouse.—

(1) There is created a Missing Endangered Persons Children Information Clearinghouse within the department ~~to serve of Law Enforcement. The clearinghouse is established~~ as a central repository of information regarding missing endangered persons children. Such information shall be collected and disseminated to assist in the location of missing endangered persons children.

(2) The clearinghouse shall be supervised by a director who shall be employed upon the recommendation of the executive director. The executive director shall establish services deemed appropriate by the department to aid in the location of missing endangered persons children.

(3) The clearinghouse shall:

(a) Establish a system of intrastate communication of information relating to missing endangered persons children ~~determined to be missing by their parents, guardians, or legal custodians or by law enforcement agencies.~~

(b) Provide a centralized file for the exchange of information on missing endangered persons children ~~within the state.~~

1. Every state, county, or municipal law enforcement agency shall submit to the clearinghouse information concerning missing endangered persons ~~received by it pursuant to s. 937.021.~~

2. Any person having knowledge ~~parent, guardian, or legal custodian~~ may submit a missing endangered person child report to the clearinghouse

concerning about a child or adult younger than 26 years of age whose whereabouts is unknown, regardless of the circumstances, subsequent to reporting such child or adult missing to the appropriate law enforcement agency within the county in which the child or adult became missing, and subsequent to entry by the law enforcement agency of the child or person into the Florida Crime Information Center and the National Crime Information Center databases. The missing endangered person which missing child report shall be included in the clearinghouse database.

3. 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.

~~(c) Interface with the National Crime Information Center for the exchange of information on children suspected of interstate travel.~~

~~(c)(d) Collect, process, maintain, and disseminate information on missing endangered persons children and strive to maintain or disseminate only accurate and complete information.~~

~~(4) The person parent, guardian, or legal custodian who is responsible for notifying the clearinghouse or a law enforcement agency about a missing endangered person child shall immediately notify the clearinghouse or the agency of any child or adult whose location has been determined.~~

~~(5) The law enforcement agency having jurisdiction over a case involving a missing endangered person shall, upon locating the child or adult, immediately purge information about the case from the Florida Crime Information Center or the National Crime Information Center databases and notify the clearinghouse. Information received pursuant to s. 937.021 about a missing child, which information has been included in the clearinghouse database, shall be purged by the appropriate law enforcement agency immediately upon location of such child.~~

~~(6) As used in this section, the term:~~

~~(a) "Missing child" means a person who is under the age of 18 years; 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.~~

~~(b) "Missing child report" means a report prepared on a form designed by the Department of Law Enforcement for the use by private citizens and law enforcement agencies to report information about missing children to the Missing Children Information Clearinghouse.~~

Section 5. This act shall take effect July 1, 2008.

Approved by the Governor June 17, 2008.

Filed in Office Secretary of State June 17, 2008.