



Committee on Homeland Security & Public Safety

**Wednesday, January 9, 2008
2:15 P.M. – 3:00 P.M.
Reed Hall
(102 H.O.B.)**

MEETING PACKET

**Marco Rubio
Speaker**

**Sandra Adams
Chair**

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Speaker Marco Rubio

Committee on Homeland Security & Public Safety

Start Date and Time: Wednesday, January 09, 2008 02:15 pm

End Date and Time: Wednesday, January 09, 2008 03:00 pm

Location: Reed Hall (102 HOB)

Duration: 0.75 hrs

Consideration of the following bill(s):

HB 29 DNA Testing by Snyder

HB 223 Missing Persons by Jenne

NOTICE FINALIZED on 01/02/2008 16:05 by SPT



The Florida House of Representatives

Safety & Security Council

Committee on Homeland Security & Public Safety

**Marco Rubio
Speaker**

**Sandra Adams
Chair**

AGENDA

Wednesday, January 9, 2008

2:15 p.m. – 3:00 p.m.

Reed Hall

(102 House Office Building)

- I. Opening remarks by Chair Adams**
- II. Roll call by Sonja Thompson, CAA**
- III. Consideration of the following bill(s):**
 - HB 29—DNA Testing by Snyder**
 - HB 223—Missing Persons by Jenne**
- IV. Closing Remarks**
- V. Meeting Adjourned**

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 29 DNA Testing

SPONSOR(S): Snyder and others

TIED BILLS: **IDEN./SIM. BILLS:** SB 472

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	_____	Cunningham <i>SN</i>	Kramer <i>YK</i>
2) <u>Safety & Security Council</u>	_____	_____	_____
3) _____	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

HB 29 provides that incarcerated persons and persons under community supervision are required to submit blood or other biological specimens for inclusion in the statewide DNA data bank if they have been convicted of any felony offense, certain misdemeanors, and any offense that the court found at sentencing was committed for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang.

Additionally the bill removes unnecessary language indicating that the requirement to submit blood or other biological specimens is "subject to appropriation" because the required appropriation was provided in 2007.

This bill takes effect July 1, 2008.

This bill has an insignificant fiscal impact.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility – HB 29 expands the list of offenses which would require a person convicted of such offense to submit blood or biological specimens.

B. EFFECT OF PROPOSED CHANGES:

Present Situation

In 1989, the Legislature enacted s. 943.325, F.S., which required the Florida Department of Law Enforcement (FDLE) to establish and maintain a statewide DNA data bank.¹ Originally, the statute only required persons convicted of offenses relating to sexual battery or lewd and lascivious conduct to submit blood samples to the FDLE.² However, in 2001, the statute was amended by expanding the list of felony offenses which would require a person to submit blood specimens, and by establishing a timetable in which such felony offenses would become effective.³

In its current form, s. 943.325, F.S., requires incarcerated persons and persons who are under some form of community supervision⁴ to submit blood or other biological specimens⁵ if they have been convicted of any of the following enumerated offenses:

- Chapter 794 (sexual battery), chapter 800 (lewdness and indecent exposure), s. 782.04 (murder), s. 784.045 (aggravated battery), s. 810.02 (burglary), s. 812.133 (carjacking), or s. 812.135 (home-invasion robbery).
- Effective July 1, 2002, and contingent upon specific appropriation, s. 812.13 (robbery) or s. 812.131 (robbery by sudden snatching).
- Effective July 1, 2003, and contingent upon specific appropriation, chapter 787 (kidnapping, false imprisonment, luring or enticing a child) or s. 782.07 (manslaughter).
- Effective July 1, 2004, and contingent upon specific appropriation, any forcible felony, as described in s. 776.08, aggravated child abuse, as described in s. 827.03(2), aggravated abuse of an elderly person or a disabled adult, as described in s. 825.102(2), or any felony violation of chapter 790 involving the use or possession of a firearm.
- Effective July 1, 2005, and contingent upon specific appropriation, any felony offense.

As indicated above, qualifying offenses have been added at a measured pace, with each year's expansion made "contingent upon specific appropriation." While there was statutory authority for the collection of all felony convictions as of July 1, 2005, the specific appropriation needed to make this provision effective was not provided until 2007.

¹ Fla. Laws ch. 89-335.

² *Id.*

³ Fla. Laws ch. 2001-97.

⁴ Community supervision generally includes probation, community control, parole, conditional release, control release, or any other type of court-ordered supervision.

⁵ DNA is most commonly collected using an oral swab.

Effect of the Bill

HB 29 deletes the now obsolete timetable language outlined above and, because the required appropriation has already been made, removes language indicating that the requirement is subject to appropriation. The bill then specifies that incarcerated persons and persons under some form of community supervision are required to submit blood or other biological specimens for inclusion in the statewide DNA data bank if they have been convicted of *any felony offense*.

HB 29 also adds additional crimes to the list of offenses which would require a person to submit blood or biological specimens. Specifically, the bill adds:

- Misdemeanor violations of ss. 784.048 (stalking), 810.14 (voyeurism), 847.011 (prohibiting certain acts in connection with obscene materials), 847.013 (exposing minors to harmful motion pictures, exhibitions, shows, presentations, or representations), 847.0135 (computer pornography), 877.26 (direct observation, videotaping, or visual surveillance of customers in merchant's dressing room).
- Any offense that the court found at sentencing was committed for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang⁶.

C. SECTION DIRECTORY:

Section 1. Amends s. 943.325, F.S., relating to blood or other biological specimen testing for DNA analysis.

Section 2. This bill takes effect July 1, 2008.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Insignificant (See Fiscal Comments).

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

⁶ Section 874.04, F.S., authorizes a court to enhance penalties if the court finds, at sentencing, that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests of a criminal street gang. Section 874.03, F.S., defines "criminal street gang" and sets forth the criteria used to determine whether a person is a "criminal street gang member."

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

FDLE stated the following in their analysis of this bill:

The effect on the DNA Database operation will be minimal. Based on criminal history records, there have been 16 convictions under section 847.03 since records have been maintained. There are less than 300 convictions per year under ss. 784.048, 810.14, 847.011, 847.013, 847.0135, and 877.26, F.S.

FDLE will be able to absorb the small number of DNA submissions expected without any additional funding requests (300 convictions per year @ \$28 per DNA Database sample completion = \$8,400).

The fiscal impact of collecting DNA for all felony offenses was funded by the Legislature as part of FDLE's 2007-2008 Legislative Budget Request.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The bill sponsor submitted the following statement:

This legislation will enhance the criminal justice system's ability to identify offenders and should also result in more compelling evidence for juries. DNA evidence has become a mainstay of prosecution efforts and oftentimes is indispensable for successful prosecutions.

Expanding the DNA base to include convicted misdemeanants who have committed crimes revealing a possible nexus with sex crimes will provide an enhanced level of protection for our most vulnerable of victims.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to DNA testing; amending s. 943.325, F.S.;
 3 revising offenses for which a conviction requires the
 4 person convicted to provide biological specimens in
 5 specified circumstances; providing an effective date.

6
 7 Be It Enacted by the Legislature of the State of Florida:

8
 9 Section 1. Subsection (1) of section 943.325, Florida
 10 Statutes, is amended to read:

11 943.325 Blood or other biological specimen testing for DNA
 12 analysis.--

13 (1)(a) Any person who is convicted or was previously
 14 convicted in this state for any offense or attempted offense
 15 enumerated in paragraph (b), and any person who is transferred
 16 to this state under Article VII of the Interstate Compact on
 17 Juveniles, part XIII of chapter 985, who has committed or
 18 attempted to commit an offense similarly defined by the
 19 transferring state, who is either:

- 20 1. Still incarcerated, or
 21 2. No longer incarcerated, or has never been incarcerated,
 22 yet is within the confines of the legal state boundaries and is
 23 on probation, community control, parole, conditional release,
 24 control release, or any other type of court-ordered supervision,
 25

26 shall be required to submit two specimens of blood or other
 27 biological specimens approved by the Department of Law

28 Enforcement to a Department of Law Enforcement designated
 29 testing facility as directed by the department.

30 ~~(b) 1. Chapter 794, chapter 800, s. 782.04, s. 784.045, s.~~
 31 ~~810.02, s. 812.133, or s. 812.135.~~

32 ~~2. Effective July 1, 2002, and contingent upon specific~~
 33 ~~appropriation, s. 812.13 or s. 812.131.~~

34 ~~3. Effective July 1, 2003, and contingent upon specific~~
 35 ~~appropriation, chapter 787 or s. 782.07.~~

36 ~~4. Effective July 1, 2004, and contingent upon specific~~
 37 ~~appropriation, any forcible felony, as described in s. 776.08,~~
 38 ~~aggravated child abuse, as described in s. 827.03(2), aggravated~~
 39 ~~abuse of an elderly person or a disabled adult, as described in~~
 40 ~~s. 825.102(2), or any felony violation of chapter 790 involving~~
 41 ~~the use or possession of a firearm.~~

42 ~~1.5. Effective July 1, 2005, and contingent upon specific~~
 43 ~~appropriation, Any felony offense.~~

44 2. Any misdemeanor violation of s. 784.048, s. 810.14, s.
 45 847.011, s. 847.013, s. 847.0135, or s. 877.26.

46 3. An offense that the court found at sentencing was
 47 committed for the purpose of benefiting, promoting, or
 48 furthering the interests of a criminal street gang as defined in
 49 s. 874.03.

50 (c) As used in this section, the term "any person"
 51 includes both juveniles and adults committed to a county jail or
 52 committed to or under the supervision of the Department of
 53 Corrections or the Department of Juvenile Justice, including
 54 persons incarcerated in a private correctional institution
 55 operated under contract pursuant to s. 944.105.

56 (d) Any person who was previously convicted in this state
 57 for any offense or attempted offense enumerated in paragraph (b)
 58 ~~subparagraph (b)1., subparagraph (b)2., or subparagraph (b)3.~~
 59 and who is still incarcerated or in the custody of the
 60 Department of Juvenile Justice must submit, not less than 45
 61 days before his or her presumptive date of release from such
 62 incarceration or commitment, two specimens of blood or other
 63 approved biological specimens as directed by the Department of
 64 Law Enforcement to a testing facility designated by the
 65 department.

66 Section 2. This act shall take effect July 1, 2008.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 223 Missing Persons

SPONSOR(S): Jenne and others

TIED BILLS: IDEN./SIM. BILLS: SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security & Public Safety</u>	_____	Kramer <i>TK</i>	Kramer <i>TK</i>
2) <u>Safety & Security Council</u>	_____	_____	_____
3) <u>Policy & Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

SUMMARY ANALYSIS

The bill requires law enforcement agencies in the state to adopt written policies that specify the procedures to be used to investigate reports of missing persons.

The bill provides that if a person who has been reported as missing has not been located within 90 days after the missing person report is filed, the law enforcement agency that accepted the missing person report must attempt to obtain a biological specimen for DNA analysis from the missing person or from appropriate family members of the missing person to enable the agency to use the specimens in conducting searches of DNA databases.

The bill also provides that a law enforcement agency may not adopt a policy requiring the removal of a missing child or missing person entry from the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC) databases based solely on the age of the missing person.

Additionally, the bill requires that upon the filing of a credible police report that a person is missing, the law enforcement agency must, within 2 hours after receiving the missing person information, transmit the information for entry into the FCIC and NCIC databases.

FDLE maintains a Missing Children Information Clearinghouse (MCIC) which is a central repository of information regarding missing children. The bill changes the name of this entity to the Missing Persons and Children Information Clearinghouse. The bill also expands the duties of the clearinghouse which currently only relate to missing children to apply to missing persons younger than 26 years of age and missing persons (of any age) suspected by a law enforcement agency of being endangered or the victim of criminal activity.

FDLE estimates that this bill would have a fiscal impact of \$170,000 in the first year, with recurring costs of \$116,512.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: The bill expands the duties of the Missing Children Information Clearinghouse and requires law enforcement agencies to adopt written policies and procedures to be used when investigating missing person reports.

B. EFFECT OF PROPOSED CHANGES:

Missing child reports

Section 937.021, F.S. relates to missing child reports and sets forth procedures to be followed by law enforcement upon the filing of such a report. The bill requires law enforcement agencies in the state to adopt written policies that specify the procedures to be used to investigate reports of missing persons. The bill provides that the policies adopted must ensure that cases involving reported missing persons, including cases involving minor children, are investigated promptly using appropriate resources. The adopted policies must include:

1. Requirements for accepting missing persons reports;
2. Procedures for initiating, maintaining, closing, or referring a missing person investigation; and
3. Standards for maintaining and clearing computer data of missing person information that is stored in the Florida Crime Information Center (FCIC) and the National Crime Information Center (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.

Currently, section 937.021, F.S. provides that upon the filing of a police report that a child is missing by the parent or guardian, the law enforcement agency receiving the report must immediately inform all on-duty officers of the existence of the report, communicate the report to every other law enforcement agency having jurisdiction in the county, and transmit the report for inclusion in the Florida Crime Information Center.

HB 223 amends this language to apply to *credible* police reports that a child is missing. The bill also requires that this information be transmitted for inclusion within two hours to the FCIC database and requires that it also be transmitted to the NCIC database. According to the Florida Department of Law Enforcement (FDLE), information entered into FCIC is also entered into NCIC without any additional action on the part of the person inputting the information. This places state law in conformity with the provision of the federal Adam Walsh Child Protection and Safety Act of 2006 that requires that law enforcement agencies transmit a missing child report to NCIC and to the state agency designated to receive the report within 2 hours of receipt.¹ Additionally, the bill requires that if an adult files a credible police report that an adult person is missing, the law enforcement agency must, within 2 hours after

¹ Public Law 109-248, s. 154.

receiving the missing person information, transmit the information for entry into the FCIC and NCIC databases.

The bill also provides that a law enforcement agency may not adopt a policy requiring the removal of a missing child or missing person entry from the FCIC or NCIC databases based solely on the age of the missing person. The federal Adam Walsh Child Protection and Safety Act of 2006 provided that each state must ensure that no law enforcement agency establishes or maintains any policy that requires the removal of a missing person entry from its law enforcement system or the NCIC database solely on the age of the person.²

Currently, s. 937.021, F.S. provides that a police report that a child is missing may be filed with the law enforcement agency having jurisdiction in the country or municipality in which the child was last seen prior to the filing of the report. The bill modifies this language to provide that if a law enforcement agency has a reasonable belief that a person is missing, a police report filed with the law enforcement agency having jurisdiction in the country or municipality in which the person was last seen must be accepted by that agency. This is apparently intended to ensure that the law enforcement agency in the location where the person was last seen takes appropriate action and does not require the person making the report to contact the law enforcement agency where the missing person resides. The bill further provides that this language does not preclude a law enforcement agency from filing or accepting a missing person report when agency jurisdiction cannot be determined.

DNA

The bill provides that if a person who has been reported as missing has not been located within 90 days after the missing person report is filed, the law enforcement agency that accepted the missing person report must attempt to obtain a biological specimen approved by FDLE for DNA analysis from the missing person or from appropriate family members of the missing person in addition to any documentation necessary to enable the agency to use the specimens in conducting searches of DNA databases. The bill states that this language 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.

The bill requires FDLE to adopt rules establishing procedures for:

1. The submission of biological specimens approved by the department for DNA analysis in a missing person case.
2. The forwarding of approved biological specimens by law enforcement agencies for DNA analysis in a missing person case.

The bill provides that these provisions are contingent on the availability of an appropriation of federal funds for the submission and processing of approved biological specimens for DNA analysis.

² *Id.*

Missing Children Information Clearinghouse

Pursuant to s. 937.022, F.S., the Department of Law Enforcement maintains a Missing Children Information Clearinghouse (MCIC) which is a central repository of information regarding missing children. The section outlines the duties of the clearinghouse. The bill changes the name of this entity to the Missing Persons and Children Information Clearinghouse. The bill also expands the duties of the clearinghouse which currently only relate to missing children to apply to missing persons younger than 26 years of age and missing persons (of any age) suspected by a law enforcement agency of being endangered or the victim of criminal activity.

Currently, only a parent, guardian or legal custodian of a child may submit a missing child report to the clearinghouse subsequent to reporting such child missing to the appropriate local law enforcement agency. The bill authorizes any person having knowledge to submit a missing person report to the clearinghouse concerning a person younger than 26 years of age subsequent to reporting the person missing to the appropriate law enforcement agency and subsequent to that agency entering the person into the FCIC and MCIC database.

The bill provides that requests to the Missing Persons and Children Information Clearinghouse to accept reports of missing persons who are 26 years of age or older and who are suspected by a law enforcement agency of being endangered or the victim of criminal activity must be made by the law enforcement agency having jurisdiction.

Amber Alert

In cooperation with several other state agencies, FDLE administers the Amber Alert program to aid in the recovery of missing children. The purpose of the program is to broadcast information relating to a missing or abducted child believed to be in danger to the public, through the use of radio and television broadcasts, road signs and lottery machines. The United States Department of Justice maintains criteria for the use of an Amber Alert.

The bill provides that after receiving a request to record, report, transmit, display or release information and photographs pertaining to a missing person from the law enforcement agency having jurisdiction over the missing person, FDLE, a state or local law enforcement agency and their personnel, any radio or television network and certain other entities are 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 person. Currently, section 937.021, F.S. contains similar immunity from civil liability for actions taken in good faith relating to information regarding a missing child.

C. SECTION DIRECTORY:

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

Section 2. Amends s. 937.022, F.S., relating to the Missing Children Information Clearinghouse.

Section 3. Provides effective date of July 1, 2008.

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:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

FDLE estimates that two government analysts are needed to handle the workload in expanding Missing Children Information Clearinghouse functions through the age of 25. The department further states that adding missing persons who are 18-25 years old will increase the case intakes by an estimated additional 2,400 incidents annually or 47% increase above the current level of case intakes. Costs in the first year are approximately \$170,000, with recurring costs of \$116,512.

FY 08-09 FY 09-10 FY 10-11

	FY 08-09	FY 09-10	FY 10-11
2 Govt Analyst FTE Positions (Salary/Benefits)	94,816	94,816	94,816
Standard Expense Package for 2 Positions	20,176	13,400	13,400

Standard OCO for 2 Positions	2,000		
Standard HR Services for 2 Positions	796	796	796
Subtotal	117,788	109,012	109,012
Programming/Maintenance	52,500	7,500	7,500
TOTAL	\$170,288	\$116,512	\$116,512

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill requires FDLE to adopt rules establishing procedures for the submission of biological specimens approved by the department for DNA analysis in a missing person case and the forwarding of approved biological specimens by law enforcement agencies for DNA analysis in a missing person case.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

None submitted.

IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to missing persons; amending s. 937.021,
 3 F.S.; requiring law enforcement agencies to adopt written
 4 policies and procedures to be used when investigating
 5 missing person reports; requiring law enforcement agencies
 6 to submit information to specified databases; providing
 7 immunity from civil liability for certain persons
 8 involving such reports; requiring that a law enforcement
 9 agency attempt to obtain a DNA sample after a person has
 10 been missing more than 90 days and requiring the
 11 Department of Law Enforcement to adopt rules establishing
 12 procedures for such DNA sampling and analysis, contingent
 13 on appropriation of federal funds; amending s. 937.022,
 14 F.S.; renaming the Missing Children Information
 15 Clearinghouse the "Missing Persons and Children
 16 Information Clearinghouse"; requiring the clearinghouse to
 17 collect and process information regarding missing
 18 children, missing persons younger than 26 years of age,
 19 and missing persons suspected by a law enforcement agency
 20 of being in danger or victims of criminal activity;
 21 providing definitions; providing an effective date.

22
 23 Be It Enacted by the Legislature of the State of Florida:

24
 25 Section 1. Section 937.021, Florida Statutes, is amended
 26 to read:

27 937.021 Missing child or missing person reports.--
 28 (1) Law enforcement agencies in this state shall adopt

29 written policies that specify the procedures to be used to
 30 investigate reports of missing persons. The policies adopted
 31 must ensure that cases involving reported missing persons,
 32 including cases involving minor children, are investigated
 33 promptly using appropriate resources. The adopted policies must
 34 include:

- 35 (a) Requirements for accepting missing person reports;
- 36 (b) Procedures for initiating, maintaining, closing, or
 37 referring a missing person investigation; and
- 38 (c) Standards for maintaining and clearing computer data
 39 of missing person information that is stored in the Florida
 40 Crime Information Center and the National Crime Information
 41 Center. The standards shall require, at a minimum, a monthly
 42 review of each case and a determination of whether the case
 43 should be maintained in the database.

44 (2)-(1) Upon the filing of a credible police report that a
 45 child is missing by the parent or guardian, the law enforcement
 46 agency receiving the report shall immediately inform all on-duty
 47 law enforcement officers of the existence of the missing child
 48 report, communicate the report to every other law enforcement
 49 agency having jurisdiction in the county, and within 2 hours
 50 transmit the information ~~report~~ for inclusion within the Florida
 51 Crime Information Center and the National Crime Information
 52 Center databases ~~computer~~.

53 (3) A law enforcement agency may not adopt a policy
 54 requiring the removal of a missing child or missing person entry
 55 from the Florida Crime Information Center or the National Crime
 56 Information Center databases based solely on the age of the

57 missing person.

58 (4)-(2) If a law enforcement agency has a reasonable belief
 59 that a person is missing, a police report that a child is
 60 missing may be filed with the law enforcement agency having
 61 jurisdiction in the county or municipality in which the person
 62 child was last seen shall be accepted by that agency prior to
 63 the filing of the report, without regard to whether the child
 64 resides in or has any significant contacts with that county or
 65 municipality. The filing and acceptance of such a report imposes
 66 shall impose the duties specified in this section subsection (1)
 67 upon the that law enforcement agency receiving the missing
 68 person report. This subsection does not preclude a law
 69 enforcement agency from filing or accepting a missing person
 70 report when agency jurisdiction cannot be determined.

71 (5) If an adult files a credible police report that an
 72 adult person is missing, the law enforcement agency receiving
 73 the report must, within 2 hours after receiving the missing
 74 person information, transmit the information for entry into the
 75 Florida Crime Information Center and the National Crime
 76 Information Center databases.

77 (6)-(3)(a) Upon receiving a request to record, report,
 78 transmit, display, or release Amber Alert or Missing Child Alert
 79 information from the law enforcement agency having jurisdiction
 80 over the missing or endangered child younger than 18 years of
 81 age, the Department of Law Enforcement as the state Amber Alert
 82 coordinator; any state or local law enforcement agency and the
 83 personnel of these agencies; any radio or television network,
 84 broadcaster, or other media representative; any dealer of

85 | communications services as defined in s. 202.11; or any agency,
 86 | employee, individual, or entity is immune from civil liability
 87 | for damages for complying in good faith with the request and is
 88 | presumed to have acted in good faith in recording, reporting,
 89 | transmitting, displaying, or releasing Amber Alert or Missing
 90 | Child Alert information pertaining to such child.

91 | (b) After receiving a request to record, report, transmit,
 92 | display, or release information and photographs pertaining to a
 93 | missing person from the law enforcement agency having
 94 | jurisdiction over the missing person, the Department of Law
 95 | Enforcement; a state or local law enforcement agency and the
 96 | personnel of these agencies; any radio or television network,
 97 | broadcaster, or other media representative; any dealer of
 98 | communications services as defined in s. 202.11; or any agency,
 99 | employee, individual, or person is immune from civil liability
 100 | for damages for complying in good faith with the request to
 101 | provide information and is presumed to have acted in good faith
 102 | in recording, reporting, transmitting, displaying, or releasing
 103 | information or photographs pertaining to the missing person.

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

111 | ~~(d)~~ ~~(e)~~ Neither this subsection nor any other provision of
 112 | law creates a duty of the agency, employee, individual, or

113 entity to record, report, transmit, display, or release the
 114 Amber Alert, ~~or~~ Missing Child Alert, or other missing person
 115 information received from the local law enforcement agency
 116 having jurisdiction. The decision to record, report, transmit,
 117 display, or release information is discretionary with the
 118 agency, employee, individual, or entity receiving that
 119 information from the local law enforcement agency having
 120 jurisdiction.

121 (7) If a person who has been reported as missing has not
 122 been located within 90 days after the missing person report is
 123 filed, the law enforcement agency that accepted the missing
 124 person report shall attempt to obtain a biological specimen
 125 approved by the Department of Law Enforcement for DNA analysis
 126 from the missing person or from appropriate family members of
 127 the missing person in addition to any documentation necessary to
 128 enable the agency to use the specimens in conducting searches of
 129 DNA databases.

130 (8) The Department of Law Enforcement shall adopt rules
 131 establishing procedures for:

132 (a) The submission of biological specimens approved by the
 133 department for DNA analysis in a missing person case.

134 (b) The forwarding of approved biological specimens by law
 135 enforcement agencies for DNA analysis in a missing person case.

136 (9) Subsections (7) and (8) are contingent upon the
 137 availability of an appropriation of federal funds for the
 138 submission and processing of approved biological specimens for
 139 DNA analysis.

140 (10) Subsection (7) does not prevent a law enforcement

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141 agency from attempting to obtain information or approved
 142 biological specimens for DNA analysis before the expiration of
 143 the 90-day period.

144 Section 2. Section 937.022, Florida Statutes, is amended
 145 to read:

146 937.022 Missing Persons and Children Information
 147 Clearinghouse.--

148 (1) There is created a Missing Persons and Children
 149 Information Clearinghouse within the Department of Law
 150 Enforcement. The clearinghouse is established as a central
 151 repository of information regarding missing children and certain
 152 missing persons. Such information shall be collected and
 153 disseminated to assist in the location of missing children,
 154 missing persons younger than 26 years of age, or missing persons
 155 suspected by a law enforcement agency of being endangered or the
 156 victim of criminal activity.

157 (2) The clearinghouse shall be supervised by a director
 158 who shall be employed upon the recommendation of the executive
 159 director. The executive director shall establish services deemed
 160 appropriate by the department to aid in the location of missing
 161 children, missing persons younger than 26 years of age, or
 162 missing persons suspected by a law enforcement agency of being
 163 endangered or the victim of criminal activity.

164 (3) The clearinghouse shall:

165 (a) Establish a system of intrastate communication of
 166 information relating to missing children, missing persons
 167 younger than 26 years of age, or missing persons suspected by a
 168 law enforcement agency of being endangered or the victim of

169 ~~criminal activity determined to be missing by their parents,~~
 170 ~~guardians, or legal custodians or by law enforcement agencies.~~

171 (b) Provide a centralized file for the exchange of
 172 information concerning ~~en~~ missing children, missing persons
 173 younger than 26 years of age, or missing persons suspected by a
 174 law enforcement agency of being endangered or the victim of
 175 criminal activity within the state.

176 1. Every state, county, or municipal law enforcement
 177 agency shall submit to the clearinghouse information concerning
 178 persons who meet the criteria set forth in this section received
 179 by it pursuant to s. 937.021.

180 2. Any person having knowledge ~~parent, guardian, or legal~~
 181 ~~custodian~~ may submit a missing person ~~child~~ report to the
 182 clearinghouse concerning ~~about~~ a person younger than 26 years of
 183 age ~~child~~ whose whereabouts is unknown, regardless of the
 184 circumstances, subsequent to reporting such person ~~child~~ missing
 185 to the appropriate law enforcement agency within the county in
 186 which the person ~~child~~ became missing and subsequent to the law
 187 enforcement agency entering the person into the Florida Crime
 188 Information Center and the National Crime Information Center.
 189 ~~The, which~~ missing person ~~child~~ report shall be included in the
 190 clearinghouse database.

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

194 ~~(c)-(d)~~ Collect, process, maintain, and disseminate
 195 information concerning ~~en~~ missing children and strive to
 196 maintain or disseminate only accurate and complete information.

197 (4) Requests to the Missing Persons and Children
 198 Information Clearinghouse to accept reports of missing persons
 199 who are 26 years of age or older and who are suspected by a law
 200 enforcement agency of being endangered or the victim of criminal
 201 activity must be made by the law enforcement agency having
 202 jurisdiction.

203 (5)-(4) The parent, guardian, ~~or~~ legal custodian, or other
 204 person who is responsible for notifying the clearinghouse or a
 205 law enforcement agency about a missing child or missing person
 206 shall immediately notify the clearinghouse or the agency of any
 207 missing child or missing person whose location has been
 208 determined.

209 (6)-(5) Information received pursuant to s. 937.021 about a
 210 missing person or child, which information has been included in
 211 the clearinghouse database and in the Florida Crime Information
 212 Center and the National Crime Information Center databases,
 213 shall be purged by the appropriate law enforcement agency and
 214 the clearinghouse shall be notified immediately upon location of
 215 the person ~~such child~~.

216 (7)-(6) As used in this section, the term:

217 (a) "Missing child" means a person who is younger than
 218 ~~under the age of~~ 18 years of age; whose temporary or permanent
 219 residence is in, or is believed to be in, this state; whose
 220 location has not been determined; and who has been reported as
 221 missing to a law enforcement agency.

222 (b) "Missing child or missing person report" means a
 223 report prepared on a form designed by the Department of Law
 224 Enforcement for ~~the use by~~ the public ~~private citizens~~ and law

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225 enforcement agencies in reporting to the Missing Persons and
 226 Children Information Clearinghouse ~~to report~~ information about
 227 missing children, missing persons who were younger than 26 years
 228 of age at the time they were reported missing, or missing
 229 persons 26 or older who are suspected by the law enforcement
 230 agency having jurisdiction of being endangered or the victim of
 231 criminal activity ~~to the Missing Children Information~~
 232 ~~Clearinghouse.~~

233 (c) "Missing person" means a person who has been reported
 234 as missing to a local law enforcement agency under this section.

235 Section 3. This act shall take effect July 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. **HB 223**

COUNCIL/COMMITTEE ACTION

ADOPTED _____ (Y/N)
ADOPTED AS AMENDED _____ (Y/N)
ADOPTED W/O OBJECTION _____ (Y/N)
FAILED TO ADOPT _____ (Y/N)
WITHDRAWN _____ (Y/N)
OTHER _____

1 Council/Committee hearing bill: Homeland Security & Public
2 Safety

3 Representative(s) Jenne offered the following:
4

5 **Amendment (with directory and title amendments)**

6 Remove line(s) 136-232 and insert:

7 (9) Subsections (7) and (8) are contingent upon the
8 availability of an appropriation or federal funds for the
9 submission and processing of approved biological specimens for
10 DNA analysis.

11 (10) Subsection (7) does not prevent a law enforcement
12 agency from attempting to obtain information or approved
13 biological specimens for DNA analysis before the expiration of
14 the 90-day period.

15 Section 2. Section 937.022, Florida Statutes, is amended
16 to read:

17 937.022 Missing Persons and Children Information
18 Clearinghouse.--

19 (1) There is created a Missing Persons and Children
20 Information Clearinghouse within the Department of Law
21 Enforcement. The clearinghouse is established as a central

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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22 repository of information regarding missing children and certain
23 missing persons. Such information shall be collected and
24 disseminated to assist in the location of missing children,
25 missing persons younger than 26 years of age, or missing persons
26 suspected by a law enforcement agency of being endangered or the
27 victim of criminal activity.

28 (2) The clearinghouse shall be supervised by a director
29 who shall be employed upon the recommendation of the executive
30 director. The executive director shall establish services deemed
31 appropriate by the department to aid in the location of missing
32 children, missing persons younger than 26 years of age, or
33 missing persons suspected by a law enforcement agency of being
34 endangered or the victim of criminal activity.

35 (3) The clearinghouse shall:

36 (a) Establish a system of intrastate communication of
37 information relating to missing children, missing persons
38 younger than 26 years of age, or missing persons suspected by a
39 law enforcement agency of being endangered or the victim of
40 criminal activity ~~determined to be missing by their parents,~~
41 ~~guardians, or legal custodians or by law enforcement agencies.~~

42 (b) Provide a centralized file for the exchange of
43 information concerning ~~on~~ missing children, missing persons
44 younger than 26 years of age, or missing persons suspected by a
45 law enforcement agency of being endangered or the victim of
46 criminal activity ~~within the state.~~

47 1. Every state, county, or municipal law enforcement
48 agency shall submit to the clearinghouse information concerning
49 persons who meet the criteria set forth in this section ~~received~~
50 ~~by it pursuant to s. 937.021.~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

51 2. Any person having knowledge parent, guardian, or legal
52 custodian may submit a FDLE missing person and children
53 clearinghouse form child report to the clearinghouse concerning
54 about a person younger than 26 years of age child whose
55 whereabouts are is unknown, regardless of the circumstances,
56 subsequent to reporting such person child missing to the
57 appropriate law enforcement agency within the county in which
58 the person child became missing and subsequent to the law
59 enforcement agency entering the person into the Florida Crime
60 Information Center and the National Crime Information Center.
61 Information in the FDLE , which missing person and children
62 clearinghouse form child report shall be included in the
63 clearinghouse database.

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

67 ~~(c)(d)~~ Collect, process, maintain, and disseminate
68 information concerning on missing children, missing persons
69 younger than 26 years of age and missing persons suspected by a
70 law enforcement agency of being endangered or the victim of
71 criminal activity and strive to maintain or disseminate only
72 accurate and complete information.

73 (4) Requests to the Missing Persons and Children
74 Clearinghouse to accept reports of missing persons who are 26
75 years of age or older and who are suspected by a law enforcement
76 agency of being endangered or the victim of criminal activity
77 must be made by the law enforcement agency having jurisdiction.

78 ~~(5)(4)~~ The parent, guardian, ~~or~~ legal custodian, or other
79 person who is responsible for notifying the clearinghouse or a
80 law enforcement agency about a missing child or missing person

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

81 shall immediately notify the clearinghouse or the agency of any
82 missing child or missing person whose location has been
83 determined.

84 ~~(6)~~(5) Information received pursuant to s. 937.021 about a
85 missing person or child, which information has been included in
86 the clearinghouse database and in the Florida Crime Information
87 Center and the National Crime Information Center databases,
88 shall be purged by the appropriate law enforcement agency and
89 the clearinghouse shall be notified immediately upon location of
90 the person such child.

91 ~~(7)~~(6) As used in this section, the term:

92 (a) "Missing child" means a person who is younger than
93 ~~under the age of~~ 18 years of age; whose temporary or permanent
94 residence is in, or is believed to be in, this state; whose
95 location has not been determined; and who has been reported as
96 missing to a law enforcement agency.

97 (b) "FDLE Missing person and children clearinghouse form
98 child report" means a ~~report prepared on a~~ form designed by the
99 Department of Law Enforcement for ~~the~~ use by the public private
100 ~~citizens~~ and law enforcement agencies in reporting to the
101 Missing Persons and Children Clearinghouse to report information
102 about missing children, missing persons who were younger than 26
103 years of age at the time they were reported missing, or missing
104 persons 26 or older who are suspected by the law enforcement
105 agency having jurisdiction of being endangered or the victim of
106 criminal activity to the Missing Children Information
107 Clearinghouse.