
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Nancy Skinner, Chair
2019 - 2020 Regular

Bill No: SB 388 **Hearing Date:** January 14, 2020
Author: Galgiani
Version: January 6, 2020
Urgency: No **Fiscal:** Yes
Consultant: GC

Subject: *Missing Persons: Reports: Local Agencies*

HISTORY

Source: Author

Prior Legislation: SB 846 (Galgiani), Ch. 432, Stats. of 2014
SB 1066 (Galgiani), Ch. 437, Stats. of 2014

Support: Unknown

Opposition: None known

PURPOSE

Eliminates the ability of local jurisdictions to opt-out of specified extensive requirements related to the reporting, investigation, and tracking of missing persons cases.

Existing law provides that the Attorney General (AG) maintains the Violent Crime Information Center (VCIC) to assist in the identification and apprehension of persons responsible for specified violent crimes and for the disappearance and exploitation of persons, particularly children and at-risk adults. One of the VCIC's programs includes assisting local law enforcement agencies and county prosecutors by providing investigative information on persons responsible for specified violent crimes and missing person cases. Additionally the Center provides physical description information and on persons responsible for violent crimes and missing person cases. (Pen. Code, § 14200.)

Existing law requires the AG establish and maintain a Violent Crime Information Network (VCIN) within VCIC to enable the DOJ to electronically share data, analysis, and findings on violent crime cases and to electronically provide law enforcement agencies with information to assist in the identification, tracking, and apprehension of violent offenders. The VCIN integrates existing state, federal, and civilian databases into a single network. (Pen. Code, § 14201.)

Existing law provides that a law enforcement agency may request a copy of information or data maintained by the DOJ for the purpose of linking an unresolved missing or unidentified person case with another case that was previously unknown to be related to that case, for the purpose of resolving an unsolved missing or unidentified person case. (Pen. Code, § 14201.2.)

Existing law requires that the VCIC maintain an online, automated computer system designed to effect an immediate law enforcement response to reports of missing persons. These files must be made available to law enforcement agencies, unless a request by another agency has been made to deny release because release would interfere with an ongoing criminal investigation. (Pen. Code, § 14204, subds. (a) & (b).)

Existing law requires that the AG distribute a missing children and at-risk adults bulletin on a quarterly basis to local law enforcement agencies, prosecutors, and public schools. (Pen. Code, § 14204, subd. (c).)

Existing law requires that local law enforcement must do the following things in cases of missing persons, unless the governing body of the local agency, by a majority vote, adopts a resolution expressly making the requirements inoperative:

- 1) Local police and sheriffs' departments accept any report of a missing person without delay and give priority to the handling of these reports over the handling of reports related to property crimes. (Pen. Code, § 14211, subd. (a).)
- 2) The California Highway Patrol (CHP) notify any person making a report to the CHP of the local law enforcement agencies with jurisdiction over the address of the missing person or jurisdiction over the last place the person was seen. (Pen. Code, § 14211, subd. (b).)
- 3) Local police or sheriffs shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person, as specified. (Pen. Code, § 14211, subd. (c).)
- 4) Local law enforcement must broadcast a "Be on the Lookout" bulletin, without delay, within their jurisdiction if the missing person is under the age of 21-years or if there is evidence that the person is at risk. (Pen. Code, § 14211, subd. (d).)
- 5) Local law enforcement must, within two hours of the report, transmit the report to the Department of Justice for inclusion in the VCIC and National Crime Information Center databases if the missing person is under the age of 21 or there is evidence that they are at risk. (Pen. Code, § 14211, subd. (e).)
- 6) Local law enforcement must supplement the electronic report to DOJ within 60-days after the initial electronic transmission with the following: (Pen. Code, § 14211, subd. (f).)
 - a) Dental records and treatment notes.
 - b) Fingerprints.
 - c) Photographs.
 - d) Description of physical characteristics.
 - e) Description of clothing the person was wearing when last seen.
 - f) Vehicle information.
 - g) Information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.
- 7) Agencies who take a report that are not the local jurisdiction of the residence of the missing person, shall without delay, notify and forward a copy of the report to the police of sheriff's

department or departments having jurisdiction of the residence address of the person missing. (Pen. Code, § 14211, subd. (g).)

This bill eliminates the ability of the governing body of a local law enforcement agency to opt-out, by majority vote, of complying with these provisions and creates a mandate that they provide the information as outlined above.

Existing law requires that local law enforcement must do the following things in cases of missing persons, unless the governing body of the local agency, by a majority vote, adopts a resolution expressly making the requirements inoperative:

- 1) Local law enforcement agencies, prosecutors, and the CHP are required to use the appropriate AG form when making a report of a missing person. The form shall include a statement authorizing release of the dental or skeletal X-rays and treatment notes of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under the age of 18. (Pen. Code, § 14212, subd. (a).)
- 2) The form must include instructions that if the person missing is still missing 30-days after the report is made, the release form signed by the next of kin shall be taken to the appropriate medical professional or dentist to obtain dental, skeletal, and treatment notes of that person as specified. (Pen. Code, § 14212, subd. (b).)
- 3) Dental, skeletal, and treatment notes shall be released by the associated medical professional within 10-days. (Pen. Code, § 14212, subd. (c).)
- 4) When the person reported missing has been determined by the agency to be an at-risk person, and has not been found within 30 days, the law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted, and that the dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation. (Pen. Code, § 14212, subd. (d).)
- 5) The written declaration, signed by a peace officer, is sufficient authority for the dentist, physician and surgeon, or medical facility to immediately release the missing person's dental or skeletal X-rays, or both, or treatment notes. (Pen. Code, § 14212, subd. (e).)
- 6) Requires that the AG code and enter the dental or skeletal X-rays, or both, into the VCIC database, which serves as that statewide database for those X-rays, and shall forward the information to the National Crime Information Center. (Pen. Code, § 14212, subd. (f).)
- 7) When a person reported missing has not been found within 30 days, the sheriff, chief of police, or other law enforcement agency conducting the investigation for the missing person may confer with the coroner or medical examiner prior to the preparation of a missing person report. The coroner or medical examiner shall cooperate with the law enforcement agency. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement agency initiating and conducting the investigation for the missing person may submit a missing person report and the dental or skeletal X-rays, or both, and photograph received to the AG's office in a format acceptable to the AG. (Pen. Code, § 14212, subd. (g).)

This bill eliminates the ability of the governing body of a local law enforcement agency to opt-out, by majority vote, of complying with these provisions and creates a mandate that they provide the information as outlined above.

COMMENTS

1. Need for This Bill

According to the author:

Current law allows counties to exempt themselves from Missing Persons Reporting requirements. This bill removes that ability and mandates that all counties follow the statute. It is imperative that all counties follow procedures prescribed by the Penal Code relating to missing persons.

2. Department of Justice's Missing and Unidentified Persons Unit

Through the Missing and Unidentified Persons Unit, the California Department of Justice assists law enforcement agencies throughout the state in finding missing persons.

The Missing and Unidentified Persons Unit maintains statewide files containing the dental records, photographs and physical characteristics of missing and unidentified persons.

Staff assist law enforcement agencies in locating missing persons and identifying unknown live and deceased persons through the comparison of physical characteristics, fingerprints, and dental/body X-rays.¹ (*See Sections 14200-14216 of the California Penal Code.*)

3. Creating a Mandate on Local Jurisdictions

This bill is a follow-up to a bill package authored by Senator Galgiani in the 2013-2014 legislative session. SB 846 (Galgiani), Ch. 432, Stats. of 2014 and SB 1066 (Galgiani), Ch. 437, Stats. of 2014 made numerous changes to the Penal Code relating to missing and unidentified persons by: (1) requiring medical examiners and other agencies responsible for a postmortem exam or autopsy to follow certain procedures when conducting an autopsy on an unidentified person; (2) requiring reports to the Department of Justice (DOJ) be done on the department's Unidentified Deceased Person Reporting form, as specified; (3) expanding requirements relating to reports to the Department of Justice by local law enforcement, as specified; (4) requiring that the final report of investigation include any homicide report, anthropology report, fingerprints, photographs, and autopsy report; (5) expanding the Department of Justice computer internet directory of information to include at-risk missing persons and unidentified persons, as specified; (6) requiring a "Be On the Look-out" bulletin for any missing person under 21 years of age; (7) requiring local law enforcement to electronically report to DOJ within two hours, as specified; (8) making the Attorney General's Office's database the statewide database for x-rays, and would require the Attorney General's Office to forward the information to the National Crime Information Center; and (9) making technical and conforming changes to the code sections relating to missing and unidentified persons.

¹ (<http://oag.ca.gov/missing/mups>)

The provisions of the original package permitted local jurisdictions to opt-out of specified provisions if the local governing body of a law enforcement agency voted by a majority to not comply with the provisions. This bill would remove the ability of local jurisdictions to opt-out of the following requirements:

- 1) Local police and sheriffs' departments must accept any report of a missing person without delay and give priority to the handling of these reports over the handling of reports related to property crimes. (Pen. Code, § 14211, subd. (a).)
- 2) The California Highway Patrol (CHP) must notify any person making a report to the CHP of the local law enforcement agencies with jurisdiction over the address of the missing person or jurisdiction over the last place the person was seen. (Pen. Code, § 14211, subd. (b).)
- 3) Local police or sheriffs shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person, as specified. (Pen. Code, § 14211, subd. (c).)
- 4) Local law enforcement must broadcast a "Be on the Lookout" bulletin, without delay, within their jurisdiction if the missing person is under the age of 21-years or if there is evidence that the person is at risk. (Pen. Code, § 14211, subd. (d).)
- 5) Local law enforcement must, within two hours of the report, transmit the report to the Department of Justice for inclusion in the VCIC and National Crime Information Center databases if the missing person is under the age of 21 or there is evidence that they are at risk. (Pen. Code, § 14211, subd. (e).)
- 6) Local law enforcement must supplement the electronic report to DOJ within 60-days after the initial electronic transmission with the following: (Pen. Code, § 14211, subd. (f).)
 - a) Dental records and treatment notes.
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 - f) Vehicle information.
 - g) Information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.
- 7) Agencies who take a report that are not the local jurisdiction of the residence of the missing person, shall without delay, notify and forward a copy of the report to the police or sheriff's department or departments having jurisdiction of the residence address of the person missing. (Pen. Code, § 14211, subd. (g).)
- 8) Local law enforcement agencies, prosecutors, and the CHP are required to use the appropriate AG form when making a report of a missing person. The form shall include a statement authorizing release of the dental or skeletal X-rays and treatment notes of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under the age of 18. (Pen. Code, § 14212, subd. (a).)
- 9) The form must include instructions that if the person missing is still missing 30-days after the report is made, the release form signed by the next of kin shall be taken to the appropriate medical professional or dentist to obtain dental, skeletal, and treatment notes of that person as specified. (Pen. Code, § 14212, subd. (b).)
- 10) Dental, skeletal, and treatment notes shall be released by the associated medical professional within 10-days. (Pen. Code, § 14212, subd. (c).)
- 11) When the person reported missing has been determined by the agency to be an at-risk person, and has not been found within 30 days, the law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing person is

being conducted, and that the dental or skeletal X-rays, or both, and treatment notes, are necessary for the exclusive purpose of furthering the investigation. (Pen. Code, § 14212, subd. (d).)

- 12) The written declaration, signed by a peace officer, is sufficient authority for the dentist, physician and surgeon, or medical facility to immediately release the missing person's dental or skeletal X-rays, or both, or treatment notes. (Pen. Code, § 14212, subd. (e).)
- 13) Requires that the AG code and enter the dental or skeletal X-rays, or both, into the VCIC database, which serves as that statewide database for those X-rays, and shall forward the information to the National Crime Information Center. (Pen. Code, § 14212, subd. (f).)
- 14) When a person reported missing has not been found within 30 days, the sheriff, chief of police, or other law enforcement agency conducting the investigation for the missing person may confer with the coroner or medical examiner prior to the preparation of a missing person report. The coroner or medical examiner shall cooperate with the law enforcement agency. After conferring with the coroner or medical examiner, the sheriff, chief of police, or other law enforcement agency initiating and conducting the investigation for the missing person may submit a missing person report and the dental or skeletal X-rays, or both, and photograph received to the AG's office in a format acceptable to the AG. (Pen. Code, § 14212, subd. (g).)

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