
SENATE COMMITTEE ON APPROPRIATIONS

Senator Anthony Portantino, Chair
2019 - 2020 Regular Session

SB 388 (Galgiani) - Missing persons: reports: local agencies.

Version: January 6, 2020

Policy Vote: PUB. S. 7 - 0

Urgency: No

Mandate: Yes

Hearing Date: January 21, 2020

Consultant: Shaun Naidu

Bill Summary: SB 388 would eliminate the ability of local jurisdictions to opt out of specified requirements related to the reporting, investigation, and tracking of missing persons cases.

Fiscal Impact: Unknown, potentially-significant costs ranging from hundreds of thousands of dollars to millions of dollars annually in the aggregate, with likely-higher one-time costs for agencies that currently opt out of the provisions. Local costs to comply with this measure likely would be subject to reimbursement from the General Fund as a state-mandated local program, the extent of which would be determined by the Commission on State Mandates. (General Fund, local funds)

Background: As stated in the analysis of this bill by the Senate Committee on Public Safety:

[In 2014, the Legislature] 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.

These duties, however, are not required to be performed by local police and sheriffs' departments if the governing body of the local law enforcement agency, by a majority vote of that governing body, adopts a resolution expressly making those requirements inoperative.

Proposed Law: This bill would require all local police and sheriffs' departments to do, without the ability of the governing body to opt out, the following:

- 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.
- Immediately take the report and make an assessment of reasonable steps to be taken to locate the person, as specified.
- Broadcast a "Be on the Lookout" (BOLO) bulletin, without delay, within its jurisdiction if the missing person is under age 21 or if there is evidence that the person is at risk.
- Transmit the report to DOJ via the California Law Enforcement Telecommunications System, within two hours of the receipt of the report, for inclusion in the Violent Crime Information Center and the National Crime Information Center databases if the missing person is under age 21 or there is evidence that they are at risk.
- Supplement the electronic report to DOJ within 60 days after the initial electronic transmission with the following:
 - Dental records and treatment notes.
 - Fingerprints.
 - Photographs.
 - Description of physical characteristics.
 - Description of clothing the person was wearing when last seen.
 - Vehicle information.
 - Other information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.
- Notify and forward, without delay, a copy of the report to the police or sheriff's department or departments having jurisdiction of the residence address of the person missing if the agency that took the report is not the local jurisdiction of the residence of the missing person.
- Use the appropriate Attorney General's form when making a report of a missing person.
- 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 if the person reported missing has been determined by the agency to be an at-risk person, has not been found within 30 days, and the X-rays and treatment notes have not been released or otherwise obtained.
- Allow the local law enforcement agency conducting the investigation for the missing person to confer with the coroner or medical examiner prior to the preparation of a missing person report when a person reported missing has not been found within 30 days and require the coroner or medical examiner to cooperate with the law enforcement agency. Allow the investigating local law enforcement agency, after conferring with the coroner or medical examiner, to submit a missing person report and the dental or skeletal X-rays, or both, and specified photographs received to the Attorney General's office in a format acceptable to the Attorney General.

Related Legislation: SB 846 (Galgiani, Ch. 432, Stats. 2014) explicated stated in the Penal Code that local law enforcement agencies have the ability to request information and data maintained by DOJ for the purpose of linking unsolved missing or unidentified person case with another case that was previously unknown to be related to that case, or for the purpose of resolving an unsolved missing or unidentified person case, as specified.

SB 1066 (Galgiani, Ch. 437, Stats. 2014) revised, recast, and renumbered several provisions of law relating to missing or unidentified persons.

Staff Comments: It is unknown to Committee staff how many local jurisdictions have adopted resolutions opting out of the provisions in existing law related to missing and unidentified persons reporting, investigation, and tracking. Regardless of how many police and sheriffs' departments choose to carry out these duties currently, the state would be required to reimburse local agencies for costs incurred after the operative date of the mandate. (Gov. Code, § 17565.) The scope of the reimbursable cost would be determined by the Commission on State Mandates. Taking a conservative amount of \$1,000 in costs to each local law enforcement agency to comply with this measure and considering that there are over 500 local law enforcement agencies across California, this measure would incur costs of at least \$500,000 on the low end.

-- END --