

Date of Hearing: August 5, 2020
Counsel: Nikki Moore

ASSEMBLY COMMITTEE ON PUBLIC SAFETY
Reginald Byron Jones-Sawyer, Sr., Chair

SB 388 (Galgiani) – As Amended January 6, 2020

SUMMARY: Deletes the provision that permits a local agency to exempt itself from the provisions of law applying to missing person reports, and instead mandates application of the law.

EXISTING LAW:

- 1) Requires the Attorney General (AG) to maintain 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. Provides that the VCIC's programs include assisting local law enforcement agencies and county prosecutors by providing investigative information on persons responsible for specified violent crimes and missing person cases. Provides that the VCIC provide a physical description of persons responsible for violent crimes and missing person cases. (Pen. Code, § 14200.)
- 2) Requires the AG to 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. (Pen. Code, § 14201.)
- 3) 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.)
- 4) 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).)
- 5) 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).)
- 6) 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:

- a) 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).)
 - b) 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).)
 - c) 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).)
 - d) 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).)
 - e) 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).)
 - f) 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).)
 - i) Dental records and treatment notes;
 - ii) Fingerprints;
 - iii) Photographs;
 - iv) Description of physical characteristics;
 - v) Description of clothing the person was wearing when last seen;
 - vi) Vehicle information; and,
 - vii) Information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.
 - g) Agencies who take a report that are not the local jurisdiction of the residence of the missing person, to, 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).)
- 7) 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:

- a) 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).)
- b) 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).)
- c) Dental, skeletal, and treatment notes shall be released by the associated medical professional within 10-days; (Pen. Code, § 14212, subd. (c).)
- d) 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).)
- e) 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).)
- f) 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; and, (Pen. Code, § 14212, subd. (f).)
- g) 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; and, (Pen. Code, § 14212, subd. (f).)
- h) 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).)

COMMENTS:

- 1) **Author's Statement:** According to the author, "SB 388 requires local jurisdictions to adhere to extensive reporting, investigative, and tracking requirements of missing persons already prescribed in state law.

"In the 2013-14 Legislative Session, I authored SB 846 and SB 1066 that made changes to the Penal Code relating to missing persons. This measure will help ensure those statutes are followed.

"Currently, governing bodies of local jurisdictions can exempt themselves from Missing Persons Reporting requirements. SB 388 would create statewide consistency regarding local jurisdictions' handling of missing persons cases.

"It is imperative that all jurisdictions follow the same procedures outlined in the Penal Code to ensure a thorough investigation. SB 388 also ensures that a law enforcement agency will obtain the dental X-rays, skeletal X-rays, and treatment notes of the missing person to further their investigation."

- 2) **Argument in Support:** According to the *California Statewide Law Enforcement Association*, "In 2018, 43,121 adults were reported missing in California. This number has steadily increased over the past five years, rising by 8 percent since 2013. Existing law requires police and sheriffs' departments to promptly obtain the release of dental and skeletal X-ray records upon acceptance of a missing person report and to broadcast a 'Be on the Lookout' bulletin if the person is under 21 years of age. However, these measures are not required of local jurisdictions. SB 388 would mandate these reporting requirements on a local level, better equipping local law enforcement agencies to both identify found persons and find missing persons."

3) **Prior Legislation:**

- a) SB 1066 (Galgiani), Chapter 437, Statutes of 2014, revised and renumbered several provisions of law relating to missing or unidentified person.
- b) SB 846 (Galgiani), Chapter 432, Statutes of 2014, clarified that local law enforcement has 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.

REGISTERED SUPPORT / OPPOSITION:**Support**

California Statewide Law Enforcement Association

Opposition

None

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