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SB-388 Missing persons: reports: local agencies. (2019-2020)

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Senate Bill No. 388

CHAPTER 228

An act to amend Sections 14211 and 14212 of the Penal Code, relating to missing persons.

[Approved by Governor September 28, 2020. Filed with Secretary of State September 28, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

SB 388, Galgiani. Missing persons: reports: local agencies.

Existing law requires all local police and sheriffs' departments to accept reports of missing persons without delay and to use a specified form in order to obtain the release of dental or skeletal X-ray records, as provided. If the missing person is under 21 years of age, or the person is determined to be at risk, existing law requires the police department or sheriff's department to broadcast a "Be On the Lookout" bulletin and to transmit the report to the Department of Justice, as provided.

Under existing law, these requirements are not operative in a local jurisdiction if the governing body of a local agency adopts a resolution expressly making these requirements inoperative.

This bill would delete the authorization to make the reporting requirements inoperative in a local jurisdiction by resolution, thereby making those requirements mandatory and imposing a state-mandated local program.

If a missing person is determined to be an at-risk person and has not been found within 30 days, existing law allows a law enforcement agency to execute a written declaration in order to facilitate the release of dental or skeletal X-rays, or both, and treatment notes.

This bill would make the execution of a written declaration by the law enforcement agency mandatory if those records have not otherwise been obtained. By imposing new duties on local law enforcement, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to the statutory provisions noted above.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 14211 of the Penal Code is amended to read:

14211. (a) All local police and sheriffs' departments shall accept any report, by any party, including any telephonic report, of a missing person, including runaways, without delay and shall give priority to the handling of these reports over the handling of reports relating to crimes involving property.

(b) If the person making a report of a missing person or runaway, contacts, including by telephone, the Department of the California Highway Patrol, the Department of the California Highway Patrol may take the report, and shall immediately advise the person making the report of the name and telephone number of the police or sheriff's department having jurisdiction of the residence address of the missing person and of the name and telephone number of the police or sheriff's department having jurisdiction of the place where the person was last seen.

(c) In cases of reports involving missing persons, including, but not limited to, runaways, the local police or sheriff's department shall immediately take the report and make an assessment of reasonable steps to be taken to locate the person by using the report forms, checklists, and guidelines required under Section 13519.07.

(d) If the missing person is under 21 years of age, or there is evidence that the person is at risk, the police department or sheriff's department shall broadcast a "Be On the Lookout" bulletin, without delay, within its jurisdiction.

(e) If the person reported missing is under 21 years of age, or if there is evidence that the person is at risk, the law enforcement agency receiving the report shall, within two hours after the receipt of the report, electronically transmit the report to the Department of Justice via the California Law Enforcement Telecommunications System for inclusion in the Violent Crime Information Center and the National Crime Information Center databases.

(f) Information not immediately available for electronic transmission to the department shall be obtained by the investigating agency and provided as a supplement to the original entry as soon as possible, but in no event later than 60 days after the original electronic entry. Supplemental information may include, but is not limited to, the following:

(1) Dental records and treatment notes.

(2) Fingerprints.

(3) Photographs.

(4) Description of physical characteristics.

(5) Description of clothing the person was wearing when last seen.

(6) Vehicle information.

(7) Other information describing any person or vehicle believed to be involved in taking, abducting, or retaining the missing person.

(g) If the report is taken by a department, other than that of the city or county of residence of the missing person or runaway, the department, or division of the Department of the California Highway Patrol taking the report shall, without delay, and, in the case of persons under 21 years of age or if there was evidence that the missing person was at risk, within no more than 24 hours, 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 missing person or runaway and of the place where the person was last seen. The report shall also be submitted by the department or division of the Department of the California Highway Patrol which took the report to the center. The initial California Law Enforcement Telecommunications System record may only be removed after the receiving agency has accepted the report.

SEC. 2. Section 14212 of the Penal Code is amended to read:

14212. (a) If any person makes a report of a missing person to a police department, sheriff's department, district attorney's office, Department of the California Highway Patrol, or other law enforcement agency, the agency shall use the Attorney General's form as required under Section 13519.07. That form shall include a statement authorizing the release of the dental or skeletal X-rays, or both, and treatment notes, of the person reported missing and authorizing the release of a recent photograph of a person reported missing who is under 18 years of age.

(b) Included with the form shall be instructions that state that if the person reported missing is still missing 30 days after the report is made, the release form signed by a member of the family or next of kin of the missing person shall be taken by the family member or next of kin to the dentist, physician and surgeon, or medical facility in order to obtain the release of the dental or skeletal X-rays, or both, and treatment notes, of that person or may be taken by a peace officer, if others fail to take action, to secure those X-rays and treatment notes.

(c) Notwithstanding any other law, dental or skeletal X-rays, or both, and treatment notes, shall be released by the dentist, physician and surgeon, or medical facility to the person presenting the request and shall be submitted within 10 days by that person to the police or sheriff's department or other law enforcement agency having jurisdiction over the investigation.

(d) 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 dental or skeletal X-rays, or both, and treatment notes have not been released pursuant to subdivision (b) or otherwise obtained, the law enforcement agency shall 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.

(e) Notwithstanding any other law, 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.

(f) The Attorney General's office shall code and enter the dental or skeletal X-rays, or both, into the center's database, which shall serve as the statewide database for those X-rays, and shall forward the information to the National Crime Information Center.

(g) If 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 pursuant to subdivision (a) to the Attorney General's office in a format acceptable to the Attorney General.

(h) Nothing in this section prohibits a parent or guardian of a child, reported to a law enforcement agency as missing, from voluntarily submitting fingerprints, and other documents, to the law enforcement agency accepting the report for inclusion in the report which is submitted to the Attorney General.

SEC. 3. If the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code.