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Bill Analysis
Legislative Service Commission

Am. H.B. 181
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(As Passed by the House)

Reps. Setzer, Stebelton, Evans, Healy, Combs, Yuko, Harwood, Huffman, Collier, Webster, Brown, Patton, B. Williams, Lundy, Dyer, Heard, Barrett, Boyd, Budish, Chandler, DeBose, Distel, Domenick, Driehaus, Fende, Flowers, Foley, Garrison, Gibbs, J. Hagan, R. Hagan, Hite, Letson, Luckie, Mallory, Miller, Oelslager, Okey, Otterman, Schindel, Schlichter, Schneider, Strahorn, Szollosi, Uecker, Wagoner, S. Williams, Zehringer

BILL SUMMARY

- Allows a law enforcement agency that takes a missing child report to notify the public or nonpublic school in which the missing child is or was most recently enrolled that the child is the subject of a missing child report and that the child's school records are to be marked.
- Requires each public and nonpublic school to mark the records of a pupil currently or previously enrolled in the school when the school receives notice from a law enforcement agency that the pupil has been reported to be a missing child and to notify that law enforcement agency whenever it receives a request for a copy of or information regarding that pupil's records.
- Requires a law enforcement agency that took a missing child report and receives notice that the missing child has returned to the home of, or to the care, custody, and control of the child's caregiver, has been released if the missing child was the victim of a specified offense, or otherwise has been located to promptly inform any school that was notified under the bill's provisions that the minor no longer is a missing child.
- Specifies that cooperation among law enforcement agencies in missing children cases will be in accordance with agreements the law enforcement agencies have with each other.

- Specifies that law enforcement agencies assisting other agencies in missing children cases and the employees of the assisting agencies when outside of their employing political subdivisions are covered under the Sovereign Immunity Law, and that the employees of the assisting agencies when outside of their employing political subdivision are covered by any indemnity fund established by their employer and by the Workers' Compensation Law.

CONTENT AND OPERATION

Background

Existing law provides that, when a law enforcement agency in Ohio that has jurisdiction in the matter is informed that a "minor" is or may be a "missing child" and that the person providing the "information" wishes to file a missing child report, the agency must take that report (see "Definitions," below, for definitions of the terms in quotation marks). Upon taking the report, the agency must take prompt action upon it, including, but not limited to, concerted efforts to locate the missing child. No law enforcement agency in Ohio may have a rule or policy that prohibits or discourages the filing of or the taking of action upon a missing child report, within a specified period following the discovery or formulation of a belief that a minor is or could be a missing child.

If a missing child report is made to a law enforcement agency in Ohio that has jurisdiction in the matter, the agency must gather readily available information about the missing child and integrate it into the National Crime Information Center computer within 12 hours following the making of the report. The agency must make reasonable efforts to acquire additional information about the missing child following the transmittal of the initially available information, promptly integrate any additional information acquired into such computer systems, and promptly notify the missing child's parents, parent who is the residential parent and legal custodian, guardian, or legal custodian, or any other person responsible for the care of the missing child (hereafter, collectively referred to as a child's caregiver), that it has so integrated the information. The child's caregiver must provide available information upon request, and may provide information voluntarily, to the law enforcement agency during the information gathering process.

When a missing child has not been located within 30 days after the date on which the missing child report pertaining to the child was filed with a law enforcement agency, that agency must request the missing child's caregiver to provide written consent for the agency to contact the missing child's dentist and request the missing child's dental records. Upon receipt of such written consent, the dentist must release a copy of the missing child's dental records to the law

enforcement agency. The law enforcement agency then must integrate information in the records into the National Crime Information Center computer in order to compare the records to those of unidentified deceased persons.

A missing child's caregiver immediately must notify the law enforcement agency with which the caregiver filed the missing child report whenever the child has returned to the caregiver's home or the caregiver's care, custody, and control, has been released if the missing child was the victim of an offense listed in clause (2) under the definition of "missing children" set forth below, or otherwise has been located. Upon such notification or upon otherwise learning that a missing child has returned to the home of, or to the care, custody, and control of the missing child's caregiver, has been released if the missing child was the victim of an offense listed in clause (2) under the definition of "missing children," or otherwise has been located, the law enforcement agency involved promptly must integrate the fact that the minor no longer is a missing child into the National Crime Information Center computer. (R.C. 2901.30.)

See "*Additional law enforcement agency procedures in missing child case*," below, for other procedures related to investigations of missing children's reports.

Marking student records

Operation of the bill

The bill enacts provisions regarding the marking of a child's school records to assist a law enforcement agency that takes a missing child report in its efforts to locate the child. Specifically, the bill allows (but does not require) the law enforcement agency that takes a missing child report to notify the public or nonpublic school in which the missing child is or was most recently enrolled, as ascertained by the agency that the child is the subject of a missing child report and that the child's school records are to be marked.

If a notification is made as described in the preceding paragraph, the bill requires the person in charge of admission at the school to mark the pupil's records so that whenever a copy of or information regarding the records is requested, any school official responding to the request is alerted that the records are those of a missing child. In addition, when a request for copies or information regarding a pupil's records that have been so marked is received, the person in charge of admission must immediately report the request to the law enforcement agency that notified the school that the pupil is a missing child. When forwarding a copy of or information from the pupil's records in response to a request, the person in charge of admission must do so in such a way that the receiving district or school would be unable to discern that the student's records are marked. At the same time, the

person in charge of admission must retain the mark in the records until notified that the student is no longer a missing child.

Finally, the person in charge of admission must remove the mark from the student's record in such a way that if the records were forwarded to another district or school the receiving district or school would be unable to tell that the records were ever marked. (R.C. 2901.30(D) and 3313.672(D).)

When a law enforcement agency that has received a missing child report from a child's caregiver receives notice from the caregiver that the missing child has returned to the home of, or to the care, custody, and control of the caregiver, has been released if the missing child was the victim of an offense listed in clause (2) under the definition of "missing children," or otherwise has been located, in addition to its duties specified under existing law, the agency involved promptly must inform any school that was notified under the bill's provisions described above that the minor no longer is a missing child (R.C. 2901.30(H)).

Related existing law

Request for records of new student. Under existing law not changed by the bill, each public or nonpublic school, within 24 hours of a student's first enrollment in the school, must request the student's official record from the student's former school (this provision does not apply regarding a child just released from the Department of Youth Services). The school must notify the appropriate law enforcement agency that the newly enrolled student may be a missing child if (1) the school does not receive the record within 14 days, (2) the school to which the request was made indicates that it does not have a record for that student, or (3) the student does not provide the school with a birth certificate or other legitimate proof of birthdate and birthplace. (R.C. 3313.672(A)(3).)

Additional law enforcement agency procedures in missing child case. Upon the filing of a missing child report, the law enforcement agency involved promptly must make a reasonable attempt to notify other law enforcement agencies within its county and, if the agency has jurisdiction in a municipal corporation or township that borders another county, to notify the law enforcement agency for the municipal corporation or township in the other county with which it shares the border, that it has taken a missing child report and may be requesting assistance or cooperation in the case, and provide relevant information to the other law enforcement agencies. The agency may notify additional law enforcement agencies, or appropriate public children services agencies, about the case, request their assistance or cooperation in the case, and provide them with relevant information.

Upon request from a law enforcement agency, a public children services agency must grant the law enforcement agency access to all information concerning a missing child that the public children services agency possesses that may be relevant to the law enforcement agency in investigating a missing child report concerning that child. The information obtained by the law enforcement agency may be used only to further the investigation to locate the missing child.

Upon request, law enforcement agencies in Ohio must provide assistance to, and cooperate with, other law enforcement agencies in their investigation of missing child cases. The information in any missing child report made to a law enforcement agency must be made available, upon request, to law enforcement personnel of Ohio, other states, and the federal government when the law enforcement personnel indicate that the request is to aid in identifying or locating a missing child or the possible identification of a deceased minor who, upon discovery, cannot be identified. (R.C. 2901.30.)

Cooperation among law enforcement agencies

The bill enacts provisions that relate to the existing provisions requiring law enforcement agencies, upon request, to provide assistance to, and to cooperate with, other law enforcement agencies in their investigation of missing children cases. The bill specifies that the scope of this assistance and cooperation must be pursuant to any terms agreed upon by the law enforcement agencies, including terms regarding which services and equipment may be shared. It also specifies that: (1) the state's Political Subdivision Sovereign Immunity Law (R.C. Chapter 2744.), insofar as it applies to the operation of law enforcement agencies, applies to the cooperating political subdivisions and to the law enforcement agency employees when they are rendering services pursuant to the existing provision and the bill's provision outside the territory of the political subdivision by which they are employed, (2) law enforcement agency employees rendering services outside the territory of the political subdivision in which they are employed pursuant to the existing provision and the bill's provision are entitled to participate in any indemnity fund established by their employer to the same extent as if they were rendering service within the territory of their employing political subdivision, and (3) those law enforcement agency employees also are entitled to all the rights and benefits of the state's Workers' Compensation Law (R.C. Chapter 4123.) to the same extent as if rendering services within the territory of their employing political subdivision.

Definitions

Existing law defines the following terms for use in R.C. 2901.30 to 2901.32, including the missing child provisions described above in "**Background**" (R.C. 2901.30(A)):

"Information" means information that can be integrated into the computer system and that relates to the physical or mental description of a minor including, but not limited to, height, weight, color of hair and eyes, use of eyeglasses or contact lenses, skin coloring, physical or mental handicaps, special medical conditions or needs, abnormalities, problems, scars and marks, and distinguishing characteristics, and other information that could assist in identifying a minor including, but not limited to, full name and nickname, date and place of birth, age, names and addresses of parents and other relatives, fingerprints, dental records, photographs, social security number, driver's license number, credit card numbers, bank account numbers, and clothing.

"Minor" means a person under 18 years of age.

"Missing children" or **"missing child"** means either of the following: (1) a minor who has run away from or who otherwise is missing from the home of, or the care, custody, and control of, the minor's parents, parent who is the residential parent and legal custodian, guardian, legal custodian, or other person having responsibility for the care of the minor, or (2) a minor who is missing and about whom there is reason to believe the minor could be the victim of a violation of kidnapping, abduction, unlawful restraint, or interference with custody or the former offense of child stealing.

HISTORY

ACTION	DATE
Introduced	04-24-07
Reported, H. Education	06-20-07
Passed House (95-0)	09-11-07

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