

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 513 Missing Persons
SPONSOR(S): Smith, David and others
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Rochester	Hall
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Due to the nature of their service, military personnel are at greater risk of suffering from a mental health condition than the general population. Post-Traumatic Stress Disorder (PTSD) is a psychiatric condition that can occur when a person experiences or witnesses a traumatic event such as a natural disaster, a serious accident, combat, or a violent assault. Research estimates approximately 23 percent of military service members return from combat with PTSD.

A traumatic brain injury (TBI) can result from a blow to the head or body and may have wide-ranging physical and psychological effects including memory problems, mood changes, and depression. Research estimates that between 19 and 23 percent of military service members return from combat with a TBI. Law enforcement intervention may be necessary when a veteran or an active duty military member suffering from mental illness disappears and poses a credible threat to his or her own safety.

Developed to assist another vulnerable population, the Silver Alert Plan broadcasts information to the public about a missing elderly person who suffers from irreversible deterioration of intellectual faculties. A law enforcement agency can issue a local or regional Silver Alert for a missing person is 60 years of age or older with an irreversible deterioration of intellectual faculties.

Currently, neither a veteran nor an active duty military service member suffering from PTSD or TBI qualifies for Silver Alert activation. HB 513 creates the Camo Alert to provide a missing person alert for an "at-risk veteran." The bill defines an "at-risk veteran" as a veteran or an active duty military service member, regardless of age:

- Who is known to suffer from a mental illness, including PTSD or a TBI; and
- Whose disappearance poses a credible threat to his or her own, or another's health and safety.

The bill provides immunity from civil liability for actions taken in good faith related to a Camo Alert when performed by:

- Florida Department of Law Enforcement (FDLE), as the state Camo Alert coordinator;
- A state or local law enforcement agency;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services, such as a cable television provider, as defined in s. 202.11, F.S.

Finally, the bill authorizes a law enforcement agency with jurisdiction to request that a Camo Alert case be opened with FDLE's Missing Endangered Persons Information Clearinghouse, the central repository of missing endangered person information that provides analytical services to law enforcement agencies and engages the public in a missing person search.

The bill may have a negative fiscal impact on state government due to increased FDLE technological and hiring expenditures.

The bill provides an effective date of upon becoming law.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h0513.CRJ

DATE: 2/15/2019

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

Military Personnel and Mental Health

Military personnel are at greater risk than ever of suffering from a mental health condition. A 2014 study found that one in four active duty military members showed signs of a mental health condition.¹ Post-Traumatic Stress Disorder (PTSD) is a psychiatric disorder that can occur when a person experiences or witnesses a traumatic event such as a natural disaster, a serious accident, combat, or a violent assault.² Approximately 23 percent of military service members return from combat with PTSD.³ Another condition that commonly effects veterans and active military service members is traumatic brain injury (TBI), which can result from a blow to the head or body and may have wide-ranging physical and psychological effects including memory problems, mood changes, and depression.⁴ Research estimates that between 19 and 23 percent of military service members return from combat with a TBI.⁵

Both PTSD and TBI lead to higher suicide risk of those effected by the disorder.⁶ Veterans with PTSD are four times more likely to report suicidal ideation than those without PTSD.⁷ Similarly, a 2011 TBI patient study showed that 23 percent of participants experienced thoughts of suicide, while 17 percent actually attempted suicide following their injury.⁸

Missing Person Investigations

Every Florida state, county, and municipal law enforcement agency is required to submit information concerning missing endangered persons to Florida Department of Law Enforcement's (FDLE) Missing Endangered Person Information Clearinghouse (MEPIC).⁹ MEPIC serves as the central repository of information regarding missing endangered persons. Upon receiving information about a missing endangered person, MEPIC disseminates the information in an effort to locate the person.

A "missing endangered person" is:

- A missing child;¹⁰
- A missing adult younger than 26 years of age;
- A missing adult 26 years of age or older who is suspected by a law enforcement agency of being endangered or the victim of criminal activity; or
- A missing adult who meets the criteria for activation of the FDLE Silver Alert Plan.¹¹

¹ Antioch University, *The U.S. Military Mental Health Crisis* (July 19, 2019), <https://www.antioch.edu/auonline/2017/07/19/u-s-military-mental-health-crisis/> (last visited Feb. 10, 2019).

² American Psychiatric Association, *What Is Posttraumatic Stress Disorder?* (Jan. 2017), <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited Feb. 10, 2019).

³ Karen Studwell, *The Mental Health Needs of Veterans, Service Members and Their Families*, American Psychological Association (2015), <https://www.apa.org/advocacy/military-veterans/mental-health-needs.pdf> (last visited Feb. 10, 2019).

⁴ Mayo Clinic, *Traumatic brain injury* (2018), <https://www.mayoclinic.org/diseases-conditions/traumatic-brain-injury/symptoms-causes/syc-20378557> (last visited Feb. 10, 2019).

⁵ Karen Studwell, *supra* note 3.

⁶ U.S. Department of Veterans Affairs, *PTSD: National Center for PTSD* (Dec. 2018), https://www.ptsd.va.gov/understand/related/suicide_ptsd.asp (last visited Feb. 9, 2019).

⁷ Karen Studwell, *supra* note 3.

⁸ Neurological Rehabilitation Institute at Brookhaven Hospital, *Depression & Suicide Among Patients with Traumatic Brain Injuries*, (Aug. 6, 2011), <https://traumaticbraininjury.net/2011/08/06/depression-suicide-tbi/> (last visited Feb. 8, 2019).

⁹ S. 937.022(3)(b), F.S.

¹⁰ *Id.* "Missing child" means a person younger than 18 years of age.

¹¹ *Id.*

Upon receiving a report that a child is missing, a law enforcement agency must inform all on-duty officers of the report, communicate the report to every other law enforcement agency having jurisdiction in the county where the child was last seen, and transmit the report for inclusion within the Florida Crime Information Center (FCIC) and the National Crime Information Center (NCIC) databases within two hours.¹² When a missing adult report is filed, the law enforcement agency receiving the report must transmit the report for inclusion within the FCIC and NCIC databases within two hours.

Section 937.021, F.S., provides civil immunity for specified entities requested by law enforcement to record, report, transmit, display, or release information pertaining to a missing person if such entity complied with the request in good faith. These entities include:

- FDLE, a state or local law enforcement agency, and agency personnel;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services as defined in s. 202.11, F.S.¹³

Entities who report, transmit, display, or release information pertaining to a missing person are presumed to have acted in good faith.¹⁴ The presumption of good faith is not overcome if a technical or clerical error is made by an agency, employee, individual, or entity acting at the request of the local law enforcement agency having jurisdiction or if the missing person information is incomplete or incorrect because the information received from the local law enforcement agency was incomplete or incorrect.¹⁵

Silver Alert

The Silver Alert Plan broadcasts information to the public about a missing elderly person.¹⁶ A law enforcement agency can issue a local or regional Silver Alert when a missing person:

- Is age 60 or older; and
- Suffers from a verified irreversible deterioration of intellectual faculties.¹⁷

To maintain the integrity of the system and not dilute its effectiveness, law enforcement issues a Silver Alert primarily for this narrow population. However, a Silver Alert may be issued in rare instances when:

- A missing adult is 18 to 59 years old and has irreversible deterioration of intellectual faculties;
- Law enforcement has determined the individual lacks the capacity to consent; and
- The use of dynamic message signs may be the only possible way to rescue the missing person.¹⁸

The Silver Alert Plan has two levels of activation: local and state. If an adult meeting the Silver Alert criteria goes missing on foot, local law enforcement will activate a local Silver Alert. Although each agency has its own criteria for activation of a local Silver Alert, law enforcement generally:

- Conducts a preliminary investigation to conclude that the disappearance poses a credible threat to the person's welfare and safety;
- Enters the missing adult's identifying information into FCIC;

¹² Florida Department of Law Enforcement, *Frequently Asked Questions* (2018), <http://www.fdle.state.fl.us/Silver-Alert-Plan/Frequently-Asked-Questions.aspx> (last visited Feb. 10, 2019). S. 937.021, F.S.

¹³ Examples of a dealer of communications services include a cable or satellite television service provider, a telephone service provider, or a mobile communication service provider. S. 937.021, F.S.

¹⁴ S. 937.021(5)(c), F.S.

¹⁵ *Id.*

¹⁶ Florida Department of Law Enforcement, *Silver Activation Steps* (2018), <http://www.fdle.state.fl.us/Silver-Alert-Plan/Activation-Steps.aspx> (last visited Feb. 10, 2019).

¹⁷ Agency policy determines how the local law enforcement agency verifies that the person suffers from an irreversible deterioration of intellectual faculties. *Id.*

¹⁸ *Id.*

- Contacts media outlets in the area and surrounding jurisdictions; and
- Issues a statewide “Be On The Look Out” (BOLO) notice to other law enforcement and 911 centers.¹⁹

If an adult meeting the Silver Alert criteria goes missing in a vehicle, local law enforcement may request that FDLE activate a statewide Silver Alert. After local law enforcement determines that the disappearance poses a credible threat to the person’s welfare and safety and enters the missing adult into FCIC, the agency contacts MEPIC at FDLE. Once FDLE confirms the case meets Silver Alert criteria, FDLE notifies the:

- Florida Highway Patrol to send a statewide officer notification;
- Florida Department of Transportation to activate dynamic message signs²⁰ on highways; and
- Department of Elder Affairs to notify the public through an email alert system.²¹

As of January 31, 2019, law enforcement has recovered 260 individuals through the use of the Silver Alert activation.²² Currently, neither a veteran nor an active duty military member suffering from PTSD or TBI qualifies for Silver Alert activation.

Effect of Proposed Changes

HB 513 creates the Camo Alert for missing “at-risk veterans.” The bill defines an “at-risk veteran” as a veteran or an active duty military member, regardless of age:

- Who is known to suffer from a mental illness, including PTSD or a TBI; and
- Whose disappearance poses a credible threat to their own, or another’s health and safety.

The bill provides immunity from civil liability for actions taken in good faith related to a Camo Alert when performed by:

- FDLE, as the state Camo Alert coordinator;
- A state or local law enforcement agency;
- A radio or television network, broadcaster, or other media representative; or
- A dealer of communications services as defined in s. 202.11, F.S.

The bill authorizes a law enforcement agency with jurisdiction over the missing veteran case to request that a Camo Alert case be opened with FDLE’s MEPIC.

B. SECTION DIRECTORY:

Section 1: Amends s. 937.0201, F.S., relating to definitions.

Section 2: Amends s. 937.021, F.S., relating to missing child and missing adult reports.

Section 3: Amends s. 937.022, F.S., relating to Missing Endangered Persons Information Clearinghouse.

Section 4: Amends s. 937.023, F.S., relating to Department of Education to compile list of missing Florida school children; forms; notification.

Section 5: Provides the bill is effective upon becoming law.

¹⁹ *Id.*

²⁰ Dynamic message signs are the electronic signs that appear along major highways and typically display information about traffic conditions, travel times, construction, and road incidents. Florida Department of Transportation, *Highway Signing Program* (2018), <https://www.fdot.gov/traffic/TrafficServices/Signing.shtm> (last visited Feb. 12, 2019).

²¹ Members of the public may sign up to receive Silver Alert email updates on the DOEA website. Department of Elder Affairs, *When Someone Goes Missing* (2015), http://elderaffairs.state.fl.us/doea/silver_alert_goes_missing.html (last visited Feb. 12, 2019).

²² Law enforcement has directly recovered 215 individuals and indirectly recovered 45 individuals due to the Silver Alert activation. A direct recovery is recovery due to the activation of the State Silver Alert, primarily through state agency action. An indirect recovery is recovery through local agency actions in coordination with the Silver Alert Plan. Florida Department of Law Enforcement, *Silver Alert Monthly Report* (Jan. 2019), <http://www.fdle.state.fl.us/Silver-Alert-Plan/Monthly-Reports/2019-Monthly-Reports/January-2019> (last visited Feb. 13, 2019).

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

The bill will have a negative fiscal impact as FDLE indicates modifications to existing information technology systems will be needed. FDLE estimates the modifications will require one dedicated programmer at \$170,000 per year. There may be indeterminate negative fiscal impact for expenditures including systems adaptations, clearinghouse staffing resources, and curriculum development and training.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

The bill may have an indeterminate negative fiscal impact on local law enforcement agencies to develop policies, train staff, including dispatchers and officers, establish or enhance necessary systems to perform mandated notifications and maintain readiness to issue Camo Alerts.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

FDLE has sufficient rule-making authority necessary to implement this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES