

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL IMPACT STATEMENT**

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1552

INTRODUCER: Senator Flores

SUBJECT: Law Enforcement Activities

DATE: February 10, 2020

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>AP</u>	_____

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**I. Summary:**

SB 1552 amends s. 683.231, F.S., which authorizes the Florida Department of Law Enforcement (FDLE) to establish a citizen support organization (CSO) to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children’s Day. The bill expands CSO grant authority to authorize the CSO to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO may create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO’s website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children’s Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

The bill also amends s. 775.21, F.S. (sexual predator registration) and s. 943.0435, F.S. (sexual offender registration) to:

- Specify that the FDLE’s secure online system includes updates to all vehicles owned by sexual predators and sexual offenders (registrants) and authorize registrants to report such updates to the FDLE through this system.
- Clarify a registration requirement relating to the in-person reporting of a change of residence to another state or jurisdiction by changing “within 48 hours before the date” the registrant intends to leave Florida to “at least 48 hours before the date” of intended travel.
- Provide that any travel not known by the registrant 48 hours before the date of intended travel must be reported as soon as possible before departure.

- Amend a registration requirement relating to international travel to require that a registrant residing in Florida report all international travel, regardless of how long they are leaving the United States.
- Specifically require reporting of airport departures and cruise ship departures.
- Provide that a person who establishes or maintains a residence in Florida and who is required to register as a sexual predator, sexually violent predator, or similar designation in another state or jurisdiction may petition a circuit court (as specified in the bill) for removal of the requirement to register in Florida if his or her designation was made confidential from public disclosure by the state or jurisdiction in which the designation was made.

The FDLE states that it will absorb costs of implementing the requirements of the bill (updating forms, websites, and training materials, and coordinating and notifying criminal justice partners and registrants of the bill's provisions). By allowing changes to registrant vehicle information to be reported online to the FDLE as an alternative to in-person reporting of this information to a sheriff office, sheriff offices may experience a reduction in costs associated with this reporting requirement. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2020.

## II. Present Situation:

### Florida Missing Children's Day

Section 683.23, F.S., provides that the second Monday in September of each year is designated as "'Florida Missing Children's Day' in remembrance of Florida's past and present missing children and in recognition of our state's continued efforts to protect the safety of children through prevention, education, and community involvement"<sup>1</sup> "Each year parents, children, law enforcement officers and citizens convene on the steps of the Old Capitol Building in Tallahassee to remember Florida's missing children who are still missing and those who will never come home again. The Governor, Lieutenant Governor, and the [FDLE] Commissioner are invited as speakers."<sup>2</sup>

### FDLE's CSO: Florida Missing Children's Day Foundation, Inc.

CSOs are statutorily-created private entities that are generally required to be non-profit corporations and are authorized to carry out specific tasks in support of public entities or public causes. The functions and purpose of a CSO are prescribed by its enacting statute and, for most, by a written contract with the agency the CSO was created to support.

In 2008, the Legislature created s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.<sup>3</sup> In 2008, the Florida Missing Children's Day Foundation, Inc., was

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<sup>1</sup> Section 683.23, F.S.

<sup>2</sup> *Florida Missing Children's Day*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/mcic/fmcd.aspx> (last visited on Feb. 6, 2020).

<sup>3</sup> Section 683.231(1), F.S.

established to provide such assistance, funding, and promotional support.<sup>4</sup> In 2018, the Legislature reenacted statutory authority (s. 683.23, F.S.) for the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day.<sup>5</sup>

Section 683.231(1), F.S., authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children's Day. For purposes of s. 683.231, F.S., "citizen support organization" means an organization that is:

- A Florida corporation not for profit incorporated under ch. 617, F.S., and approved by the Department of State; and
- Organized and operated to conduct programs and activities; raise funds; request and receive grants, gifts, and bequests of money; acquire, receive, hold, invest, and administer, in its own name, securities, funds, objects of value, or other property, either real or personal; and make expenditures to or for the direct or indirect benefit of the FDLE in furtherance of Florida Missing Children's Day.<sup>6</sup>

Section 683.231(3), F.S., provides that the CSO is not a registered lobbyist within the meaning of s. 11.045, F.S.<sup>7</sup>

Section 683.231(4), F.S., authorizes the CSO to collect and expend funds to be used for awards; public awareness and awards ceremonies, workshops, and other meetings, including distribution materials for public education and awareness; travel; Internet and web-hosting services; administrative costs, including personnel costs; costs of audits; and costs of rental facilities.

Section 683.231(5), F.S., provides that the activities of the CSO must be determined by the FDLE to be consistent with the goals and mission of the FDLE and in the best interests of the state and approved in writing by the FDLE to operate for the direct or indirect benefit of the FDLE. The approval must be given in a letter of agreement from the FDLE.

Section 683.231(6)(a), F.S., authorizes the FDLE to fix and collect charges for the rental of facilities and properties managed by the FDLE and to permit, without charge, appropriate use of administrative services, property, and facilities of the FDLE by the CSO, subject to s. 683.231, F.S. The use must be directly in keeping with the approved purposes of the CSO and may not be made at times or places that would unreasonably interfere with opportunities for the public to use such facilities for established purposes. Any money received from rentals of facilities and properties managed by the FDLE may be held in the Operating Trust Fund of the FDLE or in a separate depository account in the name of the CSO and subject to the provisions of the letter of agreement with the FDLE. The letter of agreement must provide that any funds held in the separate depository account in the name of the CSO must revert to the FDLE if the CSO is no longer approved by the department to operate in the best interests of the state.

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<sup>4</sup> *Florida Missing Children's Day Foundation (FMCDF)*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/MCICSearch/FMCDFoundation.asp> (last visited on Feb. 6, 2020).

<sup>5</sup> Ch. 2018-54, L.O.F.

<sup>6</sup> Section 683.231(2), F.S.

<sup>7</sup> Section 11.045, F.S., sets forth registration requirements for lobbyists who lobby the Legislature.

Section 683.231(6)(c), F.S., prohibits the FDLE from permitting the use of any administrative services, property, or facilities of the state by a CSO that does not provide equal membership and employment opportunities to all persons regardless of race, color, religion, gender, age, or national origin.

Section 683.231(7), F.S., requires the CSO to provide for an independent annual financial audit in accordance with s. 215.981, F.S. Copies of the audit must be provided to the FDLE, the Office of Policy and Budget in the Executive Office of the Governor, and the Florida Cabinet.

### **Florida's Sexual Predator and Sexual Offender Registration Laws**

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.<sup>8</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. Relevant to the bill, this information includes vehicle information and information regarding travel outside Florida. The laws span several different chapters and numerous statutes,<sup>9</sup> and are implemented through the combined efforts of FDLE, all Florida sheriffs, the Department of Corrections, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

A person is designated as a sexual predator by a court if the person:

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>10</sup>
- Has been convicted of a current qualifying sex offense<sup>11</sup> committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>12</sup>

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense<sup>13</sup> and has been released on or after October 1, 1997, from the sanction imposed for that offense;

<sup>8</sup> Sections 775.21 and 943.0435, F.S.

<sup>9</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

<sup>10</sup> Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.), and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

<sup>11</sup> Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 775.21(4)(a), F.S.

<sup>12</sup> Section 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>13</sup> Examples of qualifying sex offenses include luring or enticing a child by an adult with a prior sexual conviction (s. 787.025(2)(c), F.S.), human trafficking for commercial sexual activity (s. 787.06(3)(b), (d), (f), or (g), F.S.), sexual battery (s. 794.011, excluding s. 794.011(10), F.S.), unlawful sexual activity with a minor (s. 794.05, F.S.), and lewd or lascivious battery, molestation, conduct, or exhibition (s. 800.04, F.S.). Section 943.0435(1)(h), F.S.

- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.<sup>14</sup>

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders, including residence information.<sup>15</sup> Further, local law enforcement agencies may also provide access to this information, such as providing a link to the state public registry webpage.

### **Registrant Reporting of Vehicle Information**

Sexual predators and sexual offenders must report in-person to the sheriff's office within 48 hours after any change in vehicles owned.<sup>16</sup> According to the FDLE, there are currently 55,987 vehicles registered to the 31,627 non-incarcerated registrants residing in Florida. The FDLE reports: "While vehicle information is incredibly important to law enforcement, the mandate to have every change to this information reported in-person to the sheriff's office has created a significant impact to these local sheriff's offices. Since 2007, registrants have had the ability to electronically report and update other specific supplemental registration information such as email addresses, Internet identifiers, and phone numbers through a secure online system."<sup>17</sup>

### **Registrant Reporting of Travel Information**

Sexual predators and sexual offenders must report a change of residence to another state or jurisdiction within 48 hours before the date of intended travel. If the intended residence of 5 days or more is outside of the United States, it must be reported at least 21 days before the date of intended travel.<sup>18</sup>

### **Relief from Registration Requirements for Persons Required to Register in Another State or Jurisdiction**

According to the FDLE "[c]urrent law has no mechanism for relief of registration for individuals required to register based solely upon a requirement to register in another state for an offense that

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<sup>14</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the Department of Corrections' supervision, also define the term "sexual offender."

<sup>15</sup> The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. *About Us*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on Feb. 6, 2020). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at an institute of higher education. *Sexual Offenders and Predators Search*, Florida Department of Law Enforcement, available at <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on Feb. 6, 2020).

<sup>16</sup> Sections 775.21(6)(a)1.d. and 943.0435(2)(b)3., F.S.

<sup>17</sup> Analysis of SB 1552 (July 1, 2020), Florida Department of Law Enforcement. This analysis is on file with the Senate Committee on Criminal Justice.

<sup>18</sup> Sections 775.21(6)(i) and 943.0435(7), F.S.

is not similar to a conviction offense requiring registration in Florida, and whose registration is considered confidential from public disclosure in that state.”<sup>19</sup>

### **III. Effect of Proposed Changes:**

#### **CSO Grant Authority**

The bill amends s. 683.231, F.S., which authorizes the FDLE to establish a CSO to provide assistance, funding, and promotional support for activities authorized for Florida Missing Children’s Day. The bill expands CSO grant authority to authorize the CSO to provide financial support to law enforcement agencies for missing and unidentified persons investigations and specialized training to support the resolution of such investigations through the issuance of grants.

The CSO may create a grant program for these purposes and raise and accept funds from any public or private source. The CSO may also establish criteria and set specific time periods for the acceptance of applications from local and state law enforcement agencies and for the selection process for awards. These criteria must be publicly available on the CSO’s website.

The CSO may not award grants if the president of the CSO or the staff of the FDLE reasonably believe that the CSO has not yet met its obligations for funding Florida Missing Children’s Day. The total amount of grants awarded may not exceed funds available to the CSO. The CSO must determine the assignment and use of grants awarded with oversight by the FDLE.

#### **Registrant Reporting of Vehicle Information**

The bill amends ss. 775.21 and s. 943.0435, F.S., to specify that the FDLE’s secure online system includes updates to all vehicles owned by registrants and authorizes registrants to report such updates to the FDLE through this system. According to the FDLE, this change will facilitate “faster access to this critical information and [reduce] the impact on sheriff’s offices. Sexual offenders and sexual predators will still have the option to report this information in-person to the sheriff’s office.”<sup>20</sup>

#### **Registrant Reporting of Travel Information**

The bill also amends ss. 775.21 and 943.0435, F.S., to:

- Clarify a registration requirement relating to in-person reporting of a change of residence to another state or jurisdiction by changing “within 48 hours before the date” the sexual offender or sexual predator intends to leave Florida to “at least 48 hours before the date” of intended travel.
- Provide that any travel not known by the offender or predator 48 hours before the date of intended travel must be reported as soon as possible before departure.
- Amend a registration requirement relating to international travel to require that a sexual offender or sexual predator residing in Florida report all international travel, regardless of how long they are leaving the United States.

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<sup>19</sup> See footnote 17.

<sup>20</sup> *Id.*

- Specifically require reporting of airport returns and cruise ship returns.

### **Relief from Registration Requirements for Persons Required to Register in Another State or Jurisdiction**

The bill also amends s. 943.0435, F.S., to provide for a removal of Florida sexual offender registration requirements for a person who:

- Establishes or maintains a residence in Florida and who has not been designated as a sexual predator by a Florida court but who has been designated as a sexual predator, as a sexually violent predator, or by another sexual offender designation in another state or jurisdiction and was, as a result of such designation, subjected to registration or community or public notification, or both, or would be if the person were a resident of that state or jurisdiction, without regard to whether the person otherwise meets the criteria for registration as a sexual offender; and
- Petitions for removal of Florida sexual offender registration requirements and asserts in that petition that his or her designation as a sexual predator or sexually violent predator or any other sexual offender designation in the state or jurisdiction in which the designation was made is confidential from public disclosure or that such designation, if not imposed by a court, is considered confidential from public disclosure by operation of law or court order in the state or jurisdiction in which the designation was made, provided that such person does not meet the criteria for registration as a sexual offender under Florida laws.

The person must file the petition for relief in the circuit court in the jurisdiction in which the person resides or, for a person who no longer resides in Florida, the court in the jurisdiction in which the person last resided in Florida.

A petition for relief must document the person's conviction and include a copy of the order issued by the court in the state or jurisdiction which made the designation confidential from public disclosure. If there was no such court designation, the person must demonstrate to the Florida circuit court that the designation has been made confidential by operation of law in the state or jurisdiction in which the designation was made.

The state attorney and the FDLE must be given notice at least 21 days before the date of the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why it should be denied.

If relief is granted by the Florida circuit court and the offender provides to the FDLE a certified copy of the court's order removing the requirement to register in Florida, the person is no longer required to register as a sexual offender in Florida and the FDLE must remove the person's information from the public registry of sexual offenders and sexual predators maintained by the department.

### **Effective Date**

The bill takes effect July 1, 2020.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

According to the FDLE, changes proposed by the bill will require the department to:

- Update sexual offender/predator registration forms and e-forms, the Florida Sexual Offender/Predator Public Registry website and the CJNet website and training materials; and
- Coordinate and send notifications of these changes to criminal justice partners via e-mail and sexual offenders/predators via physical mail.<sup>21</sup>

The FDLE states that within the last five years, the total cost to send physical letters to all offenders and predators with an active Florida address to notify them of updates in registration requirements as a result of legislation has ranged from approximately

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<sup>21</sup> *Id.*



\$12,000 to \$19,000.<sup>22</sup> The FDLE further states that costs of implementing the requirements of the bill will be absorbed by the department.<sup>23</sup>

By allowing changes to registrant vehicle information to be reported online to the FDLE as an alternative to in-person reporting of this information to a sheriff office, sheriff offices may experience a reduction in costs associated with this reporting requirement.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 683.231, 775.21, and 943.0435.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

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<sup>22</sup> *Id.*

<sup>23</sup> *Id.*