

Kansas Senate

STATE CAPITOL
300 S.W. TENTH AVENUE
TOPEKA, KS 66612
(785) 296-7665
Greg.Smith@Senate.ks.gov



8605 ROBINSON
OVERLAND PARK, KS 66212
913-302-9983

Senator Greg Smith
21st District

Chairman King and members of the Committee,

SB 118 is a request from constituents, victim advocacy groups, and those who have loved ones who have gone missing, and are still missing. Some have been missing for years. I know from personal experience what it is like to have a loved one go missing. The blessing for me is that I know where my daughter is. She was not found alive, but she was found. I owe a major debt of gratitude to the men and women of law enforcement, the first responder community, and the community as a whole for their efforts to bring Kelsey home. My family was fortunate but many families wonder where their loved one is. SB 118 is an effort to aid in the recovery of those that are missing.

Time is of the essence when a person goes missing. The critical time period for the start of investigation is “immediately”. Statistical analysis shows that the first 24 hours after disappearance can make the difference in finding a living subject or a dead subject. Note that I said from disappearance, not from the discovery of the disappearance.

Let me give you a hypothetical example. A person goes missing at 6 PM (reasons unknown) but the family isn’t aware that something has happened until 10 PM. They start an investigation of their own that takes two hours and leads to no answers. Finally, they contact the police. They are down to eighteen hours left before the police have been notified. When they do notify the police the person on the phone or the officer who

responded listens to the person reporting the missing family member. Receiving no information of foul play, they tell the reporting party to wait twenty-four hours before filing a report.

Does this happen? Yes. Should it happen? No. Locating a missing person is the highest priority and there is no requirement to wait twenty-four hours. SB 118 makes it crystal clear that law enforcement will take a report and cause the information to be entered into the NCIC Missing and Unidentified Person Database. It also makes clear that investigating the incident is a priority.

The bill in its current form is based on model legislation. After conferring with interested parties and stakeholders, including Ed Klumpp, representative of the Chiefs, Sheriffs and peace officers association, we feel that an amendment would best serve the intent of the bill. It would also simplify it. The recommended amendment is attached to my testimony.

Respectfully Submitted,

Senator Greg Smith

Section 1. K.S.A. 2012 Supp. 75-712b is hereby amended to read as follows: 75-712b.

(a) The Kansas bureau of investigation shall establish a missing and unidentified person system which shall be a central repository of information received by law enforcement agencies and coroners in this state relating to persons who have been reported missing or are unidentified. Such information shall be maintained for the purpose of improving the ability of law enforcement to locate and return missing persons, identify persons or human remains and inform and notify, in a timely manner, family members of missing or unidentified persons.

(b) All law enforcement agencies and coroners in this state shall

report to the missing and unidentified person system established pursuant to this section all information received relating to missing persons or unidentified persons or human remains. Such reports shall be made in accordance with rules and regulations adopted pursuant to this section.

(c) The information in the missing and unidentified person system established pursuant to this section shall be available to all law enforcement officers and coroners in this state and all governmental entities in this state which have a need for information relating to missing persons or unidentified persons or human remains in this state, in accordance with rules and regulations adopted pursuant to this section.

(d) *Upon receiving information that any person is a high-risk missing person, as described in K.S.A. 75-712c, and amendments thereto, the director of the missing and unidentified person system shall immediately provide information concerning such missing person to every law enforcement agency within the state.*

(e) The director of the Kansas bureau of investigation may apply for, accept and expend grants, gifts and bequests from any source for the purpose of carrying out the provisions of this section.

~~(e)~~ (f) The director of the Kansas bureau of investigation shall adopt rules and regulations prescribing:

(1) Procedures and forms for reports made to the missing and unidentified person system established pursuant to this section; and
(2) procedures for disseminating information maintained in the missing person system to law enforcement agencies and the federal bureau of investigation as authorized by this section.

~~(f)~~(g) Any law enforcement agency or coroner that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$500 for each report not made. Any civil penalty recovered under this subsection shall be paid into the state general fund.

Sec. 2. K.S.A. 2012 Supp. 75-712c is hereby amended to read as follows: 75-712c. (a)(1) All law enforcement agencies ~~in of the state of Kansas, or any political subdivision of this state thereof,~~ shall receive reports of any person who is reported missing ~~accept and process, without delay, any report of a missing person by any person at any time pursuant to K.S.A. 75-712b through 75-712e, and amendments thereto, and K.S.A. 2012 Supp. 75-712f through 75-712h, and amendments thereto.~~

(2) ~~No law enforcement agency shall refuse or otherwise fail to accept a missing person report for any reason, except when the law enforcement agency:~~

(A) knows the location of the person reported missing,

(B) has confirmed the safe status of the person reported missing; or

(C) confirms another law enforcement agency has already completed a report on the missing person incident,

(3) The reports shall be entered **as soon as practical** into the missing person system of the national crime information center and the missing and unidentified person system of the Kansas bureau of investigation.

(4) The law enforcement agency immediately shall commence an investigation based upon the elements of the initial reports.

~~(b) (1) At the time such report is made the law enforcement agency shall attempt to gather a photograph of the missing person and any~~

Comment [EK1]: The changes to this subsection are recommended because there are a few very reasonable events to negate the requirement to take a report.

Comment [EK2]: This change is suggested to clarify the immediate investigation takes precedence over entering the data in NCIC

~~relevant information concerning the missing person, including, but not limited to, such person's:~~

~~(A) Name and any nicknames or alternate names;~~

~~(B) date of birth;~~

~~(C) identifying marks such as birthmarks, tattoos and scars;~~

~~(D) height and weight;~~

~~(E) gender;~~

~~(F) race and ethnicity;~~

~~(G) hair color;~~

~~(H) eye color;~~

~~(I) prosthetics, surgical implants or cosmetic implants;~~

~~(J) physical anomalies;~~

~~(K) blood type;~~

~~(L) driver's license number and social security number;~~

~~(M) clothing and any items or accessories worn or possessed by such person at the time of disappearance;~~

~~(N) electronic communications information such as email addresses and mobile phone numbers;~~

~~(O) primary care physician's or dentist's contact information;~~

~~(P) employer or school's contact information;~~

~~(Q) vehicle information, including make, model, color, license and vehicle identification number; and~~

~~(R) any information concerning credit or debit card usage or cellular phone records.~~

~~(2) The law enforcement agency shall attempt to gather information concerning any known or possible abductor and any other person last seen with such missing person, including, but not limited to:~~

~~(A) Physical description;~~

~~(B) date of birth;~~

~~(C) identifying marks such as birthmarks, tattoos and scars;~~

~~(D) possible means of transportation including make, model, color, license and vehicle identification number;~~

~~(E) known associates; and~~

~~(F) any other information that could lead to the location of the missing person.~~

~~(3) If such person remains missing, the law enforcement agency shall continue to accept and gather information concerning the missing person at all times.~~

~~(c) The law enforcement agency shall inquire about any circumstances which:~~

~~(1) Lead the reporting person to believe such person is missing;~~

~~(2) may indicate that the missing person's disappearance was not voluntary; and~~

~~(3) may indicate that the missing person may be at risk of injury or death.~~

~~(b) The law enforcement agency shall provide the person making such report with contact information and information concerning the national center for missing and exploited children and the national center for missing adults.~~

~~(e) Within a reasonable period of time, and in no case longer than 30 calendar days, follow-up forms from the national crime information center~~

or the Kansas bureau of investigation, or both, shall be given to the reporting party, to be completed and returned to the law enforcement agency. The data reported on the follow-up forms shall be entered immediately into the missing person system of the national crime information center and the missing and unidentified person system of the Kansas bureau of investigation.

~~(b)~~ (c) The reporting party shall be advised to immediately notify the law enforcement agency in the event the missing person returns or is located. Except as provided further, the law enforcement agency shall immediately notify the reporting party if the missing person is located or contacted. The law enforcement agency investigating the report shall not give information to the reporting party if the law enforcement agency has reason to believe the missing person is an adult or an emancipated minor and is staying at or has made contact with a domestic violence or sexual assault program and does not expressly consent to the release of this information. Upon location of or contact by the missing person, the law enforcement agency shall clear the case in the national crime information center and Kansas bureau of investigation databases.

(e) (1) Upon receipt of a missing person report, the law enforcement agency shall immediately determine whether such person may be a high-risk missing person.

(2) Upon obtaining any new information concerning the missing person at any time, the law enforcement agency shall evaluate whether such person may be a high-risk missing person.

(3) A high-risk missing person means any person who is at heightened risk of bodily harm or death, including, but not limited to, persons missing:

(A) As a result of an abduction;

(B) under suspicious or known dangerous circumstances;

(C) more than 30 days;

(D) who have been designated as high-risk missing persons by another law enforcement agency; or

(E) under any facts or circumstances that would lead the law enforcement agency to believe such person may be at risk of bodily harm or death.

(4) Upon a determination that a missing person is a high-risk missing person, the law enforcement agency shall immediately and specifically make such determination known to the missing and unidentified person system of the Kansas bureau of investigation and the missing person system of the national crime information center.