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Sub. H. B. No. 217

Representatives Cockley, Ritter

**Cosponsors: Representatives Grim, Denson, Sigrist, Gross, Abdullahi, Miller, J.,
Brennan, Isaacsohn, Newman, Workman, White, E., Daniels, Odioso, Jarrells,
Brewer, Synenberg, Rader, Abrams**

To amend sections 2901.30, 2901.41, and 2901.42 and 1
to enact section 109.5731 of the Revised Code to 2
enact Andy Chapman's Act to require law 3
enforcement agencies to enter information 4
relating to a report of a missing person in the 5
national missing and unidentified persons system 6
(NamUs). 7

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 2901.30, 2901.41, and 2901.42 be 8
amended and section 109.5731 of the Revised Code be enacted to 9
read as follows: 10

Sec. 109.5731. The superintendent of the bureau of 11
criminal identification and investigation shall establish and 12
maintain digitalized records of missing persons and children 13
reports. 14

Sec. 2901.30. (A) As used in sections 2901.30 to 2901.32 15
of the Revised Code: 16

(1) "Information" means information that can be integrated 17

into the computer system and that relates to the physical or 18
mental description of a minor including, but not limited to, 19
height, weight, color of hair and eyes, use of eyeglasses or 20
contact lenses, skin coloring, physical or mental disabilities, 21
special medical conditions or needs, abnormalities, problems, 22
scars and marks, and distinguishing characteristics, and other 23
information that could assist in identifying a minor including, 24
but not limited to, full name and nickname, date and place of 25
birth, age, names and addresses of parents and other relatives, 26
fingerprints, dental records, photographs, social security 27
number, driver's license number, credit card numbers, bank 28
account numbers, and clothing. 29

(2) "Minor" means a person under eighteen years of age. 30

(3) "Missing children" or "missing child" means either of 31
the following: 32

(a) A minor who has run away from or who otherwise is 33
missing from the home of, or the care, custody, and control of, 34
the minor's parents, parent who is the residential parent and 35
legal custodian, guardian, legal custodian, or other person 36
having responsibility for the care of the minor; 37

(b) A minor who is missing and about whom there is reason 38
to believe the minor could be the victim of a violation of 39
section 2905.01, 2905.02, 2905.03, or 2919.23 of the Revised 40
Code or of a violation of section 2905.04 of the Revised Code as 41
it existed prior to July 1, 1996. 42

(4) "NamUs" means the national missing and unidentified 43
persons system created by the United States department of 44
justice. 45

~~(B)~~ (5) "High-risk missing child" means a missing child who 46

<u>meets any of the following criteria:</u>	47
<u>(a) The child is missing as a result of a confirmed abduction.</u>	48 49
<u>(b) The child is missing under known dangerous circumstances.</u>	50 51
<u>(c) The child is missing more than thirty days.</u>	52
<u>(d) There is evidence the child is at risk because of any of the following factors:</u>	53 54
<u>(i) The missing child is in need of medical attention or prescription medication, such that it will have a serious adverse effect on the child's health if the needed care or medication is not received.</u>	55 56 57 58
<u>(ii) The missing child does not have a pattern of running away or disappearing.</u>	59 60
<u>(iii) The missing child may have been abducted by a noncustodial parent.</u>	61 62
<u>(iv) The missing child is mentally impaired or developmentally disabled.</u>	63 64
<u>(v) The missing child has been the subject of past threats or acts of violence.</u>	65 66
<u>(vi) Any other factor that may indicate, in the judgment of the lead investigating law enforcement agency, that the missing child may be at risk.</u>	67 68 69
<u>(B) (1) When a law enforcement agency in this state 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 law</u>	70 71 72 73

enforcement agency shall take that report. Upon taking the 74
report, the law enforcement agency shall take prompt action upon 75
it, including, but not limited to, assessing if the missing 76
child may be a high-risk missing child and concerted efforts to 77
locate the missing child. No law enforcement agency in this 78
state shall have a rule or policy that prohibits or discourages 79
the filing of or the taking of action upon a missing child 80
report, within a specified period following the discovery or 81
formulation of a belief that a minor is or could be a missing 82
child. 83

(2) (a) If a law enforcement agency has reason to believe 84
that a missing child is a high-risk missing child, the agency 85
shall contact the appropriate county prosecutor who shall 86
determine whether the child reported missing is a high-risk 87
missing child. If the prosecutor determines that the child is a 88
high-risk missing child, there is a rebuttable presumption that 89
the child is missing as a result of, or in association with, 90
criminal activity, and the law enforcement agency may seek to 91
obtain a search warrant for relevant records or data for the 92
purposes of determining who has legal custody of the child, and 93
for any record that may disclose an allegation of child abuse 94
perpetrated against the child, or an allegation of domestic 95
violence perpetrated against a member of the child's family. 96

(b) If a search reveals that a child reported missing is 97
in the custody of the child's legal guardian or if substantiated 98
allegations of child abuse against the child or any order 99
protecting a family member from domestic violence exists, the 100
law enforcement agency shall continue the criminal investigation 101
without disclosing the whereabouts of the child or the child's 102
guardian to the person who reported the child missing, unless 103
the source of the report is a public children services agency. 104

(c) If the initial determination of a child reported 105
missing does not warrant designation of that child as a high- 106
risk missing child, it shall not preclude a later determination, 107
based on further investigation or the discovery of additional 108
information that the missing child is a high-risk missing child. 109

(d) If the investigating law enforcement agency discovers 110
evidence during the investigation that indicates that the 111
missing child does not meet the definition of a high-risk 112
missing child, there is no rebuttable presumption that the child 113
is missing as a result of, or in association with, criminal 114
activity. 115

(C) If a missing child report is made to a law enforcement 116
agency in this state that has jurisdiction in the matter, the 117
law enforcement agency shall gather readily available 118
information about the missing child and integrate it into the 119
national crime information center computer ~~immediately~~ and NamUs 120
if the missing child is not located within thirty days following 121
the making of the report. The law enforcement agency shall make 122
reasonable efforts to acquire additional information about the 123
missing child following the transmittal of the initially 124
available information, and promptly integrate any additional 125
information acquired into such computer systems. 126

Whenever a law enforcement agency integrates information 127
about a missing child into the national crime information center 128
computer and NamUs, the law enforcement agency promptly shall 129
notify the missing child's parents, parent who is the 130
residential parent and legal custodian, guardian, or legal 131
custodian, or any other person responsible for the care of the 132
missing child, that it has so integrated the information. 133

The parents, parent who is the residential parent and 134

legal custodian, guardian, legal custodian, or other person 135
responsible for the care of the missing child shall provide 136
available information upon request, and may provide information 137
voluntarily, to the law enforcement agency during the 138
information gathering process. The law enforcement agency also 139
may obtain available information about the missing child from 140
other persons, subject to constitutional and statutory 141
limitations. 142

(D) Upon the filing of a missing child report, the law 143
enforcement agency involved may notify the public or nonpublic 144
school in which the missing child is or was most recently 145
enrolled, as ascertained by the agency, that the child is the 146
subject of a missing child report and that the child's school 147
records are to be marked in accordance with section 3313.672 of 148
the Revised Code. 149

(E) Upon the filing of a missing child report, the law 150
enforcement agency involved promptly shall make a reasonable 151
attempt to notify other law enforcement agencies within its 152
county and, if the agency has jurisdiction in a municipal 153
corporation or township that borders another county, to notify 154
the law enforcement agency for the municipal corporation or 155
township in the other county with which it shares the border, 156
that it has taken a missing child report and may be requesting 157
assistance or cooperation in the case, and provide relevant 158
information to the other law enforcement agencies. The agency 159
may notify additional law enforcement agencies, or appropriate 160
public children services agencies, about the case, request their 161
assistance or cooperation in the case, and provide them with 162
relevant information. 163

Upon request from a law enforcement agency, a public 164

children services agency shall grant the law enforcement agency 165
access to all information concerning a missing child that the 166
agency possesses that may be relevant to the law enforcement 167
agency in investigating a missing child report concerning that 168
child. The information obtained by the law enforcement agency 169
shall be used only to further the investigation to locate the 170
missing child. 171

(F) Upon request, law enforcement agencies in this state 172
shall provide assistance to, and cooperate with, other law 173
enforcement agencies in their investigation of missing child 174
cases. The assistance and cooperation under this paragraph shall 175
be pursuant to any terms agreed upon by the law enforcement 176
agencies, which may include the provision of law enforcement 177
services or the use of law enforcement equipment or the 178
interchange of services and equipment among the cooperating law 179
enforcement agencies. Chapter 2744. of the Revised Code, insofar 180
as it applies to the operation of law enforcement agencies, 181
shall apply to the cooperating political subdivisions and to the 182
law enforcement agency employees when they are rendering 183
services pursuant to this paragraph outside the territory of the 184
political subdivision by which they are employed. Law 185
enforcement agency employees rendering services outside the 186
territory of the political subdivision in which they are 187
employed, pursuant to this paragraph, shall be entitled to 188
participate in any indemnity fund established by their employer 189
to the same extent as if they were rendering service within the 190
territory of their employing political subdivision. Those law 191
enforcement agency employees also shall be entitled to all the 192
rights and benefits of Chapter 4123. of the Revised Code to the 193
same extent as if rendering services within the territory of 194
their employing political subdivision. 195

The information in any missing child report made to a law enforcement agency shall be made available, upon request, to law enforcement personnel of this state, 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.

(G) When a missing child has not been located within thirty days after the date on which the missing child report pertaining to the child was filed with a law enforcement agency, that law enforcement agency shall request 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, to provide written consent for the law enforcement agency to contact the missing child's dentist and request the missing child's dental records. Upon receipt of such written consent, the dentist shall release a copy of the missing child's dental records to the law enforcement agency and shall provide and encode the records in such form as requested by the law enforcement agency. The law enforcement agency then shall integrate information in the records into the national crime information center computer and NamUs—in order to compare the records to those of unidentified deceased persons. This division does not prevent a law enforcement agency from seeking consent to obtain copies of a missing child's dental records, or prevent a 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, from granting consent for the release of copies of the missing child's dental records to a law enforcement agency, at any time. A law

enforcement agency shall retain all reports of missing children 227
in an electronic format prior to destruction of any paper 228
reports and, upon conversion, shall promptly submit those 229
reports to the bureau of criminal identification and 230
investigation for purposes of section 109.5731 of the Revised 231
Code. 232

(H) A missing child's parents, parent who is the 233
residential parent and legal custodian, guardian, or legal 234
custodian, or any other persons responsible for the care of a 235
missing child, immediately shall notify the law enforcement 236
agency with which they filed the missing child report whenever 237
the child has returned to their home or to their care, custody, 238
and control, has been released if the missing child was the 239
victim of an offense listed in division (A) (3) (b) of this 240
section, or otherwise has been located. Upon such notification 241
or upon otherwise learning that a missing child has returned to 242
the home of, or to the care, custody, and control of the missing 243
child's parents, parent who is the residential parent and legal 244
custodian, guardian, legal custodian, or other person 245
responsible for the missing child's care, has been released if 246
the missing child was the victim of an offense listed in 247
division (A) (3) (b) of this section, or otherwise has been 248
located, the law enforcement agency involved promptly shall 249
integrate the fact that the minor no longer is a missing child 250
into the national crime information center computer and into 251
NamUs and shall inform any school that was notified under 252
division (D) of this section that the minor is no longer a 253
missing child. 254

Sec. 2901.41. (A) As used in this section and section 255
2901.42 of the Revised Code, ~~"missing-:~~ 256

<u>(1) "Missing person"</u> means an individual who is eighteen	257
years of age or older, whose temporary or permanent residence is	258
in Ohio, and who meets one of the following characteristics:	259
(1) <u>(a)</u> The individual has a physical or mental disability.	260
(2) <u>(b)</u> The individual is missing under circumstances	261
indicating that the individual's safety may be in danger.	262
(3) <u>(c)</u> The individual is missing under circumstances	263
indicating that the individual's disappearance was not	264
voluntary.	265
<u>(2) "NamUs" means the national missing and unidentified</u>	266
<u>persons system created by the United States department of</u>	267
<u>justice.</u>	268
<u>(3) "High-risk missing person" means an individual who is</u>	269
<u>eighteen years of age or older whose whereabouts are not</u>	270
<u>currently known and the circumstances of the individual's</u>	271
<u>disappearance suggest that the person may be at imminent or</u>	272
<u>likely risk of injury or death. The circumstances that indicate</u>	273
<u>that an individual is a high-risk missing person shall include</u>	274
<u>but not be limited to:</u>	275
<u>(a) The individual is missing as a result of a confirmed</u>	276
<u>abduction.</u>	277
<u>(b) The individual is missing under known dangerous</u>	278
<u>circumstances.</u>	279
<u>(c) The individual is missing more than thirty days.</u>	280
<u>(d) There is evidence the person is at risk because of any</u>	281
<u>of the following factors:</u>	282
<u>(i) The missing individual is in need of medical attention</u>	283

or prescription medication, such that it will have a serious 284
adverse effect on the individual's health if the needed care or 285
medication is not received. 286

(ii) The missing individual does not have a pattern of 287
running away or disappearing. 288

(iii) The missing individual is mentally impaired or 289
developmentally disabled. 290

(iv) The missing individual has been the subject of past 291
threats or acts of violence. 292

(v) The missing individual is under twenty-one years of 293
age and any of the factors listed in division (A) (3) (d) (i) to 294
(iv) of this section exist. 295

(vi) Any other factor that may indicate, in the judgment 296
of the lead investigating law enforcement agency, that the 297
missing individual may be at risk. 298

(B) The attorney general shall publish and distribute to 299
all law enforcement agencies in this state a best practices 300
protocol for addressing reports of missing persons, including 301
practices for making assessments of whether a missing person is 302
a high-risk missing person. Each best practices protocol shall 303
require all law enforcement agencies to enter information 304
relating to a report of a missing person into NamUs if a missing 305
person is not located within thirty days following the making of 306
the report. Upon receipt of the best practices protocol from the 307
attorney general, each law enforcement agency in this state 308
shall develop and adopt a written policy establishing ~~reasonable~~ 309
both of the following: 310

(1) Reasonable procedures to be followed by the law 311
enforcement agency when the agency is informed that a person is 312

or may be a missing person; 313

(2) A procedure for retaining all reports of missing 314
persons in an electronic format prior to the destruction of any 315
paper reports and, upon conversion, for promptly submitting 316
those electronic reports to the bureau of criminal 317
identification and investigation for purposes of section 318
109.5731 of the Revised Code. 319

(C) After a law enforcement agency adopts a written policy 320
as required by division (B) of this section, the peace officers 321
that are employed by that agency shall make a good faith effort 322
to follow the procedures contained in the policy. 323

(D) The requirements of this section do not create a 324
private cause of action for damages against the state or any law 325
enforcement agency, political subdivision, peace officer, or 326
other person who fails to comply with the requirements of this 327
section. 328

(E) (1) If a law enforcement agency has reason to believe 329
that an individual reported missing is a high-risk missing 330
person, the agency shall contact the appropriate county 331
prosecutor who shall determine whether the individual reported 332
missing is a high-risk missing person. If the prosecutor 333
determines that the individual is a high-risk missing person, 334
there is a rebuttable presumption that the individual is missing 335
as a result of, or in association with, criminal activity. This 336
rebuttable presumption shall constitute probable cause for 337
issuance of a search warrant under Chapter 2933. of the Revised 338
Code during any resulting investigation. If the initial 339
determination of an individual reported missing does not warrant 340
designation of that individual as a high-risk missing person, it 341
shall not preclude a later determination, based on further 342

investigation or the discovery of additional information that 343
the missing individual is a high-risk missing person. 344

(2) If the investigating law enforcement agency discovers 345
evidence during the investigation that indicates that the 346
missing person does not meet the definition of a high-risk 347
missing person, there is no rebuttable presumption that the 348
person is missing as a result of, or in association with, 349
criminal activity. 350

Sec. 2901.42. (A) If a law enforcement agency receives an 351
initial report or receives additional information for the report 352
that a person who is at least eighteen but less than twenty-one 353
years of age is missing, the law enforcement agency shall ~~make~~ 354
do both of the following: 355

(1) Make available through the national crime information 356
center all information contained in the report immediately after 357
the law enforcement agency receives the report or additional 358
information. ~~;~~ 359

(2) Make available through NamUs information contained in 360
the report if a missing person is not located within thirty days 361
after the law enforcement agency receives the report or 362
additional information. 363

(B) (1) If a law enforcement agency receives a report that 364
a person who is twenty-one years of age or older is missing and 365
if there is evidence that the person was a victim of foul play 366
at the time the victim is reported missing, or is otherwise a 367
high-risk missing person, the law enforcement agency shall make 368
available through the national crime information center all 369
information contained in the report not later than seven days 370
after the law enforcement agency receives the report. If there 371

is no evidence that the person was a victim of foul play, the 372
missing person is not a high-risk missing person, and no 373
evidence to the contrary is received, the law enforcement agency 374
shall make the information available through the national crime 375
information center not later than thirty days after receiving 376
the report that the person is missing. 377

(2) If a law enforcement agency receives a report that a 378
person who is twenty-one years of age or older is missing and 379
there is no evidence of foul play at the time the agency 380
receives the report and if the agency discovers after the law 381
enforcement agency receives the report but before the end of the 382
seven-day period under division (B) (1) of this section evidence 383
that the person who is missing was a victim of foul play, or the 384
person who is missing is later determined to be a high-risk 385
missing person, the law enforcement agency shall make available 386
through the national crime information center all information 387
contained in the report by the end of that seven-day period. If 388
a law enforcement agency receives a report that a person who is 389
twenty-one years of age or older is missing and there is no 390
evidence of foul play at the time the agency receives the report 391
and if the agency discovers after the end of the seven-day 392
period under division (B) (1) of this section evidence that the 393
person who is missing was a victim of foul play, or the person 394
who is missing is later determined to be a high-risk missing 395
person, the law enforcement agency shall make available through 396
the national crime information center_ all information contained 397
in the report not later than forty-eight hours after discovering 398
the evidence that the person was a victim of foul play, or the 399
person is determined to be a high-risk missing person. 400

(3) If a law enforcement agency receives a report that a 401
person who is twenty-one years of age or older is missing, the 402

law enforcement agency shall make available through NamUs 403
information contained in the report if the missing person is not 404
located within thirty days after the law enforcement agency 405
receives the report or additional information. 406

(C) If a law enforcement agency pursuant to divisions (A) 407
and (B) of this section made available through the national 408
crime information center and NamUs information contained in a 409
report that a person is missing and the missing person is found, 410
the agency shall promptly remove that information from the law 411
enforcement automated data system and report to NamUs that the 412
person has been found. 413

(D) A law enforcement agency shall retain every report of 414
a missing person in an electronic format prior to destruction of 415
any paper reports and, upon conversion, shall promptly submit 416
each report to the bureau of criminal identification and 417
investigation for purposes of section 109.5731 of the Revised 418
Code. 419

(E) As used in this section, indicators that a person was 420
a victim of "foul play" include, but are not limited to, 421
evidence that the person's home or car is in disarray, evidence 422
of a struggle between the person and another person, or evidence 423
a law enforcement agency determines to be foul play through the 424
written policy the law enforcement agency develops and adopts 425
pursuant to division (B) of section 2901.41 of the Revised Code. 426

Section 2. That existing sections 2901.30, 2901.41, and 427
2901.42 of the Revised Code are hereby repealed. 428

Section 3. This act shall be known as Andy Chapman's Act. 429