

HELP FIND THE MISSING ACT OR BILLY'S LAW

FEBRUARY 22, 2010.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. CONYERS, from the Committee on the Judiciary,
submitted the following

R E P O R T

[To accompany H.R. 3695]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 3695) to authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System, to facilitate data sharing between such system and the National Crime Information Center database of the Federal Bureau of Investigation, to provide incentive grants to help facilitate reporting to such systems, and for other purposes, having considered the same, report favorably thereon with an amendment and recommend that the bill as amended do pass.

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THE AMENDMENT

The amendment is as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the “Help Find the Missing Act” or “Billy’s Law”.

SEC. 2. AUTHORIZATION OF THE NATIONAL MISSING AND UNIDENTIFIED PERSONS SYSTEM.

(a) **IN GENERAL.**—The Attorney General, through the Director of the National Institute of Justice, is authorized to maintain public databases, known as the “National Missing and Unidentified Persons System” or “NamUs”, to contain missing persons records and unidentified remains cases for purposes of assisting to identify missing people and solve cases of unidentified human remains. All functions, personnel, assets, liabilities, and administrative actions applicable to the National Missing and Unidentified Persons System carried out by the National Institute of Justice on the date before the date of the enactment of this Act shall be transferred to the National Missing and Unidentified Persons System authorized under this section as of the date of the enactment of this Act.

(b) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$2,400,000 for each of the fiscal years 2011 through 2016.

SEC. 3. SHARING OF INFORMATION BETWEEN NCIC AND NAMUS.

(a) **SHARING OF INFORMATION.**—Not later than the end of the 30-day period beginning on the date the online data entry format is updated under subsection (c), the Attorney General shall, in accordance with this section, provide for information on missing persons and unidentified human remains contained in the NCIC database (as defined in section 7) to be transmitted to, entered in, and otherwise shared with the NamUs databases (as defined in such section) and for such information contained in the NamUs databases to be transmitted to, entered in, and otherwise shared with the NCIC database.

(b) **RULES ON CONFIDENTIALITY.**—

(1) **IN GENERAL.**—Not later than one year after the date of the enactment of this Act, the Attorney General, in consultation with the Director of the Federal Bureau of Investigation (in this Act referred to as the “FBI”), shall promulgate rules pursuant to notice and comment that specify the information the Attorney General may provide from the NCIC files to the NamUs databases for purposes of this Act. Such rules shall—

(A) provide for the protection of law enforcement sensitive, confidential, and private information contained in the NCIC files;

(B) be promulgated only after the Director approves recommendations by the Advisory Policy Board of the Criminal Justice Information Services Division of the FBI;

(C) specify the circumstances in which portions of information may be withheld from transfer, entry, or sharing from the NCIC database to the NamUs databases; and

(D) provide that once an authorized agency provides an authorization to permit the transmission, entering, or sharing of information (or portions of information) from the NCIC database to the NamUs databases, such authorization shall be deemed to apply to any updates made to such information, unless otherwise specified by the agency.

(2) **SUBMISSIONS PRIOR TO ONLINE DATA ENTRY FORMAT UPDATE.**—With respect to information submitted to the NCIC database before the end of the 30-day period specified in subsection (a), the Attorney General may solicit from appropriate authorized agencies authorization to transmit, enter, or share such information.

(c) **UPDATES.**—

(1) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act, the Attorney General shall update the online data entry format for the NCIC database and NamUs databases to provide State criminal justice agencies, offices of medical examiners, and offices of coroners with the option to authorize the submission of new information and data that is reported to and entered into the NCIC database to simultaneously be submitted to and entered into the NamUs databases.

(2) **NCIC FORMAT.**—

(A) **IN GENERAL.**—In the case of the NCIC database, an update described in paragraph (1) shall include—

(i) an update to the NCIC database online data entry format that States use in submitting missing persons and unidentified remains re-

ports, including the addition of a new data field allowing States, on behalf of the authorized agency that originally submitted the data, to select whether or not to have the NCIC report, subject to the rules promulgated under subsection (b), shared with the NamUs databases; and

(ii) subject to subparagraph (B), a requirement that as a condition of participating in the NCIC database, States must update their missing persons and unidentified remains collection processes from local and tribal law enforcement, medical examiners, and coroners to enable the States to acquire information on whether or not the authorized agencies originally submitting data with respect to a missing person or unidentified remains have provided authorization to share the information with the NamUs databases.

(B) EXCEPTION.—Subparagraph (A)(ii) shall not apply with respect to any State that has in effect a State law providing for a methodology to authorize the sharing of information between the NCIC database and NamUs databases.

(d) AMENDMENTS TO TITLE XXXVII OF THE CRIME CONTROL ACT OF 1990 TO REQUIRE REPORTS OF MISSING CHILDREN TO NAMUS.—

(1) REPORTING REQUIREMENT.—Section 3701(a) of title XXXVII of the Crime Control Act of 1990 (42 U.S.C. 5779(a)) is amended by striking the period and inserting the following: “and, consistent with section 3 (including rules promulgated pursuant to section 3(b)) of the Help Find the Missing Act, shall also report such case, either directly or through authorization described in such section to transmit, enter, or share information on such case, to the NamUs databases (as defined in section 7 of such Act).”.

(2) STATE REQUIREMENTS.—Section 3702 of title XXXVII of the Crime Control Act of 1990 (42 U.S.C. 5780) is amended—

(A) in paragraph (2), by striking “or the National Crime Information Center computer database” and inserting “, the National Crime Information Center computer database, or the NamUs databases (as defined in section 7 of the Help Find the Missing Act)”;

(B) in paragraph (3), by striking “and the National Crime Information Center computer networks” and inserting “, the National Crime Information Center computer networks, and the NamUs databases (as so defined)”;

(C) in paragraph (4)—

(i) in the matter preceding subparagraph (A), by inserting “or the NamUs databases” after “National Crime Information Center”; and

(ii) in subparagraph (A), by striking “and National Crime Information Center computer networks” and inserting “, National Crime Information Center computer networks, and the NamUs databases”.

(3) EFFECTIVE DATE.—The amendments made by this subsection shall apply with respect to reports made before, on, or after the date of the enactment of this Act beginning on the last day of the 30-day period described in subsection (a).

SEC. 4. INCENTIVE GRANTS PROGRAM.

(a) ESTABLISHMENT.—Not later than one year after the date of enactment of this Act, the Attorney General shall establish a program to provide grants to qualifying law enforcement agencies (as defined in subsection (j)), offices of coroners, offices of medical examiners, and other authorized agencies to facilitate the process of reporting information regarding missing persons and unidentified remains to the NCIC database and NamUs databases for purposes of assisting in locating such missing persons and identifying such remains.

(b) REQUIREMENTS.—As a condition of a grant under this section, a grant recipient shall, with respect to each case reported to the agency or office of the recipient relating to a missing person described in a category under subsection (e) or relating to unidentified remains—

(1) not later than 72 hours after such case is reported to the agency or office and consistent with subsection (c), submit to the NCIC database and NamUs databases—

(A) in the case of a missing person described in a category under subsection (e), at least the minimum information described in subsection (f)(1); and

(B) in the case of unidentified remains, at least the minimum information described in subsection (f)(2); and

(2) not later than 60 days after the original entry of the report, verify and update any original report entered into the State law enforcement system, the

NCIC database, or NamUs databases after receipt of the grant with any additional information, including, to the greatest extent possible—

(A) information on the extent to which DNA samples are available, including the availability of such samples submitted to the National DNA Index System under subsection (b)(3);

(B) fingerprints, medical and dental records, and photographs of any distinguishing characteristics such as scars, marks, tattoos, piercings, and other unique physical characteristics;

(C) in the case of unidentified remains, photographs or digital images that may assist in identifying the decedent, including fingerprint cards, radiographs, palmprints, and distinctive features of the decedent's personal effects; and

(D) any other information determined to be appropriate by the Attorney General; and

(3) not later than 60 days after the original entry of the report, to the greatest extent possible, submit to the National DNA Index System of the Federal Bureau of Investigation, established pursuant to section 210304 of the Violent Crime Control and Law Enforcement Act of 1994, (either directly or through use of NamUs victims assistance resources and DNA collection services) DNA samples and information relating to such case.

For purposes of paragraph (2), in the case of information a grant recipient authorizes to be transferred, entered, or shared under section 3 between the NCIC database and NamUs databases, any update to such information shall be simultaneously made with respect to both databases unless specified otherwise by the recipient.

(c) SUBMISSION OF REPORTS.—To satisfy subsection (b)(1), a recipient of a grant under this section shall submit information required under such subsection—

(1) separately to the NCIC database and NamUs databases; or

(2) in accordance with section 3, simultaneously to the NamUs databases when reporting to the NCIC database or to the NCIC database when reporting to the NamUs databases.

(d) PERMISSIBLE USE OF FUNDS.—

(1) IN GENERAL.—The permissible uses of grants awarded under this section include the use of funds—

(A) to hire additional personnel, to acquire technology to facilitate timely data entry into the relevant databases;

(B) to conduct contracting activities relevant to outsourcing the processing of unidentified remains and the reporting of the resulting information to the NCIC database and NamUs databases;

(C) to train local law enforcement personnel, medical examiners, and coroners to use the NCIC database and NamUs databases;

(D) to assist States' transition into the new system under which information is shared between the NCIC database and NamUs databases; and

(E) for other purposes consistent with the goals of this section.

(2) CLARIFICATION.—In no case may a recipient of a grant under this section use funds to enter or help facilitate the entrance of any false or misleading information about missing persons or unidentified remains.

(e) CATEGORIES OF MISSING PERSONS.—The categories of missing persons described in this subsection are the following:

(1) A missing person age 21 or older who—

(A) is senile or is suffering from a proven mental or physical disability, as documented by a source deemed credible to an appropriate law enforcement entity; or

(B) is missing under circumstances that indicate, as determined by an appropriate law enforcement entity—

(i) that the person's physical safety may be endangered;

(ii) that the disappearance may not have been voluntary, such as abduction or kidnapping; or

(iii) that the disappearance may have been caused by a natural disaster or catastrophe (such as an airplane crash or terrorist attack).

(2) A missing person who does not meet the criteria described in paragraph (1) but who meets one of the following criteria:

(A) There is a reasonable concern, as determined by an appropriate law enforcement entity, for the safety of the missing person.

(B) The person is under age 21 and emancipated under the laws of the person's State of residence.

(f) MINIMUM INFORMATION REQUIRED.—

(1) CONTENT FOR MISSING PERSONS.—The minimum information described in this section, with respect to a missing person, is the following:

(A) The name, date of birth, city and State of residence, gender, race, height, weight, eye color, and hair color of the missing person.

(B) The date and location of the last known contact with the missing person.

(C) The category described in subsection (e) in which the missing person is classified.

(2) **CONTENT FOR UNIDENTIFIED HUMAN REMAINS.**—The minimum information described in this section, with respect to unidentified human remains, is the following:

(A) The estimated age, gender, race, height, weight, hair color, and eye color.

(B) Any distinguishing characteristics such as scars, marks, tattoos, piercings, and other unique physical characteristics.

(C) A description of clothing found on the decedent.

(D) City and State where the unidentified human remains were found.

(E) Information on how to contact the law enforcement agency handling the investigation and the unidentified human remains.

(F) Information on the extent to which DNA samples are available, including the availability of such samples submitted to the National DNA Index System under subsection (b)(3).

(g) **ADMINISTRATION.**—The Attorney General shall prescribe requirements, including with respect to applications, for grants awarded under this section and shall determine the amount of each such grant.

(h) **CONFIDENTIALITY.**—As a condition of a grant under this section, the recipient of the grant shall ensure that information reported under the grant meets the requirements promulgated by the Attorney General under section 3(b)(1).

(i) **ANNUAL SUMMARY.**—For each of the fiscal years 2012 through 2015, the Attorney General shall publish an annual statistical summary of the reports required by subsection (c).

(j) **QUALIFYING LAW ENFORCEMENT AGENCY DEFINED.**—For purposes of this Act, the term “qualifying law enforcement agency” means a State, local, or tribal law enforcement agency.

(k) **AUTHORIZATION OF APPROPRIATIONS.**—There is authorized to be appropriated to carry out this section \$10,000,000 for each of the fiscal years 2011 through 2015.

SEC. 5. REPORT ON BEST PRACTICES.

Not later than 1 year after the date of the enactment of this Act, the Attorney General shall issue a report to offices of medical examiners, offices of coroners, and Federal, State, local, and tribal law enforcement agencies describing the best practices for the collection, reporting, and analysis of data and information on missing persons and unidentified human remains. Such best practices shall—

(1) provide an overview of the NCIC database and NamUs databases;

(2) describe how local law enforcement agencies, offices of medical examiners, and offices of coroners should access and use the NCIC database and NamUs databases;

(3) describe the appropriate and inappropriate uses of the NCIC database and NamUs databases; and

(4) describe the standards and protocols for the collection, reporting, and analysis of data and information on missing persons and unidentified human remains.

SEC. 6. REPORT TO CONGRESS.

(a) **IN GENERAL.**—Not later than 1 year after the date of the enactment of this Act and biennially thereafter, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report describing the status of the NCIC database and NamUs databases.

(b) **CONTENTS.**—The report required by subsection (a) shall describe, to the extent available, information on—

(1) the process of information sharing between the NCIC database and NamUs databases; and

(2) the programs funded by grants awarded under section 4.

SEC. 7. DEFINITIONS.

For the purposes of this Act, the following definitions apply:

(a) **AUTHORIZED AGENCY.**—The term “authorized agency” means a government agency with an originating agency identification (ORI) number and that is a criminal justice agency, as defined for purposes of subpart A of part 20 of title 28, Code of Federal Regulations.

(b) **NAMUS DATABASES.**—The term “NamUs databases” means the National Missing and Unidentified Persons System Missing Persons database and National Missing and Unidentified Persons System Unidentified Decedents database maintained by the National Institute of Justice of the Department of Justice.

(c) **NCIC DATABASE.**—The term “NCIC database” means the National Crime Information Center Missing Person File and National Crime Information Center Unidentified Person File of the National Crime Information Center database of the Federal Bureau of Investigation, established pursuant to section 534 of title 28, United States Code.

(d) **STATE.**—The term “State” means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Commonwealth of the Northern Mariana Islands.

PURPOSE AND SUMMARY

The purpose of H.R. 3695 is to authorize funding for, and increase accessibility to, the National Missing and Unidentified Persons System (NamUs), to facilitate data sharing between NAMUS and the National Crime Information Center (NCIC) database of the Federal Bureau of Investigation (FBI), and to provide incentive grants to help facilitate reporting to such systems.

BACKGROUND AND NEED FOR THE LEGISLATION

Every year, tens of thousands of Americans go missing and are never found by their loved ones. An estimated 40,000 unidentified remains are located in medical examiners’ and coroners’ offices, or were buried or cremated before being identified. Information about these remains and missing persons is often reported to the NCIC database and the NAMUS database. These databases however, require adequate funding and better facilitation of data sharing.

The FBI’s National Crime Information Center (NCIC) is a computerized index of information concerning crimes, criminals, missing persons, and unidentified persons. Since 1975, the NCIC has maintained records of missing persons (known as the Missing Persons File) that are reported to the FBI by federal, State, and local law enforcement agencies. The Missing Persons File includes information about the gender, race, dental records, and other characteristics of the missing individuals. Current law requires records of missing children under age 18 to be immediately entered into the Missing Persons File, as well as information about missing adults aged 18 through 20 years. However, law enforcement agencies are not mandated under Federal law to submit missing persons records of adults over the age of 21 into this database.

Since 1983, the NCIC has also maintained an Unidentified Persons File, which consists of reports of unidentified deceased persons, persons who are living but unable to determine their identity, and unidentified catastrophe victims. Nearly all of the entries in this database are for deceased unidentified bodies; they include information about bodies in various states, ranging from the recently deceased to skeletal remains.

In 2007, the Justice Department’s National Institute of Justice (NIJ) established the National Missing and Unidentified Persons System (NamUs). This online repository consists of a database for missing persons and another for unidentified remains. The critical difference between the NamUs databases and the NCIC databases is that NCIC information is only available to law enforcement agencies, while NamUs information is available and searchable online by anyone, most notably the families of the missing persons.

The public may also contribute information to the missing persons portion of NamUs.

The NamUs Missing Persons Database includes information submitted by both law enforcement and members of the public. Profiles of missing persons may include photographs and information about the circumstances around their disappearance, their dental records, DNA, physical appearance, and police contact information, among other items. This database allows members of the public, law enforcement, coroners, and medical examiners to search the database based on these attributes.

The NamUs Unidentified Remains Database allows law enforcement officials, medical examiners, and coroners to submit information, including descriptive information about the remains. The public may not enter information into this database, but may search the files online (although only law enforcement officials have access to certain information, such as photographs). Website users may search based on factors such as where the remains were found, physical characteristics, dental information, and distinct body features.

H.R. 3695 will provide specific authorization for operation and funding of the NamUs databases. The Attorney General is directed to issue rules providing for and governing the sharing of information in the NCIC databases with the NamUs databases, and for the submission of new information from State and local law enforcement agencies to the NCIC and NamUs databases.

H.R. 3695 also establishes a grant program for personnel, technology, and training to help States submit data to the NCIC and NamUs databases. These grants will provide incentives for law enforcement agencies, coroners, and medical examiners to enter information about missing persons and unidentified remains into the databases. Additionally, H.R. 3695, extends the reporting requirement, as a condition of receiving grants under the bill, to missing adults cases and unidentified remains cases.

To assist those in State and local government, H.R.3695 also requires the Department of Justice to issue two reports. One report will be for law enforcement agencies, coroners, and medical examiners concerning best practices for collecting and reporting information about missing and unidentified persons. The other report, to be submitted to Congress every 2 years, will describe the status of the NCIC and NamUs databases.

HEARINGS

The Committee's Subcommittee on Crime, Terrorism, and Homeland Security held 1 day of hearings on H.R. 3695, on January 21, 2010. Testimony was received from five witnesses: Congressman Christopher Murphy of Connecticut; Congressman Ted Poe of Texas; Ms. Janice Smolinski of Cheshire, Connecticut; Kristina Rose, Acting Director, National Institute of Justice, Office of Justice Programs, United States Department of Justice; and Stephen L. Morris, Deputy Assistant Director, Criminal Justice Information Services Division, Federal Bureau of Investigation.

COMMITTEE CONSIDERATION

On January 27, 2010, the Committee met in open session and ordered the bill, H.R. 3695, favorably reported, with one amendment, by a voice vote, a quorum being present.

VOTE OF THE COMMITTEE

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during Committee consideration of H.R. 3695.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee reports that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 3695, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 5, 2010.

Hon. JOHN CONYERS, Jr., *Chairman,*
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 3695, the Help Find the Missing Act.

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226-2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable Lamar S. Smith.
Ranking Member

H.R. 3695—Help Find the Missing Act.

SUMMARY

H.R. 3695 would authorize the appropriation of \$12.4 million annually over the 2011–2015 period for Department of Justice (DOJ) programs and grants to improve the reporting and recording of information relating to cases involving missing persons and unidentified human remains. In addition, the bill would direct DOJ to upgrade certain databases and prepare reports relating to collecting and analyzing information on missing persons and unidentified human remains.

Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 3695 would cost about \$45 million over the 2011–2015 period. Enacting the bill would not affect direct spending or revenues.

H.R. 3695 would expand an existing intergovernmental mandate, as defined in the Unfunded Mandates Reform Act (UMRA), that requires State and local law enforcement agencies to share and update information about missing persons under the age of 21. CBO estimates that the costs for those agencies to comply with the reporting requirement would be small and well below the annual threshold for intergovernmental mandates established in UMRA (\$70 million in 2010, adjusted annually for inflation).

This bill contains no private-sector mandates as defined in UMRA.

ESTIMATED COST TO THE FEDERAL GOVERNMENT

The estimated budgetary impact of H.R. 3695 is shown in the following table. The costs of this legislation fall within budget function 750 (administration of justice).

By Fiscal Year, in Millions of Dollars

	2011	2012	2013	2014	2015	2011– 2015
CHANGES IN SPENDING SUBJECT TO APPROPRIATION						
Estimated Authorization Level	13	12	12	12	12	63
Estimated Outlays	5	8	10	11	12	46

1Note: Numbers may not sum to totals because of rounding.

BASIS OF ESTIMATE

H.R. 3695 would authorize the appropriation of \$2.4 million annually over the 2011–2016 period for DOJ to maintain public databases containing records relating to cases involving missing persons and unidentified human remains. The bill also would authorize the appropriation of \$10 million annually over the 2011–2015 period for DOJ to make grants to law enforcement agencies, offices of medical examiners, and other agencies to improve the reporting of information relating to cases involving missing persons and unidentified human remains.

In addition, the bill would direct DOJ to share information among departmental databases and prepare reports for law enforcement agencies relating to collecting and analyzing data on missing persons and unidentified human remains. Based on information from the department, CBO estimates that it would cost

about \$1 million in 2011 and less than \$500,000 annually thereafter to carry out those activities.

For this estimate, CBO assumes that H.R. 3695 will be enacted during fiscal year 2010. We assume that the authorized and estimated amounts will be appropriated near the start of each fiscal year and that spending will follow the historical spending patterns for similar activities.

ESTIMATED IMPACT ON STATE, LOCAL, AND TRIBAL GOVERNMENTS

H.R. 3695 would expand an existing intergovernmental mandate, as defined in UMRA, that requires State and local law enforcement agencies to share and update information about missing persons under the age of 21. Under current law, those entities are required to report that information to a Federal database; therefore, CBO estimates that the costs for State and local law enforcement agencies to comply with the additional reporting requirement would be small and well below the annual threshold for intergovernmental mandates established in UMRA (\$70 million in 2010, adjusted annually for inflation).

The bill would authorize a grant for State and local agencies to increase the amount of information about unidentified remains and missing adults that is entered into the public system. Assuming appropriation of authorized amounts, those entities would receive \$33 million over the 2011–2015 period. Any costs to those entities would be incurred voluntarily as a condition of Federal assistance.

ESTIMATED IMPACT ON THE PRIVATE SECTOR

H.R. 3695 contains no private-sector mandates as defined in UMRA.

ESTIMATE PREPARED BY:

Federal Costs: Mark Grabowicz
Impact on State, Local, and Tribal Governments: Melissa Merrell
Impact on the Private Sector: Marin Randall

ESTIMATE APPROVED BY:

Theresa Gullo
Deputy Assistant Director for Budget Analysis

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 3695 will strengthen and increase accessibility to Federal databases containing information about missing persons and unidentified remains.

CONSTITUTIONAL AUTHORITY STATEMENT

Pursuant to clause 3(d)(1) of rule XIII of the Rules of the House of Representatives, the Committee finds the authority for this legislation in article I, section 8, clause 3 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 3695 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

Section 1. Short Title. This section sets forth the short title of the bill as the “Help Find the Missing Act” or “Billy’s Law.”

Section 2. Authorization of the National Missing and Unidentified Persons System (NamUs). This section authorizes the Attorney General, through the Director of the National Institute of Justice, to maintain the NamUs databases for missing persons and unidentified remains, and requires that the databases continue to operate as they currently do. The bill would authorize \$2.4 million for each of FY2011 through FY2016 to maintain NamUs.

Section 3. Sharing of Information Between NCIC and NamUs. This section requires the Department of Justice, within 1 year of enactment, to facilitate the sharing of information between the FBI’s NCIC Missing Person File and the Unidentified Person File with NamUs. The online data entry format must be updated to provide State criminal justice agencies, as well as offices of medical examiners and coroners, the option to authorize the submission of new information and data entered into one database to be simultaneously submitted to the other. Within 30 days after the online data entry format is updated, the Department, upon approval of the States, must transmit existing data in the NCIC into NamUs, and transmit existing data in NamUs into the NCIC. By 1 year after enactment, the Attorney General, in consultation with the Director of the FBI, and the Criminal Justice Information Services Advisory Policy Board, shall promulgate rules specifying what law enforcement-sensitive or confidential information entered into the NCIC may not be shared with NamUs.

Section 3 also amends the National Child Search Assistance Act of 1990 to require that reports of missing children (defined currently in law as those individuals under age 21) submitted to the NCIC also be submitted to NamUs. These changes would apply to all reports, regardless of whether made before or after the online data entry format is updated.

Section 4. Incentive Grants. This section establishes, not later than 1 year after enactment, a program within the Department of Justice to provide grants to law enforcement agencies, medical examiners’ and coroners’ offices, and State criminal justice agencies to facilitate the reporting process of missing adults and unidentified remains to the connected NCIC/NamUs databases. Grantees must report these cases to the connected NCIC/NamUs databases within 72 hours. Not later than 60 days after the original entry of the report, grantees must, to the greatest extent possible, submit DNA samples to the National DNA Index System, and provide other information, such as dental records or finger prints. This section authorizes \$10 million for each fiscal year 2011 through 2015 to carry out this program.

Section 5. Report on Best Practices. This section requires the Attorney General to issue a report within 1 year after the bill is en-

acted to offices of medical examiners; offices of coroners; and federal, State, local, and tribal law enforcement agencies. The report would describe best practices for collecting, reporting, and analyzing data and information on missing persons and unidentified remains. The best practices would (1) provide an overview of the NCIC and NamUs databases; (2) describe how local law enforcement agencies and offices of medical examiners and coroners should access and use the databases; (3) describe the appropriate and inappropriate uses of the databases; and (4) describe the standards and protocols for collecting, reporting, and analyzing information on missing persons and unidentified remains.

Section 6. Report to Congress. This section would require the Attorney General to issue a report within 1 year after the bill is enacted, and biennially thereafter, to the House and Senate Judiciary Committees. The report would describe the status of the databases, including information on the process of sharing between the databases and the programs funded by the incentive grant program.

Section 7. Definitions. This section provides definitions for various terms.

AGENCY VIEWS



U.S. Department of Justice

Office of Legislative Affairs

Office of the Assistant Attorney General

Washington, D.C. 20530

January 19, 2010

The Honorable Bobby Scott
Chairman
Subcommittee on Crime, Terrorism,
and Homeland Security
Committee on the Judiciary
U.S. House of Representatives
Washington, D.C. 20515

Dear Mr. Chairman:

This letter presents the views of the Department of Justice (the Department or DOJ) on H.R. 3695, the "Help Find the Missing Act" or "Billy's Law." The Department strongly supports this legislation. The bill will help the Department build on its work in establishing the National Missing and Unidentified Persons System (NamUs).

NamUs, administered by DOJ's National Institute of Justice (NIJ), is the first national system for both missing persons and the unidentified dead. It is a free web-based tool that the public, law enforcement, medical examiners and coroners can access and use to assist in the solving of missing persons and unidentified decedent cases in the United States. NamUs also serves as a central, online national repository for other missing persons' websites, state clearinghouses, contact information, legislation and other resources from around the country. H.R. 3695 would specifically authorize NamUs which would be an important step forward in growing and sustaining these critical activities. Additionally, the Department strongly supports the bill's provisions which specifically encourage and facilitate the sharing of information from disparate systems relevant to the resolution of missing persons and unidentified decedent cases.

Great strides have been made in establishing NamUs, but much work remains to be done. For example, the sharing of information between the Federal Bureau of Investigation's (FBI) National Crime Information Center's (NCIC) Missing and Unidentified Person Files, and NamUs is currently difficult, time consuming, and expensive. Section 4 of H.R. 3695, in particular, would lead to substantial improvements in how information is shared between NCIC and NamUs.

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However, the Department does have some concerns with this section. Specifically, Section 4(b)(1)(C), which requires each law enforcement agency to “[submit] to the Attorney General written authorization” to permit the sharing of its NCIC data with NamUs may be unduly burdensome to administer as currently proposed and may be perceived as burdensome to state and local agencies in such a way that it discourages their participation.

NamUs currently performs the function of obtaining the necessary permissions from the “owner” law enforcement agency because NCIC does not own the data it holds. Section 4(b)(1)(C) does not improve the burdensome and laborious nature of this process, but rather, shifts the burden of obtaining those permissions to NCIC. Additionally, the Section defines the manner in which the necessary permissions must be obtained (in writing) and communicated in a way that may limit the Department’s ability to develop policies that facilitate the permission process in a less burdensome and less costly manner. Therefore, the Department recommends that the Section 4(b)(1)(C) requirement that written permission be provided to the Attorney General be removed. The removal of these sections would allow the FBI/CJIS Policy Board, along with its community of stakeholders, to determine what permissions must be obtained prior to the uploading of state and local data to NCIC and NamUs. By working within this existing policy making structure, the Department will be able to better facilitate data sharing in the least costly, most expeditious, and least burdensome manner.

Currently states are not required to submit missing adults’ cases or unidentified remains cases into NCIC or NamUs. States are only required to submit information on missing children to NCIC. H.R. 3695 will extend the mandatory reporting requirement, as a condition of receiving grants under section 5 of the bill, to missing adults’ cases and unidentified remains cases, as well as allow for the sharing of more information relevant to missing and unidentified decedent adults between NCIC and NamUs. The Department welcomes these important reforms.

Section 5 of the bill would authorize grants for personnel, technology, and training to help states submit data to NCIC and NamUs. The Department believes such grants would provide a strong incentive for states to provide critical information to NCIC and NamUs shortly after a case is reported.

Thank you for your commitment to helping law enforcement agencies solve missing and unidentified persons cases. Please do not hesitate to contact this office if we may be of additional assistance. The Office of Management and Budget has advised

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us that from the standpoint of the Administration's program, there is no objection to the submission of this letter.

Sincerely,



Ronald Weich
Assistant Attorney General

cc: The Honorable Louie Gohmert
Ranking Member

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (existing law proposed to be omitted is enclosed in black brackets, new matter is printed in italics, existing law in which no change is proposed is shown in roman):

CRIME CONTROL ACT OF 1990

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**TITLE XXXVII—NATIONAL CHILD
SEARCH ASSISTANCE ACT OF 1990**

SEC. 3701. REPORTING REQUIREMENT.

(a) IN GENERAL.—Each Federal, State, and local law enforcement agency shall report each case of a missing child under the age of 21 reported to such agency to the National Crime Information Center of the Department of Justice[.] *and, consistent with section 3 (including rules promulgated pursuant to section 3(b)) of the Help Find the Missing Act, shall also report such case, either directly or through authorization described in such section to transmit, enter, or share information on such case, to the NamUs databases (as defined in section 7 of such Act).*

* * * * *

SEC. 3702. STATE REQUIREMENTS.

Each State reporting under the provisions of this title shall—

(1) * * *

(2) ensure that no law enforcement agency within the State establishes or maintains any policy that requires the removal of a missing person entry from its State law enforcement system [or the National Crime Information Center computer database], *the National Crime Information Center computer database, or the NamUs databases (as defined in section 7 of the Help Find the Missing Act)* based solely on the age of the person; and

(3) provide that each such report and all necessary and available information, which, with respect to each missing child report, shall include—

(A) * * *

* * * * *

is entered within 2 hours of receipt into the State law enforcement system [and the National Crime Information Center computer networks], *the National Crime Information Center computer networks, and the NamUs databases (as so defined)* and made available to the Missing Children Information Clearinghouse within the State or other agency designated within the State to receive such reports; and

(4) provide that after receiving reports as provided in paragraph (2), the law enforcement agency that entered the report into the National Crime Information Center *or the NamUs databases* shall—

(A) no later than 60 days after the original entry of the record into the State law enforcement system [and National Crime Information Center computer networks], *National Crime Information Center computer networks, and the NamUs databases*, verify and update such record with

any additional information, including, where available,
medical and dental records;

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