

SENATE NO. 1366

AN ACT RELATIVE TO MISSING PERSONS

*Be it enacted by the Senate and House of Representatives in General Court assembled,
And by the authority of the same, as follows:*

1 SECTION 1. Chapter 38A of the General Laws is hereby added, by inserting the following:-

2 MISSING PERSON(S) REPORT

3 (1) REPORT ACCEPTANCE. All law enforcement agencies within the
4 state shall accept without delay any report of a missing person(s).
5 Acceptance of a missing person(s) report may not be refused on any
6 ground. No law enforcement agency may refuse to accept a missing
7 person report on that basis that:

8 (A) The missing person(s) is an adult;

9 (B) The circumstances do not indicate foul play;

10 (C) The person(s) has been missing for a short period of time;

11 (D) The person(s) has been missing a long period of time;

- 12 (E) There is no indication that the missing person(s) was in the
13 jurisdiction served by the law enforcement agency at the
14 time of the disappearance;
- 15 (F) The circumstances suggest that the disappearance may be
16 voluntary;
- 17 (G) The person(s) reporting does not have personal knowledge
18 of the facts;
- 19 (H) The reporting individual cannot provide all of the
20 information requested by the law enforcement agency;
- 21 (I) The reporting person lacks a familial or other relationship
22 with the missing person;
- 23 (J) Or for any other reason.

24 (2) MANNER OF REPORTING. All law enforcement agencies shall accept
25 missing person(s) reports by phone or in person. Law enforcement
26 agencies are encouraged to accept reports by electronic or other media to
27 the extent that such reporting is consistent with law enforcement policies
28 or practices.

29 (3) CONTENTS OF REPORT. In accepting a report of a missing person(s),
30 the law enforcement agency shall attempt to gather relevant information
31 relating to the disappearance. The law enforcement agency shall attempt
32 to gather at the time of the report information that shall include, but not
33 be limited to, the following:

- 34 (A) The name of the missing person(s) (including alternative
35 names used);
- 36 (B) The date of birth;
- 37 (C) Identifying marks (such as birthmarks, moles, tattoos,
38 scars, etc.);
- 39 (D) Height and weight;
- 40 (E) Hair color;
- 41 (F) Eye color;
- 42 (G) Prosthetics or surgical implants;
- 43 (H) A photograph of the missing person(s) (recent photographs
44 are preferable; the agency is encouraged to attempt to
45 ascertain the approximate date the photograph was taken);
- 46 (I) A description of the clothing the missing person(s) was
47 believed to be wearing;
- 48 (J) A description of items that might be with the missing
49 person(s) (jewelry, accessories, shoes or boots etc.);
- 50 (K) The reasons why the reporting person(s) believes that the
51 person(s) is missing;
- 52 (L) Any circumstances that may indicate that the
53 disappearance was not voluntary;
- 54 (M) Any circumstances that indicate that the missing person(s)
55 may be at risk of injury or death;

56 (N) A description of the possible means of transportation of
57 the missing person(s) (including make, model, color,
58 license, and VIN of a vehicle);

59 (O) Any identifying information about a known or possible
60 abductor including;

61 (1) Name;

62 (2) A physical description;

63 (3) Date of birth;

64 (4) Identifying marks;

65 (5) The description of possible means of transportation
66 (including make, model, color, license, and VIN of
67 a vehicle);

68 (6) Known associates.

69 (P) Any other information that can aid in locating the missing
70 person(s); and

71 (Q) Date of last contact.

72 (4) NOTIFICATION AND FOLLOW UP ACTION.

73 (A) NOTIFICATION. The law enforcement agency shall
74 notify the person(s) making the report, a family member,
75 or other person(s) in a position to assist the law
76 enforcement agency in its efforts to locate the missing
77 person(s):

- 78 (1) General information about the handling of the
79 missing person(s) case or about intended efforts in
80 the case to the extent that the law enforcement
81 agency determines that disclosure would not
82 adversely affect its ability to locate the missing
83 person(s) or apprehended or prosecute any
84 person(s) criminally involved in the disappearance;
- 85 (2) That the person(s) making the report or other
86 necessary person(s) should return promptly to the
87 law enforcement agency if the missing person(s)
88 remains missing to provide additional information
89 and materials, that will aid in locating the missing
90 person(s). The law enforcement agency should
91 also notify the person(s) of the specific information
92 or materials needed;
- 93 (3) The law enforcement agency shall notify the
94 person(s) making the report that any DNA samples
95 provided for the missing person(s) case will be
96 used solely to help locate or identify the missing
97 person and will not be used for other purpose;
- 98 (4) The law enforcement agency is encouraged to
99 make available informational materials (through
100 publications or electronic or other media) that

101 advise the public about how the information or
102 materials identified in this subsection are used to
103 help locate or identify missing persons.

104 (B) FOLLOW UP ACTIONS. If the person(s) identified in
105 the missing person report remain missing after thirty days,
106 and the additional information and materials specified
107 below have not been received, the law enforcement agency
108 shall attempt to obtain:

109 (1) DNA samples from family members and/or from
110 the missing person(s) along with any needed
111 documentation required for the use of state or
112 Federal DNA databases;

113 (2) An authorization to release dental or skeletal x-rays
114 of the missing person(s);

115 (3) Any additional photographs of the missing
116 person(s) that may aid the investigation or
117 identification. The law enforcement agency shall
118 not be required to obtain written authorization
119 before it releases publicly any photograph that
120 would aid in the investigation or identification of
121 the missing person(s);

122 (4) Dental information and x-rays; and

123 (5) Fingerprints.

- 124 (C) All DNA samples obtained in missing person(s) cases
125 shall be immediately forwarded to the Department of State
126 Police’s Crime Lab for analysis. The laboratory should
127 establish procedures for determining how to prioritize
128 analysis of the samples relating to missing persons cases;
- 129 (D) This subsection should not be interpreted to preclude a law
130 enforcement agency from attempting to obtain the
131 materials identified in this subsection before the expiration
132 of the thirty day period.

133 SECTION 2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING
134 PERSON(S) INFORMATION.

- 135 (1) PROMPT DETERMINATION OF HIGH-RISK MISSING PERSON(S)
- 136 (A) DEFINITION. A high risk missing person(s) is an individual
137 whose whereabouts are not currently known and the
138 circumstances indicate that the individual may be at risk of injury
139 or death. The circumstances that indicate that an individual is a
140 “high risk missing person(s)” include, but are not limited to:
- 141 (1) The person(s) is missing as a result of a stranger
142 abduction;
- 143 (2) The person(s) is missing under suspicious circumstances;
- 144 (3) The person(s) is missing under unknown circumstances;
- 145 (4) The person(s) is missing under known dangerous
146 circumstances;

- 147 (5) The person(s) is missing more than thirty (30) days;
- 148 (6) The person(s) has already been designated as a “high risk
- 149 missing person(s)” by another law enforcement agency;
- 150 (7) There is evidence that the person(s) is at risk because:
- 151 (A) The person(s) missing is in need of medical
- 152 attention;
- 153 (B) The person(s) missing does not have a pattern of
- 154 running away or disappearing;
- 155 (C) The person(s) missing may have been abducted by
- 156 non-custodial parent;
- 157 (D) The person(s) missing is mentally impaired;
- 158 (E) The person(s) missing is a person under the age of
- 159 twenty-one;
- 160 (F) The person(s) missing has been the subject of past
- 161 threats or acts of violence.

162 (B) LAW ENFORCEMENT RISK ASSESSMENT.

- 163 (1) Upon initial receipt of a missing person(s) report, the law
- 164 enforcement agency shall immediately determine whether
- 165 there is a basis to determine that the person(s) missing is a
- 166 high risk missing person(s);
- 167 (2) If a law enforcement agency has previously determined
- 168 that a missing person(s) is not a high risk missing
- 169 person(s), but obtains new information, it shall

170 immediately determine whether the information provided
171 to the law enforcement agency indicates that the person(s)
172 missing is a high risk missing person(s);

- 173 (3) Risk assessments identified in this subsection shall be
174 performed not later than twenty four hours after the initial
175 missing person(s) report or the new information was
176 provided to the law enforcement agency.

177 (C) LAW ENFORCEMENT AGENCY REPORTS.

- 178 (1) When the law enforcement agency determines that the
179 missing person(s) is a high risk missing person(s) it shall
180 notify the Criminal History Systems Board. It shall
181 immediately provide to the Department of State Police the
182 information most likely to aid in the location and safe
183 return of the high risk missing person(s). It shall provide
184 as soon as practicable all other information obtained
185 relating to the missing person(s) case;

- 186 (2) The Department of State Police shall promptly notify all
187 law enforcement agencies within the state of the
188 information that will aid in the prompt location and safe
189 return of the high risk missing person(s);

- 190 (3) The local law enforcement agencies who receive the
191 notification from the state agency specified in subsection

192 (2) shall notify officers to “be on the look out” for the
193 missing person(s) or a suspected abductor;

194 (4) The Department of State Police shall promptly enter all
195 collected information relating to the missing person(s)
196 case in available state and Federal databanks. The
197 information shall be provided to in accordance with
198 applicable guidelines relating to the databases. The
199 information shall be entered as follows:

200 (A) A missing person(s) report in high risk missing
201 person(s) cases (and relevant information provided
202 in the report shall be entered in the National Crime
203 Information Center database within four hours of
204 the determination that the missing person is a high
205 risk missing person; All other missing person(s)
206 reports (and relevant information provided in the
207 report) shall be entered within one day after the
208 missing person(s) report is received. Supplemental
209 information is high-risk missing person(s) cases
210 should be entered as soon as practicable;

211 (B) All DNA profiles shall be uploaded into the state
212 missing person(s) database and the FBI Missing
213 Person DNA Database within five business days

214 after completion of the DNA analysis and other
215 procedures required for database entry;

216 (C) Information relevant to the Federal Bureau of
217 Investigation's Violent Criminal Apprehension
218 Program shall be entered as soon as possible.

219 (5) The Department of State Police shall ensure that person(s)
220 entering data relating to medical or dental records in state
221 or Federal databases are specifically trained to understand
222 and correctly enter the information sought by these
223 databases. The Department of State Police is strongly
224 encouraged to either use person(s) with specific expertise
225 in medical or dental records for this purpose or consult
226 with the Office Of The Chief Medical Examiner to ensure
227 the accuracy and completeness of information entered into
228 the state and Federal databanks;

229 (6) Pursuant to any applicable state criteria, local law
230 enforcement agencies should also provide for the prompt
231 use of an Amber Alert or public dissemination of
232 photographs in appropriate high risk cases;

233 SECTION 3. REPORTING OF DEATH UNIDENTIFIED PERSONS/HUMAN REMAINS

234 (1) HANDLING OF DEATH SCENE INVESTIGATIONS.

235 (A) The Department of State Police shall provide information
236 to local law enforcement agencies about best practices for
237 handling death scene investigations;

238 (B) The Department of State Police shall identify any
239 publications or training opportunities that may be available
240 to local law enforcement agencies or law enforcement
241 officers concerning the handling of death scene
242 investigations.

243 (2) LAW ENFORCEMENT REPORTS.

244 (A) After performing any death scene investigation deemed
245 appropriate under the circumstances, the law enforcement
246 agency shall ensure that the human remains are delivered
247 to Office of The Chief Medical Examiner;

248 (B) A law enforcement agency that locates human remains
249 that are not identified within 24 hours shall promptly
250 notify the Department of State Police of the location of
251 those remains;

252 (C) If the law enforcement agency cannot determine whether
253 or not the remains found are human, it shall notify the
254 Department of State Police of the existence of possible
255 human remains.

256 SECTION 4. UNIDENTIFIED PERSONS/HUMAN REMAINS IDENTIFICATION
257 RESPONSIBILITIES.

- 258 (1) If the official with custody of the human remains is not a medical
259 examiner, the official shall promptly transfer the unidentified
260 remains to the Office of The Chief Medical Examiner with
261 responsibility for seeking to determine the identity of the human
262 remains;
- 263 (2) Notwithstanding any other action deemed appropriate for the
264 handling of the human remains, the medical examiner shall make
265 reasonable attempts to promptly identify human remains. These
266 actions may include but are not limited to obtaining:
- 267 (A) Photographs of the human remains (prior to an
268 autopsy);
 - 269 (B) Dental or skeletal X-rays;
 - 270 (C) Photographs of items found with the human
271 remains;
 - 272 (D) Fingerprints from the remains (if possible);
 - 273 (E) Sample[s] of tissue suitable for DNA typing (if
274 possible);
 - 275 (F) Sample[s] of whole bone or hair suitable for DNA
276 typing;
 - 277 (G) Any other information that may support
278 identification efforts.

- 279 (3) No medical examiner or any other person shall cremate, dispose
280 of, or engage in actions that will materially affect the unidentified
281 human remains before the medical examiner obtains:
- 282 (A) Samples suitable for DNA identification,
283 archiving;
 - 284 (B) Photographs of the unidentified person/human
285 remains; and
 - 286 (C) All other appropriate steps for identification have
287 been exhausted.
- 288 (4) The medical examiner or the Department of State Police's Crime
289 Lab shall make reasonable efforts to obtain prompt DNA analysis
290 of biological samples, if the human remains have not been
291 identified by other means. The medical examiner or the
292 Department of State Police's Crime Lab shall seek support from
293 appropriate state and Federal agencies for human remains
294 identification efforts. Such support may include, but is not
295 limited to, available mitochondrial or nuclear DNA testing,
296 Federal grants for DNA testing, or Federal grants for crime
297 laboratory or medical examiner office improvement;
- 298 (5) The medical examiner Department of State Police shall promptly
299 enter information in Federal and state databases that can aid in the
300 identification of missing person(s). Information shall be entered
301 in Federal databases as follows:

- 302 (A) Information for the National Crime Information
303 Center within twenty four hours;
- 304 (B) DNA profiles and information into the Federal
305 Bureau of Investigation's Missing persons DNA
306 Database within five business days after the
307 completion of the DNA analysis and procedures
308 necessary for the entry of the DNA profile; and
- 309 (C) Information sought by the Violent Criminal
310 Apprehension Program database as soon as
311 practicable.

312 (6) If medical examiner office personnel do not input the data directly
313 into the Federal databanks, the Department of State Police shall
314 consult with the medical examiners office to ensure appropriate
315 training of the data entry personnel and the establishment of a
316 quality assurance protocol for ensuring the ongoing quality of data
317 entered in the Federal and state databases;

318 (7) Nothing in this Act shall be interpreted to preclude any medical
319 examiner office, the Department of State Police, or a local law
320 enforcement agency from pursuing other efforts to identify
321 unidentified human remains including efforts to publicize
322 information, descriptions or photographs that may aid in the
323 identification of the unidentified remains, allow family members

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to identify missing person(s), and seek to protect the dignity of the

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missing person(s).