

MODEL STATE MISSING PERSONS STATUTE

AN ACT

relating to improving the ability of law enforcement to locate and return missing persons, to improving the identification of human remains, and to improving the submittal of timely information and notification to family members of missing persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE

OF _____:

(A) TITLE _____, _____ CODE, is amended by adding Article XXX to read as follows:

ARTICLE XXX: PROCEDURES FOR LAW ENFORCEMENT

**OFFICERS, CORONERS/MEDICAL EXAMINERS, AND OTHER
GOVERNMENT PERSONNEL RELATING TO MISSING
PERSONS REPORTS AND IDENTIFYING UNIDENTIFIED
PERSONS/HUMAN REMAINS**

SEC. XXX.1. MISSING PERSON(S) REPORTS

(1) ACCEPTANCE OF REPORT.—All law enforcement agencies within the State shall accept a report of a missing person(s). No law enforcement agency may refuse to accept a missing person report solely on the basis that—

- (A) The missing person(s) is an adult;
- (B) The circumstances do not indicate foul play;
- (C) The person(s) has been missing for a short period of time;
- (D) The person(s) has been missing for a long period of time;
- (E) There is no indication that the missing person(s) was in the jurisdiction served

by the law enforcement agency at the time of the disappearance.

(2) METHOD OF REPORTING.—All law enforcement agencies shall accept a missing person(s) report in person. Law enforcement agencies may accept reports by phone or by electronic or other media to the extent that such reporting is consistent with law enforcement policies or practices. Missing children and missing individuals under 21 years of age shall be handled in a manner consistent with the National Child Search Assistance Act of 1990 and the Adam Walsh Child Protection Act of 2006.

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

- (A) The name of the missing person(s) (including alternative names used);
- (B) The date of birth;
- (C) Identifying marks (such as birthmarks, moles, tattoos, scars, etc.);

- (D) Height and weight;
- (E) Gender;
- (F) Race;
- (G) Current hair color and true or natural hair color;
- (H) Eye color;
- (I) Prosthetics, surgical implants, or cosmetic implants;
- (J) Physical anomalies;
- (K) Blood type (if known);
- (L) Driver's License number (if known);
- (M) Social Security number (if known); credit card numbers;
- (N) A photograph of the missing person(s) (recent full-face photographs are preferable; the agency is encouraged to attempt to ascertain the approximate date the photograph was taken);
- (O) A description of the clothing the missing person(s) was believed to have been wearing;
- (P) A description of items that might be with the missing person(s) (jewelry, accessories, shoes or boots, etc.);
- (Q) Information on the missing person's(s') electronic communications devices, such as, but not limited to, cell phone numbers, e-mail addresses, etc.;
- (R) The reasons why the reporting person(s) believes that the person(s) is missing;
- (S) Name and location of the missing person's(s') school or employer (if known);
- (T) Name and location of the missing person's(s') dentist and/or primary care physician (if known);

(U) Any circumstances that may indicate that the disappearance of the missing person(s) was not voluntary;

(V) Any circumstances that indicate that the missing person(s) may be at risk of injury or death;

(W) A description of the possible means of transportation of the missing person(s) (including make, model, color, license plate number, and VIN of a vehicle);

(X) Any identifying information about a known or possible abductor and/or person(s) last seen with the missing person(s), including:

(1) Name;

(2) Physical description;

(3) Date of birth;

(4) Identifying marks;

(5) Description of a possible means of transportation (including make, model, color, license plate number, and VIN of a vehicle);

(6) Known associates.

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

(Z) Date of last contact.

(4) NOTIFICATION AND FOLLOWUP ACTION.—

(A) NOTIFICATION.—The law enforcement agency should notify the person(s) making the report, a family member, or other person(s) in a position to assist the law enforcement agency in its efforts to locate the missing person(s) about the following:

(1) The law enforcement agency should provide general information about the handling of the missing person(s) case or about intended efforts in the case to

the extent that the law enforcement agency determines that disclosure would not adversely affect its ability to locate or protect the missing person(s), or to apprehend or prosecute any person(s) criminally involved in the disappearance.

(2) The law enforcement agency should notify the person(s) making the report or other necessary person(s) that they should promptly contact the law enforcement agency if the missing person(s) remains missing to provide additional information and materials that will aid in locating the missing person(s). The law enforcement agency should also notify the person(s) of the specific information or materials needed, such as credit/debit cards the missing person has access to (and other banking information) and records of cell phone use.

(3) The law enforcement agency should notify the person(s) making the report that any DNA samples provided for the missing person(s) case are provided on a voluntary basis and will be used solely to help locate or identify the missing person and will not be used for any other purpose.

(4) The law enforcement agency is encouraged to make available informational materials (through publications or electronic or other media) that advise the public about how the information or materials identified in this subsection are used to help locate or identify missing persons.

(B) FOLLOWUP ACTION.—If the person(s) identified in the missing person report remains missing after 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain—

(1) DNA samples from family members and/or from the missing person(s) along with any needed documentation, including any consent forms, required for the use of State or Federal DNA databases, including but not limited to the Local DNA Database (LDIS), State DNA Database (SDIS), and National DNA Database (NDIS);

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

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

(4) Dental information and x-rays; and

(5) Fingerprints.

(C) All DNA samples obtained in missing person(s) cases shall be immediately forwarded to [specify] State crime laboratory or other accredited laboratory that will perform the DNA analysis] for analysis. The laboratory should establish procedures for determining how to prioritize analysis of the samples relating to missing persons cases.

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

(E) This subsection shall not be interpreted to preclude a law enforcement agency from attempting to obtain the materials identified in this subsection before the expiration of the 30-day period.

SEC XXX.2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING PERSON(S) INFORMATION.

All missing person reports accepted by a law enforcement agency shall be entered into the National Crime Information Center (NCIC) Missing Person File, Unidentified File, and the State crime information system without delay.

(1) PROMPT DETERMINATION OF HIGH-RISK MISSING PERSON(S).—

(A) DEFINITION.—A high-risk missing person(s) is an individual whose whereabouts are not currently known and the circumstances indicate that the individual may be at risk of injury or death. The circumstances that indicate that an individual is a “high-risk missing person(s)” include, but are not limited, to any of the following:

- (1) The person(s) is missing as a result of abduction by a stranger.
- (2) The person(s) is missing under suspicious circumstances.
- (3) The person(s) is missing under unknown circumstances.
- (4) The person(s) is missing under known dangerous circumstances.
- (5) The person(s) is missing more than thirty (30) days.
- (6) The person(s) has already been designated as a “high-risk missing person(s)” by another law enforcement agency.
- (7) There is evidence that the person(s) is at risk because—
 - (A) The person(s) missing is in need of medical attention, or prescription medication;
 - (B) The person(s) missing does not have a pattern of running away or disappearing;

(C) The person(s) missing may have been abducted by a noncustodial parent;

(D) The person(s) missing is mentally impaired;

(E) The person(s) missing is a person under the age of 21; or

(F) The person(s) missing has been the subject of past threats or acts of violence.

(8) Any other factor that may, in the judgment of the law enforcement official, determine that the missing person may be at risk.

(B) LAW ENFORCEMENT RISK ASSESSMENT.—

(1) Upon initial receipt of a missing person(s) report, the law enforcement agency shall immediately determine whether there is a basis to determine that the person(s) missing is a high-risk missing person(s).

(2) If a law enforcement agency has previously determined that a missing person(s) is not a high-risk missing person(s), but obtains new information, it shall immediately determine whether the information provided to the law enforcement agency indicates that the person(s) missing is a high-risk missing person(s).

(3) Risk assessments identified in this subsection shall be performed no later than ___ hours after the initial missing person(s) report or the new information was provided to the law enforcement agency.

(4) Law enforcement agencies are encouraged to establish written protocols for the handling of missing person(s) cases to accomplish the purpose of this act.

(C) LAW ENFORCEMENT AGENCY REPORTS.—

(1) When the law enforcement agency determines that the missing person(s) is a high-risk missing person(s), it shall notify [specify here the central State agency responsible for handling missing person(s) cases and notifying law enforcement agencies of missing person(s)]. It shall immediately provide to the [specify here the central State agency] the information most likely to aid in the location and safe return of the high-risk missing person(s). It shall provide as soon as practicable all other information obtained relating to the missing person(s) case.

(2) The [specify here the central State agency] shall promptly notify all law enforcement agencies within the State and surrounding region of the information that will aid in the prompt location and safe return of the high-risk missing person(s).

(3) The local law enforcement agencies who receive the notification from the State agency specified in subsection (2) shall notify officers to “be on the lookout” for the missing person(s) or a suspected abductor.

(4) The responding local law enforcement agency shall immediately enter all collected information relating to the missing person(s) case in available State and Federal databases. If the responding local law enforcement agency does not have the capability to enter this data directly in the State and Federal databases, the [specify the central State agency] shall immediately enter all collected information relating to the missing person(s) case in available State and Federal

databases. The information shall be provided in accordance with applicable guidelines relating to the databases. The information shall be entered as follows:

(A) A missing person(s) report in high-risk missing person(s) cases (and relevant information provided in the report) shall be entered in the Endangered or Involuntary Category (based on the circumstance of the disappearance) in the National Crime Information Center database immediately, but no more than 2 hours after the determination that the missing person is a high-risk missing person. All other missing person(s) reports (and relevant information provided in the report) shall be entered within 1 day after the missing person(s) report is received. Supplemental information in high-risk missing person(s) cases should be entered as soon as practicable.

(B) All DNA profiles shall be uploaded into the missing persons databases of the State DNA Index System (SDIS), the National DNA Index System (NDIS), and the Combined DNA Index System (CODIS) after completion of the DNA analysis and other procedures required for database entry.

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

(5) The [specify the central State agency] shall ensure that person(s) entering data relating to medical or dental records in State or Federal databases are specifically trained to understand and correctly enter the information sought

by these databases. The [specify the central agency] is strongly encouraged to either use person(s) with specific expertise in medical or dental records for this purpose or consult with the [specify here a chief medical examiner, forensic anthropologist, or odontologist] to ensure the accuracy and completeness of information entered into the State and Federal databases.

(6) Pursuant to any applicable State criteria, local law enforcement agencies should also provide for the prompt use of an AMBER Alert or public dissemination of photographs in appropriate high risk cases

SEC.XXX.3. REPORTING OF UNIDENTIFIED PERSONS/HUMAN REMAINS

(1) HANDLING OF DEATH SCENE INVESTIGATIONS.—

(A) The [specify central State agency] shall provide information to local law enforcement agencies about best practices for handling death scene investigations.

(B) The [specify central State agency] shall identify any publications or training opportunities that may be available to local law enforcement agencies or law enforcement officers concerning the handling of death scene investigations.

(2) LAW ENFORCEMENT REPORTS.—

(A) After performing any death scene investigation deemed appropriate under the circumstances, the official with custody of the human remains shall ensure that the human remains are delivered to [specify here appropriate coroner or medical examiner].

(B) Any person with custody of human remains that are not identified within 24 hours of discovery shall promptly notify the [specify central State agency] of the location of those remains.

(C) If the person with custody of remains cannot determine whether or not the remains found are human, it shall notify the [specify central State agency] of the existence of possible human remains.

SEC. XXX.4. UNIDENTIFIED PERSONS/HUMAN REMAINS

IDENTIFICATION RESPONSIBILITIES.

(1) If the official with custody of the human remains is not a medical examiner, the official shall promptly transfer the unidentified remains to the [specify the medical examiner agency qualified to examine human remains for the purpose of identification] with responsibility for seeking to determine the identity of the human remains.

(2) Notwithstanding any other action deemed appropriate for the handling of the human remains, the medical examiner shall make reasonable attempts to promptly identify the human remains. These actions may include, but are not limited to, obtaining—

- (A) Photographs of the human remains (prior to an autopsy);
- (B) Dental or skeletal X-rays;
- (C) Photographs of items found with the human remains;
- (D) Fingerprints from the remains (if possible);
- (E) Sample[s] of tissue suitable for DNA typing (if possible);
- (F) Sample[s] of whole bone and/or hair suitable for DNA typing; and
- (G) Any other information that may support identification efforts.

(3) No medical examiner or any other person shall, dispose of, or engage in actions that will materially affect the unidentified human remains before the medical examiner—

- (A) Obtains samples suitable for DNA identification, archiving;

(B) Obtains photographs of the unidentified person/human remains; and

(C) Exhausts all other appropriate steps for identification.

(4) Cremation of unidentified human remains is prohibited.

(5) The medical examiner, coroner, or the [agency designated by the central State law enforcement agency] shall make reasonable efforts to obtain prompt DNA analysis of biological samples if the human remains have not been identified by other means within 30 days.

(6) The medical examiner, coroner, or the [agency designated by the central State law enforcement agency] shall seek support from the appropriate Federal and State agencies for efforts to identify human remains. Such support may include, but is not be limited to, available mitochondrial or nuclear DNA testing, Federal grants for DNA testing, or Federal grants for crime laboratory or medical examiner office improvement.

(7) The [medical examiner or other agency designated by the central State law enforcement agency] shall promptly enter information in Federal and State databases that can aid in the identification of missing person(s). Information shall be entered into Federal databases as follows:

(A) Information for the National Crime Information Center within _____ hours;

(B) DNA profiles and information shall be entered into the National DNA Index System (NDIS) within five (5) business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile; and

(C) Information sought by the Violent Criminal Apprehension Program database as soon as practicable.

(8) If medical examiner office personnel do not input the data directly into the Federal databases, the [specify the central State agency] shall consult with the medical examiner's office to ensure appropriate training of the data entry personnel and the establishment of a quality assurance protocol for ensuring the ongoing quality of data entered in the Federal and State databases.

(9) Nothing in this Act shall be interpreted to preclude any medical examiner office, the [central State law enforcement agency], or a local law enforcement agency from pursuing other efforts to identify unidentified human remains including efforts to publicize information, descriptions or photographs that may aid in the identification of the unidentified remains, allow family members to identify missing person(s), and seek to protect the dignity of the missing person(s).

Explanatory Comments

Each year families in the United States struggle with the agony of having to report a missing loved one. Far too often, missing persons investigations grow cold, leaving many to cope with the loss of a loved one without closure. Historically, the law enforcement community's ability to locate and ensure a safe return of those missing has been hampered by an inability to share resources and information when conducting investigations and identifying remains.

This model State legislation seeks to address this significant national problem as it relates to reporting persons as missing and the identification of human remains. For cases involving missing persons, law enforcement's ability to locate and ensure a safe return must be improved. This can occur if law enforcement is granted additional tools to identify high-risk missing persons cases and can promptly disseminate critical information to other law enforcement agencies and the public. This model legislation provides a framework for improving law enforcement's response in this regard.

Sec XXX.1. Missing Person(s) Reports. This section provides a proposed statutory scheme that ensures that missing persons reports are promptly taken by law enforcement. National experts on the issues of missing persons and identification have reported that some law enforcement policies are inadvertently impeding the collection of missing persons information. Subsections XXX.1(1)–(2) ensure that any family member or interested person will have multiple options available to make a missing persons report. For jurisdictions covering large geographic areas, the legislation may need to require law enforcement agencies to accept missing persons reports by phone. Subsection XXX.1(3) encourages the collection of specific information that is most likely to aid in the location, swift return, or identification of the missing person. At the same time, this section provides a scheme that allows immediate collection of information likely to be available to the reporting person. Subsection XXX.1(4) provides for notification to persons making law enforcement reports, family members, and loved ones about law enforcement efforts

for missing persons cases generally and, to the extent appropriate, provides information relating to their specific missing person. Subsections XXX.1(4)(B)–(C) ensure the collection within 30 days of additional information or samples that can aid in the identification of human remains.

Section XXX.2. Law Enforcement Analysis and Reporting of Missing Persons(s)

Information. After the collection of critical information, law enforcement agencies need to be able to analyze it promptly to determine whether the missing person is at risk of immediate harm. This section establishes a mechanism for determining high-risk missing persons cases and disseminating critical information to other law enforcement agencies and the public that can help locate the missing person. The dissemination strategy for high-risk cases maximizes the use of national databases, ensures prompt dissemination of information to patrolling officers, and encourages the use of AMBER Alerts (proven to be highly effective in promptly locating abducted juveniles).

Specifically, subsections XXX.2(1)(A)–(B) provide a mechanism for promptly making an assessment whether the missing person is a “high-risk missing person.” Subsection XXX.2(C) provides for the centralized and prompt reporting of a high-risk missing person, provides for the notification of appropriate local law enforcement agencies of the high-risk missing person, and encourages the patrolling officers to seek to locate the high-risk missing person and abductor. If the central State agency official in subsection XXX.2(C)(2) is not staffed 24 hours a day, the statute should specify how this notification will be accomplished. Subsection XXX.2(C)(4) ensures prompt reporting of essential information to national and State databases. Subsection XXX.2(C)(6) encourages the use of specially trained persons who can enter information in the national databases (as national experts have reported that data entry of this forensic and medical information requires specialized training). Subsection XXX.2(C)(6) also encourages the use of AMBER Alerts to locate promptly high-risk missing juveniles.

Section XXX.3. Reporting of Unidentified Persons/Human Remains. Section XXX.3 and Section XXX.4 together provide a step-by-step approach for improving the

collection, analysis, and dissemination of information that will aid in the identification of human remains. Subsection XXX.3(1) seeks to improve death scene investigations through increased dissemination of best practices information, publications, and notification of training opportunities. Subsection XXX.3(2) seeks to ensure that remains are delivered to appropriate agencies and that the State has a centralized method for reporting for unidentified human remains.

Section XXX.4 Unidentified Persons/Human Remains Identification

Responsibilities. Subsection XXX.4(1) seeks to ensure that unidentified remains are transferred to a medical examiner's office, which would be most likely to possess the expertise necessary for an identification. Subsection XXX.4(2) ensures reasonable means are pursued by the medical examiner to make an identification. Section XXX.4(3) ensures that the remains of unidentified persons are protected from cremation or other actions until the medical examiner conducts an examination and collects samples to assist in the identification investigation. Section XXX.4(4) encourages State agencies to seek available support from appropriate Federal agencies for the identification effort. (Currently, such support is available through the National Institute of Justice and the Federal Bureau of Investigation. Additional information relating to available resources can be found at www.dna.gov.) Section XXX.4(5) and (6) ensures that information critical to identification efforts is entered into existing Federal databases. Section XXX.4(7) makes clear that other identification efforts should be examined and pursued, if appropriate.

For more information on these and other issues, please visit www.DNA.gov.

NIJ is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.