

By Senator Constantine

22-1815A-07

1 A bill to be entitled
2 An act relating to missing and unidentified
3 persons; requiring law enforcement agencies to
4 collect certain information in missing-person
5 cases; requiring the law enforcement agency to
6 immediately send all DNA samples and materials
7 obtained in a missing-person case to the
8 Department of Law Enforcement for analysis;
9 defining the term "high-risk missing person";
10 providing criteria to be considered when
11 evaluating whether a missing person is a
12 high-risk missing person; requiring a law
13 enforcement agency to conduct a risk assessment
14 to determine the high-risk status of the
15 missing person no later than 12 hours after
16 receiving the initial missing-person report or
17 the additional information provided to it;
18 requiring the Department of Law Enforcement to
19 identify training opportunities that may be
20 available to local law enforcement agencies
21 concerning the handling of death-scene
22 investigations; providing for the
23 responsibilities of the medical examiner,
24 coroner, and law enforcement agencies in the
25 handling of human remains; requiring that
26 certain information be entered into state and
27 federal databases; providing an effective date.

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29 Be It Enacted by the Legislature of the State of Florida:

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31 Section 1. Missing persons; investigations.--

1 (1) A law enforcement agency having jurisdiction of a
2 missing-person case shall attempt to obtain the following
3 information and documentation if a person who has been
4 identified in a missing-person report remains missing for 30
5 days or more:

6 (a) DNA samples from family members and the missing
7 person. Included with the DNA samples shall be the appropriate
8 consent forms necessary to access the state or federal DNA
9 databases, including, but not limited to, the Local DNA
10 Database (LDIS), State DNA Database (SDIS), and National DNA
11 Database (NDIS).

12 (b) An authorization to release dental or medical
13 information, including X rays of the missing person.

14 (c) Photographs of the missing person. A law
15 enforcement agency is not required to obtain prior written
16 authorization before it releases a photograph of the missing
17 person which would aid in the investigation or identification
18 of the missing person.

19 (d) Fingerprints of the missing person.

20 (2) The law enforcement agency shall immediately send
21 all DNA samples and materials obtained in a missing-person
22 case to the Department of Law Enforcement for analysis. The
23 Department of Law Enforcement shall establish procedures to
24 determine the appropriate order in which DNA samples will be
25 analyzed in missing-person cases.

26 (3) The law enforcement agency shall immediately enter
27 any information that is relevant to the Federal Bureau of
28 Investigation's Violent Criminal Apprehension Program into the
29 federal database.

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1 (4) This section does not preclude a law enforcement
2 agency from attempting to obtain the materials identified in
3 this section before the expiration of the 30-day period.

4 Section 2. Law enforcement analysis and reporting of
5 missing-person information.--

6 (1) HIGH-RISK MISSING-PERSON REPORTS.--As used in this
7 section, the term "high-risk missing person" means an
8 individual whose whereabouts is not currently known and whose
9 disappearance occurred under circumstances that suggest the
10 individual may be at imminent risk of injury or death. The
11 circumstances that indicate that a missing person is a
12 high-risk missing person include, but are not limited to:

13 (a) The person is missing as a result of a possible
14 abduction by a stranger.

15 (b) The person is missing under suspicious
16 circumstances.

17 (c) The person is missing under unknown circumstances.

18 (d) The person is missing under known dangerous
19 circumstances.

20 (e) The person is missing more than 30 days.

21 (f) The person has already been designated as a
22 high-risk missing person by another law enforcement agency.

23 (g) There is evidence that the person is at risk
24 because the person missing:

25 1. Is in need of medical attention or prescription
26 medication;

27 2. Does not have a pattern of running away or
28 disappearing;

29 3. May have been abducted by a noncustodial parent;

30 4. Is mentally impaired;

31 5. Is younger than 21 years of age;

1 6. The person has been the subject of past threats or
2 acts of violence.

3 (2) RISK ASSESSMENT BY A LAW ENFORCEMENT AGENCY.--

4 (a)1. Upon the initial receipt of a missing-person
5 report, a law enforcement agency shall immediately determine
6 whether there is a basis for determining that the person
7 missing is a high-risk missing person.

8 2. If a law enforcement agency has previously
9 determined that a missing person was not a high-risk missing
10 person but obtains new information concerning the person, the
11 agency shall immediately determine whether the additional
12 information indicates that the person missing is now a
13 high-risk missing person.

14 (b) A law enforcement agency shall conduct a risk
15 assessment to determine the high-risk status of the missing
16 person no later than 12 hours after receiving the initial
17 missing-person report or the additional information provided
18 to it.

19 (c) Each law enforcement agency is encouraged to
20 establish written protocols for handling missing-person cases
21 in order to ensure that the risk assessment of the missing
22 person is promptly completed and that timely action based on
23 the assessment is completed.

24 Section 3. Reporting of unidentified human remains.--

25 (1) HANDLING OF DEATH-SCENE INVESTIGATIONS.--

26 (a) The Department of Law Enforcement shall provide
27 information to local law enforcement agencies about best
28 practices for handling death-scene investigations.

29 (b) The Department of Law Enforcement shall identify
30 any publications or training opportunities that may be
31 available to local law enforcement agencies or law enforcement

1 officers concerning the handling of death-scene
2 investigations.

3 (2) REPORTS BY LAW ENFORCEMENT AGENCIES.--

4 (a) After completing a death-scene investigation, the
5 official having custody of the human remains shall ensure that
6 the human remains are delivered to the appropriate coroner or
7 medical examiner.

8 (b) Any person having custody of human remains that
9 are not identified within 24 hours after discovery shall
10 promptly notify the Department of Law Enforcement of the
11 location of those remains.

12 (c) If the person having custody of remains is unable
13 to determine whether or not the remains are human, he or she
14 shall notify the Department of Law Enforcement of the
15 existence of possible human remains.

16 (3) RESPONSIBILITIES.--

17 (a) If the official having custody of the human
18 remains is not a medical examiner, the official shall promptly
19 notify the appropriate medical examiner or coroner in
20 preparation for transporting the human remains to the medical
21 examiner or coroner.

22 (b) Notwithstanding any other action deemed
23 appropriate for the handling of the human remains, the medical
24 examiner shall make reasonable attempts to promptly identify
25 human remains. These actions may include, but not are limited
26 to, obtaining:

- 27 1. Photographs of the human remains before an autopsy.
28 2. Dental or skeletal X rays.
29 3. Photographs of items found with the human remains.
30 4. Fingerprints from the remains, if possible.
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1 5. Samples of tissue which are suitable for DNA
2 typing, if possible.

3 6. Samples of whole bone and hair which are suitable
4 for DNA typing.

5 7. Any other information that may support
6 identification efforts.

7 (c) A medical examiner or any other person may not
8 dispose of, or engage in actions that will materially affect,
9 the unidentified human remains before the medical examiner
10 has:

11 1. Obtained samples suitable for DNA identification
12 and archiving;

13 2. Obtained photographs of the unidentified human
14 remains; and

15 3. Exhausted all other appropriate steps for
16 identification.

17 (d) Unidentified human remains may not be cremated.

18 (e) The medical examiner, the coroner, or the
19 Department of Law Enforcement shall make reasonable efforts to
20 obtain prompt DNA analysis of biological samples if the human
21 remains have not been identified by other means within 30
22 days.

23 (f) The medical examiner, the coroner, or the law
24 enforcement agency designated by the Department of Law
25 Enforcement shall seek support from appropriate state and
26 federal agencies for the identification of human remains. Such
27 support may include, but need not be limited to, available
28 mitochondrial or nuclear DNA testing, federal grants for DNA
29 testing, or federal grants for improving crime laboratories or
30 medical examiner offices.

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1 (g) The medical examiner shall promptly enter
2 information into the appropriate federal and state databases
3 that can aid in the identification of missing persons.
4 Information shall be entered into federal databases as
5 follows:

6 1. Information for the National Crime Information
7 Center shall be entered within 12 hours;

8 2. DNA profiles and information shall be entered into
9 the National DNA Index System (NDIS) within 5 business days
10 after the completion of the DNA analysis and procedures
11 necessary for the entry of the DNA profile; and

12 3. Information sought by the Violent Criminal
13 Apprehension Program database shall be entered as soon as
14 practicable.

15 (h) If medical examiner office personnel do not input
16 the data directly into the federal databases, the medical
17 examiner must consult with the Department of Law Enforcement
18 to ensure appropriate training of the data-entry personnel and
19 the establishment of a quality-assurance protocol for ensuring
20 the ongoing quality of data entered into the federal and state
21 databases.

22 (i) This section does not preclude any medical
23 examiner office, the Department of Law Enforcement, or a local
24 law enforcement agency from pursuing other efforts to identify
25 unidentified human remains, including efforts to publicize
26 information, descriptions, or photographs that may aid in the
27 identification of the unidentified remains and allow family
28 members to identify a missing person while seeking to protect
29 the dignity of the missing person.

30 (j) Agencies handling the remains of a missing person
31 who is now deceased must notify the law enforcement agency

1 handling the missing-person case. Documented efforts must be
2 made to locate family members of the deceased person in order
3 to inform them of the death and the location of the remains of
4 their family member.

5 Section 4. This act shall take effect July 1, 2007.

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8 SENATE SUMMARY

9 Requires law enforcement agencies to collect certain
10 information in missing-persons cases. Requires the law
11 enforcement agency to immediately send all DNA samples
12 and materials obtained in a missing-person case to the
13 Department of Law Enforcement for analysis. Lists the
14 criteria to be considered when evaluating whether a
15 missing person is a high-risk missing person. Requires a
16 law enforcement agency to conduct a risk assessment to
17 determine the high-risk status of the missing person no
18 later than 12 hours after receiving information. Directs
19 the Department of Law Enforcement to identify training
20 opportunities that may be available to local law
21 enforcement agencies concerning the handling of
22 death-scene investigations. Provides for the
23 responsibilities of the medical examiner, coroner, and
24 law enforcement agencies in the handling of human
25 remains.
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