

MODEL STATE MISSING PERSONS STATUTE, Project Jason 2009 Revision

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 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) REPORT ACCEPTANCE. All law enforcement agencies within the State shall accept without delay any report of a missing person(s). Acceptance of a missing person(s) report may not be refused on any ground. No law enforcement agency may refuse to accept a missing person report 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 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;
- (F) the circumstances suggest that the disappearance may be voluntary;
- (G) the person(s) reporting does not have personal knowledge of the facts;
- (H) the reporting individual cannot provide all of the information requested by the law enforcement agency;
- (I) the reporting person lacks a familial or other relationship with the missing person;
- (J) or for any other reason.

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

(3) CONTENTS OF REPORT. In accepting a report of a missing person(s), the law enforcement agency shall attempt to gather relevant information relating to the disappearance. The law enforcement agency shall attempt to 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) Drivers License number (if known);
- (M) Social Security Number (if known);
- (N) A photograph of the missing person(s) (recent 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 be wearing;
- (P) A description of items that might be with the missing person(s) (jewelry, accessories, shoes or boots etc.);
- (Q) Information on missing person's electronic communications devices such as but not limited to cell phone numbers, social networking login information, email addresses, etc.;
- (R) The reasons why the reporting person(s) believes that the person(s) is missing;
- (S) Name and location of missing person's school or employer (if known);
- (T) Name and location of missing person's dentist and/or primary care physician (if known);
- (U) Any circumstances that may indicate that the disappearance 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, 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) A physical description;
 - (3) Date of birth;
 - (4) Identifying marks;
 - (5) The description of possible means of transportation (including make, model, color, license, 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 FOLLOW UP ACTION.

(A) NOTIFICATION. The law enforcement agency shall 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):

- (1) 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), to apprehend or prosecute any person(s) criminally involved in the disappearance;
- (2) That the person(s) making the report or other necessary person(s) 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 credit/debit cards the missing person has access to (and other banking information) and records of cell phone use;
- (3) The law enforcement agency shall 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.
- *(5) The law enforcement agency, upon acceptance of a missing persons report, shall inform the reporting citizen of one of two resources, based upon the age of the missing person. If the missing person is age 17 or under, contact information for the National Center for Missing and Exploited Children shall be given. If the missing person is age 18 or older, contact information for a qualified source of assistance shall be given.

(B) FOLLOW UP ACTION.

If the person(s) identified in the missing person report remain missing after thirty 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 DNADatabase (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) Fingerprints and dental records shall be entered into the appropriate state and federal databases as soon as possible.

(F) 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 thirty-day period.

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

(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 any of the following, but are not limited to:

- (1) The person(s) is missing as a result of a stranger abduction;
- (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 non-custodial parent;
 - (D) The person(s) missing is mentally impaired;
 - (E) The person(s) missing is a person under the age of twenty-one;
 - (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 immediately 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 look out 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 to 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 National Crime Information Center database immediately, by no more than 2 hours of 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 one 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) and National DNA Index System (NDIS) 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 and to *NamUs shall be entered as soon as possible.

*(D) In cases of missing persons ages 18-20, per the mandates of federal Suzanne's Law, the responding local law enforcement agency shall contact the National Center for

Missing and Exploited Children and request the case be entered into their database and the photograph and information of that missing person be displayed on their website.

(5) The [specify the central state agency] shall ensure that person(s) entering data relating to *fingerprints, 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 *fingerprints, medical, or dental records for this purpose or consult with the [specify here a chief medical examiner, forensic anthropologist, or an 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;

*(7) Local law enforcement agencies shall make use of all available tools, resources, and technologies available as applicable to resolve a missing person case. This includes assistance from other law enforcement agencies, whether at a local, state, or federal level, nonprofit search and rescue organizations which may provide at no charge trained animal searches, use of specialized equipment, and man trackers, services provided by the National Center for Missing and Exploited Children and other qualified organizations, cell phone triangularization and tracking, the subpoena of cell phone, land line, internet email and social networking website records, and technology experts to examine any available information gleaned from a computer belonging to or used by the missing person.

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 human remains. These actions may include but not are 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;
 - (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 obtains.

- (A) Samples suitable for DNA identification, archiving;
 - (B) Photographs of the unidentified person/human remains; and
 - (C) All other appropriate steps for identification have been exhausted;
- (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 appropriate State and Federal agencies for human remains identification efforts. 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 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, *including dental information within [X] hours;
- (B) DNA profiles and information shall be entered into the National DNA Index System (NDIS) within five 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.

*(D) Information applicable to the Namus database shall be entered as soon as possible.

*(E) Fingerprints shall be entered into the appropriate state and national databases as soon as possible.

(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 examiners 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).

*(10) Agencies handling the remains of a missing person who is now deceased must notify the LE agency handling the missing person case. Documented efforts must be made to locate family members of the deceased person to inform them of the death and location of the remains of their family member.

Original document location: <http://www.ncjrs.org/pdffiles1/nij/210740v2.pdf>

1st Project Jason version location:

<http://www.projectjason.org/downloads/ModelLegislationFinal.pdf>

This document can be found at:

<http://www.projectjason.org/downloads/ModelLegislation2009Revision.pdf>

*** Added by Project Jason**