

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Mr. Brewer

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Act relative to missing persons.

PETITION OF:

NAME:

Mr. Brewer

DISTRICT/ADDRESS:

Worcester, Hampden, Hampshire and Franklin

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. S01366 OF 2007-2008.]

The Commonwealth of Massachusetts

—————
In the Year Two Thousand and Nine
—————

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 state
4 shall accept without delay any report of a missing person(s). Acceptance
5 of a missing person(s) report may not be refused on any ground. No law
6 enforcement agency may refuse to accept a missing person report on that
7 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 be
33 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 disappearance
53 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 the
57 missing person(s) (including make, model, color, license,
58 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, or
75 other person(s) in a position to assist the law enforcement
76 agency in its efforts to locate the missing person(s):

77 (1) General information about the handling of the
78 missing person(s) case or about intended efforts in
79 the case to the extent that the law enforcement
80 agency determines that disclosure would not
81 adversely affect its ability to locate the missing
82 person(s) or apprehended or prosecute any person(s)
83 criminally involved in the disappearance;

84 (2) That the person(s) making the report or other
85 necessary person(s) should return promptly to the
86 law enforcement agency if the missing person(s)
87 remains missing to provide additional information
88 and materials, that will aid in locating the missing
89 person(s). The law enforcement agency should also

90 notify the person(s) of the specific information or
91 materials needed;

92 (3) The law enforcement agency shall notify the
93 person(s) making the report that any DNA samples
94 provided for the missing person(s) case will be used
95 solely to help locate or identify the missing person
96 and will not be used for other purpose;

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

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

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

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

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

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

122 (5) Fingerprints.

123 (C) All DNA samples obtained in missing person(s) cases shall
124 be immediately forwarded to the Department of State
125 Police's Crime Lab for analysis. The laboratory should
126 establish procedures for determining how to prioritize
127 analysis of the samples relating to missing persons cases;

128 (D) This subsection should not be interpreted to preclude a law
129 enforcement agency from attempting to obtain the materials
130 identified in this subsection before the expiration of the
131 thirty day period.

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

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

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

- 140 (1) The person(s) is missing as a result of a stranger abduction;
- 141 (2) The person(s) is missing under suspicious circumstances;
- 142 (3) The person(s) is missing under unknown circumstances;
- 143 (4) The person(s) is missing under known dangerous
144 circumstances;
- 145 (5) The person(s) is missing more than thirty (30) days;
- 146 (6) The person(s) has already been designated as a “high risk
147 missing person(s)” by another law enforcement agency;
- 148 (7) There is evidence that the person(s) is at risk because:
 - 149 (A) The person(s) missing is in need of medical
150 attention;

- 151 (B) The person(s) missing does not have a pattern of
152 running away or disappearing;
- 153 (C) The person(s) missing may have been abducted by
154 non-custodial parent;
- 155 (D) The person(s) missing is mentally impaired;
- 156 (E) The person(s) missing is a person under the age of
157 twenty-one;
- 158 (F) The person(s) missing has been the subject of past
159 threats or acts of violence.

160 (B) LAW ENFORCEMENT RISK ASSESSMENT.

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

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

175 (C) LAW ENFORCEMENT AGENCY REPORTS.

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

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

188 (3) The local law enforcement agencies who receive the
189 notification from the state agency specified in subsection
190 (2) shall notify officers to “be on the look out” for the
191 missing person(s) or a suspected abductor;

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

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

209 (B) All DNA profiles shall be uploaded into the state
210 missing person(s) database and the FBI Missing
211 Person DNA Database within five business days
212 after completion of the DNA analysis and other
213 procedures required for database entry;

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

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

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

231 SECTION 3. REPORTING OF DEATH UNIDENTIFIED PERSONS/HUMAN
232 REMAINS

233 (1) HANDLING OF DEATH SCENE INVESTIGATIONS.

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

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

242 (2) LAW ENFORCEMENT REPORTS.

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

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

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

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

257 (1) If the official with custody of the human remains is not a medical
258 examiner, the official shall promptly transfer the unidentified
259 remains to the Office of The Chief Medical Examiner with
260 responsibility for seeking to determine the identity of the human
261 remains;

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

266 (A) Photographs of the human remains (prior to an
267 autopsy);

268 (B) Dental or skeletal X-rays;

269 (C) Photographs of items found with the human
270 remains;

271 (D) Fingerprints from the remains (if possible);

272 (E) Sample[s] of tissue suitable for DNA typing (if
273 possible);

274 (F) Sample[s] of whole bone or hair suitable for DNA
275 typing;

276 (G) Any other information that may support
277 identification efforts.

278 (3) No medical examiner or any other person shall cremate, dispose of,
279 or engage in actions that will materially affect the unidentified
280 human remains before the medical examiner obtains:

281 (A) Samples suitable for DNA identification, archiving;

282 (B) Photographs of the unidentified person/human
283 remains; and

284 (C) All other appropriate steps for identification have
285 been exhausted.

286 (4) The medical examiner or the Department of State Police's Crime
287 Lab shall make reasonable efforts to obtain prompt DNA analysis
288 of biological samples, if the human remains have not been
289 identified by other means. The medical examiner or the
290 Department of State Police's Crime Lab shall seek support from
291 appropriate state and Federal agencies for human remains
292 identification efforts. Such support may include, but is not limited
293 to, available mitochondrial or nuclear DNA testing, Federal grants
294 for DNA testing, or Federal grants for crime laboratory or medical
295 examiner office improvement;

296 (5) The medical examiner Department of State Police shall promptly
297 enter information in Federal and state databases that can aid in the
298 identification of missing person(s). Information shall be entered in
299 Federal databases as follows:

300 (A) Information for the National Crime Information
301 Center within twenty four hours;

302 (B) DNA profiles and information into the Federal
303 Bureau of Investigation's Missing persons DNA
304 Database within five business days after the
305 completion of the DNA analysis and procedures
306 necessary for the entry of the DNA profile; and

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

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

316 (7) Nothing in this Act shall be interpreted to preclude any medical
317 examiner office, the Department of State Police, or a local law

318 enforcement agency from pursuing other efforts to identify
319 unidentified human remains including efforts to publicize
320 information, descriptions or photographs that may aid in the
321 identification of the unidentified remains, allow family members to
322 identify missing person(s), and seek to protect the dignity of the
323 missing person(s).