

# SENATE . . . . . No. 918

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## The Commonwealth of Massachusetts

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In the Year Two Thousand Nine  
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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  
2 following:-

3                   MISSING PERSON(S) REPORT

4           (1)   REPORT ACCEPTANCE. All law enforcement agencies within the state shall  
5 accept without delay any report of a missing person(s). Acceptance of a missing person(s) report  
6 may not be refused on any 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;

(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 by phone or in person. Law enforcement agencies are encouraged to accept reports 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.);

- 32 (D) Height and weight;
- 33 (E) Hair color;
- 34 (F) Eye color;
- 35 (G) Prosthetics or surgical implants;
- 36 (H) A photograph of the missing person(s) (recent photographs are preferable; the  
37 agency is encouraged to attempt to ascertain the approximate date the photograph was taken);
- 38 (I) A description of the clothing the missing person(s) was believed to be wearing;
- 39 (J) A description of items that might be with the missing person(s) (jewelry,  
40 accessories, shoes or boots etc.);
- 41 (K) The reasons why the reporting person(s) believes that the person(s) is missing;
- 42 (L) Any circumstances that may indicate that the disappearance was not voluntary;
- 43 (M) Any circumstances that indicate that the missing person(s) may be at risk of injury  
44 or death;
- 45 (N) A description of the possible means of transportation of the missing person(s)  
46 (including make, model, color, license, and VIN of a vehicle);
- 47 (O) Any identifying information about a known or possible abductor including;
- 48 (1) Name;
- 49 (2) A physical description;

50 (3) Date of birth;

51 (4) Identifying marks;

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

54 (6) Known associates.

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

56 (Q) Date of last contact.

57 (4) NOTIFICATION AND FOLLOW UP ACTION.

58 (A) NOTIFICATION. The law enforcement agency shall notify the person(s) making  
59 the report, a family member, or other person(s) in a position to assist the law enforcement agency  
60 in its efforts to locate the missing person(s):

61 (1) General information about the handling of the missing person(s) case or about  
62 intended efforts in the case to the extent that the law enforcement agency determines that  
63 disclosure would not adversely affect its ability to locate the missing person(s) or apprehended or  
64 prosecute any person(s) criminally involved in the disappearance;

65 (2) That the person(s) making the report or other necessary person(s) should return  
66 promptly to the law enforcement agency if the missing person(s) remains missing to provide  
67 additional information and materials, that will aid in locating the missing person(s). The law  
68 enforcement agency should also notify the person(s) of the specific information or materials  
69 needed;

(3) The law enforcement agency shall notify the person(s) making the report that any DNA samples provided for the missing person(s) case will be used solely to help locate or identify the missing person and will not be used for 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) FOLLOW UP ACTIONS. 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 required for the use of state or Federal DNA databases;

(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 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 the Department of State Police's Crime Lab for analysis. The laboratory should

91 establish procedures for determining how to prioritize analysis of the samples relating to missing  
92 persons cases;

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

96 SECTION 2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING  
97 PERSON(S) INFORMATION.

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

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

103 (1) The person(s) is missing as a result of a stranger abduction;

104 (2) The person(s) is missing under suspicious circumstances;

105 (3) The person(s) is missing under unknown circumstances;

106 (4) The person(s) is missing under known dangerous circumstances;

107 (5) The person(s) is missing more than thirty (30) days;

108 (6) The person(s) has already been designated as a “high risk missing person(s)” by  
109 another law enforcement agency;

- 110 (7) There is evidence that the person(s) is at risk because:
- 111 (A) The person(s) missing is in need of medical attention;
- 112 (B) The person(s) missing does not have a pattern of running away or disappearing;
- 113 (C) The person(s) missing may have been abducted by non-custodial parent;
- 114 (D) The person(s) missing is mentally impaired;
- 115 (E) The person(s) missing is a person under the age of twenty-one;
- 116 (F) The person(s) missing has been the subject of past threats or acts of violence.
- 117 (B) LAW ENFORCEMENT RISK ASSESSMENT.
- 118 (1) Upon initial receipt of a missing person(s) report, the law enforcement agency
- 119 shall immediately determine whether there is a basis to determine that the person(s) missing is a
- 120 high risk missing person(s);
- 121 (2) If a law enforcement agency has previously determined that a missing person(s) is
- 122 not a high risk missing person(s), but obtains new information, it shall immediately determine
- 123 whether the information provided to the law enforcement agency indicates that the person(s)
- 124 missing is a high risk missing person(s);
- 125 (3) Risk assessments identified in this subsection shall be performed not later than
- 126 twenty four hours after the initial missing person(s) report or the new information was provided
- 127 to the law enforcement agency.
- 128 (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 the Criminal History Systems Board. It shall immediately provide to the Department of State Police 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 Department of State Police shall promptly notify all law enforcement agencies within the state 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 Department of State Police shall promptly enter all collected information relating to the missing person(s) case in available state and Federal databanks. 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 within four 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 is high-risk missing person(s) cases should be entered as soon as practicable;



(B) All DNA profiles shall be uploaded into the state missing person(s) database and the FBI Missing Person DNA Database within five business days 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 shall be entered as soon as possible.

(5) The Department of State Police 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 Department of State Police is strongly encouraged to either use person(s) with specific expertise in medical or dental records for this purpose or consult with the Office Of The Chief Medical Examiner to ensure the accuracy and completeness of information entered into the state and Federal databanks;

(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;

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

#### (1) HANDLING OF DEATH SCENE INVESTIGATIONS.

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

(B) The Department of State Police 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 law enforcement agency shall ensure that the human remains are delivered to Office of The Chief Medical Examiner;

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

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

SECTION 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 Office of The Chief Medical Examiner 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 are not limited to obtaining:

- 190 (A) Photographs of the human remains (prior to an autopsy);
- 191 (B) Dental or skeletal X-rays;
- 192 (C) Photographs of items found with the human remains;
- 193 (D) Fingerprints from the remains (if possible);
- 194 (E) Sample[s] of tissue suitable for DNA typing (if possible);
- 195 (F) Sample[s] of whole bone or hair suitable for DNA typing;
- 196 (G) Any other information that may support identification efforts.
- 197 (3) No medical examiner or any other person shall cremate, dispose of, or engage in
- 198 actions that will materially affect the unidentified human remains before the medical examiner
- 199 obtains:
- 200 (A) Samples suitable for DNA identification, archiving;
- 201 (B) Photographs of the unidentified person/human remains; and
- 202 (C) All other appropriate steps for identification have been exhausted.
- 203 (4) The medical examiner or the Department of State Police's Crime Lab shall make
- 204 reasonable efforts to obtain prompt DNA analysis of biological samples, if the human remains
- 205 have not been identified by other means. The medical examiner or the Department of State
- 206 Police's Crime Lab shall seek support from appropriate state and Federal agencies for human
- 207 remains identification efforts. Such support may include, but is not limited to, available

208 mitochondrial or nuclear DNA testing, Federal grants for DNA testing, or Federal grants for  
209 crime laboratory or medical examiner office improvement;

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

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

214 (B) DNA profiles and information into the Federal Bureau of Investigation's Missing  
215 persons DNA Database within five business days after the completion of the DNA analysis and  
216 procedures necessary for the entry of the DNA profile; and

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

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

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