

SENATE No. 2173

The Commonwealth of Massachusetts

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In the Year Two Thousand Fourteen
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SENATE, Thursday, June 5, 2014

The committee on Ways and Means, to whom was referred the Senate Bill relative to missing persons (Senate, No. 1110), reports, recommending that the same ought to pass with an amendment substituting a new draft with the same title (Senate, No. 2173).

For the committee,
Stephen M. Brewer

SENATE No. 2173

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

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. Section 1 of chapter 22A of the General Laws, as appearing in the 2012
2 Official Edition, is hereby amended by striking out the definition of “Director” and inserting in
3 place thereof the following definition:-

4 “Director”, the executive director of the department of criminal justice information
5 services.

6 SECTION 2. Said section 1 of said chapter 22A, as so appearing, is hereby further
7 amended by striking out the definition of “Person.”

8 SECTION 3. Said chapter 22A is hereby further amended by striking out section 2, as so
9 appearing, and inserting in place thereof the following section:-

10 Section 2. The director, in consultation with the colonel of state police, through electronic
11 data processing and related procedures, shall establish a statewide central register containing all
12 necessary and available identifying information of a missing child in the commonwealth. The
13 register shall include the same information required by 42 U.S.C. 5780 and may include: (i) the

14 missing child's identifying marks; (ii) prosthetics or surgical implants; (iii) a photograph; (iv) a
15 description of the missing child's clothing; (v) items that might be with the missing child; (vi)
16 reasons why the reporting person believes that the child is missing; (vii) circumstances that
17 indicate the disappearance was involuntary; (viii) circumstances that indicate the missing child
18 may be at risk of injury or death; (ix) the means of transportation of the missing person; (x) the
19 missing child's fingerprints; and (xi) the missing child's blood type. The director may use
20 existing data processing and data communications systems of the criminal justice information
21 system.

22 SECTION 4. Said chapter 22A is hereby further amended by striking out section 5, as so
23 appearing, and inserting in place thereof the following section:-

24 Section 5. The medical examiner shall promptly furnish the department of the state police
25 with copies of fingerprints, personal descriptions and other identifying data, including date and
26 place of death, of all deceased persons whose deaths are in a classification requiring inquiry by
27 the medical examiner where the deceased is not identified or the medical examiner is not
28 satisfied with the decedent's identification. In any case where it is not physically possible to
29 furnish prints of the 10 fingers of the deceased, prints or partial prints of any fingers with other
30 identifying data shall be provided to the department of the state police.

31 Additionally, the medical examiner shall cause a dentist to carry out a dental examination
32 of the deceased. The medical examiner shall forward the dental records to the department on a
33 form supplied by the department of the state police for such purposes.

34 The department of the state police shall compare the fingerprints received from the
35 medical examiners to fingerprints on file with the department of the state police to attempt to

36 determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall
37 also be compared to records maintained by the department concerning missing persons. The
38 department of the state police shall submit the results of the comparisons to the appropriate
39 medical examiner and if a tentative or positive identification is made, to the law enforcement
40 authority which submitted the report of the missing person.

41 SECTION 5. Section 1 of chapter 22C of the General Laws, as so appearing, is hereby
42 amended by striking out the definition of “Colonel” and inserting in place thereof the following 2
43 definitions:-

44 “AMBER Alert Plan”, the America’s Missing Broadcast Emergency Response Alert Plan
45 authorizing the broadcast media, upon notice from the department, to transmit an emergency
46 alert to inform the public of a child abduction.

47 “Colonel”, the colonel of state police, the head of the department of state police.

48 SECTION 6. Said chapter 22C is hereby further amended by adding the following
49 section:-

50 Section 71. (a) The department shall establish and maintain an AMBER Alert Plan to
51 assist in the recovery of abducted children under the age of 18 through notification to the general
52 public and law enforcement agencies. The department shall establish protocols and procedures
53 necessary for the operation of the plan and shall educate and inform law enforcement agencies
54 and the public of its availability.

55 (b) If a law enforcement agency determines that a child has been abducted and that the
56 circumstances of the abduction indicate that the child is in serious danger of bodily harm or

57 death, the agency shall obtain descriptive information for the AMBER Alert Plan and provide the
58 descriptive information to the department. Thereafter, the law enforcement agency shall identify
59 a point of contact within the agency capable of providing regular updates to the department about
60 the abduction.

61 (c) The law enforcement agency reporting the abducted child shall obtain a picture of the
62 child.

63 (d) The department may activate an AMBER Alert Plan, upon a determination that the
64 following criteria have been met: (i) a child has been abducted; (ii) the child is in danger of
65 serious bodily harm or death; and (iii) sufficient information exists to believe that activation of
66 an AMBER Alert Plan may help locate the child.

67 (e) The department may notify appropriate state agencies and authorities, including, but
68 not limited to, the Massachusetts Department of Transportation, Massachusetts emergency
69 management agency, the state lottery commission, the Massachusetts Bay Transportation
70 Authority and the Massachusetts Port Authority of the activation of the AMBER Alert Plan.

71 (f) The department shall notify the broadcast media serving the commonwealth of the
72 establishment of a statewide AMBER Alert Plan and invite their voluntary participation. The
73 department shall arrange for participating broadcast media to voluntarily agree, upon notice from
74 the department, to transmit emergency alerts to inform the public of a child abduction that has
75 occurred within their broadcast service regions. Information, material and records transmitted or
76 maintained pursuant to an emergency alert under this section shall not, as a result of any such
77 alert or transmission, be a public record in the custody of the department or other state agencies

78 and authorities and such information, material and records shall not be disclosed except as
79 provided by this section.

80 (g) The department shall enter all information required by the United States Department
81 of Justice on said child into the National Crime Information Center of the United States
82 Department of Justice.

83 (h) The AMBER Alert Plan shall remain activated until terminated upon the direction of
84 the colonel.

85 (i) The AMBER Alert Plan shall not be activated for children considered to be runaways
86 or incidents involving child custody disputes, except in cases of abduction if a threat of serious
87 bodily harm or death exists against the child.

88 (j) The department may coordinate with the law enforcement agencies in jurisdictions
89 outside the commonwealth, including the federal government, who are responsible for the
90 recovery of abducted children.

91 (k) The department, in consultation with the state 911 department, shall establish training
92 guidelines for 911 call takers and dispatchers on the Massachusetts AMBER Alert Plan.

93 (l) The colonel, in consultation with the secretary of public safety and security, shall
94 adopt rules and regulations necessary to implement this section.

95 (m) The department shall prepare and publish information for law enforcement agencies
96 relative to best practices for a report of a missing person. The department shall recommend
97 procedures for law enforcement in responding to a report of a missing person, a report of a
98 missing person who is under 18 and a person under 18 who has been abducted. The department

99 may identify publications and training opportunities that may be available to law enforcement
100 agencies concerning investigations of missing persons.

101 (n) The department shall prepare and publish information for law enforcement agencies
102 relative to best practices for handling death scene investigations. The department shall
103 recommend procedures for law enforcement in processing, preserving, storing and testing DNA
104 samples from human remains and the processing of DNA samples in missing person cases. The
105 department may identify publications and training opportunities that may be available to law
106 enforcement agencies concerning the handling of death scene investigations.

107 (o) The colonel, the department and all department employees shall be immune from suit
108 and liability, either personally or in their official capacity, for any claim for damage to or loss of
109 property or personal injury or other civil liability caused or arising out of or relating to any actual
110 or alleged act, error or omission occurring or alleged to occur in connection with or pursuant to
111 an AMBER Alert Plan under this section.

112 SECTION 7. Chapter 38 of the General Laws is hereby amended by striking out section
113 6, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

114 Section 6. (a) It shall be the duty of a person who discovers unmarked human remains, or
115 who knowingly causes human remains to be disturbed through construction or agricultural
116 activity, to immediately notify the office of the chief medical examiner.

117 (b) The medical examiner shall make reasonable attempts to promptly identify human
118 remains including, but not limited to, obtaining: (i) photographs of the human remains prior to an
119 autopsy; (ii) dental or skeletal X-rays; (iii) photographs of items found with the human remains;

120 (iv) fingerprints from the remains, if possible; and (v) a sample of bone, hair or tissue for DNA
121 testing.

122 (c) The office shall conduct an inquiry to determine whether the remains are suspected of
123 being 100 years old or more and, if so determined, shall immediately notify the state
124 archaeologist. The state archaeologist shall determine if the skeletal remains are Native
125 American. If the remains are deemed likely to be Native American, the state archaeologist shall
126 immediately notify the commission on Indian affairs which shall cause a site evaluation to be
127 made to determine if the place where the remains were found is a Native American burial site.

128 SECTION 8. There shall be a task force to review and recommend policies and
129 procedures for law enforcement in missing person cases. The task force shall be comprised of:
130 the secretary of public safety and security or a designee, who shall chair the task force; the
131 colonel of the state police or a designee; the commissioner of children and families or a designee;
132 a representative of the Massachusetts District Attorneys Association; a representative of the
133 committee for public counsel services; a representative of the Massachusetts Chiefs of Police
134 Association Incorporated; and 2 members of the public appointed by the governor, 1 of whom
135 shall be a family member of a missing person and 1 of whom shall be a person with experience
136 in the social, economic and public safety impacts of missing person cases.

137 The task force shall identify and review federal laws, General Laws, regulations, policies
138 and procedures mandating or guiding the receipt, processing and investigation of missing
139 persons reports by law enforcement agencies in the commonwealth, including persons under 18
140 years of age and persons who have been abducted. The task force shall identify, for the preceding
141 10 calendar years: (i) the number of missing person cases reported to law enforcement agencies;

142 (ii) the number of investigations begun and the number of investigations still open after 30 days;
143 and (iii) the number of instances when the person reported missing is under 18 years of age.

144 The task force shall recommend changes, if necessary, to such state laws, regulations,
145 policies and procedures.

146 The task force shall file a report containing its findings, together with any recommended
147 legislation, with the clerks of the house and senate and the joint committee on public safety and
148 homeland security not later than May 25, 2015.