SENATE DOCKET, NO. 250 FILED ON: 1/19/2011

SENATE . . . . . No. 1184

The Commonwealth of Massachusetts

PRESENTED BY:

Stephen M. 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 adoption of the accompanying bill:

An Act relative to missing persons..

PETITION OF:

NAME:	DISTRICT/ADDRESS:
Stephen M. Brewer	*Worcester, Hampden, Hampshire, Franklin*
Anne M. Gobi	*5th Worcester*

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SENATE . . . . . No. 1184

By Mr. Brewer, petition (accompanied by bill, Senate, No. 1184) of Brewer and Gobi for legislation relative to missing persons [Joint Committee on Public Safety and Homeland Security].

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. *918* OF 2009-2010.]

The Commonwealth of Massachusetts

In the Year Two Thousand Eleven

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:

SECTION 1. Chapter 38A of the General Laws is hereby added, by inserting the following:-

MISSING PERSON(S) REPORT

(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 that basis that:

(A) The missing person(s) is an adult;

(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 jurisdiction served by the
13 law enforcement agency at the time of the disappearance;

14 (F) The circumstances suggest that the disappearance may be voluntary;

15 (G) The person(s) reporting does not have personal knowledge of the facts;

16 (H) The reporting individual cannot provide all of the information requested by the law
17 enforcement agency;

18 (I) The reporting person lacks a familial or other relationship with the missing person;

19 (J) Or for any other reason.

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

24 (3) CONTENTS OF REPORT. In accepting a report of a missing person(s), the law
25 enforcement agency shall attempt to gather relevant information relating to the disappearance.
26 The law enforcement agency shall attempt to gather at the time of the report information that
27 shall include, but not be limited to, the following:

28 (A) The name of the missing person(s) (including alternative names used);

29 (B) The date of birth;

30 (C) Identifying marks (such as birthmarks, moles, tattoos, scars, etc.);

31 (D) Height and weight;

32 (E) Hair color;

33 (F) Eye color;

34 (G) Prosthetics or surgical implants;

35 (H) A photograph of the missing person(s) (recent photographs are preferable; the agency
36 is encouraged to attempt to ascertain the approximate date the photograph was taken);

37 (I) A description of the clothing the missing person(s) was believed to be wearing;

38 (J) A description of items that might be with the missing person(s) (jewelry, accessories,
39 shoes or boots etc.);

40 (K) The reasons why the reporting person(s) believes that the person(s) is missing;

41 (L) Any circumstances that may indicate that the disappearance was not voluntary;

42 (M) Any circumstances that indicate that the missing person(s) may be at risk of injury or
43 death;

44 (N) A description of the possible means of transportation of the missing person(s)
45 (including make, model, color, license, and VIN of a vehicle);

46 (O) Any identifying information about a known or possible abductor including;

47 (1) Name;

48 (2) A physical description;

49 (3) Date of birth;

50 (4) Identifying marks;

51 (5) The description of possible means of transportation (including make, model,

52 color, license, and VIN of a vehicle);

53 (6) Known associates.

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

55 (Q) Date of last contact.

56 (4) NOTIFICATION AND FOLLOW UP ACTION.

57 (A) NOTIFICATION. The law enforcement agency shall notify the person(s) making the

58 report, a family member, or other person(s) in a position to assist the law enforcement agency

59 in its efforts to locate the missing person(s):

60 (1)General information about the handling of the missing person(s) case or about

61 intended efforts in the case to the extent that the law enforcement agency

62 determines that disclosure would not adversely affect its ability to locate the

63 missing person(s) or apprehended or prosecute any person(s) criminally involved in the

64 disappearance;

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

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

74 (4) The law enforcement agency is encouraged to make available informational
75 materials (through publications or electronic or other media) that advise the
76 public about how the information or materials identified in this subsection are
77 used to help locate or identify missing persons.

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

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

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

85 (3) Any additional photographs of the missing person(s) that may aid the
86 investigation or identification. The law enforcement agency shall not be
87 required to obtain written authorization before it releases publicly any
88 photograph that would aid in the investigation or identification of the missing person(s);

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

90 (5) Fingerprints.

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

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

98 SECTION 2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING
99 PERSON(S) INFORMATION.

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

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

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

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

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

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

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

110 (6) The person(s) has already been designated as a "high risk missing person(s)"
111 by another law enforcement agency;

112 (7) There is evidence that the person(s) is at risk because:

113 (A) The person(s) missing is in need of medical attention;

114 (B) The person(s) missing does not have a pattern of running away or
115 disappearing;

116 (C) The person(s) missing may have been abducted by non-custodial
117 parent;

118 (D) The person(s) missing is mentally impaired;

119 (E) The person(s) missing is a person under the age of twenty-one;

120 (F) The person(s) missing has been the subject of past threats or acts of
121 violence.

122 (B) LAW ENFORCEMENT RISK ASSESSMENT.

123 (1) Upon initial receipt of a missing person(s) report, the law enforcement agency
124 shall immediately determine whether there is a basis to determine that the
125 person(s) missing is a high risk missing person(s);

126 (2) If a law enforcement agency has previously determined that a missing
127 person(s) is not a high risk missing person(s), but obtains new information, it
128 shall immediately determine whether the information provided to the law
129 enforcement agency indicates that the person(s) missing is a high risk missing person(s);

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

133 (C) LAW ENFORCEMENT AGENCY REPORTS.

134 (1) When the law enforcement agency determines that the missing person(s) is a
135 high risk missing person(s) it shall notify the Criminal History Systems Board. It
136 shall immediately provide to the Department of State Police the
137 information most likely to aid in the location and safe return of the high risk missing person(s).
138 It shall provide as soon as practicable all other information obtained relating to
139 the missing person(s) case;

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

143 (3) The local law enforcement agencies who receive the notification from the state
144 agency specified in subsection (2) shall notify officers to ?be on the look out?
145 for the missing person(s) or a suspected abductor;

146 (4) The Department of State Police shall promptly enter all collected information
147 relating to the missing person (s) case in available state and Federal databanks.
148 The information shall be provided to in accordance with applicable guidelines
149 relating to the databases. The information shall be entered as follows:

150 (A) A missing person(s) report in high risk missing person(s) cases (and
151 relevant information provided in the report shall be entered in the
152 National Crime Information Center database within four hours of the
153 determination that the missing person is a high risk missing person; All other
154 missing person(s) reports (and relevant information provided in the report) shall be
155 entered within one day after the missing person(s) report is received.
156 Supplemental information is high-risk missing person(s) cases should be
157 entered as soon as practicable;

158 (B) All DNA profiles shall be uploaded into the state missing person(s)
159 database and the FBI Missing Person DNA Database within five
160 business days after completion of the DNA analysis and other
161 procedures required for database entry;

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

165 (5) The Department of State Police shall ensure that person(s) entering data relating to
166 medical or dental records in state or Federal databases are specifically trained to understand and
167 correctly enter the information sought by these databases. The Department of State Police is
168 strongly encouraged to either use person(s) with specific expertise in medical or dental records
169 for this purpose or consult with the Office Of The Chief Medical Examiner to ensure the
170 accuracy and completeness of information entered into the state and Federal databanks;

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

174 SECTION 3. REPORTING OF DEATH UNIDENTIFIED PERSONS/HUMAN
175 REMAINS

176 (1) HANDLING OF DEATH SCENE INVESTIGATIONS.

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

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

182 (2) LAW ENFORCEMENT REPORTS.

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

186 (B) A law enforcement agency that locates human remains that are not identified within
187 24 hours shall promptly notify the Department of State Police of the location of
188 those remains;

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

192 SECTION 4. UNIDENTIFIED PERSONS/HUMAN REMAINS IDENTIFICATION
193 RESPONSIBILITIES.

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

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

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

201 (B) Dental or skeletal X-rays;

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

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

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

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

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

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

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

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

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

213 (4) The medical examiner or the Department of State Police?s Crime Lab shall make
214 reasonable efforts to obtain prompt DNA analysis of biological samples, if the human remains
215 have not been identified by other means. The medical examiner or the Department of State
216 Police's Crime Lab shall seek support from appropriate state and Federal agencies for human
217 remains identification efforts. Such support may include, but is not limited to, available
218 mitochondrial or nuclear DNA testing, Federal grants for DNA testing, or Federal grants for
219 crime laboratory or medical examiner office improvement;

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

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

224 (B) DNA profiles and information into the Federal Bureau of Investigation?s Missing
225 persons DNA Database within five business days after the completion of the DNA analysis and
226 procedures necessary for the entry of the DNA profile; and

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

229 (6) If medical examiner office personnel do not input the data directly into the Federal
230 databanks, the Department of State Police shall consult with the medical examiner?s office to
231 ensure appropriate training of the data entry personnel and the establishment of a quality
232 assurance protocol for ensuring the ongoing quality of data entered in the Federal and state
233 databases;

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