

Introduced by

1 A BILL for an Act to provide for a procedure for missing person investigations.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. Missing person reports.**

4 1. A report of a missing person may be made to any law enforcement agency in the
5 state. The law enforcement agency may not refuse to accept a missing person
6 report solely on the basis that:

7 a. The missing person is an adult;

8 b. The circumstances do not indicate foul play;

9 c. The person has been missing for a short period of time;

10 d. The person has been missing for a long period of time; or

11 e. There is no indication that the missing person was in the jurisdiction served by
12 the law enforcement agency at the time of the disappearance.

13 2. Notwithstanding subsection 1, if, upon receiving sufficient information from the
14 person making the report, the law enforcement agency that receives the initial
15 report of a missing person determines that the missing person is not a high-risk
16 missing person, as defined in section 3 of this Act, and the law enforcement
17 agency determines that a law enforcement agency in another jurisdiction is the
18 more appropriate law enforcement agency to receive the missing person report,
19 the law enforcement agency that receives the initial report may refer the missing
20 person report to the more appropriate law enforcement agency. The responsibility
21 for the missing person report remains with the law enforcement agency that
22 receives the initial missing person report until the law enforcement agency in the
23 other jurisdiction confirms, in writing, its acceptance of responsibility for the missing
24 person report.

- 1 3. The law enforcement agency shall accept a missing person report in person. A law
2 enforcement agency also may accept reports by telephone or by electronic or other
3 media to the extent that the reporting is consistent with law enforcement policies or
4 practices. If the missing person is under twenty-one years of age, the report must
5 be handled in a manner consistent with the National Child Search Assistance Act
6 of 1990 [42 U.S.C. 5119a] and the Adam Walsh Child Protection Act of 2006
7 [42 U.S.C. 16901].
- 8 4. In accepting a report of a missing person, the law enforcement agency shall gather
9 relevant information relating to the disappearance. At the time of the report, the
10 law enforcement agency shall gather information that includes:
- 11 a. The name of the missing person, including possible alternative names;
12 b. The date of birth;
13 c. Identifying marks, such as birthmarks, moles, tattoos, or scars;
14 d. Height and weight;
15 e. Gender;
16 f. Race;
17 g. Current hair color and true or natural hair color;
18 h. Eye color;
19 i. Prosthetics, surgical implants, or cosmetic implants;
20 j. Physical anomalies;
21 k. Blood type;
22 l. Driver's license number;
23 m. Social security number;
24 n. Credit card numbers;
25 o. A recent photograph of the missing person and an approximate age of the
26 missing person when the photograph was taken;
27 p. A description of the clothing the missing person was believed to have been
28 wearing;
29 q. A description of items that might be with the missing person, such as jewelry,
30 accessories, handbag, and shoes;

- 1 r. Information on the missing person's electronic communications devices, such
- 2 as cellular telephone numbers and e-mail addresses;
- 3 s. The reasons why the reporting person believes that the person is missing;
- 4 t. Name and location of the missing person's school or employer;
- 5 u. Name and location of the missing person's dentist and primary care physician;
- 6 v. Any circumstances that may indicate that the disappearance of the missing
- 7 person was not voluntary;
- 8 w. Any circumstances that indicate that the missing person may be at risk of
- 9 injury or death;
- 10 x. A description of the possible means of transportation of the missing person,
- 11 including make, model, color, license plate number, and vehicle identification
- 12 number of a vehicle;
- 13 y. Any identifying information about a known or possible abductor or other
- 14 person last seen with the missing person, including that person's name,
- 15 physical description, date of birth, identifying marks, known associates, and a
- 16 description of a possible means of transportation; and
- 17 z. Date of last contact and any other information that can aid in locating the
- 18 missing person.

19 **SECTION 2. Notification and other action.**

- 20 1. When possible, the law enforcement agency shall inform the person making the
- 21 report, a family member of the missing person, or other person who may be in a
- 22 position to assist the law enforcement agency regarding the agency's efforts to
- 23 locate the missing person about general information regarding the handling of the
- 24 missing person case or information regarding intended efforts in the case to the
- 25 extent that the law enforcement agency determines that disclosure would not
- 26 adversely affect the agency's ability to locate or protect the missing person or to
- 27 apprehend or prosecute any person criminally involved in the disappearance.
- 28 2. If the person identified in the missing person report remains missing after thirty
- 29 days and the additional information and materials specified in this subsection have
- 30 not been received, the law enforcement agency shall attempt to obtain:

- a. DNA samples from family members and from the missing person along with any needed documentation, including any consent forms required for the use of state or federal DNA databases;
- b. Dental information and x-rays of the missing person;
- c. Any additional photographs of the missing person which may aid the investigation or identification; and
- d. Fingerprints.

3. The law enforcement agency is not required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person.

4. All DNA samples obtained in missing person cases must be forwarded immediately to the state crime laboratory to perform a DNA analysis. The state crime laboratory shall establish procedures for determining how to prioritize analysis of the samples relating to missing person cases.

5. The law enforcement agency shall submit relevant information to the federal bureau of investigation's violent criminal apprehension program as soon as is practicable.

6. This section does not preclude a law enforcement agency from attempting to obtain the materials identified in this section before the expiration of the thirty-day period.

SECTION 3. Prompt determination of high-risk missing person.

1. A high-risk missing person 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 include:

- a. The person is missing as a result of abduction by a stranger;
- b. The person is missing under suspicious circumstances;
- c. The person is missing under unknown circumstances;
- d. The person is missing under known dangerous circumstances;
- e. The person is missing more than thirty days;

- 1 f. The person previously has been designated as a "high-risk missing person"
2 by another law enforcement agency;
- 3 g. There is evidence that the person is at risk because:
- 4 (1) The person missing is in need of medical attention or prescription
5 medication;
- 6 (2) The person missing does not have a pattern of running away or
7 disappearing;
- 8 (3) The person missing may have been abducted by a noncustodial parent;
- 9 (4) The person missing is mentally impaired;
- 10 (5) The person missing is a person under the age of twenty-one; or
- 11 (6) The person missing has been the subject of past threats or acts of
12 violence; or
- 13 h. Any other factor that, in the judgment of the law enforcement agency, may
14 determine that the missing person may be at risk.
- 15 2. Upon initial receipt of a missing person report, the law enforcement agency shall
16 determine immediately whether there is a basis to determine that the person
17 missing is a high-risk missing person.
- 18 3. If a law enforcement agency has previously determined that a missing person is
19 not a high-risk missing person, but obtains new information, the agency shall
20 determine immediately whether the new information provided to the law
21 enforcement agency indicates that the person missing is a high-risk missing
22 person.

23 **SECTION 4. Law enforcement agency reports.**

- 24 1. Upon the determination by the law enforcement agency that the missing person is
25 a high-risk missing person, the law enforcement agency shall notify the bureau of
26 criminal investigation. The law enforcement agency shall provide to the bureau of
27 criminal investigation the information most likely to aid in the location and safe
28 return of the high-risk missing person. The law enforcement agency shall provide
29 as soon as practicable all other information obtained relating to the missing person
30 case.

- 1 2. The bureau of criminal investigation promptly shall notify all law enforcement
2 agencies within the state and surrounding region of any information that will aid in
3 the prompt location and safe return of the high-risk missing person.
- 4 3. Each local law enforcement agency that receives the notification from the bureau
5 of criminal investigation shall notify that local law enforcement agency's officers to
6 be on alert for the missing person or a suspected abductor.
- 7 4. The responding local law enforcement agency immediately shall enter all collected
8 information relating to the missing person case in available state and federal
9 databases. If the responding local law enforcement agency does not have the
10 capability to enter this data directly in the state and federal databases, the bureau
11 of criminal investigation shall enter all collected information relating to the missing
12 person case in available state and federal databases. The information shall be
13 provided in accordance with applicable guidelines relating to the databases. The
14 information must be entered as follows:
 - 15 a. A missing person report in a high-risk missing person case must be entered in
16 the endangered or involuntary category in the national crime information
17 center database immediately, but no more than two hours after the
18 determination that the missing person is a high-risk missing person. All other
19 missing person reports must be entered within one day after the missing
20 person report is received. Supplemental information in high-risk missing
21 person cases must be entered as soon as is practicable.
 - 22 b. All DNA profiles must be uploaded into the missing person databases of the
23 state DNA index system, the national DNA index system, and the combined
24 DNA index system after completion of the DNA analysis and other procedures
25 required for database entry.
 - 26 c. Information relevant to the federal bureau of investigation's violent criminal
27 apprehension program must be entered as soon as possible.
- 28 5. The bureau of criminal investigation shall ensure that the person entering data
29 relating to medical or dental records in state or federal databases is specifically
30 trained to understand and correctly enter the information sought by these
31 databases. The bureau of criminal investigation shall use persons with specific

1 expertise in medical or dental records for this purpose to ensure the accuracy and
2 completeness of information entered into the state and federal databases.

- 3 6. Pursuant to any applicable state criteria, local law enforcement agencies also shall
4 provide for the prompt use of an AMBER alert or public dissemination of
5 photographs in appropriate high-risk cases.

6 **SECTION 5. Reporting of unidentified persons and human remains.**

- 7 1. The bureau of criminal investigation shall provide information to local law
8 enforcement agencies about best practices for handling death scene
9 investigations. The bureau of criminal investigation shall identify any publications
10 or training opportunities that may be available to local law enforcement agencies or
11 law enforcement officers concerning the handling of death scene investigations.
12 2. After performing any death scene investigation deemed appropriate under the
13 circumstances, the official with custody of the human remains shall ensure that the
14 human remains are delivered to a coroner or medical examiner.
15 3. Any person with custody of human remains that are not identified within twenty-four
16 hours of discovery promptly shall notify the bureau of criminal investigation of the
17 location of those remains.
18 4. If the person with custody of remains cannot determine whether the remains found
19 are human, the person shall notify the bureau of criminal investigation of the
20 existence of possible human remains.

21 **SECTION 6. Unidentified person or human remains identification responsibilities.**

- 22 1. If the official with custody of the human remains is not a coroner or medical
23 examiner, the official promptly shall transfer the unidentified remains to the coroner
24 or medical examiner to examine human remains for the purpose of identification of
25 the human remains.
26 2. The coroner or medical examiner shall make reasonable attempts to promptly
27 identify the human remains. These actions may include obtaining:
28 a. Photographs of the human remains before an autopsy;
29 b. Dental or skeletal x-rays;
30 c. Photographs of items found with the human remains;
31 d. Fingerprints from the remains;

- 1 e. Samples of tissue suitable for DNA typing;
- 2 f. Samples of whole bone and hair suitable for DNA typing; and
- 3 g. Any other information that may support identification efforts.
- 4 3. A coroner or medical examiner or any other person may not dispose of or engage
- 5 in actions that will materially affect the unidentified human remains before the
- 6 coroner or medical examiner:
- 7 a. Obtains samples suitable for DNA identification and archiving;
- 8 b. Obtains photographs of the unidentified person or human remains; and
- 9 c. Exhausts all other appropriate steps for identification.
- 10 4. Unidentified human remains may not be cremated.
- 11 5. The coroner or medical examiner or other person designated by the bureau of
- 12 criminal investigation shall make reasonable efforts to obtain prompt DNA analysis
- 13 of biological samples if the human remains have not been identified by other
- 14 means within thirty days.
- 15 6. The coroner or medical examiner or other person designated by the bureau of
- 16 criminal investigation shall seek support from the appropriate federal and state
- 17 agencies for efforts to identify human remains. The support may include available
- 18 mitochondrial or nuclear DNA testing, federal grants for DNA testing, or federal
- 19 grants for crime laboratory or medical examiner office improvement.
- 20 7. The coroner or medical examiner or other person designated by the bureau of
- 21 criminal investigation promptly shall enter information in federal and state
- 22 databases which can aid in the identification of a missing person.
- 23 8. This section does not preclude any coroner or medical examiner office, the bureau
- 24 of criminal investigation, or a local law enforcement agency from pursuing other
- 25 efforts to identify unidentified human remains, including efforts to publicize
- 26 information, descriptions, or photographs that may aid in the identification of the
- 27 unidentified remains; from allowing family members to identify a missing person;
- 28 and from pursuing efforts that seek to protect the dignity of the missing person.