

Sixty-first
Legislative Assembly
of North Dakota

ENGROSSED HOUSE BILL NO. 1040

Introduced by

Legislative Council

(Judicial Process Committee)

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
12 by 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 a law enforcement agency in another
16 jurisdiction is clearly the more appropriate law enforcement agency to receive the
17 missing person report, the law enforcement agency that receives the initial report
18 may refer the missing person report to the more appropriate law enforcement
19 agency. The responsibility for the missing person report remains with the law
20 enforcement agency that receives the initial missing person report until the law
21 enforcement agency in the other jurisdiction confirms, in writing, its acceptance of
22 responsibility for the missing person report. If the law enforcement agency to
23 which the missing person report is referred is located within this state, that law
24 enforcement agency shall accept or decline the responsibility for the referred

1 missing person report within twenty-four hours after receiving the request from the
2 initial law enforcement agency. The law enforcement agency to which the report is
3 referred may not decline acceptance of responsibility for the missing person report
4 without good cause shown and may not decline acceptance of responsibility for the
5 report solely on the basis of the factors listed in subsection 1.

6 3. The law enforcement agency shall accept a missing person report in person. A
7 law enforcement agency also may accept reports by telephone or by electronic or
8 other media to the extent that the reporting is consistent with law enforcement
9 policies or practices.

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

11 1. When possible, the law enforcement agency shall inform the person making the
12 report, a family member of the missing person, or other person who may be in a
13 position to assist the law enforcement agency regarding the agency's efforts to
14 locate the missing person about general information regarding the handling of the
15 missing person case or information regarding intended efforts in the case to the
16 extent that the law enforcement agency determines that disclosure would not
17 adversely affect the agency's ability to locate or protect the missing person or to
18 apprehend or prosecute any person criminally involved in the disappearance.

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

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

26 **SECTION 3. Prompt determination of high-risk missing person - Law**
27 **enforcement agency reports.**

28 1. A high-risk missing person is an individual whose whereabouts are not currently
29 known and the circumstances indicate that the individual may be at risk of injury or
30 death.

1 2. Upon the determination by the law enforcement agency that the missing person is
2 a high-risk missing person, the law enforcement agency shall notify the bureau of
3 criminal investigation. The law enforcement agency shall provide to the bureau of
4 criminal investigation the information most likely to aid in the location and safe
5 return of the high-risk missing person.

6 3. The responding local law enforcement agency immediately shall enter all collected
7 information relating to the missing person case in available state and federal
8 databases. If the responding local law enforcement agency does not have the
9 capability to enter this data directly in the state and federal databases, the bureau
10 of criminal investigation shall enter all collected information relating to the missing
11 person case in available state and federal databases. The information shall be
12 provided in accordance with applicable guidelines relating to the databases.

13 4. The bureau of criminal investigation shall ensure that the person entering data
14 relating to medical or dental records in state or federal databases is specifically
15 trained to understand and correctly enter the information sought by these
16 databases.

17 **SECTION 4. Reporting of unidentified persons and human remains.** The bureau
18 of criminal investigation shall provide information to local law enforcement agencies about best
19 practices for handling death scene investigations. The bureau of criminal investigation shall
20 identify any publications or training opportunities that may be available to local law enforcement
21 agencies or law enforcement officers concerning the handling of death scene investigations.

22 **SECTION 5. Unidentified person or human remains identification responsibilities.**

23 1. If the official with custody of the human remains is not a coroner or medical
24 examiner, the official promptly shall transfer the unidentified remains to the coroner
25 or medical examiner to examine human remains for the purpose of identification of
26 the human remains.

27 2. A coroner or medical examiner or any other person may not dispose of or engage
28 in actions that will materially affect the unidentified human remains before the
29 coroner or medical examiner:

30 a. Obtains samples suitable for DNA identification and archiving;

31 b. Obtains photographs of the unidentified person or human remains; and

1 c. Exhausts all other appropriate steps for identification.

2 **SECTION 6. Attorney general to develop missing person procedural policy.** To
3 provide guidance to law enforcement agencies in the state, the attorney general shall develop a
4 procedures manual, consistent with this Act, relating to the investigation of missing person
5 cases. Upon request, the attorney general shall distribute the manual to law enforcement
6 agencies.