

**Sixty-first Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 6, 2009**

HOUSE BILL NO. 1040
(Legislative Council)
(Judicial Process Committee)

AN ACT to provide for a procedure for missing person investigations.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Missing person reports.

1. A report of a missing person may be made to any law enforcement agency in the state. The law enforcement agency may not refuse to accept a missing person report solely on the basis that:
 - a. The missing person is an adult;
 - b. The circumstances do not indicate foul play;
 - c. The person has been missing for a short period of time;
 - d. The person has been missing for a long period of time; or
 - e. There is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance.
2. Notwithstanding subsection 1, if, upon receiving sufficient information from the person making the report, the law enforcement agency that receives the initial report of a missing person determines that a law enforcement agency in another jurisdiction is clearly the more appropriate law enforcement agency to receive the missing person report, the law enforcement agency that receives the initial report may refer the missing person report to the more appropriate law enforcement agency. The responsibility for the missing person report remains with the law enforcement agency that receives the initial missing person report until the law enforcement agency in the other jurisdiction confirms, in writing, its acceptance of responsibility for the missing person report. If the law enforcement agency to which the missing person report is referred is located within this state, that law enforcement agency shall accept or decline the responsibility for the referred missing person report within twenty-four hours after receiving the request from the initial law enforcement agency. The law enforcement agency to which the report is referred may not decline acceptance of responsibility for the missing person report without good cause shown and may not decline acceptance of responsibility for the report solely on the basis of the factors listed in subsection 1.
3. The law enforcement agency shall accept a missing person report in person. A law enforcement agency also may accept reports by telephone or by electronic or other media to the extent that the reporting is consistent with law enforcement policies or practices.

SECTION 2. Notification and other action.

1. When possible, the law enforcement agency shall inform the person making the report, a family member of the missing person, or other person who may be in a position to assist the law enforcement agency regarding the agency's efforts to locate the missing person about general information regarding the handling of the missing person case or information regarding intended efforts in the case to the extent that the law enforcement agency

determines that disclosure would not adversely affect the agency's ability to locate or protect the missing person or to apprehend or prosecute any person criminally involved in the disappearance.

2. 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.
3. The law enforcement agency shall submit relevant information to the federal bureau of investigation's violent criminal apprehension program as soon as is practicable.

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

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.
2. Upon the determination by the law enforcement agency that the missing person is a high-risk missing person, the law enforcement agency shall notify the bureau of criminal investigation. The law enforcement agency shall provide to the bureau of criminal investigation the information most likely to aid in the location and safe return of the high-risk missing person.
3. The responding local law enforcement agency immediately shall enter all collected information relating to the missing person case in available state and federal databases. If the responding local law enforcement agency does not have the capability to enter this data directly in the state and federal databases, the bureau of criminal investigation shall enter all collected information relating to the missing person case in available state and federal databases. The information shall be provided in accordance with applicable guidelines relating to the databases.

SECTION 4. Unidentified person or human remains identification responsibilities.

1. If the official with custody of the human remains is not a coroner or medical examiner, the official promptly shall transfer the unidentified remains to the coroner or medical examiner to examine human remains for the purpose of identification of the human remains.
2. A coroner or medical examiner or any other person may not dispose of or engage in actions that will materially affect the unidentified human remains before the coroner or medical examiner:
 - a. Obtains samples suitable for DNA identification and archiving;
 - b. Obtains photographs of the unidentified person or human remains; and
 - c. Exhausts all other appropriate steps for identification.

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

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-first Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1040.

House Vote: Yeas 93 Nays 0 Absent 1

Senate Vote: Yeas 44 Nays 1 Absent 2

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2009.

Approved at _____ M. on _____, 2009.

Governor

Filed in this office this _____ day of _____, 2009,

at _____ o'clock _____ M.

Secretary of State