
A BILL FOR AN ACT

RELATING TO MISSING PERSONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. The legislature finds that the State must
2 incorporate and adopt rapid advances in technology and national
3 databases to share information statewide to solve missing person
4 crimes. This Act requires law enforcement agencies to use
5 sophisticated technology and databases to solve missing persons
6 and other cases.

7 In addition, this Act protects our children and improves
8 the State of Hawaii's existing Maile Amber alert plan, now a
9 voluntary partnership of county police departments, emergency
10 management agencies, and local broadcasters, by making the Maile
11 Amber alert plan mandatory, rather than voluntary, and adopting
12 Code Adam alert procedures to locate missing children.

13 The purpose of this Act is to improve the ability of law
14 enforcement agencies to locate and return missing persons by
15 establishing new procedures and requirements for missing persons
16 cases.



1 SECTION 2. The Hawaii Revised Statutes is amended by
2 adding a new chapter to be appropriately designated and to read
3 as follows:

4 **"CHAPTER**

5 **MISSING PERSONS PROTECTION AND IDENTIFICATION**

6 **PART I. MISSING PERSONS; PROTECTION AND IDENTIFICATION**

7 § -1 **Short title.** This chapter may be cited as the
8 "Missing Persons Protection and Identification Act of 2006".

9 § -2 **Definitions.** As used in this chapter:

10 "Abduction" means a case in which a child or a person with
11 disability is reported to be involuntarily missing from the
12 caregiver and there is an eyewitness who can provide a physical
13 description of the abductor, the vehicle involved if applicable,
14 and the direction of travel. If an eyewitness is lacking, there
15 exists credible evidence that the disappearance was involuntary.

16 "Child" means a person under the age of eighteen years.

17 "Child abduction alert system" means the system developed
18 by law enforcement agencies to assist in the recovery of an
19 abducted child and in the capture of the abductor.

20 "Code Adam alert" means a set of procedures used in
21 buildings to alert employees and other users of the building
22 that a child is missing.



1 "DNA" means deoxyribonucleic acid.

2 "Familial relationship" means a relationship that
3 establishes two individuals as members of a family.

4 "Family member" means:

5 (1) A person related by blood, legal custody, or marriage;

6 (2) A child who lives with an adult and for whom the adult
7 permanently assumes and discharges parental
8 responsibility; or

9 (3) A person with whom the individual shares or has
10 shared, within the last year, a mutual residence.

11 "High-risk missing person" means an individual whose
12 whereabouts are not currently known and where circumstances
13 indicate that the individual may be at risk of injury or death.

14 "Law enforcement agency" means any county police
15 department, the department of the attorney general, the
16 department of public safety, or any other governmental agency
17 that has the authority to investigate, make arrests for, or
18 prosecute or adjudicate criminal or delinquency offenses,
19 including any state or county agency that employs law
20 enforcement officers; provided that, for purposes of this
21 chapter, the office of the prosecuting attorney for each of the



1 respective counties shall not be deemed a law enforcement
2 agency.

3 "Maile Amber alert" means the activation of media
4 broadcasts and department of transportation freeway signs to
5 alert the general public of a child abduction, in accordance
6 with the Maile Amber alert plan established in part II.

7 "Maile Amber alert plan" means an early response and
8 notification tracking system for the State and counties that
9 will enable law enforcement agencies to collaborate through the
10 child abduction alert system with state broadcast stations to
11 alert the general public of a child abduction.

12 "Missing person" means a person whose whereabouts, safety,
13 and welfare are unknown.

14 "Person with a disability" means a person with a physical
15 or mental disability.

16 § -3 **Missing person report.** (a) All law enforcement
17 agencies within the State shall accept without delay any report
18 of a missing person or persons. Acceptance of a missing person
19 report may not be refused on any ground. No law enforcement
20 agency may refuse to accept a missing person report on the basis
21 that:

22 (1) The missing person is an adult;



- 1 (2) The circumstances do not indicate foul play;
- 2 (3) The person has been missing for a short period of
3 time;
- 4 (4) The person has been missing for a long period of time;
- 5 (5) There is no indication that the missing person was in
6 the State at the time of the disappearance;
- 7 (6) The circumstances suggest that the disappearance may
8 be voluntary;
- 9 (7) The person or persons making the report do not have
10 personal knowledge of the facts;
- 11 (8) The reporting individual cannot provide all of the
12 information requested by the law enforcement agency;
13 or
- 14 (9) The reporting person lacks a familial or other
15 relationship with the missing person.
- 16 (b) All law enforcement agencies shall accept missing
17 person reports in person but may accept reports by phone or by
18 electronic or other media.
- 19 (c) In accepting a missing person report, a law
20 enforcement agency shall gather relevant information relating to
21 the missing person, including but not limited to the following:



- 1 (1) The name of the missing person, including alternative
- 2 names used;
- 3 (2) The date of birth;
- 4 (3) Identifying marks, such as birthmarks, moles, tattoos,
- 5 and scars;
- 6 (4) Height and weight;
- 7 (5) Gender;
- 8 (6) Race;
- 9 (7) Current hair color and true or natural hair color;
- 10 (8) Eye color;
- 11 (9) Prosthetics, surgical implants, or cosmetic implants;
- 12 (10) Physical anomalies;
- 13 (11) Blood type;
- 14 (12) Driver license number;
- 15 (13) Social security number;
- 16 (14) A photograph or photographs of the missing person,
- 17 with the approximate date the photograph was taken;
- 18 (15) A description of the clothing the missing person was
- 19 believed to be wearing;
- 20 (16) A description of items that might be with the missing
- 21 person, such as jewelry, accessories, shoes, or boots;



- 1 (17) Information on the missing person's electronic
- 2 communication devices such as cell phone numbers and
- 3 email addresses;
- 4 (18) The reasons why the reporting person believes that the
- 5 person is missing;
- 6 (19) Name and location of the missing person's school or
- 7 employer;
- 8 (20) Name and location of the missing person's dentist and
- 9 primary care physician;
- 10 (21) Circumstances that may indicate that the disappearance
- 11 was not voluntary;
- 12 (22) Circumstances that may indicate that the missing
- 13 person may be at risk of injury or death;
- 14 (23) A description of the possible means of transportation
- 15 of the missing person, including make, model, color,
- 16 license, and vehicle identification number of a
- 17 vehicle;
- 18 (24) Identifying information about a known or possible
- 19 abductor, and about any person or persons last seen
- 20 with the missing person including:
- 21 (A) Name;
- 22 (B) Physical description;



- 1 (C) Date of birth;
- 2 (D) Identifying marks;
- 3 (E) A description of possible means of
- 4 transportation, including the make, model, color,
- 5 license, and vehicle identification number of a
- 6 vehicle; and
- 7 (F) Known associates;
- 8 (25) Other information that can aid in locating the missing
- 9 person; and
- 10 (26) Date of last contact with the missing person.

11 **§ -4 Notification and follow-up action.** (a) The law
12 enforcement agency shall provide a person making a missing
13 person report, a family member of the missing person, or other
14 person in a position to help the law enforcement agency locate
15 the missing person, with general information about the handling
16 of the missing person case or about intended efforts in the
17 case, provided that the law enforcement agency determines that
18 disclosure would not adversely affect its ability to locate or
19 protect the missing person, or to apprehend or prosecute any
20 person criminally involved in the disappearance.

21 (b) The law enforcement agency shall advise the person
22 making the report, the family member of the missing person, or



1 other person in a position to help locate the missing person to
2 promptly contact the law enforcement agency to provide
3 additional information and materials that will aid in locating
4 the missing person. The law enforcement agency shall also
5 notify the person of the specific information or materials
6 needed, such as credit or debit cards and other banking
7 information, and records of cell phone use.

8 (c) The law enforcement agency shall notify the person
9 making a missing person report that any DNA samples provided for
10 the missing person case are provided on a voluntary basis and
11 will be used solely to help locate or identify the missing
12 person.

13 (d) The law enforcement agency is encouraged to make
14 available informational materials, such as publications or
15 electronic or other media, that advise the public about how the
16 information or materials identified in this section are used to
17 help locate or identify missing persons.

18 (e) If a person identified in a missing person report
19 remains missing after thirty days, and the additional
20 information and materials specified below have not been
21 received, the law enforcement agency shall attempt to obtain:



1 (1) DNA samples from family members and from the missing
2 person along with any needed documentation, including
3 consent forms, required for the use of local, state,
4 or national DNA databases including the Federal Bureau
5 of Investigation's National DNA Index System ("NDIS");

6 (2) Dental information and x-rays and an authorization to
7 release dental or skeletal x-rays of the missing
8 person;

9 (3) Additional photographs of the missing person that may
10 aid the investigation or identification; and

11 (4) Fingerprints.

12 (f) The law enforcement agency shall not be required to
13 obtain written authorization before it releases publicly any
14 photograph that would aid in the investigation or identification
15 of the missing person.

16 (g) All DNA samples obtained in missing person cases shall
17 be immediately forwarded to the appropriate county police
18 department's forensic sciences division for analysis,
19 processing, and recording in the missing persons database of the
20 Federal Bureau of Investigation's National DNA Index System.

21 (h) Information relevant to the Federal Bureau of
22 Investigation's violent criminal apprehension program shall be



1 forwarded to the county police department for entry into the
2 violent criminal apprehension program database as soon as
3 possible.

4 (i) This section shall not preclude a law enforcement
5 agency from attempting to obtain the materials identified in
6 this section before the expiration of the thirty-day period.

7 § -5 **High-risk missing persons.** (a) A law enforcement
8 agency shall consider, but shall not be limited to, the
9 following criteria in determining whether an individual is a
10 high-risk missing person:

11 (1) The person is missing as a result of an abduction by a
12 stranger;

13 (2) The person is missing under suspicious circumstances;

14 (3) The person is missing under unknown circumstances;

15 (4) The person is missing under known dangerous
16 circumstances;

17 (5) The person is missing more than thirty days;

18 (6) The person has already been designated as a high-risk
19 missing person by another law enforcement agency;

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

21 (A) The missing person is in need of medical
22 attention or prescription medication;



- 1 (B) The missing person does not have a pattern of
- 2 running away or disappearing;
- 3 (C) The missing person may have been abducted by a
- 4 non-custodial parent;
- 5 (D) The missing person is a person with a disability;
- 6 (E) The missing person is under the age of eighteen;
- 7 (F) The missing person has been the subject of past
- 8 threats or acts of violence; or

9 (8) Any other factor that, in the judgment of the law
10 enforcement agency, may determine that the missing
11 person is at risk.

12 (b) Upon receiving a missing person report, a law
13 enforcement agency shall immediately determine whether there is
14 a basis to determine that the missing person is a high-risk
15 missing person. If a law enforcement agency has previously
16 determined that a missing person is not a high-risk missing
17 person, but obtains new information, it shall immediately
18 determine whether the new information indicates that the missing
19 person is a high-risk missing person.

20 (c) Risk assessments identified in this section shall be
21 performed no later than twelve hours after the initial missing



1 person report is filed or the new information is provided to the
2 law enforcement agency.

3 (d) Law enforcement agencies shall establish written
4 protocols for the handling of missing person cases to accomplish
5 the purpose of this chapter.

6 (e) When a law enforcement agency determines that a
7 missing person is a high-risk missing person it shall notify the
8 county police departments. The law enforcement agency shall
9 immediately provide to the county police departments the
10 information most likely to aid in the location and safe return
11 of the high-risk missing person, and shall provide as soon as
12 practicable all other information obtained relating to the case.

13 (f) The county police departments shall promptly notify
14 all law enforcement agencies within the State of the information
15 that will aid in the prompt location and safe return of the
16 high-risk missing person.

17 (g) The law enforcement agencies that receive the
18 notification from any county police department shall notify
19 officers to issue lookouts for the missing person or a suspected
20 abductor.

21 (h) The county police departments shall immediately enter
22 all collected information relating to the missing person case in



1 available local, state, federal, and national databases. The
2 information shall conform with applicable guidelines relating to
3 the databases, and shall be entered as follows:

4 (1) A missing person report in a high-risk missing person
5 case as well as relevant information provided in the
6 report shall be entered in the National Crime
7 Information Center database within no more than two
8 hours of the determination that the missing person is
9 a high-risk missing person. All other missing person
10 reports, as well as relevant information provided in
11 the report, shall be entered into the National Crime
12 Information Center database within twenty-four hours
13 after the missing person report is received.

14 Supplemental information in high-risk missing person
15 cases should be entered as soon as practicable.

16 (2) All DNA profiles shall be immediately forwarded to the
17 appropriate county police department's forensic
18 sciences division for analysis, processing, and
19 recording in the missing persons database of the
20 Federal Bureau of Investigation's National DNA Index
21 System.



1 (3) Information relevant to the Federal Bureau of
2 Investigation's violent criminal apprehension program
3 shall be forwarded to the county police departments
4 for entry into the violent criminal apprehension
5 program database as soon as possible.

6 (i) The county police departments shall ensure that a
7 person entering data relating to medical or dental records into
8 criminal justice databases is specifically trained to enter the
9 information into these databases. The county police departments
10 are strongly encouraged either to use persons with specific
11 expertise in medical or dental records for this purpose or
12 consult with the chief medical examiner of the city and county
13 of Honolulu to ensure the accuracy and completeness of
14 information entered into the databases.

15 (j) Pursuant to any applicable state criteria, law
16 enforcement agencies should also provide for the prompt use of a
17 Maile Amber alert, in accordance with part II, or public
18 dissemination of photographs in appropriate high-risk cases.

19 (k) The county police departments shall provide
20 information and training, including material posted on their
21 respective internet site, to educate property owners, property
22 managers, and security personnel about Code Adam procedures to



1 alert managers, security personnel, and other users of a
2 building that a child is missing. This information and training
3 shall include the following procedures:

4 (1) Notifying security personnel that a child is missing;

5 (2) Obtaining a detailed description of the child,
6 including name, age, eye and hair color, height,
7 weight, clothing, and shoes;

8 (3) Issuing a Code Adam alert and providing a description
9 of the child, using a fast and effective means of
10 communication;

11 (4) Establishing a central point of contact;

12 (5) Monitoring all points of egress from the building
13 while a Code Adam alert is in effect; and

14 (6) Conducting a thorough search of the building.

15 **§ -6 Reporting of unidentified persons and human**

16 **remains.** (a) The county medical examiner or coroner shall
17 provide information to law enforcement agencies about best
18 practices for handling death scene investigations and shall
19 identify and disseminate any publications or training
20 opportunities that may be available to law enforcement agencies
21 or law enforcement officers concerning the handling of death
22 scene investigations.



1 (b) After performing any death scene investigation deemed
2 appropriate under the circumstances, the official with custody
3 of the human remains shall ensure that the human remains are
4 delivered to the county medical examiner or coroner.

5 (c) Any person with custody of human remains that are not
6 identified within twenty-four hours of discovery shall promptly
7 notify the office of the county medical examiner or coroner of
8 the location of those remains.

9 (d) If the person with custody of remains cannot determine
10 whether or not the remains found are human, it shall notify the
11 county medical examiner or coroner of the existence of possible
12 human remains.

13 **§ -7 Responsibilities for the identification of**
14 **unidentified persons or human remains.** (a) If the official
15 with custody of the human remains is not a medical examiner, the
16 official shall promptly transfer the unidentified remains to the
17 medical examiner or coroner to determine the identity of the
18 human remains.

19 (b) Notwithstanding any other action deemed appropriate
20 for the handling of the human remains, the county medical
21 examiner or coroner shall make reasonable attempts to identify



1 promptly any human remains. These actions may include but are
2 not limited to obtaining:

- 3 (1) Photographs of the human remains;
- 4 (2) Dental or skeletal x-rays;
- 5 (3) Photographs of items found with the human remains;
- 6 (4) Fingerprints from the remains;
- 7 (5) Tissue samples suitable for DNA typing;
- 8 (6) Samples of whole bone or hair suitable for DNA typing;
- 9 and
- 10 (7) Any other information that may support identification
- 11 efforts.

12 (c) No person shall dispose of unidentified human remains,
13 or engage in any action that will materially affect the
14 unidentified human remains before the county medical examiner or
15 coroner obtains samples suitable for DNA identification and
16 archiving, takes photographs of the unidentified person or human
17 remains, and completes all other appropriate steps for
18 identification.

19 (d) Cremation of unidentified human remains is prohibited;
20 except as provided in sections 346-15 and 841-16.

21 (e) The county medical examiner or coroner shall make
22 reasonable efforts to obtain prompt DNA analysis of biological



1 samples, if the human remains have not been identified by other
2 means within thirty days.

3 (f) The county medical examiner or coroner shall seek
4 support from appropriate federal agencies for human remains
5 identification efforts. Such support may include but is not
6 limited to available mitochondrial or nuclear DNA testing,
7 federal grants for DNA testing, or federal grants for crime
8 laboratory improvements or improvements to the medical examiner
9 or coroner's facilities.

10 (g) The county medical examiner or coroner shall promptly
11 forward to the county police department any information that can
12 aid in the identification of missing persons. The police
13 department shall provide the staff of the chief medical examiner
14 or coroner of the same county with training about the data
15 needed by the police department and the formats in which the
16 data shall be recorded.

17 (h) Nothing in this chapter shall be interpreted to
18 preclude the county medical examiner or coroner or any county
19 police department from pursuing other efforts to identify
20 unidentified human remains, including efforts to publicize
21 information, descriptions, or photographs that may aid in the
22 identification of the unidentified remains, allow family members



1 to identify a missing person, or seek to protect the dignity of
2 the missing person.

3 **PART II. MAILE AMBER ALERT PLAN; ESTABLISHMENT**

4 **§ -21 Hawaii Maile Amber alert plan; establishment. (a)**

5 There is established a Maile Amber alert plan, which requires
6 the mayor of each county, in consultation with the county police
7 departments, to develop and regularly update prompt response and
8 notification policies for the county police departments in cases
9 of child abduction. The policies and procedures shall also
10 apply to other agencies that could be involved in a child
11 abduction alert, as well as for broadcasters who participate in
12 activating the Maile Amber alert plan.

13 (b) The policies and procedures shall include the
14 following:

- 15 (1) The recommended basic language for the text of the
16 information to be broadcast about a child abduction;
- 17 (2) The procedures for transferring information regarding
18 the child and the abduction of the child from a law
19 enforcement agency to the broadcasters;
- 20 (3) The information that shall be provided to the
21 broadcasters and to the public by the reporting law
22 enforcement agency, including the specific agency that



1 a person with information about the abduction should
2 contact, and exactly how to contact that agency; and

3 (4) Recommendations on the extent of the geographical area
4 to which a child abduction emergency alert should be
5 broadcast.

6 (c) The mayor of each county, in consultation with the
7 appropriate county police department, shall review the Maile
8 Amber alert plans adopted by other states for guidance in
9 developing prompt and effective response and notification
10 policies and procedures.

11 § -22 **Activation of the Maile Amber alert plan.** (a)

12 The Maile Amber alert plan shall be activated only when all of
13 the following criteria are met:

14 (1) The child has been a victim of an abduction;

15 (2) The child is in danger of serious bodily harm or
16 death;

17 (3) The suspected abductor or child is likely to be in the
18 State; and

19 (4) There is a likelihood that someone, provided with a
20 description through the child abduction alert system,
21 will observe the suspected abductor, the abducted
22 child, or the vehicle involved, if any, and report the



1 information to a county police department or other law
2 enforcement agency.

3 (b) Notwithstanding subsection (a), if all of the criteria
4 for activating the Maile Amber alert plan are not met, but any
5 county police department makes a determination that notifying
6 the public through participating broadcasters could be
7 beneficial, the county police department may activate the Maile
8 Amber alert plan.

9 (c) The Maile Amber alert plan shall not be activated:

10 (1) In cases of parental kidnapping in which there is no
11 obvious danger to the child;

12 (2) In cases of runaways;

13 (3) In cases in which the child's behavior caused or
14 contributed to the child's disappearance; or

15 (4) When any county police department determines that
16 releasing information regarding the child or the
17 abduction may jeopardize the investigation or the
18 safety of the child.

19 **PART III. MANDATORY REPORT OF CERTAIN VIOLENT CRIMES**

20 **§ -31 Reporting of certain crimes to the Federal Bureau**
21 **of Investigation.** The county police departments shall be
22 responsible for fostering and coordinating the State's



1 participation in the violent criminal apprehension program
2 administered by the United States Federal Bureau of
3 Investigation. Each chief of police shall compile, in a format
4 compatible with the national violent criminal apprehension
5 program database maintained by the Federal Bureau of
6 Investigation, and regularly transmit to the Federal Bureau of
7 Investigation for inclusion in the violent criminal apprehension
8 program database, information regarding:

- 9 (1) Solved or unsolved homicides or homicide attempts;
- 10 (2) Missing persons, as defined in section -2;
- 11 (3) Unidentified dead bodies, where the manner of death is
12 known or suspected to be homicide;
- 13 (4) Sexual assaults or attempted sexual assaults; and
- 14 (5) Crimes committed by sex offenders required to register
15 in the State pursuant to state or federal sex offender
16 registration requirements."

17 SECTION 3. Section 346-15, Hawaii Revised Statutes, is
18 amended by amending subsection (f) to read as follows:

19 "(f) All unclaimed corpses shall be cremated~~[-]~~; provided
20 that samples suitable for DNA identification and archiving have
21 been taken pursuant to section -7. The department of human
22 services shall authorize the cremation of unclaimed corpses."



1 SECTION 4. Section 841-16, Hawaii Revised Statutes, is
2 amended to read as follows:

3 "§841-16 Disposal of decomposed remains. The coroner's
4 physician may order forthwith the cremation of the remains of
5 any person appearing to have come to death under any of the
6 circumstances set forth in section 841-3 if, in the coroner's
7 physician's opinion, the remains constitute an immediate menace
8 to the public health. The cremation shall be supervised by the
9 coroner and shall take place only after a reasonable amount of
10 investigation has taken place in an effort to establish the
11 identity of the remains and the cause of death~~[-]~~; provided that
12 samples suitable for DNA identification and archiving have been
13 taken pursuant to section -7. Such cremation shall take
14 place after a burial-transit permit authorizing cremation has
15 been secured from the local agent of the department of health."

16 SECTION 5. Statutory material to be repealed is bracketed
17 and stricken. New statutory material is underscored.

18 SECTION 6. This Act shall take effect upon its approval.
19

INTRODUCED BY: Mauike B. Lee

JAN 24 2006

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HB 2544

Report Title:

Missing Persons; Identification

Description:

Improves the capacity of law enforcement agencies to locate and return missing persons by using technology and databases. Establishes a required Maile Amber alert plan and Code Adam procedures.

