
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 needs to
2 incorporate and adopt rapid advances in technology and national
3 databases to share information statewide to solve missing
4 persons crimes. This Act authorizes law enforcement agencies to
5 use sophisticated technology and databases to solve missing
6 persons and other cases. In addition, this Act protects our
7 children and improves the State of Hawaii's existing procedures
8 to locate missing persons.

9 The purpose of this Act is to improve the ability of law
10 enforcement agencies to locate and return missing persons by
11 establishing new procedures for missing persons cases.

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

15 **"CHAPTER**

16 **MISSING PERSONS PROTECTION AND IDENTIFICATION**

17 **§ -1 Definitions.** As used in this chapter:



1 "Abduction" means a case in which a person is unwillingly
2 removed from the person's environment without the person's
3 permission or under circumstances that indicate that the person
4 is in physical danger.

5 "At-risk missing person" means a person whose whereabouts
6 are currently unknown and circumstances indicate that the person
7 may be at risk of injury or death, including a person who has
8 Alzheimer's disease, has suicidal ideations, has a mental
9 illness, is elderly, or is disabled and on life-saving
10 medications.

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

12 "DNA" means deoxyribonucleic acid.

13 "Familial relationship" means a relationship that
14 establishes two individuals as members of a family.

15 "Family member" means:

- 16 (1) A person related by blood, legal custody, or marriage;
17 (2) A child who lives with an adult and for whom the adult
18 permanently assumes and discharges parental
19 responsibility; or
20 (3) A person with whom the individual shares or has
21 shared, within the last year, a mutual residence.



1 "Help locate" means an investigation that is conducted when
2 a reporting individual contacts a law enforcement agency to
3 request assistance to find another person with whom there has
4 not been contact.

5 "Law enforcement agency" means any county police
6 department.

7 "Missing person" means a person who is missing and who is
8 under a physical or mental disability that subjects the person
9 to personal and immediate danger.

10 **§ -2 Missing person report.** (a) All law enforcement
11 agencies within the State shall accept without delay any report
12 of a missing person. No law enforcement agency shall refuse to
13 accept a missing person report on the basis that:

- 14 (1) The missing person is an adult;
15 (2) The circumstances do not indicate foul play;
16 (3) The person has been missing for a short period of
17 time;
18 (4) The person has been missing for a long period of time;
19 (5) The reporting individual cannot provide all of the
20 information requested by the law enforcement agency;
21 or



1 (6) The reporting individual lacks a familial or other
2 relationship with the missing person.

3 (b) All law enforcement agencies shall accept missing
4 persons reports made in person. An initial report may be made
5 by telephone; provided that the law enforcement agency shall
6 require confirmation in person.

7 (c) In accepting a missing persons report, a law
8 enforcement agency shall gather information relating to the
9 missing person, including:

- 10 (1) The name of the missing person, including alternative
11 names used;
- 12 (2) The date of birth;
- 13 (3) Identifying marks, such as birthmarks, moles, tattoos,
14 and scars;
- 15 (4) Height and weight;
- 16 (5) Gender;
- 17 (6) Race;
- 18 (7) Current hair color and true or natural hair color;
- 19 (8) Eye color;
- 20 (9) Prosthetics, surgical implants, or cosmetic implants;
- 21 (10) Physical anomalies;
- 22 (11) Home address;



- 1 (12) Driver license number or social security number;
- 2 (13) A photograph or photographs of the missing person,
3 with the approximate date the photograph was taken;
- 4 (14) A description of the clothing the missing person was
5 believed to be wearing;
- 6 (15) A description of items that might be with the missing
7 person, such as jewelry, accessories, shoes, or boots;
- 8 (16) Information on the missing person's electronic
9 communication devices such as mobile phone numbers and
10 email addresses;
- 11 (17) The reasons why the reporting person believes that the
12 person is missing;
- 13 (18) Name and location of the missing person's school or
14 employer;
- 15 (19) Name and location of the missing person's dentist and
16 primary care physician;
- 17 (20) Circumstances that may indicate that the disappearance
18 was not voluntary;
- 19 (21) Circumstances that may indicate that the missing
20 person may be at risk of injury or death;
- 21 (22) A description of the possible means of transportation
22 of the missing person, including make, model, color,



- 1 license, and vehicle identification number of a
2 vehicle;
- 3 (23) Identifying information about a known or possible
4 abductor, and about any person last seen with the
5 missing person including:
- 6 (A) Name;
- 7 (B) Physical description;
- 8 (C) Date of birth;
- 9 (D) Identifying marks;
- 10 (E) A description of possible means of
11 transportation, including the make, model, color,
12 license, and vehicle identification number of a
13 vehicle;
- 14 (F) Known associates; and
- 15 (G) Contact information such as home or work address
16 and home or work telephone numbers;
- 17 (24) Date of last contact with the missing person; and
- 18 (25) Other information that can aid in locating the missing
19 person.

20 **§ -3 Help locate.** Time permitting, a help locate shall
21 be initiated whenever a law enforcement agency receives a report



1 requesting assistance to find a person under the following
2 circumstances:

3 (1) There is no evidence that the missing person is in the
4 law enforcement agency's jurisdiction;

5 (2) The reporting individual is calling from outside the
6 state and there is no evidence to indicate that the
7 missing person is in danger; or

8 (3) The circumstances indicate that the disappearance is
9 voluntary and that the person has capacity and is
10 capable of caring for the person's self.

11 **§ -4 Notification and follow-up action.** (a) The law
12 enforcement agency may provide the reporting individual, a
13 family member of the missing person, or other person in a
14 position to help the law enforcement agency locate the missing
15 person, with general information about the handling of the
16 missing person case or about intended efforts in the case;
17 provided that the law enforcement agency determines that
18 disclosure will 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 reporting
22 individual, the family member of the missing person, or other



1 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 mobile phone use.

8 (c) When deemed appropriate by the law enforcement agency,
9 the law enforcement agency shall notify the reporting individual
10 that the agency may seek DNA samples from family members of the
11 missing person and that any DNA samples provided for the missing
12 person case are provided on a voluntary basis and will be used
13 solely to help locate or identify the missing person.

14 (d) If a person identified in a missing person report
15 remains missing after three months, the law enforcement agency
16 shall attempt to obtain:

17 (1) DNA samples from family members and from the missing
18 person along with any needed documentation, including
19 consent forms, required for the use of local, state,
20 or national DNA databases including the Federal Bureau
21 of Investigation's National DNA Index System;



- 1 (2) Additional photographs of the missing person that may
- 2 aid the investigation or identification;
- 3 (3) Fingerprints; and
- 4 (4) Dental information and x-rays and an authorization to
- 5 release dental or skeletal x-rays of the missing
- 6 person; provided that the law enforcement agency may
- 7 wait longer than three months before attempting to
- 8 collect dental information and x-rays and an
- 9 authorization to release dental or skeletal x-rays of
- 10 the missing person as the law enforcement agency deems
- 11 appropriate.

12 (e) 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 (f) Based on the results of an investigation, an

17 investigator shall determine which:

- 18 (1) DNA samples from at-risk missing persons cases
- 19 pursuant to section -5 shall be immediately
- 20 forwarded; and
- 21 (2) DNA samples shall be forwarded at a later date to the
- 22 appropriate forensic sciences laboratory for analysis,



1 processing, and recording in the missing persons
2 database of the Federal Bureau of Investigation's
3 National DNA Index System; provided that a DNA sample
4 shall be forwarded within three months.

5 (g) Subsection (d) shall not preclude a law enforcement
6 agency from attempting to obtain the materials identified in
7 this section before the expiration of the three month period.

8 (h) A law enforcement agency shall direct its missing
9 persons unit to routinely review old missing persons case files
10 for appropriate cases from which to submit DNA samples for
11 analysis, processing, and recording in the missing persons
12 database of the Federal Bureau of Investigation's National DNA
13 Index System.

14 **§ -5 At-risk missing persons.** (a) A law enforcement
15 agency shall consider, but shall not be limited to, the
16 following criteria in determining whether an individual is an
17 at-risk missing person:

- 18 (1) The person is missing as a result of abduction by a
19 stranger;
- 20 (2) The person is missing under suspicious circumstances;
- 21 (3) The person is missing under known dangerous
22 circumstances;



- 1 (4) There is evidence that the person is at risk because:
- 2 (A) The missing person is in need of medical
- 3 attention or prescription medication;
- 4 (B) The missing person does not have a pattern of
- 5 running away or disappearing;
- 6 (C) The missing person is under the age of eighteen;
- 7 or
- 8 (D) The missing person has been the subject of past
- 9 threats or acts of violence; or
- 10 (5) Any other factor that, in the judgment of the law
- 11 enforcement agency, may determine that the missing
- 12 person is at risk.
- 13 (b) Upon receiving a missing person report, a law
- 14 enforcement agency shall immediately determine whether there is
- 15 a basis to determine that the missing person is an at-risk
- 16 missing person. If a law enforcement agency has previously
- 17 determined that a missing person is not an at-risk missing
- 18 person, but obtains new information, it shall immediately
- 19 determine whether the new information indicates that the missing
- 20 person is an at-risk missing person.



1 (c) Risk assessments shall be performed no later than
2 twelve hours after the initial missing person report is filed or
3 the new information is provided to the law enforcement agency.

4 (d) Law enforcement agencies shall establish written
5 protocols for the handling of missing person cases for the
6 purposes of this chapter.

7 (e) When a law enforcement agency determines that a
8 missing person is an at-risk missing person and the law
9 enforcement agency concludes that the missing person may have
10 left its jurisdiction, it shall notify other law enforcement
11 agencies. The law enforcement agency shall immediately provide
12 to the other law enforcement agencies the information most
13 likely to aid in the location and safe return of the at-risk
14 missing person, and shall provide as soon as practicable all
15 other information obtained relating to the case.

16 (f) Any law enforcement agency that receives notification
17 from another law enforcement agency shall notify officers within
18 its jurisdiction to issue lookouts for the missing person or a
19 suspected abductor.

20 (g) The law enforcement agencies shall immediately enter
21 all collected information relating to the missing person case in
22 available local, state, federal, and national databases. The



1 information shall conform with applicable guidelines relating to
2 the databases, and shall be entered as follows:

3 (1) A missing person report, as well as relevant
4 information provided in the report, shall be entered
5 into the National Crime Information Center database
6 within three months after the missing person report is
7 received. If there is information that leads an
8 investigator to believe that the missing person may
9 have left the investigator's jurisdiction, the
10 information may be immediately placed in the National
11 Crime Information Center database. Supplemental
12 information in at-risk missing person cases should be
13 entered as soon as practicable; and

14 (2) All DNA samples shall be immediately forwarded to the
15 appropriate forensic sciences laboratory for analysis,
16 processing, and recording in the missing persons
17 database of the Federal Bureau of Investigation's
18 National DNA Index System.

19 (h) All law enforcement agencies shall ensure that a
20 person entering data relating to medical or dental records into
21 criminal justice databases is specifically trained to enter the
22 information into these databases. The law enforcement agencies



1 shall use either a person with specific expertise in medical or
2 dental records for this purpose or consult with the chief
3 medical examiner of the city and county of Honolulu to ensure
4 the accuracy and completeness of information entered into the
5 databases.

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

7 **remains.** (a) This section shall apply only after a
8 determination that the human remains are not historic or
9 prehistoric remains that are subject to the provisions of
10 section 6E-43 through section 6E-43.6, and related
11 administrative rules.

12 (b) The county medical examiner or coroner shall provide
13 information to law enforcement agencies about best practices for
14 handling death scene investigations and shall identify and
15 disseminate any publications or training opportunities that may
16 be available to law enforcement agencies or law enforcement
17 officers concerning the handling of death scene investigations.

18 (c) After performing any death scene investigation deemed
19 appropriate under the circumstances, the official with custody
20 of the human remains shall ensure that the human remains are
21 delivered to the county medical examiner or coroner.



1 (d) Any person with custody of human remains that are not
2 identified within twenty-four hours of discovery shall promptly
3 notify the office of the county medical examiner or coroner of
4 the location of those remains.

5 (e) If the person with custody of remains cannot determine
6 whether or not the remains found are human, the person shall
7 notify the county medical examiner or coroner of the existence
8 of possible human remains.

9 **§ -7 Responsibilities for the identification of**
10 **unidentified persons or human remains.** (a) This section shall
11 apply only after a determination that the human remains are not
12 historic or prehistoric remains that are subject to the
13 provisions of section 6E-43 through section 6E-43.6, and related
14 administrative rules.

15 (b) If the official with custody of the human remains is
16 not a medical examiner or coroner, the official shall promptly
17 transfer the unidentified remains to the medical examiner or
18 coroner to determine the identity of the human remains.

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

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

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

11 "**§841-16 Disposal of decomposed remains.** The coroner's
12 physician may order forthwith the cremation of the remains of
13 any person appearing to have come to death under any of the
14 circumstances set forth in section 841-3 if, in the coroner's
15 physician's opinion, the remains constitute an immediate menace
16 to the public health. The cremation shall be supervised by the
17 coroner and shall take place only after a reasonable amount of
18 investigation has taken place in an effort to establish the
19 identity of the remains and the cause of death[-]; provided that
20 samples suitable for DNA identification and archiving have been
21 taken pursuant to section -7. Such cremation shall take



1 place after a burial-transit permit authorizing cremation has
2 been secured from the local agent of the department of health."

3 SECTION 5. Statutory material to be repealed is bracketed
4 and stricken. New statutory material is underscored.

5 SECTION 6. This Act shall take effect on January 1, 2112.



S.B. NO. 1113
S.D. 1
H.D. 1

Report Title:

Missing Persons; Identification

Description:

Improves the capacity of law enforcement agencies to locate and return missing persons by adopting new procedures and by using technology and databases. Effective date of January 1, 2112.
(SB1113 HD1)

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