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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 851 Session of  
2015

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INTRODUCED BY ZIMMERMAN, CUTLER, HICKERNELL, ROZZI, MILLARD,  
WATSON, READSHAW, COHEN, MAJOR AND B. MILLER, MARCH 26, 2015

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REFERRED TO COMMITTEE ON JUDICIARY, MARCH 26, 2015

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AN ACT

1 Amending Title 18 (Crimes and Offenses) of the Pennsylvania  
2 Consolidated Statutes, in kidnapping, further providing for  
3 duties relating to missing children and other missing  
4 persons.

5 The General Assembly of the Commonwealth of Pennsylvania  
6 hereby enacts as follows:

7 Section 1. Section 2908 of Title 18 of the Pennsylvania  
8 Consolidated Statutes is amended to read:

9 § 2908. Missing children and other missing persons.

10 (a) Duties of law enforcement agencies.--Law enforcement  
11 agencies shall have the following duties with respect to missing  
12 children:

13 (1) To investigate a report of a missing child  
14 immediately upon receipt of the report regardless of the age  
15 of the missing child or the circumstances surrounding the  
16 disappearance of the child. In no case shall law enforcement  
17 agencies impose a mandatory waiting period prior to  
18 commencing the investigation of a missing child.

19 (2) When conducting a missing child investigation, to

1 record all information relevant to the missing child and the  
2 circumstances surrounding the disappearance of the missing  
3 child on the appropriate law enforcement investigative  
4 report.

5 (3) To make an entry into the Missing Persons File  
6 through the Commonwealth Law Enforcement Assistance Network  
7 (CLEAN) in accord with Pennsylvania State Police policy and  
8 procedures immediately upon receipt of sufficient  
9 identification information on the missing child.

10 (3.1) To make an entry into the Unidentified Persons  
11 File through Commonwealth Law Enforcement Assistance Network  
12 (CLEAN) in accord with Pennsylvania State Police policy and  
13 procedures immediately upon:

14 (i) taking custody of an unidentified living child,  
15 such as an infant, or a physically or mentally disabled  
16 child; or

17 (ii) discovering an unidentified deceased child.

18 (4) To insure timely cancellation of any entry made  
19 pursuant to this section where the missing child has returned  
20 or is located.

21 (a.1) Unidentified deceased [children] persons.--Law  
22 enforcement agencies [and], coroners and medical examiners  
23 shall, with respect to unidentified deceased [children]  
24 persons, have the duty to make an entry into the Unidentified  
25 Deceased Person File through the Commonwealth Law Enforcement  
26 Assistance Network (CLEAN) in accordance with Pennsylvania  
27 State Police policy and procedures immediately upon observing  
28 or receiving any descriptive information on an unidentified  
29 deceased [child] person.

30 [(b) Definition.--As used in this section the term

1 "child" means a person under 18 years of age.]

2 (c) DNA submissions.--Law enforcement agencies shall have  
3 the following duties with respect to missing persons:

4 (1) To inform the person making the missing person  
5 report within 30 days of the receipt of the report of all of  
6 the following:

7 (i) Any person making a missing person report may  
8 provide an appropriate personal item belonging to the  
9 missing person.

10 (ii) A parent or other appropriate person may submit  
11 a DNA sample for forensic analysis.

12 (2) To provide any person notified under paragraph (1)  
13 (ii) with a copy of a release form prepared and distributed  
14 by the Pennsylvania State Police that authorizes a parent or  
15 other appropriate person to voluntarily provide a DNA sample  
16 or an appropriate personal article belonging to the missing  
17 person for purposes of DNA sampling. The release form shall  
18 explain that the results of any DNA analysis will be used  
19 solely for the purpose of identifying the missing person.

20 (3) To submit any sample or item obtained under  
21 paragraph (1), as soon as practicable after receipt and  
22 verification of the status of the missing person, along with  
23 a copy of the missing person report, an executed release form  
24 and any supplemental information, to the Pennsylvania State  
25 Police in accord with Pennsylvania State Police policy and  
26 procedures.

27 (4) To immediately notify the Pennsylvania State Police  
28 when any missing person on whose behalf a submission was made  
29 under paragraph (3) is located or identified.

30 (d) Specific duties of the Pennsylvania State Police.--In

1 addition to the duties set forth in subsections (a), (a.1) and  
2 (c), the Pennsylvania State Police shall have the following  
3 duties with respect to missing persons:

4 (1) To establish policy and procedures to implement the  
5 requirements of this section.

6 (2) To develop a model kit to be used by law enforcement  
7 to take DNA samples from parents or other appropriate  
8 persons.

9 (3) To receive DNA samples and items submitted under  
10 subsection (c).

11 (4) To conduct forensic DNA analysis of samples and  
12 items submitted under subsection (c) utilizing appropriate  
13 DNA typing tests, which include nuclear and mitochondrial DNA  
14 typing, and to include the results in any appropriate missing  
15 person or unidentified human remains database in accord with  
16 established policy and procedures.

17 (5) To notify the submitting law enforcement agency when  
18 a missing person is located or identified utilizing DNA.

19 (6) Except as provided in subsection (f), to maintain  
20 the confidentiality of the results of forensic DNA analysis  
21 conducted under this section.

22 (e) Use of DNA samples following a missing person's return,  
23 location or positive identification.--

24 (1) Unless, within 90 days after a missing person is  
25 returned, located or positively identified, a district  
26 attorney provided notice to the Pennsylvania State Police  
27 that good cause exists to believe that a criminal offense has  
28 occurred relating to the disappearance of the missing person  
29 and that a submitted DNA sample or the results of any  
30 forensic DNA analysis conducted thereon may be evidence in

1 the prosecution of the offense, all DNA samples received  
2 under subsection (c) and the results of any forensic analysis  
3 performed on the samples shall be destroyed within 30 days  
4 after the time for providing notice has expired.

5 (2) Notice from the district attorney shall specifically  
6 state the offense which the district attorney has good cause  
7 to believe has occurred.

8 (3) If a prosecution of the stated offense is not  
9 commenced during the applicable period of limitations set  
10 forth in 42 Pa.C.S. Ch. 55 (relating to limitation of time),  
11 the DNA samples received under subsection (c) and the results  
12 of any forensic DNA analysis performed on the DNA samples  
13 shall be destroyed.

14 (f) Confidentiality.--

15 (1) Except as provided in paragraph (2), the results of  
16 a forensic DNA analysis performed on a sample or item  
17 submitted under subsection (c) are confidential.

18 (2) The Pennsylvania State Police may only disclose the  
19 results of a forensic DNA analysis performed under this  
20 section to:

21 (i) Law enforcement agencies.

22 (ii) Coroners and medical examiners.

23 (iii) A parent or other appropriate person  
24 voluntarily providing a DNA sample or an article, under  
25 subsection (c).

26 (3) A person who collects, processes or stores a DNA  
27 sample from a living person for forensic DNA analysis under  
28 this section and who intentionally violates this subsection  
29 is liable to the living person who donated the DNA sample for  
30 civil damages in the amount of \$5,000 for each violation.

1 (g) Other forensic identification evidence.--

2 (1) In addition to any other action taken, law  
3 enforcement agencies shall inform the person making the  
4 missing person report that the person may provide copies of  
5 the missing person's dental records or X-rays or both, for  
6 inclusion in the law enforcement agency's missing person  
7 investigative file.

8 (2) This subsection shall not apply if the missing  
9 person's dental records or X-rays have previously been  
10 obtained.

11 (h) Definitions.--As used in this section, the following  
12 words and phrases shall have the meanings given to them in this  
13 subsection:

14 "Appropriate personal item." An item of personal property  
15 belonging to a missing person that is likely to contain the  
16 missing person's DNA.

17 "Child." A person under 18 years of age.

18 "DNA." Deoxyribonucleic acid. DNA is located in the cells  
19 and provides an individual's personal genetic blueprint. DNA  
20 encodes genetic information that is the basis of human heredity  
21 and forensic identification.

22 "DNA sample." A blood or tissue sample provided by a parent  
23 or other appropriate person under this section for analysis or  
24 storage, or both.

25 Section 2. This act shall take effect in 180 days.