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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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HOUSE BILL

No. 1989 Session of  
2011

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INTRODUCED BY CUTLER, V. BROWN, CAUSER, CLYMER, CREIGHTON,  
DENLINGER, FREEMAN, GEIST, GINGRICH, HENNESSEY, HICKERNELL,  
KAUFFMAN, KILLION, KNOWLES, KORTZ, MAJOR, MILLARD, MILLER,  
MOUL, MURT, QUINN, ROCK, SWANGER, TOOHL, VULAKOVICH AND  
YOUNGBLOOD, NOVEMBER 16, 2011

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REFERRED TO COMMITTEE ON JUDICIARY, NOVEMBER 16, 2011

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AN ACT

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

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

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

8 § 2908. Missing children and other missing persons.

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

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

1           (2) When conducting a missing child investigation, to  
2 record all information relevant to the missing child and the  
3 circumstances surrounding the disappearance of the missing  
4 child on the appropriate law enforcement investigative  
5 report.

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

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

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

18           (ii) discovering an unidentified deceased child.

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

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

1           [(b) Definition.--As used in this section the term  
2 "child" means a person under 18 years of age.]

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

15 (f) Confidentiality.--

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

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

22 (i) Law enforcement agencies.

23 (ii) Coroners and medical examiners.

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

27 (3) Any person who collects, processes or stores a DNA  
28 sample from a living person for forensic DNA analysis under  
29 this section and who intentionally violates this subsection  
30 is liable to the living person who donated the DNA sample for

1 civil damages in the amount of \$5,000 for each violation.

2 (g) Other forensic identification evidence.--

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

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

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

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

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

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

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

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