

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 930 Session of 2021

INTRODUCED BY SCHLEGEL CULVER, MILLARD, PICKETT, HILL-EVANS, R. BROWN, T. DAVIS, ZIMMERMAN, HOWARD, WHEELAND, MASSER, ROZZI AND BOBACK, MARCH 16, 2021

AS REPORTED FROM COMMITTEE ON JUDICIARY, HOUSE OF REPRESENTATIVES, AS AMENDED, MAY 4, 2021

AN ACT

1 Amending Titles 18 (Crimes and Offenses) and 44 (Law and
2 Justice) of the Pennsylvania Consolidated Statutes, in
3 kidnapping, further providing for missing children; and, in
4 DNA data and testing, further providing for policy, for
5 definitions and for State DNA Data Base, providing for
6 COLLECTION OF DNA IN INVESTIGATIONS OF HIGH-RISK MISSING
7 PERSONS AND MISSING CHILDREN, FOR collection of DNA in
8 investigations of missing persons and for collection of DNA
9 in investigations of unidentified decedents and further
10 providing for DNA data base exchange.

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11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Section 2908(a) and (a.1) of Title 18 of the
14 Pennsylvania Consolidated Statutes are amended to read:

15 § 2908. Missing children.

16 (a) Duties of law enforcement agencies.--Law enforcement
17 agencies shall have the following duties with respect to missing
18 children:

19 (1) To investigate a report of a missing child
20 immediately upon receipt of the report regardless of the age
21 of the missing child or the circumstances surrounding the

1 disappearance of the child. In no case shall law enforcement
2 agencies impose a mandatory waiting period prior to
3 commencing the investigation of a missing child.

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

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

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

18 (i) taking custody of an unidentified living child,
19 such as an infant, or a physically or mentally disabled
20 child; or

21 (ii) discovering an unidentified deceased child.

22 (3.2) To deliver any of the missing child's DNA to the
23 Pennsylvania State Police in accordance with 44 Pa.C.S. §
24 2316.2 (relating to collection of DNA in investigations of
25 HIGH-RISK missing persons AND MISSING CHILDREN) for DNA <--
26 analysis and submission to the National Missing and
27 Unidentified Persons System.

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

1 (a.1) Unidentified deceased children.--Law enforcement
2 agencies and coroners shall, with respect to unidentified
3 deceased children, have the duty to collect DNA samples from the
4 unidentified deceased child and submit the DNA samples to the
5 Pennsylvania State Police in accordance with 44 Pa.C.S. § ~~2316.3~~ <--
6 2316.4 (relating to collection of DNA in investigations of <--
7 unidentified decedents) for law enforcement identification
8 purposes and make an entry into the Unidentified Deceased Person
9 File through the Commonwealth Law Enforcement Assistance Network
10 (CLEAN) in accordance with Pennsylvania State Police policy and
11 procedures immediately upon observing or receiving any
12 descriptive information on an unidentified deceased child.

13 * * *

14 Section 2. Section 2302 of Title 44 is amended to read:
15 § 2302. Policy.

16 The General Assembly finds and declares that:

17 (1) Forensic DNA testing is an important tool in
18 criminal investigations and investigations of missing persons
19 or unidentified decedents, in excluding innocent individuals
20 who are the subject of criminal investigations or
21 prosecutions and in detecting and deterring repeated crimes
22 by the same individual.

23 (2) Several states have enacted laws requiring persons
24 convicted of certain crimes, especially sex offenses, to
25 provide genetic samples for DNA profiling.

26 (3) Moreover, it is the policy of the Commonwealth to
27 assist Federal, State and local criminal justice and law
28 enforcement agencies in the identification and detection of
29 individuals in criminal investigations and investigations of
30 missing persons or unidentified decedents.

1 (4) It is in the best interest of the Commonwealth to
2 establish a DNA data base and a DNA data bank containing DNA
3 samples submitted by individuals convicted of, adjudicated
4 delinquent for or accepted into ARD for felony sex offenses
5 and other specified offenses and containing DNA samples
6 collected as part of an investigation into missing persons or
7 unidentified decedents.

8 (5) It is in the best interest of the Commonwealth to
9 authorize the State Police to use DNA analysis and to
10 identify these individuals to a criminal justice agency in
11 certain cases.

12 Section 3. Section 2303 of Title 44 is amended by adding a <--
13 ~~definition~~ DEFINITIONS to read: <--

14 § 2303. Definitions.

15 The following words and phrases when used in this chapter
16 shall have the meanings given to them in this section unless the
17 context clearly indicates otherwise:

18 * * *

19 "HIGH-RISK MISSING PERSON." AN INDIVIDUAL WHO IS 18 YEARS OF <--
20 AGE OR OLDER AND:

21 (1) WHOSE TEMPORARY OR PERMANENT RESIDENCE IS IN THIS
22 COMMONWEALTH OR IS BELIEVED TO BE IN THIS COMMONWEALTH;

23 (2) WHOSE WHEREABOUTS ARE UNKNOWN;

24 (3) WHO HAS BEEN REPORTED MISSING TO A LAW ENFORCEMENT
25 AGENCY; AND

26 (4) CIRCUMSTANCES INDICATE ANY OF THE FOLLOWING:

27 (I) THE INDIVIDUAL IS MISSING AS A RESULT OF A
28 STRANGER ABDUCTION;

29 (II) THE INDIVIDUAL IS MISSING UNDER SUSPICIOUS,
30 UNKNOWN OR DANGEROUS CIRCUMSTANCES AND THE LAW

1 ENFORCEMENT AGENCY REASONABLY BELIEVES THAT THE

2 INDIVIDUAL IS AT RISK OF INJURY OR DEATH;

3 (III) THE INDIVIDUAL IS MISSING FOR MORE THAN 30
4 DAYS; OR

5 (IV) THE INDIVIDUAL HAS BEEN DESIGNATED AS A HIGH-
6 RISK MISSING PERSON BY ANOTHER LAW ENFORCEMENT AGENCY.

7 * * *

8 "National Missing and Unidentified Persons System." A
9 national centralized repository and resource center for missing
10 persons, unidentified decedents and unclaimed decedents that is
11 maintained by the National Institute of Justice within the
12 United States Department of Justice.

13 * * *

14 Section 4. Section 2312 of Title 44 is amended to read:

15 § 2312. State DNA Data Base.

16 A Statewide DNA Data Base is reestablished within the State
17 Police to store forensic DNA profiles and records developed by
18 or submitted to the State Police under the former DNA Act, the
19 former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and
20 testing) or this chapter, and to contribute forensic DNA
21 profiles and records to CODIS, the National Missing and
22 Unidentified Persons System and the national DNA identification
23 index system. The State DNA Data Base shall have the capability
24 provided by computer software and procedures administered by the
25 State Police to store and maintain forensic DNA profiles and
26 records related to:

27 (1) forensic casework;

28 (2) convicted or delinquency adjudicated offenders
29 required to provide a DNA sample under this chapter; [and]

30 (3) anonymous DNA records used for statistical research

1 on the frequency of DNA genotypes, quality control or the
2 development of new DNA identification methods[.]; and

3 (4) missing persons and unidentified decedents.

4 Section 5. Title 44 is amended by adding sections to read:

5 § 2316.2. COLLECTION OF DNA IN INVESTIGATIONS OF HIGH-RISK <--
6 MISSING PERSONS AND MISSING CHILDREN.

7 (A) COLLECTION OF DNA SAMPLES.--IN AN INVESTIGATION OF A
8 HIGH-RISK MISSING PERSON OR MISSING CHILD, THE LAW ENFORCEMENT
9 AGENCY SHALL IMMEDIATELY COLLECT A DNA SAMPLE FROM AVAILABLE
10 PERSONAL ARTICLES BELONGING TO THE MISSING PERSON OR MISSING
11 CHILD FOR LAW ENFORCEMENT IDENTIFICATION PURPOSES.

12 (B) SUBMISSION OF DNA SAMPLES.--WITHIN 48 HOURS OF THE
13 COLLECTION UNDER SUBSECTION (A), THE DNA SAMPLE SHALL BE
14 DELIVERED TO THE PENNSYLVANIA STATE POLICE FOR FORENSIC DNA
15 ANALYSIS AS PROVIDED IN SECTION 2318 (RELATING TO PROCEDURES FOR
16 CONDUCT, DISPOSITION AND USE OF DNA ANALYSIS) AND SUBMISSION TO
17 THE NATIONAL MISSING AND UNIDENTIFIED PERSONS SYSTEM AS PROVIDED
18 IN SECTION 2319 (RELATING TO DNA DATA BASE EXCHANGE), ALONG WITH
19 THE FOLLOWING INFORMATION, IF KNOWN TO THE INVESTIGATING LAW
20 ENFORCEMENT AGENCY:

21 (1) THE NAME OF THE HIGH-RISK MISSING PERSON OR MISSING
22 CHILD.

23 (2) THE AGE OF THE HIGH-RISK MISSING PERSON OR MISSING
24 CHILD.

25 (3) THE SEX OF THE HIGH-RISK MISSING PERSON OR MISSING
26 CHILD.

27 (4) THE HEIGHT AND WEIGHT OF THE HIGH-RISK MISSING
28 PERSON OR MISSING CHILD.

29 (5) THE RACE OF THE HIGH-RISK MISSING PERSON OR MISSING
30 CHILD.

1 (6) THE LAST KNOWN LOCATION OF THE HIGH-RISK MISSING
2 PERSON OR MISSING CHILD.

3 (7) THE DATE OF LAST KNOWN CONTACT WITH THE HIGH-RISK
4 MISSING PERSON OR MISSING CHILD.

5 (8) THE CIRCUMSTANCES OF THE DISAPPEARANCE OF THE HIGH-
6 RISK MISSING PERSON OR MISSING CHILD.

7 (C) DEFINITION.--AS USED IN THIS SECTION, THE TERM "CHILD"
8 MEANS AN INDIVIDUAL UNDER 18 YEARS OF AGE.

9 ~~§ 2316.2~~ 2316.3. Collection of DNA in investigations of missing <--
10 persons.

11 (a) Collection of DNA samples.--In an investigation of a
12 missing person, the law enforcement agency shall, within 30 days
13 of the receipt of a missing persons report or within 30 days of
14 the commencement of a missing persons investigation, whichever
15 is earlier, collect a DNA sample from available personal
16 articles belonging to the missing person for law enforcement
17 identification purposes.

18 (b) Submission of DNA samples.--Within 48 hours of the
19 collection under subsection (a), the DNA sample shall be
20 delivered to the Pennsylvania State Police for forensic DNA
21 analysis as provided in section 2318 (relating to procedures for
22 conduct, disposition and use of DNA analysis) and submission to
23 the National Missing and Unidentified Persons System as provided
24 in section 2319 (relating to DNA data base exchange), along with
25 the following information, if known to the investigating law
26 enforcement agency:

27 (1) The name of the missing person.

28 (2) The age of the missing person.

29 (3) The sex of the missing person.

30 (4) The height and weight of the missing person.

1 (5) The race of the missing person.

2 (6) The last known location of the missing person.

3 (7) The date of last KNOWN contact with the missing <--
4 person.

5 (8) The circumstances of the disappearance of the
6 missing person.

7 ~~§ 2316.3~~ 2316.4. Collection of DNA in investigations of <--
8 unidentified decedents.

9 (a) Collection of DNA samples.--Within 24 hours of
10 discovering an unidentified decedent, the investigating law
11 enforcement agency or coroner shall collect DNA samples from the
12 unidentified decedent for law enforcement identification
13 purposes.

14 (b) Submission of DNA samples.--Within 48 hours of the
15 collection under subsection (a), the DNA sample shall be
16 delivered by the law enforcement agency or coroner to the
17 Pennsylvania State Police for forensic DNA analysis as provided
18 in section 2318 (relating to procedures for conduct, disposition
19 and use of DNA analysis) and submission to the National Missing
20 and Unidentified Persons System as provided in section 2319
21 (relating to DNA data base exchange), along with the following
22 information, if known to the investigating law enforcement
23 agency or coroner:

24 (1) The estimated age of the unidentified decedent.

25 (2) The sex of the unidentified decedent.

26 (3) The height and weight of the unidentified decedent.

27 (4) The race of the unidentified decedent.

28 (5) The location of the unidentified decedent's body.

29 (6) An inventory of the remains.

30 (7) The circumstances of the death of the unidentified

1 decedent.

2 (8) A physical description of the unidentified decedent,
3 including hair color, hair description, eye color,
4 distinctive physical features and clothing and accessories.

5 Section 6. Section 2319 of Title 44 is amended by adding a
6 subsection to read:

7 § 2319. DNA data base exchange.

8 * * *

9 (a.2) National Missing and Unidentified Persons System.--Any
10 DNA record derived from a DNA sample collected in accordance
11 with section ~~2316.2~~ 2316.2 (RELATING TO COLLECTION OF DNA IN <--
12 INVESTIGATIONS OF HIGH-RISK MISSING PERSONS AND MISSING
13 CHILDREN), 2316.3 (relating to collection of DNA in
14 investigations of missing persons) or ~~2316.3~~ 2316.4 (relating to <--
15 collection of DNA in investigations of unidentified decedents)
16 shall be submitted to the National Missing and Unidentified
17 Persons System, along with any of the information delivered to
18 the Pennsylvania State Police in accordance with section
19 2316.2(b) ~~or~~, 2316.3(b) OR 2316.4(B). <--

20 * * *

21 Section 7. This act shall take effect in 60 days.