Missing Persons

This Act requires a law enforcement agency that receives a report of a missing person to take certain steps to locate the missing person. It also requires a coroner having custody of unidentified human remains take certain steps to attempt to identify the remains.

Submitted as:
Indiana
House Enrolled Act No. 1306
Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

Section 1. [Short Title.] This Act shall be cited as “The Missing Persons Act.”

Section 2. [Definitions.] As used in this Act:
(A) “High risk missing person” means a person whose whereabouts are not known and who may be at risk of injury or death. The term includes the following:
(1) a person who is missing as the result of abduction by a stranger.
(2) a person whose disappearance may be the result of the commission of a crime.
(3) a person whose disappearance occurred under circumstances that are inherently dangerous.
(4) a person who is missing for more than [thirty (30)] days.
(5) a missing person who is in need of medical attention or prescription medication.
(6) a missing person who may be at risk due to abduction by a noncustodial parent.
(7) a missing person who is mentally impaired.
(8) a missing person who is less than [twenty-one (21)] years of age.
(9) a missing person who has previously been the victim of a threat of violence or an act of violence.
(10) a missing person who has been determined by a law enforcement agency to be:
(a) at risk of injury or death; or
(b) a person that meets any of the descriptions in subdivisions (1) through (9).
(11) A missing person who is an endangered adult (as defined in insert citation).
(B) “Law enforcement agency” means an agency or a department of any level of government whose principal function is the apprehension of criminal offenders. The term does not include the [inspector general] or the [attorney general].

Section 3. [Children under Eighteen Years Old and Endangered Adults.]
(A) A law enforcement agency receiving a report of a missing child less than [eighteen (18)] years of age shall comply with the requirements of [insert citation] in addition to the procedures described in this Act.
(B) A law enforcement agency receiving a report of an endangered adult (as defined in insert citation) shall comply with the requirements of [insert citation] in addition to the procedures described in this Act.

Section 4. [Criteria for Immediately Accepting a Missing Person Report.] A law enforcement agency shall accept immediately a report made in person concerning a missing person, including if one or more of the following circumstances apply:

(1) the missing person is an adult;
(2) it does not appear that the person’s disappearance is the result of a crime;
(3) it does not appear that the missing person was within the jurisdiction served by the law enforcement agency at the time the person went missing;
(4) however, the law enforcement agency shall advise the person reporting the missing person to make the report to a law enforcement agency that has jurisdiction in the place that the missing person was last seen, or, if that place is unknown, to a law enforcement agency that has jurisdiction in the place where the missing person resides;
(5) it appears that the missing person's disappearance may be voluntary;
(6) the person reporting the missing person is unable to provide all the information requested by the law enforcement agency; or
(7) the person reporting the missing person does not have a familial relationship with the missing person.

Section 5. [Means of Accepting a Missing Person Report Other Than A Report Made in Person.] A law enforcement agency may accept a missing person report that is not made in person, including a report made by telephone, by electronic mail, by means of the Internet, or in another manner, if accepting the report is otherwise consistent with the practices of the law enforcement agency.

Section 6. [Law Enforcement’s Duty to Gather Information About a Missing Person Once a Missing Person Report is Filed.]

(A) Upon receipt of a report of a missing person, a law enforcement agency shall attempt to gather relevant information that will assist in locating the missing person. This information must include the following, if available:

(1) the name of the missing person, including any aliases;
(2) the date of birth of the missing person;
(3) any identifying marks, such as a birthmark, mole, tattoo, or scar;
(4) the height and weight of the missing person;
(5) the gender of the missing person;
(6) the race of the missing person;
(7) the color of the missing person's hair at the time of the disappearance, and, if applicable, the natural color of the missing person's hair;
(8) the eye color of the missing person;
(9) any prosthetic devices or surgical or cosmetic implants that the missing person may have;
(10) any physical anomalies of the missing person;
(11) the blood type of the missing person;
(12) the driver's license number of the missing person;
(13) a recent photograph of the missing person;
(14) a description of the clothing that the missing person was wearing when last seen;
(15) a description of any other items, including jewelry or other accessories, that the missing person may have possessed at the time of the disappearance;
(16) contact information for the missing person, including electronic mail addresses and cellular telephone numbers;
(17) why the person submitting the report believes that the missing person is missing;
(18) the name and location of the missing person's school or employer;
(19) the names and locations of the missing person's dentist and physician;
(20) any reason to believe that the missing person's disappearance was not voluntary;
(21) any reason to believe that the missing person may be in danger;
(22) a detailed description of the missing person's vehicle;
(23) information concerning:
   (a) the person with whom the missing person was last seen; or
   (b) a possible abductor;
(24) the date of last contact with the missing person; and
(25) any other information that will assist in locating the missing person.

(B) A law enforcement agency shall determine as soon as possible after receipt of a report of a missing person whether the missing person is a high risk missing person. If a law enforcement agency determines that a missing person is not a high risk missing person and new information suggests that the missing person may be a high risk missing person, the law enforcement agency shall make a new determination as to whether the person is a high risk missing person.

(C) A law enforcement agency that determines after a diligent investigation that a missing person is either voluntarily missing or not missing may stop the investigation.

(D) A law enforcement agency stopping an investigation under subsection (C) must document the investigative steps and the results of the investigation that led to the conclusion that the person reported missing is either voluntarily missing or not missing.

(E) A law enforcement agency that stops an investigation under subsection (C) may not disclose the location of the missing person to the person who made the missing person report if the missing person requests that the information not be disclosed.

Section 7. [Law Enforcement’s Duty to Inform People about General Procedures to Handle Missing Person Cases.] If requested by the person making a report of a missing person, a law enforcement agency shall inform the person making the report, a family member of the missing person, and any other person whom the law enforcement agency believes may be helpful in locating the missing person of the following:
(1) the general procedure for handling missing person cases;
(2) the approach the law enforcement agency intends to pursue in the case, if, in the opinion of the law enforcement agency, disclosure would not adversely affect its investigation;
(3) that additional information may be required if the missing person is not promptly located or if additional information is discovered in the course of the investigation;
(4) additional information that may be helpful, if this information is known;
(5) that the National Center for Missing and Exploited Children (if the missing person is a child) or the National Center for Missing Adults (if the missing person is an adult).
may provide additional resources and the law enforcement agency shall provide contact
information for the appropriate organization.

Section 8. [Law Enforcement Requests for Certain Medical Records of a Missing
Person.]

(A) If a missing person has not been located [thirty (30)] days after the date of the
missing person report, the law enforcement agency that received the report may obtain, if
available, the following information and material:

(1) an authorization from the missing person's family to release dental records or
skeletal x-rays of the missing person;

(2) additional photographs that may assist in locating the missing person; and

(3) dental records or skeletal X-rays of the missing person.

(B) A health care provider (as defined in insert citation) that discloses information in
good faith under subsection (A) is immune from civil liability for disclosing the information.
This subsection does not apply to acts or admissions amounting to gross negligence or willful or
wanton misconduct.

(C) A law enforcement agency may obtain the information described in subsection (A)
even if [thirty (30)] days have not elapsed from the date of the missing person report.

(D) Notwithstanding subsection (A), this section does not permit a law enforcement
agency to obtain information or material without a search warrant or another judicial order that
would otherwise be required to obtain the information or material.

Section 9. [Reporting Information to Violent Criminal Apprehension Program and
Releasing Photograph of Missing Person to the Public.]

(A) Information that is relevant to the Violent Criminal Apprehension Program operated
by the Federal Bureau of Investigation shall be reported as soon as possible.

(B) The law enforcement agency may release to the public any photograph of the missing
person that will, in the opinion of the law enforcement agency, assist in the location of the
missing person. A law enforcement agency that releases a photograph under this subsection in
good faith is not required to obtain written authorization for the release.

Section 10. [Notifying Other Law Enforcement Agencies of High Risk Missing Person
Reports.]

(A) A law enforcement agency that is not the [state police department] that receives a
report of a high risk missing person may notify the [state police department] of the high risk
missing person and request the assistance of the [state police department] in locating the high
risk missing person.

(B) The law enforcement agency that receives a report of a high risk missing person shall
inform every appropriate law enforcement agency in this state of the high risk missing person. In
addition, the law enforcement agency that receives a report of a high risk missing person may
notify a law enforcement agency in another state if the [state police department] believes that the
notification will assist in the location of the high risk missing person.

(C) The law enforcement agency that receives a report of a high risk missing person shall
do the following:

(1) enter information that relates to a missing person report for a high risk missing
person into the National Crime Information Center (NCIC) data base not more than [two (2)
hours] after the information is received and any other appropriate data base not more than [one
(1)] day after the information is received; and
(2) ensure that a person who enters data relating to medical or dental records in a
data base has the appropriate training to understand and correctly enter the information.

(D) The law enforcement agency that receives a report of a high risk missing person may
consult with a coroner, a pathologist, or another medical professional to ensure the accuracy of
the medical or dental information.

(E) A law enforcement agency that receives a report of a high risk missing person under
this section shall immediately instruct the agency's officers to be alert for the missing person, and
a person who may have abducted the missing person, if applicable; and enter all collected
information related to the missing person case into appropriate state or federal data bases.

Section 11. [Entering Information about Human Remains in Missing Person Data Bases.]

(A) A coroner shall make all reasonable attempts to promptly identify human remains,
including taking the following steps:

(1) photograph the human remains before an autopsy is conducted;
(2) X-ray the human remains;
(3) photograph items found with the human remains;
(4) fingerprint the remains, if possible;
(5) obtain tissue, bone, or hair samples suitable for DNA typing, if possible; and
(6) collect any other information relevant to identification efforts.

(B) A coroner may not dispose of unidentified human remains or take any other action
that will materially affect the condition of the remains until the coroner has taken the steps
described in subsection (A).

(C) If human remains have not been identified after [thirty (30)] days, the coroner or
other person having custody of the remains shall request the [state police] to do the following:

(1) enter information that may assist in the identification of the remains into the
National Crime Information Center (NCIC) data base and any other appropriate data base;
(2) upload relevant DNA profiles from the remains to the [missing persons
database of the state DNA Index System (SDIS)] and the National DNA Index System (NDIS)
after completion of the DNA analysis and other procedures required for data base entry; and
(3) ensure that a person who enters data relating to medical or dental records in a
data base has the appropriate training to understand and correctly enter the information.

(D) If unidentified human remains are identified as belonging to a missing person, the
coronor shall notify the law enforcement agency handling the missing persons case that the
missing person is deceased and instruct the law enforcement agency to make documented efforts
to contact family members of the missing person.

(E) No person may order the cremation of unidentified human remains.

Section 12. [Making a False Missing Person Report.] A person who makes a false report
concerning a missing child as defined in [insert citation] or missing endangered adult as defined
in [insert citation] or gives false information in the official investigation of a missing child or
missing endangered adult knowing the report or information to be false; or makes a false report
of a missing person, knowing the report or information is false; commits false informing, a
[Class B misdemeanor]. However, the offense is a [Class A misdemeanor] if it substantially
hinders any law enforcement process or if it results in harm to an innocent person.

Section 13. [Severability.] [Insert severability clause.]

Section 14. [Repealer.] [Insert repealer clause.]
Section 15. [Effective Date.] [Insert effective date.]