

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.)

- 1 Section 1. [*Short Title.*] This Act shall be cited as “The Missing Persons Act.”
2
3 Section 2. [*Definitions.*] As used in this Act:
4 (A) “High risk missing person” means a person whose whereabouts are not known and
5 who may be at risk of injury or death. The term includes the following:
6 (1) a person who is missing as the result of abduction by a stranger.
7 (2) a person whose disappearance may be the result of the commission of a crime.
8 (3) a person whose disappearance occurred under circumstances that are
9 inherently dangerous.
10 (4) a person who is missing for more than [thirty (30)] days.
11 (5) a missing person who is in need of medical attention or prescription
12 medication.
13 (6) a missing person who may be at risk due to abduction by a noncustodial
14 parent.
15 (7) a missing person who is mentally impaired.
16 (8) a missing person who is less than [twenty-one (21)] years of age.
17 (9) a missing person who has previously been the victim of a threat of violence or
18 an act of violence.
19 (10) a missing person who has been determined by a law enforcement agency to
20 be:
21 (a) at risk of injury or death; or
22 (b) a person that meets any of the descriptions in subdivisions (1) through
23 (9).
24 (11) A missing person who is an endangered adult (as defined in insert citation).
25 (B) “Law enforcement agency” means an agency or a department of any level of
26 government whose principal function is the apprehension of criminal offenders. The term does
27 not include the [inspector general] or the [attorney general].
28
29 Section 3. [*Children under Eighteen Years Old and Endangered Adults.*]
30 (A) A law enforcement agency receiving a report of a missing child less than [eighteen
31 (18)] years of age shall comply with the requirements of [insert citation] in addition to the
32 procedures described in this Act.

33 (B) A law enforcement agency receiving a report of an endangered adult (as defined in
34 insert citation) shall comply with the requirements of [insert citation] in addition to the
35 procedures described in this Act.

36
37 Section 4. [*Criteria for Immediately Accepting a Missing Person Report.*] A law
38 enforcement agency shall accept immediately a report made in person concerning a missing
39 person, including if one or more of the following circumstances apply:

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

53
54 Section 5. [*Means of Accepting a Missing Person Report Other Than A Report Made in*
55 *Person.*] A law enforcement agency may accept a missing person report that is not made in
56 person, including a report made by telephone, by electronic mail, by means of the Internet, or in
57 another manner, if accepting the report is otherwise consistent with the practices of the law
58 enforcement agency.

59
60 Section 6. [*Law Enforcement's Duty to Gather Information About a Missing Person Once*
61 *a Missing Person Report is Filed.*]

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

- 65 (1) the name of the missing person, including any aliases;
- 66 (2) the date of birth of the missing person;
- 67 (3) any identifying marks, such as a birthmark, mole, tattoo, or scar;
- 68 (4) the height and weight of the missing person;
- 69 (5) the gender of the missing person;
- 70 (6) the race of the missing person;
- 71 (7) the color of the missing person's hair at the time of the disappearance, and, if
72 applicable, the natural color of the missing person's hair;
- 73 (8) the eye color of the missing person;
- 74 (9) any prosthetic devices or surgical or cosmetic implants that the missing person
75 may have;
- 76 (10) any physical anomalies of the missing person;
- 77 (11) the blood type of the missing person;
- 78 (12) the driver's license number of the missing person;
- 79 (13) a recent photograph of the missing person;

- 80 (14) a description of the clothing that the missing person was wearing when last
81 seen;
- 82 (15) a description of any other items, including jewelry or other accessories, that
83 the missing person may have possessed at the time of the disappearance;
- 84 (16) contact information for the missing person, including electronic mail
85 addresses and cellular telephone numbers;
- 86 (17) why the person submitting the report believes that the missing person is
87 missing;
- 88 (18) the name and location of the missing person's school or employer;
- 89 (19) the names and locations of the missing person's dentist and physician;
- 90 (20) any reason to believe that the missing person's disappearance was not
91 voluntary;
- 92 (21) any reason to believe that the missing person may be in danger;
- 93 (22) a detailed description of the missing person's vehicle;
- 94 (23) information concerning:
- 95 (a) the person with whom the missing person was last seen; or
- 96 (b) a possible abductor;
- 97 (24) the date of last contact with the missing person; and
- 98 (25) any other information that will assist in locating the missing person.

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

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

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

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

113

114 Section 7. [*Law Enforcement's Duty to Inform People about General Procedures to*
115 *Handle Missing Person Cases.*] If requested by the person making a report of a missing person, a
116 law enforcement agency shall inform the person making the report, a family member of the
117 missing person, and any other person whom the law enforcement agency believes may be helpful
118 in locating the missing person of the following:

- 119 (1) the general procedure for handling missing person cases;
- 120 (2) the approach the law enforcement agency intends to pursue in the case, if, in
121 the opinion of the law enforcement agency, disclosure would not adversely affect its
122 investigation;
- 123 (3) that additional information may be required if the missing person is not
124 promptly located or if additional information is discovered in the course of the investigation;
- 125 (4) additional information that may be helpful, if this information is known;
- 126 (5) that the National Center for Missing and Exploited Children (if the missing
127 person is a child) or the National Center for Missing Adults (if the missing person is an adult)

128 may provide additional resources and the law enforcement agency shall provide contact
129 information for the appropriate organization.

130

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

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

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

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

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

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

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

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

149

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

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

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

158

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

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

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

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

172 (1) enter information that relates to a missing person report for a high risk missing
173 person into the National Crime Information Center (NCIC) data base not more than [two (2)
174 hours] after the information is received and any other appropriate data base not more than [one
175 (1)] day after the information is received; and

176 (2) ensure that a person who enters data relating to medical or dental records in a
177 data base has the appropriate training to understand and correctly enter the information.

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

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

185

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

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

189 (1) photograph the human remains before an autopsy is conducted;

190 (2) X-ray the human remains;

191 (3) photograph items found with the human remains;

192 (4) fingerprint the remains, if possible;

193 (5) obtain tissue, bone, or hair samples suitable for DNA typing, if possible; and

194 (6) collect any other information relevant to identification efforts.

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

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

200 (1) enter information that may assist in the identification of the remains into the
201 National Crime Information Center (NCIC) data base and any other appropriate data base;

202 (2) upload relevant DNA profiles from the remains to the [missing persons
203 database of the state DNA Index System (SDIS)] and the National DNA Index System (NDIS)
204 after completion of the DNA analysis and other procedures required for data base entry; and

205 (3) ensure that a person who enters data relating to medical or dental records in a
206 data base has the appropriate training to understand and correctly enter the information.

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

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

212

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

220

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

222

223 Section 14. [*Repealer.*] [Insert repealer clause.]

224
225

Section 15. [*Effective Date.*] [Insert effective date.]