

Missing Persons

This SSL draft was originally based on legislation proposed by the National Institute of Justice. The bill outlines protocols law enforcement can adopt to handle missing person cases, identify human remains, and provide timely information to families of missing persons about the progress of their family members' cases.

Submitted as:

New Jersey

P.L. 2007, Chapter 279

Status: Enacted into law in 2008.

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 (1) “High risk missing person” means a person whose whereabouts are not currently
5 known and the circumstances of the person’s disappearance suggest that the person may be at
6 imminent or likely risk of injury or death.

7 (2) The circumstances that indicate that a person is a high risk missing person shall
8 include, but not be limited to:

9 (a) the person is missing as a result of a confirmed abduction or under
10 circumstances that indicate that the person’s disappearance was not voluntary;

11 (b) the person is missing under known dangerous circumstances;

12 (c) the person is missing more than [30] days;

13 (d) there is evidence that the person is at risk because:

14 (I) the person missing is in need of medical attention or prescription
15 medication such that it will have a serious adverse effect on the person’s health if he or she does
16 not receive the needed care or medication;

17 (II) the person missing does not have a pattern of running away or
18 disappearing;

19 (III) the person missing may have been abducted by a non-custodial
20 parent;

21 (IV) the person missing is mentally impaired;

22 (V) the person missing is a person over the age of [13] and under the age
23 of [21] years and any other risk factor is known; or

24 (VI) the person missing has been the subject of past threats or acts of
25 violence; and

26 (e) any other factor that may indicate, in the judgment of the lead law
27 enforcement agency, that the missing person may be at risk.

28 (3) “Law enforcement agency” means a department, division, bureau, commission,
29 board, or other authority of the State or of any political subdivision thereof which employs law
30 enforcement officers.

31 (4) "Law enforcement officer" means a person whose public duties include the power to
32 act as an officer for the detection, apprehension, arrest, and conviction of offenders against the
33 laws of this State.

34 (5) "Lead law enforcement agency" means the law enforcement agency with primary
35 responsibility for investigating a missing person case.

36 (6) "Missing child" means a person [13] years of age or younger whose whereabouts are
37 not currently known.

38 (7) "Missing Persons Unit" means the [Missing Persons Unit in the Division of State
39 Police in the Department of Law and Public Safety] established pursuant to [insert citation].

40
41 Section 3. [*Acceptance of Report of Missing Person Without Delay.*]

42 (A) A law enforcement agency shall accept without delay any report of a missing person.

43 (B) No law enforcement agency may refuse to accept a missing person report on the
44 basis that:

45 (1) the missing person is an adult;

46 (2) the circumstances do not indicate foul play;

47 (3) the person has been missing for a short period of time;

48 (4) the person has been missing for a long period of time;

49 (5) there is no indication that the missing person was in the jurisdiction served by
50 the law enforcement agency at the time of the disappearance;

51 (6) the circumstances suggest that the disappearance may be voluntary;

52 (7) the reporting person does not have personal knowledge of the facts;

53 (8) the reporting person cannot provide all of the information requested by the law
54 enforcement agency;

55 (9) the reporting person lacks a familial or other relationship with the missing
56 person; or

57 (10) for any other reason, except in cases where the law enforcement agency has
58 direct knowledge that the person is, in fact, not missing and the exact whereabouts and welfare of
59 the person are known to the agency at the time the report is being made.

60 (C) The law enforcement agency that receives a report of a missing person shall be the
61 lead law enforcement agency in charge of the missing person investigation, and shall continue in
62 that capacity unless another law enforcement agency assumes primary responsibility over the
63 investigation.

64 (D) The lead law enforcement agency shall be entitled to the cooperation of any other law
65 enforcement agency in the state.

66
67 Section 4. [*Information about the Missing Person for Record.*]

68 (A) At the time a missing person report is filed, the law enforcement agency shall seek to
69 ascertain and record the following information about the missing person:

70 (1) the name of the missing person, including any aliases;

71 (2) date of birth;

72 (3) identifying marks, such as birthmarks, moles, tattoos, and scars;

73 (4) height and weight;

74 (5) gender;

75 (6) race;

76 (7) current hair color and true or natural hair color;

77 (8) eye color;

78 (9) prosthetics, surgical implants, or cosmetic implants;

- 79 (10) physical anomalies;
80 (11) blood type, if known;
81 (12) any medications the missing person is taking or needs to take;
82 (13) driver's license number, if known;
83 (14) Social Security number, if known;
84 (15) a recent photograph of the missing person, if available;
85 (16) a description of the clothing the missing person was believed to be wearing at
86 the time of disappearance;
87 (17) a description of notable items that the missing person may be carrying and
88 wearing;
89 (18) information regarding the missing person's electronic communications
90 devices, such as a cell phone number or e-mail address;
91 (19) the reasons why the reporting person believes that the person is missing;
92 (20) the name and location of the missing person's school or employer, if known;
93 (21) the name and location of the missing person's dentist and primary care
94 physician, if known;
95 (22) any circumstances that may indicate that the disappearance was not
96 voluntary;
97 (23) any circumstances that indicate that the missing person may be at risk of
98 injury or death;
99 (24) a description of the possible means of transportation of the missing person,
100 such as the make, model, color, license, and Vehicle Identification Number (VIN) of a motor
101 vehicle;
102 (25) any identifying information about a known or possible abductor or the person
103 last seen with the missing person including:
104 (a) name;
105 (b) physical description;
106 (c) date of birth;
107 (d) identifying marks;
108 (e) description of possible means of transportation, such as the make,
109 model, color, license, and Vehicle Identification Number (VIN) of a motor vehicle; and
110 (f) known associates;
111 (26) any other information that can aid in locating the missing person; and
112 (27) date of last contact.

113

114 Section 5. [*Information Provided to Person Making Report or Family Member.*]

115 (A) The law enforcement agency shall notify the person making the report, a family
116 member, or any other person in a position to assist the law enforcement agency in its efforts to
117 locate the missing person by providing to that person or family member:

118 (1) general information about the handling of the missing person case or about
119 intended efforts in the case to the extent that the law enforcement agency determines that
120 disclosure would not adversely affect its ability to locate or protect the missing person, to
121 apprehend or to prosecute any persons criminally involved in the disappearance;

122 (2) information advising the person making the report and other involved persons
123 that if the missing person remains missing, they should contact the law enforcement agency to
124 provide additional information and materials that will aid in locating the missing person, such as
125 any credit or debit cards the missing person has access to, other banking or financial information
126 and any records of cell phone use;

127 (3) In those cases where DNA samples are requested, the law enforcement agency
128 shall notify the person or family member that all such DNA samples are provided on a voluntary
129 basis and shall be used solely to help locate or identify the missing person and shall not be used
130 for any other purpose; and

131 (4) the law enforcement agency, upon acceptance of a missing person report, shall
132 inform the person filing the report that there are two clearing houses for missing person's
133 information.

134 (B) If the person reported missing is age 17 or under, the person filing the report shall be
135 provided with contact information for the National Center for Missing and Exploited Children.

136 (C) If the person reported missing is age 18 or older, the person filing the report shall be
137 provided with contact information for the National Center for Missing Adults.

138 (D) If the person identified in the missing person report remains missing for [30] days,
139 and the additional information and materials specified below have not been received, the law
140 enforcement agency shall attempt to obtain:

141 (1) DNA samples from family members and, if possible, from the missing person
142 along with any needed documentation, including any consent forms, required for the use of state
143 or federal DNA databases;

144 (2) dental information and X-rays, and an authorization to release dental or
145 skeletal X-rays of the missing person;

146 (3) any additional photographs of the missing person that may aid the
147 investigation or an identification; and

148 (4) fingerprints.

149 (E) The law enforcement agency shall not be required to obtain written authorization
150 before it releases publicly any photograph that would aid in the investigation or identification of
151 the missing person

152 (F) All DNA samples obtained in missing persons cases shall be immediately forwarded
153 to the state [Forensic DNA Laboratory] for analysis. The laboratory shall establish procedures
154 for determining how to prioritize analysis of the samples relating to missing persons cases.

155 (G) Information relevant to the Federal Bureau of Investigation's Violent Criminal
156 Apprehension Program shall be entered as soon as possible.

157 (H) Nothing in this section shall be construed to preclude a law enforcement agency from
158 obtaining any of the materials identified in this section before the [30th] day following the filing
159 of the missing person report.

160

161 Section 6. [*Determination of Designation as High Risk Missing Person.*]

162 (A) Upon the initial receipt of a missing person report, a law enforcement agency shall
163 seek to determine whether the person reported missing is to be designated a high risk missing
164 person.

165 (B) If the initial determination of a person reported missing does not warrant designation
166 of that person as high risk, it shall not preclude a later determination, based on further
167 investigation or the discovery of additional information, that the missing person is high risk.

168

169 Section 7. [*Actions Relative to High Risk Missing Person or Child.*]

170 (A) Upon a determination that a missing person investigation involves a high risk missing
171 person or a missing child, the lead law enforcement agency shall take such actions as are
172 specified in the [Uniform Investigative Standards for a High Risk Missing Person or a Missing
173 Child], as the case may be, as set forth in the protocol developed pursuant to [insert citation], and
174 also may contact the [Missing Persons Unit] and request assistance. The [Missing Persons Unit],

175 in consultation with the lead law enforcement agency, shall determine whether the circumstances
176 warrant a cooperative investigative effort. If the determination is made that a cooperative effort
177 is warranted, then the [Missing Persons Unit] shall coordinate the deployment of additional
178 [State Police] resources in support of the investigation.

179 (B) The lead law enforcement agency shall promptly notify all law enforcement agencies
180 within the State and, if deemed appropriate, law enforcement agencies in adjacent states or
181 jurisdictions of the information that may aid in the prompt location and safe return of the high
182 risk missing person.

183 (C) Local law enforcement agencies that receive notification from the lead law
184 enforcement agency pursuant to subsection (B) of this section shall forward that information
185 immediately to their officers and members.

186 (D) The lead law enforcement agency shall, as expeditiously as possible, prepare and
187 disseminate a photographic information bulletin utilizing the Missing Child Alert System, or any
188 successor law enforcement notification system the State may employ.

189 (E) The lead law enforcement agency shall, as appropriate, enter all collected information
190 relating to the missing person case to applicable federal databases. The information shall be
191 provided in accordance with applicable guidelines relating to the databases, as follows:

192 (1) a missing person report, and relevant information, in a high risk missing
193 person case shall be entered in the National Crime Information Center database immediately, but
194 in no case no more than [two] hours after the determination that the missing person is a high risk
195 missing person;

196 (2) a missing person report, and relevant information, in a case not involving a
197 high risk missing person shall be entered within [24] hours of the initial filing of the missing
198 person report;

199 (3) all DNA profiles shall be uploaded into the missing persons databases of the
200 [state Forensic DNA Laboratory] and all appropriate and suitable federal database systems;

201 (4) information relevant to the Federal Bureau of Investigation's Violent Criminal
202 Apprehension Program shall be entered as soon as practicable;

203 (5) all due care shall be given to insure that the data, particularly medical and
204 dental records, entered in state and federal database systems is accurate and, to the greatest
205 extent possible, complete; and

206 (6) the [State Police] shall, when deemed appropriate and likely to facilitate a
207 resolution to a particular missing person report, activate the Amber Alert program for the state.

208 (F) If, after the dissemination of a photographic information bulletin utilizing the Missing
209 Child Alert System information, the missing person is found, the lead law enforcement agency
210 shall promptly disseminate an additional bulletin on the Missing Child Alert System indicating
211 that the person was found.

212
213 Section 8. [*Practices, Protocol for Death Scene Investigations.*]

214 (A) The [Attorney General] shall provide information to local law enforcement agencies
215 about best practices and protocols for handling death scene investigations.

216 (B) The [Attorney General] shall identify any publications or training opportunities that
217 may be available to local law enforcement officers concerning the handling of death scene
218 investigations.

219
220 Section 9. [*Custody of Human Remains, Notification If Remains Unidentified.*]

221 (A) After performing any death scene investigation, as deemed appropriate under the
222 circumstances, the official with custody of the human remains shall ensure that the human
223 remains are delivered to the appropriate county medical examiner.

224 (B) Any county medical examiner with custody of human remains that are not identified
225 within [24] hours of discovery shall promptly notify the [Missing Persons Unit] of the location of
226 those remains.

227 (C) If the county medical examiner with custody of remains cannot determine whether or
228 not the remains found are human, the medical examiner shall so notify the [Missing Persons
229 Unit].

230

231 Section 10. [*Responsibilities of County Medical Examiner.*]

232 (A) If the official with custody of the human remains is not a medical examiner, the
233 official shall promptly transfer the unidentified remains to the appropriate county medical
234 examiner.

235 (B) The county medical examiner shall make reasonable attempts to promptly identify
236 human remains. These actions may include but are not limited to obtaining:

- 237 (1) photographs of the human remains;
- 238 (2) dental or skeletal X-rays;
- 239 (3) photographs of items found with the human remains;
- 240 (4) fingerprints from the remains, if possible;
- 241 (5) samples of tissue suitable for DNA typing, if possible;
- 242 (6) samples of whole bone or hair suitable for DNA typing; and
- 243 (7) any other information that may support identification efforts.

244 (C) No medical examiner or any other person shall dispose of, or engage in actions that
245 will materially affect the unidentified human remains before the county medical examiner
246 obtains:

- 247 (1) samples suitable for DNA identification archiving;
- 248 (2) photographs of the unidentified human remains; and
- 249 (3) all other appropriate steps for identification have been exhausted.

250 (D) Unidentified human remains shall not be cremated.

251 (E) The county medical examiner shall make reasonable efforts to obtain prompt DNA
252 analysis of biological samples if the human remains have not been identified by other means
253 within [30] days.

254 (F) The medical examiner shall seek support from appropriate State and federal agencies
255 to assist in the identification of unidentified human remains. Such assistance may include, but
256 not be limited to, available mitochondrial or nuclear DNA testing, federal grants for DNA
257 testing, or federal grants for crime laboratory or medical examiner office improvement.

258 (G) The county medical examiner shall seek support from appropriate federal and State
259 agency representatives to have information promptly entered in federal and State databases by
260 those representatives that can aid in the identification of a missing person. Information shall be
261 entered into federal databases as follows:

- 262 (1) information for the National Crime Information Center within [24] hours;
- 263 (2) DNA profiles and information shall be entered into the National DNA Index
264 System (NDIS) within [five] business days after the completion of the DNA analysis and
265 procedures necessary for the entry of the DNA profile; and
- 266 (3) information sought by the Violent Criminal Apprehension Program database
267 as soon as practicable.

268 (H) Nothing in this Act shall be construed to preclude any medical examiner office, the
269 [State Police] or any local law enforcement agency from other actions to facilitate the
270 identification of unidentified human remains including efforts to publicize information,
271 descriptions, or photographs that may aid in the identification of the unidentified remains,
272 including allowing family members to identify a missing person; provided that in taking these
273 actions, all due consideration is given to protect the dignity and well-being of the missing person
274 and the family of the missing person.

275 (I) Agencies handling the remains of a missing person who is deceased shall notify the
276 law enforcement agency handling the missing person's case. Documented efforts shall be made
277 to locate family members of the deceased person to inform them of the death and location of the
278 remains of their family member.

279
280 Section 11. [*Development, Dissemination of Best Practices Protocol to Law*
281 *Enforcement.*] In implementing the provisions of this Act and prior to the effective date, the
282 [Superintendent of State Police] shall develop and disseminate to all law enforcement agencies in
283 the State a best practices protocol for State and local law enforcement agencies to follow when
284 addressing reports of missing persons, which protocol shall set forth uniform investigative
285 standards for missing persons cases and any other procedures, practices and standards that the
286 superintendent deems appropriate for handling missing person cases. The protocol shall include
287 specific procedures, practices and standards applicable to cases involving high risk missing
288 persons or missing children. The [Superintendent of State Police] shall develop and make
289 available to each law enforcement agency in this State a training program on the procedures,
290 practices and standards for the handling of high risk missing persons, missing children and
291 missing persons cases set forth in the protocol adopted pursuant to and consistent with this Act
292 and section. Each law enforcement agency in this State shall comply with this protocol when the
293 agency is notified of a missing person. To assess the effectiveness of this protocol, the [Missing
294 Persons Unit] annually shall review a sample of open missing persons cases from the
295 immediately preceding year. Based upon its assessment, the [Missing Persons Unit] may
296 recommend to the [superintendent] that the protocol be revised or amended and whether the
297 training programs currently available to law enforcement agencies are adequate.

298
299 Section 12. [*Severability.*] [Insert severability clause.]

300
301 Section 13. [*Repealer.*] [Insert repealer clause.]

302
303 Section 14. [*Effective Date.*] [Insert effective date.]