

As Introduced

**127th General Assembly
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H. B. No. 448

Representative Williams, S.

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A B I L L

To amend sections 313.08, 2901.41, and 2901.42 and to 1
enact sections 109.5731 and 2901.43 of the Revised 2
Code relative to missing persons in Ohio. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 313.08, 2901.41, and 2901.42 be 4
amended and sections 109.5731 and 2901.43 of the Revised Code be 5
enacted to read as follows: 6

Sec. 109.5731. (A) As used in this section: 7

(1) "Law enforcement agency" means a police department, the 8
office of a sheriff, the state highway patrol, a county 9
prosecuting attorney, or a state or local governmental body that 10
enforces criminal laws and that has employees who have a statutory 11
power of arrest. 12

(2) "Peace officer" has the same meaning as in section 13
2935.01 of the Revised Code. 14

(B) The bureau of criminal identification and investigation 15
shall provide information to a law enforcement agency regarding 16
the best practices for handling death scene investigations. The 17
bureau shall identify any publications or training opportunities 18
that may be available to a law enforcement agency or peace officer 19

concerning the handling of death scene investigations and shall 20
inform the law enforcement agency or peace officer of the 21
existence of those available publications or training 22
opportunities. 23

Sec. 313.08. (A) In counties in which a county morgue is 24
maintained, the coroner shall be the official custodian of the 25
morgue. 26

In all cases of the finding of the body or remains of a 27
deceased person within a county in which a county morgue is 28
maintained, when the identity of the deceased person is unknown, 29
or the deceased person's relatives or other persons entitled to 30
the custody of the body or remains of the deceased person are 31
unknown or not present, the body or remains shall be removed to 32
the county morgue, where it shall be held for identification and 33
disposal. 34

(B) The coroner shall make a reasonable attempt to promptly 35
identify the body or remains of a deceased person. The coroner may 36
use any means available in attempting to identify the body or 37
remains. 38

(C) If the coroner is unable to identify the body or remains 39
of a deceased person within ~~thirty days~~ twenty-four hours after 40
the body or remains of the deceased person are delivered to the 41
coroner, the coroner shall notify the bureau of criminal 42
identification and investigation that the body or remains are 43
located in the county morgue or are in the custody of the coroner 44
and forward a DNA specimen from the body or remains of the 45
deceased person to the bureau. 46

(D) If a body or remains are discovered and delivered to the 47
coroner and the coroner is unable to determine whether or not the 48
body or remains that are discovered are the body or remains of a 49
deceased person, the coroner shall notify the bureau of criminal 50

identification and investigation of the existence of a possible 51
body or remains of a deceased person and forward a DNA specimen 52
from the body or remains to the bureau. 53

(E) If the body or remains of a deceased person are not 54
identified, in addition to providing the notice required under 55
division (C) of this section, a coroner shall do all of the 56
following prior to disposing of the body or remains: 57

(1) Take the fingerprints of the body or remains of the 58
deceased person, or cause the same to be taken, according to the 59
fingerprint system of identification on the forms furnished by the 60
superintendent of the bureau of criminal identification and 61
investigation; 62

(2) Take or cause to be taken one or more photographs of the 63
body or remains of the deceased person; 64

(3) Collect in a medically approved manner a DNA specimen 65
from the body or remains of the deceased person; 66

(4) Promptly cause the fingerprints, the photographs, and the 67
DNA specimen to be forwarded to the bureau of criminal 68
identification and investigation for inclusion in the unidentified 69
person database in accordance with procedures established by the 70
superintendent of the bureau under division (H) of section 109.573 71
of the Revised Code. 72

(F) The bureau of criminal identification and investigation 73
shall cause the fingerprints, the photographs, and the DNA 74
specimen forwarded by the coroner to the bureau pursuant to 75
division (E)(4) of this section to be forwarded to the national 76
crime information center and the national DNA index system within 77
ten days after the bureau completes the DNA analysis of the 78
forwarded DNA specimen. 79

(G) The bureau shall provide the fingerprint forms, specimen 80
vials, mailing tubes, labels, postage, and instruction needed for 81

the collection and forwarding to the bureau pursuant to division (E)(4) of this section of the fingerprints and the DNA specimen and for the forwarding pursuant to division (E)(4) of this section to the bureau of the photographs.

(H) Upon the request of a coroner who has the duty to take, or cause the taking of, fingerprints and photographs under divisions (E)(1) and (2) of this section, the bureau of criminal identification and investigation shall take, or assist in the taking of, the required fingerprints and photographs.

(I) The coroner may submit any evidence gathered in the investigation of a death to the bureau of criminal identification and investigation for assistance in determining whether the death resulted from criminal activity. The bureau shall assist in the evaluation of evidence submitted under this division.

(J) The coroner may not cremate or have cremated the body or remains of an unidentified deceased person.

(K) As used in this section, "DNA analysis," "DNA specimen," and "unidentified person database" have the same meanings as in section 109.573 of the Revised Code.

Sec. 2901.41. (A)~~(1)~~ As used in ~~this section and section 2901.42~~ sections 2901.41 to 2901.43 of the Revised Code, ~~"missing person" means an individual who is eighteen years of age or older, whose temporary or permanent residence is in Ohio, and who meets one of the following characteristics:~~

~~(1) The individual has a physical or mental disability.~~

~~(2) The individual is missing under circumstances indicating that the individual's safety may be in danger.~~

~~(3) The individual is missing under circumstances indicating that the individual's disappearance was not voluntary~~ "law enforcement agency" has the same meaning as in section 109.573, of

the Revised Code. 112

(2) As used in this section, "DNA specimen" has the same 113
meaning as in section 109.573 of the Revised Code. 114

~~(B) The attorney general shall publish and distribute to all~~ 115
~~law enforcement agencies in this state a best practices protocol~~ 116
~~for addressing reports of missing persons. Upon receipt of the~~ 117
~~best practices protocol from the attorney general, each~~ When a law 118
enforcement agency in this state shall develop and adopt a written 119
policy establishing reasonable procedures to be followed by that 120
has jurisdiction in the matter is informed that a person is or may 121
be a missing person and that the person providing the information 122
wishes to file a missing person report, the law enforcement agency 123
when the agency is informed that a person is or may be a missing 124
person shall take that report. Upon taking the report, the law 125
enforcement agency shall take prompt action upon the report, 126
including, but not limited to, concerted efforts to locate the 127
missing person. No law enforcement agency in this state shall 128
refuse to take a missing person report for any reason, including 129
but not limited to, the following: 130

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(1) The missing person is an adult. 132

(2) The circumstances surrounding the disappearance of the 133
person do not indicate foul play. 134

(3) The person has been missing for a short period of time. 135

(4) The person has been missing for a long period of time. 136

(5) There is no indication that the missing person was in the 137
jurisdiction of the law enforcement agency at the time of the 138
missing person's disappearance. 139

(6) The circumstances suggest that the missing person's 140
disappearance was voluntary. 141

(7) The person reporting the disappearance of the missing person does not have personal knowledge of the facts surrounding the missing person's disappearance. 142
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(8) The person reporting the disappearance of the missing person cannot provide all of the information requested by the law enforcement agency. 145
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(9) The person reporting the disappearance of the missing person lacks a familial or other relationship with the missing person. 148
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(C) After a law enforcement agency adopts a written policy as required by to accept a missing person report under division (B) of this section, the peace officers that are employed by that agency shall make a good faith effort to follow the procedures contained in the policy accept the report in person, by telephone, or in any other means to the extent that the report is consistent with the law enforcement agency's policies or practices. 151
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(D) The requirements of In accepting a report of a missing person under this section do not create a private cause of action for damages against the state or any, a law enforcement agency, political subdivision, peace officer, or other person who fails to comply with the requirements of this section shall attempt to gather relevant information from the person reporting the disappearance of the missing person relating to the disappearance of the missing person and integrate it into the national crime information center computer within twelve hours following the making of the report. The law enforcement agency, at the time of the report, shall attempt to gather information with regards to the missing person that shall include, but not be limited to, all of the following: 159
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(1) The missing person's name, including alternative names, 172

date of birth, identifying marks, height and weight, gender, race, 173
current hair color as well as natural hair color, eye color, 174
prosthetics, surgical implants, or cosmetic implants, if 175
applicable, physical anomalies, blood type, if known, driver's 176
license number, if known, social security number, if known, a 177
photograph, preferably recent, of the missing person and the date 178
of the photograph if known, a description of the clothing the 179
missing person was believed to be wearing, and a description of 180
items that may be with the missing person; 181

(2) Information regarding the missing person's electronic 182
communications devices, including, but not limited to, cellular 183
phone numbers and electronic mail addresses; 184

(3) The reasons why the reporting person believes the missing 185
person is missing; 186

(4) The name and location of the missing person's school or 187
employer, if known; 188

(5) The name and location of the missing person's primary 189
care physician or dentist, if known; 190

(6) Any circumstances that may indicate that the missing 191
person's disappearance was not voluntary or that the missing 192
person may be at risk of injury or death; 193

(7) A description of the possible means of transportation of 194
the missing person, including, but not limited to, the make, 195
model, color, license plate number, or vehicle identification 196
number of a motor vehicle; 197

(8) Any identifying information about a person who is the 198
known or possible abductor or who was last seen with the missing 199
person, including, but not limited to, all of the following: 200

(a) The person's name; 201

(b) A physical description of the person; 202

<u>(c) The person's date of birth, if known;</u>	203
<u>(d) Identifying marks on the person;</u>	204
<u>(e) A description of a possible means of transportation of the person, including the make, model, color, license plate number, or vehicle identification number of a motor vehicle, if known;</u>	205 206 207 208
<u>(f) Any known associates of the person;</u>	209
<u>(9) The date of the reporting person's last contact with the missing person;</u>	210 211
<u>(10) Any other information that the reporting person believes is relevant.</u>	212 213
<u>(E) Upon the filing of a missing person's report under this section, the law enforcement agency involved shall do all of the following for the person making the report, a family member of the missing person, or any other person in a position to assist the law enforcement agency in the law enforcement agency's efforts to locate the missing person:</u>	214 215 216 217 218 219
<u>(1) Provide to the person general information about the law enforcement agency's handling of the missing person's case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure of certain information would not adversely affect the law enforcement agency's ability to locate or protect the missing person or its ability to apprehend or prosecute any person who is involved in the missing person's disappearance.</u>	220 221 222 223 224 225 226 227
<u>(2) Inform the person making the report that the person shall promptly contact the law enforcement agency if the missing person remains missing, to provide additional information and materials that will aid the law enforcement agency in locating the missing person, including credit cards or debit cards that the missing</u>	228 229 230 231 232

person may have access to and records of the missing person's 233
cellular phone usage; 234

(3) Inform the person making the report that any DNA samples 235
provided for the missing person's case are on a voluntary basis 236
and those samples will be used solely to aid in the location or 237
identification of the missing person; 238

(4) Make available to the person informational materials that 239
advise the public on how the information or materials described in 240
divisions (E)(1), (2), and (3) of this section are used to aid in 241
the location or identification of missing persons. 242

(F) If a law enforcement agency takes a missing person report 243
under this section and if the missing person remains missing after 244
thirty days, the law enforcement agency shall attempt to obtain 245
all of the following information that it has not received prior to 246
the expiration of that thirty-day period: 247

(1) DNA specimens from the missing person or from persons 248
related by consanguinity to the missing person pursuant to 249
division (B)(3) of section 109.573 of the Revised Code, together 250
with any documentation and authorizations required for the entry 251
of the DNA information into state and federal DNA databases; 252

(2) An authorization from an appropriate person to release 253
dental or skeletal x-rays of the missing person; 254

(3) Any additional photographs of the missing person that may 255
aid the law enforcement agency in the investigation or 256
identification of the missing person; 257

(4) Dental information and x-rays of the missing person; 258

(5) Fingerprints of the missing person. 259

(G)(1) A law enforcement agency that receives a missing 260
person report under this section shall submit to the federal 261
bureau of investigation, by entry into an appropriate electronic 262

database or by submission by other appropriate means to the bureau 263
of criminal identification and investigation, any information the 264
law enforcement agency receives under this section that is 265
relevant to the federal bureau of investigation's violent criminal 266
apprehension program as soon as possible. 267

(2) A law enforcement agency that receives a missing person 268
report under this section is not required to obtain written 269
authorization before the law enforcement agency publicly releases 270
any photograph that would aid the law enforcement agency in the 271
investigation or identification of the missing person. 272

(H) A law enforcement agency that enters medical or dental 273
information pertaining to a missing person into a state or federal 274
database shall ensure that the person who enters the information 275
is specifically trained to understand the information and to enter 276
it correctly. 277

(I) This section shall not be interpreted to preclude a law 278
enforcement agency from attempting to obtain the information 279
described in division (F) of this section prior to the expiration 280
of the thirty-day period described in that division. 281

Sec. 2901.42. ~~(A) If a law enforcement agency receives a~~ 282
~~report that a person is missing and if there is evidence that the~~ 283
~~person was a victim of foul play at the time the victim is~~ 284
~~reported missing, the law enforcement agency shall make available~~ 285
~~through the law enforcement automated data system all information~~ 286
~~contained in the report not later than seven days after the law~~ 287
~~enforcement agency receives the report. If there is no evidence~~ 288
~~that the person was a victim of foul play, the law enforcement~~ 289
~~agency shall make the information available in the law enforcement~~ 290
~~automated data system not later than thirty days after receiving~~ 291
~~the report that the person is missing~~ As used in this section, 292
"high-risk missing person" means an individual whose whereabouts 293

<u>are not currently known and in relation to whom the circumstances</u>	294
<u>present indicate that the individual may be at risk of injury or</u>	295
<u>death. The circumstances that indicate that an individual may be</u>	296
<u>at risk of injury or death and is a "high-risk missing person"</u>	297
<u>include, but are not limited to, any of the following:</u>	298
<u>(1) The person is missing as a result of a kidnapping or</u>	299
<u>abduction by a stranger.</u>	300
<u>(2) The person is missing under suspicious circumstances.</u>	301
<u>(3) The person is missing under unknown circumstances.</u>	302
<u>(4) The person is missing under known dangerous</u>	303
<u>circumstances.</u>	304
<u>(5) The person has been missing more than thirty days.</u>	305
<u>(6) The person has already been designated as a "high-risk</u>	306
<u>missing person" by another law enforcement agency in this state or</u>	307
<u>any other state that has a similar law.</u>	308
<u>(7) There is evidence that the person is at risk of injury or</u>	309
<u>death because of any of the following:</u>	310
<u>(a) The missing person requires medical attention or</u>	311
<u>prescription medication.</u>	312
<u>(b) The missing person does not have a previous history of</u>	313
<u>running away or disappearing.</u>	314
<u>(c) The missing person may have been kidnapped or abducted by</u>	315
<u>a non-custodial parent.</u>	316
<u>(d) The missing person is mentally impaired.</u>	317
<u>(e) The missing person is under twenty-one years of age.</u>	318
<u>(f) The missing person has been the victim of past threats or</u>	319
<u>acts of violence.</u>	320
<u>(8) Any other factors that, in the opinion of the law</u>	321

enforcement agency, may determine that the missing person may be 322
at risk of injury or death. 323

~~(B) If a (1) Upon the initial receipt of a missing person~~ 324
~~report, the law enforcement agency receives a report that a person~~ 325
~~is immediately shall determine whether there is a basis to believe~~ 326
~~that the missing and there is no evidence of foul play at the time~~ 327
~~the agency receives the report and if the agency discovers after~~ 328
~~the law enforcement agency receives the report but before the end~~ 329
~~of the seven day period under division (A) of this section~~ 330
~~evidence that the person who is a high-risk missing was a victim~~ 331
~~of foul play, the law enforcement agency shall make available~~ 332
~~through the law enforcement automated data system all information~~ 333
~~contained in the report by the end of that seven day period. If a~~ 334
~~law enforcement agency receives a report that a person is missing~~ 335
~~and there is no evidence of foul play at the time the agency~~ 336
~~receives the report and if the agency discovers after the end of~~ 337
~~the seven day period under division (A) of this section evidence~~ 338
~~that the person who is missing was a victim of foul play, the law~~ 339
~~enforcement agency shall make available through the law~~ 340
~~enforcement automated data system all information contained in the~~ 341
~~report not later than forty eight hours after discovering the~~ 342
~~evidence that the person was a victim of foul play.~~ 343

~~(C) If a law enforcement agency pursuant to divisions (A) and~~ 345
~~(B) of this section made available through the law enforcement~~ 346
~~automated data system information contained in a report that a~~ 347
~~person is missing and the missing person is found, the agency~~ 348
~~shall promptly remove that information from the law enforcement~~ 349
~~automated data system.~~ 350

~~(D) As used in this section, indicators that a person was a~~ 351
~~victim of "foul play" include, but are not limited to, evidence~~ 352
~~that the person's home or car is in disarray, evidence of a~~ 353

~~struggle between the person and another person, or evidence a law 354
enforcement agency determines to be foul play through the written 355
policy the law enforcement agency develops and adopts pursuant to 356
division (B) of section 2901.41 of the Revised Code. 357~~

(2) If a law enforcement agency previously has determined 358
that a missing person is not a high-risk missing person, but the 359
law enforcement agency obtains new information regarding the 360
missing person, the law enforcement agency immediately shall 361
determine whether the new information provided to the law 362
enforcement agency indicates that the missing person is a 363
high-risk missing person. 364

(3) A law enforcement agency's determination under this 365
section as to whether or not a missing person is a high-risk 366
missing person shall be performed not later than seventy-two hours 367
after the initial missing person report was made or the new 368
information regarding the missing person was provided to the law 369
enforcement agency. 370

(4) When a law enforcement agency determines that a missing 371
person is a high-risk missing person, the law enforcement agency 372
promptly shall issue an Amber alert if the activation criteria for 373
an Amber alert are met or, if those criteria are not met, shall 374
provide for the public dissemination of photographs of the missing 375
person in accordance with any applicable state criteria. 376

(5) A law enforcement agency shall establish written 377
procedures for the handling of missing person reports to 378
accomplish the purpose of this section. 379

Sec. 2901.43. (A) As used in this section, "DNA analysis" and 380
"DNA specimen" have the same meanings as in section 109.573 of the 381
Revised Code. 382

(B) When a law enforcement agency determines pursuant to 383

section 2901.42 of the Revised Code that a missing person is a 384
high-risk missing person, the law enforcement agency shall notify 385
the bureau of criminal identification and investigation and 386
immediately shall provide to the bureau the information that is 387
most likely to aid the bureau in the location and safe return of 388
the high-risk missing person. The law enforcement agency shall 389
provide to the bureau, as soon as is practicable, all other 390
information the law enforcement agency obtains in relation to the 391
missing person case. 392

(C) Upon its receipt of information under division (B) of 393
this section, the bureau of criminal identification and 394
investigation immediately shall notify all law enforcement 395
agencies in this state and, if practicable, law enforcement 396
agencies in neighboring states of the information that will aid 397
the law enforcement agencies in the prompt location and safe 398
return of the high-risk missing person to whom the information 399
pertains. 400

(D) A law enforcement agency that receives the notification 401
described in division (C) of this section shall notify the 402
agency's peace officers to keep watch for the high-risk missing 403
person and to exercise diligence in attempting to locate the 404
high-risk missing person or the person's abductor. 405

(E) A law enforcement agency that provides information under 406
division (B) of this section immediately shall enter all collected 407
information regarding the high-risk missing person into the 408
national crime information center database, the national DNA index 409
system, and the relatives of missing persons database. If the law 410
enforcement agency does not have the capability to enter this 411
information directly into the national crime information center 412
database or the national DNA index system, the bureau of criminal 413
identification and investigation immediately shall enter that 414
information into the national crime information center database or 415

the national DNA index system. The law enforcement agency 416
immediately shall also enter all collected information regarding a 417
missing person into the national crime information center 418
database, the national DNA index system, and the relatives of 419
missing persons database. If the law enforcement agency does not 420
have the capability to enter this information directly into the 421
national crime information center database or the national DNA 422
index system, the bureau of criminal identification and 423
investigation immediately shall enter that information into the 424
national crime information center database or the national DNA 425
index system. The information shall be entered as follows: 426

(1) If the missing person is a high-risk missing person, the 427
law enforcement agency or the bureau of criminal identification 428
and investigation shall enter the missing person report regarding 429
the high-risk missing person and all relevant information provided 430
in the report in the national crime information center database. 431
The agency or bureau shall enter the report and information not 432
later than two hours after the determination by the law 433
enforcement agency that the person is a high-risk missing person. 434
The law enforcement agency or the bureau of criminal 435
identification and investigation shall enter any supplemental 436
information regarding a high-risk missing person into the database 437
as soon as practicable. If the missing person is not a high-risk 438
missing person, the law enforcement agency or the bureau of 439
criminal identification and investigation shall enter the missing 440
person's report and all relevant information provided in the 441
report in the national crime information center database within 442
twenty-four hours after the law enforcement agency or the bureau 443
receives the missing person's report. 444

(2) The law enforcement agency or the bureau of criminal 445
identification and investigation shall enter all relevant DNA 446
records into the relatives of missing persons database and the 447

national DNA index system database after the completion of the DNA 448
analysis of the DNA specimen. 449

(F) The law enforcement agency or the bureau of criminal 450
identification and investigation shall submit to the federal 451
bureau of investigation any relevant information regarding a 452
high-risk missing person or a missing person as soon as possible. 453

Section 2. That existing sections 313.08, 2901.41, and 454
2901.42 of the Revised Code are hereby repealed. 455

Section 3. Section 313.08 of the Revised Code is presented in 456
this act as a composite of the section as amended by both Am. Sub. 457
H.B. 235 and H.B. 571 of the 126th General Assembly. The General 458
Assembly, applying the principle stated in division (B) of section 459
1.52 of the Revised Code that amendments are to be harmonized if 460
reasonably capable of simultaneous operation, finds that the 461
composite is the resulting version of the section in effect prior 462
to the effective date of the section as presented in this act. 463
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