



H.B. 571*

126th General Assembly

(As Reported by S. Judiciary - Criminal Justice)

Reps. Hughes, Collier, C. Evans, D. Evans, Widener, Latta, Gilb, Mason, Yuko, Key, Seitz, Allen, Barrett, Beatty, Book, Brown, Bubp, Buehrer, Carano, Chandler, Combs, Daniels, DeBose, Dolan, Domenick, Driehaus, Faber, Fende, Garrison, Gibbs, Hartnett, Harwood, Hoops, Law, J. McGregor, Otterman, S. Patton, T. Patton, Perry, Reed, Reidelbach, Schaffer, Schlichter, Schneider, Seaver, Setzer, G. Smith, D. Stewart, J. Stewart, Strahorn, Wagoner

Sens. Clancy, Zurz, Kearney

BILL SUMMARY

- Requires the Attorney General to publish and distribute to all Ohio law enforcement agencies a best practices protocol for addressing reports of a "missing person" (an individual who is 18 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, or (3) the individual is missing under circumstances indicating that the individual's disappearance was not voluntary).
- Directs each law enforcement agency, upon receipt of the best practices protocol, to develop and adopt a written policy establishing reasonable procedures to be followed by the law enforcement agency when the agency is informed that a person is or may be a missing person.
- Requires each law enforcement agency to make information regarding a missing person available in LEADS within a specified period of time that depends on whether there is evidence of foul play.

** This analysis was prepared before the report of the Senate Judiciary - Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

- Requires the Attorney General to adopt rules governing the training of peace officers in the handling of missing persons.
- Requires a coroner to make a reasonable attempt to promptly identify the body or remains of a deceased person and permits the coroner to do so by any means available.
- Provides that, if a coroner is unable to identify the body or remains of a deceased person within 30 days after the body or remains are delivered to the coroner, the coroner must notify BCII that the body or remains are located in the county morgue or are in the custody of the coroner and must forward a DNA specimen to BCII.
- Specifies that, if a body or remains are discovered and delivered to the coroner and the coroner is unable to determine whether or not the body or remains are the body or remains of a deceased person, the coroner must notify BCII of the existence of a possible body or remains of a deceased person and must forward a DNA specimen to BCII.
- Requires BCII, when in receipt of the fingerprints, photographs, and DNA specimen of an unidentified deceased person, to forward that information to the National Crime Information Center and the National DNA Index System within ten days after BCII completes a DNA analysis of the DNA specimen.

CONTENT AND OPERATION

Law enforcement procedures in missing person cases

Written policy regarding reports of missing persons

The bill requires the Attorney General ("AG") to publish and distribute to all Ohio law enforcement agencies a "best practices protocol" for addressing reports of "missing persons" (see "Definition of "missing person"," below). Upon receipt of the best practices protocol from the AG, each law enforcement agency must develop and adopt a written policy establishing reasonable procedures to be followed by the law enforcement agency when the agency is informed that a person is or may be a missing person. After a law enforcement agency adopts this written policy, the peace officers employed by that agency must make a good faith effort to follow the procedures contained in the policy. The bill additionally specifies that these requirements do not create a private cause of action for damages against the state or any law enforcement agency, political

subdivision, peace officer, or other person who fails to comply with these requirements. (R.C. 2901.41.)

Information dissemination through LEADS

Under the bill, if a law enforcement agency receives a report that a person is missing and if there is evidence that the person was a victim of foul play at the time the victim is reported missing, the agency must make available through the Law Enforcement Automated Data System ("LEADS") all information contained in the report not later than seven days after the agency receives the report. If the missing person is found, the agency promptly must remove the information from LEADS. Indicators that a person was a victim of "foul play" include, but are not limited to, evidence that the person's home or car is in disarray, evidence of a struggle between the person and another person, or evidence a law enforcement agency determines to be foul play through the written policy the agency adopts, as described above in "**Written policy regarding reports of missing persons.**" (R.C. 2901.42(A), (C), and (D).)

If a law enforcement agency receives a report that a person is missing and there is no evidence that the person was a victim of foul play, the law enforcement agency must make all information contained in the report available in LEADS not later than 30 days after receiving the report that the person is missing. However, if evidence of foul play arises after the agency receives the report and before the end of the seven-day reporting period required when there is initial evidence of foul play (as described in the preceding paragraph), the agency must make that information available through LEADS by the end of that seven-day period. If evidence of foul play is discovered after the expiration of that seven-day period, the agency must make that information available through LEADS not later than 48 hours after discovering the evidence that the person was a victim of foul play. If the missing person is found, the agency must remove the information from LEADS. The indicators of "foul play" described in the preceding paragraph also apply regarding the provisions described in this paragraph. (R.C. 2901.42(A), (B), (C), and (D).)

Definition of "missing person"

The bill defines "missing person" for purposes of the provisions described above to mean an individual who is 18 years of age or older, whose temporary or permanent residence is in Ohio, and who meets one of the following characteristics (R.C. 2901.41(A)):¹

¹ In the provisions described above in "**Information dissemination through LEADS.**" the bill refers to "a person is missing" or a "person who is missing" and only once refers

(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.

Peace officer training

The bill requires the Attorney General to adopt rules under the Administrative Procedure Act or R.C. 109.74 governing the training of peace officers in the handling of missing persons. This requirement is in addition to current law's requirement that the AG adopt rules governing the training of peace officers in the handling of missing children and child abuse and neglect cases. Existing law, unchanged by the bill, states that the rules so adopted must specify the amount of training in the identified areas that is necessary for the satisfactory completion of basic training programs at approved peace officer training schools other than the Ohio Peace Officer Training Academy and the time within which a peace officer is required to receive that training if he or she is appointed as a peace officer before receiving that training (see **COMMENT**). (R.C. 109.741.)

Coroner's obligations with respect to the identification of remains

Current law

Current law requires that in all cases of the finding of the body or remains of a deceased person within a county in which a county morgue is maintained, when the identity of the deceased person is unknown, or the deceased person's relatives or other persons entitled to the custody of the body or remains of the deceased person are unknown or not present, the body or remains must be removed to the county morgue to be held for identification and disposal (R.C. 313.08(A)). If the body or remains are not identified, a coroner must do all of the following prior to disposing of the body or remains (R.C. 313.08(B) and (C)):

(1) Take the fingerprints of the body or remains according to the fingerprint system of identification on the forms furnished by the Superintendent of the Bureau of Criminal Identification and Investigation ("BCII");

*to "missing person." Presumably these terms are intended to be interchangeable but that is unclear in the current bill and may need to be amended if it is intended that the provisions described in "**Information dissemination through LEADS**" only apply to persons who are described in the definition of "missing person."*

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

(3) Collect in a medically approved manner a DNA specimen from the body or remains;

(4) Promptly cause the fingerprints, the photographs, and the DNA specimen to be forwarded to BCII for inclusion in the unidentified person database (BCII is required to provide the coroners with the fingerprint forms, specimen vials, items necessary for mailing, and instructions needed for the collection and also is responsible for taking, or assisting in taking, the required fingerprints and photographs if the coroner requests).

Operation of the bill

The bill makes several changes to current law's obligations with respect to the identification of a deceased person. First, the bill includes a specific statement that the coroner is required to make a reasonable attempt to promptly identify the body or remains of a deceased person by any means available. (R.C. 313.08(B).)

Second, the bill provides that, if the coroner is unable to identify the body or remains of a deceased person within 30 days after the body or remains are delivered to the coroner, the coroner must notify BCII that the body or remains are located in the county morgue or are in the custody of the coroner and forward a DNA specimen from the body or remains to BCII (R.C. 313.08(C)).

Third, the bill provides that, if a body or remains are discovered and delivered to the coroner and the coroner is unable to determine whether or not the body or remains that are discovered are the body or remains of a deceased person, the coroner must notify BCII of the existence of a possible body or remains of a deceased person and forward a DNA specimen from the body or remains to BCII. (R.C. 313.08(D).)

Fourth, the bill requires BCII, when in receipt of fingerprints, photographs, and DNA specimens of an unidentified deceased person, as described above under "**Current law**," to forward the fingerprints, photographs, and DNA specimen to the National Crime Information Center and the National DNA Index System within 10 days after BCII completes a DNA analysis of the DNA specimen that was forwarded to BCII by a coroner (R.C. 313.08(F)).²

² "DNA analysis," "DNA specimen," and "unidentified person database" have the same meaning as in existing R.C. 109.573, not in the bill.

COMMENT

Existing R.C. 109.77, which is not in the bill, sets forth the general training requirements for most peace officers in Ohio. It specifies that, notwithstanding any general, special, or local law or charter to the contrary, and except as otherwise described below, no person may receive an original appointment on a permanent basis as any of the following unless the person has been awarded a certificate by the Ohio Peace Officer Training Commission (OPOTC) attesting to the person's satisfactory completion of an approved state, county, municipal, or Department of Natural Resources (DNR) peace officer basic training program: (1) a "peace officer" (as defined in existing R.C. 109.71, which is not in the bill, and includes deputy sheriffs, marshals, deputy marshals, municipal police officers, township police officers and constables, metropolitan housing authority police officers, etc.) of a county, township, municipal corporation, regional transit authority, or metropolitan housing authority, (2) a DNR natural resources law enforcement staff officer, park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer, (3) an employee of a park district under R.C. 511.232 or 1545.13, (4) a conservancy district employee designated pursuant to R.C. 6101.75, (5) a state university law enforcement officer, (6) a Department of Mental Health or Department of Mental Retardation and Developmental Disabilities special police officer employed pursuant to R.C. 5119.14 or 5123.13, (7) a Department of Public Safety enforcement agent designated under R.C. 5502.14, (8) a port authority special police officer employed under R.C. 4582.04 or 4582.28, or (9) a special police officer employed by a municipal corporation at a municipal airport, or other municipal air navigation facility, that has scheduled operations, is required to be under a security program, and is governed by specified federal aviation security rules.

It also specifies that every person who is appointed on a temporary basis or for a probationary term or on other than a permanent basis as any of the officers identified in the preceding paragraph, other than a state university law enforcement officer, must forfeit the appointed position unless the person previously has completed satisfactorily or, within the time prescribed by rules adopted by the AG pursuant to R.C. 109.74, satisfactorily completes a state, county, municipal, or DNR peace officer basic training program for temporary or probationary officers and is awarded a certificate by OPOTC attesting to the satisfactory completion of the program.

A peace officer basic training program required as described in either of the two preceding paragraphs must include at least 15 hours of training in the handling of the offense of domestic violence, other types of domestic violence-related offenses and incidents, and protection orders and consent agreements issued or approved under R.C. 2919.26 or 3113.31 and at least six hours of crisis

intervention training. The domestic violence-related training and protection order-related training requirements do not apply to any person serving as a peace officer on March 27, 1979. The crisis intervention-related training requirement does not apply to any person serving as a peace officer on April 4, 1985, unless the person terminates that employment after that date and subsequently is hired as a peace officer by the same or another law enforcement agency.

The requirements described in the three preceding paragraphs, do not apply to a person: (1) serving on a permanent basis on March 28, 1985, as a DNR park officer, forest officer, preserve officer, wildlife officer, or state watercraft officer or as an employee of a park district, (2) serving on a permanent basis on March 6, 1986, as an employee of a conservancy district, (3) serving on a permanent basis on January 10, 1991, as a DNR preserve officer, (4) employed on a permanent basis on July 2, 1992, as a Department of Mental Health or Department of Mental Retardation and Developmental Disabilities special police officer, (5) serving on a permanent basis on May 17, 2000, as a port authority special police officer, (6) serving on a permanent basis on a specified date as a special police officer employed by a municipal corporation at a municipal airport or other municipal air navigation facility, (7) serving on a permanent basis on June 19, 1978, as a state university law enforcement officer, (8) serving on a permanent basis on September 20, 1984, as a liquor control investigator, known after June 30, 1999, as a Department of Public Safety enforcement agent, or (9) appointed as a regional transit authority police officer if, on or before July 1, 1996, the person completed satisfactorily an approved state, county, municipal, or DNR peace officer basic training program and was awarded a certificate by OPOTC attesting to the person's satisfactory completion of the program and if, on that date, the person was performing peace officer functions for a regional transit authority. A person who was employed as a peace officer of an Ohio county, township, or municipal corporation on January 1, 1966, and who has completed at least 16 years of full-time active service as such a peace officer may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements described in the three preceding paragraphs. Also, a person who held an appointment as a state highway trooper on January 1, 1966, may receive an original appointment on a permanent basis and serve as a peace officer of a county, township, or municipal corporation, or as a state university law enforcement officer, without complying with the requirements described in the three preceding paragraphs.

Existing R.C. 109.77 also provides that, after September 20, 1984, no person may receive an original appointment on a permanent basis as a veterans' home police officer designated under R.C. 5907.02 unless the person previously has been awarded a certificate by OPOTC attesting to the person's satisfactory

completion of an approved police officer basic training program. Every person appointed on a temporary basis or for a probationary term or on other than a permanent basis as such a police officer must forfeit that position unless the person previously has completed satisfactorily or, within one year from the time of appointment, satisfactorily completes an approved police officer basic training program.

Finally, existing R.C. 109.77 provides that no person who is appointed as a peace officer of a county, township, or municipal corporation on or after April 9, 1985, may serve as a peace officer of that county, township, or municipal corporation *unless the person has received training in the handling of missing children and child abuse and neglect cases from an approved state, county, township, or municipal police officer basic training program or receives the training within the time prescribed by rules adopted by the AG pursuant to R.C. 109.741.* (Note that, although the bill expands R.C. 109.741 to require the rules adopted by the AG to also govern the training of peace officers in the handling of missing persons, it does not similarly expand this provision of R.C. 109.77 to explicitly require that peace officers receive training in the handling of missing persons.)

HISTORY

ACTION	DATE
Introduced	04-25-06
Reported, H. Criminal Justice	05-24-06
Passed House (95-0)	05-25-06
Reported, S. Judiciary - Criminal Justice	---

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