SYNOPSIS

“Patricia’s Law;” model Missing Persons Legislation.

CURRENT VERSION OF TEXT

As reported by the Senate Budget and Appropriations Committee on June 18, 2007, with amendments.
AN ACT concerning missing persons, designating the act as "Patricia's Law," and supplementing Title 52 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in this act:

"High risk missing person" means a person whose whereabouts are not currently known and the circumstances of the person's disappearance suggest that the person may be at imminent or likely risk of injury or death. The circumstances that indicate that a person is a high risk missing person shall include, but not be limited to:

- the person is missing as a result of confirmed abduction;
- the person is missing under suspicious or under circumstances that indicate that the person's disappearance was not voluntary;
- the person is missing under unknown circumstances;
- the person is missing under known dangerous circumstances;
- the person has already been designated as a high-risk missing person by another law enforcement agency;
- there is evidence that the person is at risk because:
  1. the person missing is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if he or she does not receive the needed care or medication;
  2. the person missing does not have a pattern of running away or disappearing;
  3. the person missing may have been abducted by a non-custodial parent;
  4. the person missing is mentally impaired;
  5. the person missing is a person over the age of 13 and under the age of 21 years and any other risk factor is known or
  6. the person missing has been the subject of past threats or acts of violence and any other factor that may indicate, in the judgment of the chief of the lead law enforcement agency, that the missing person may be at risk.

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter. Matter enclosed in superscript numerals has been adopted as follows:

Senate SLP committee amendments adopted February 26, 2007.
Senate SBA committee amendments adopted June 18, 2007.
“Law enforcement agency” means a department, division, bureau, commission, board or other authority of the State or of any political subdivision thereof which employs law enforcement officers.

“Law enforcement officer” means a person whose public duties include the power to act as an officer for the detection, apprehension, arrest and conviction of offenders against the laws of this State.

“Lead law enforcement agency” means the law enforcement agency with primary responsibility for investigating a missing person case.

“Missing child” means a person 13 years of age or younger whose whereabouts are not currently known.

“Missing Persons Unit” means the Missing Persons Unit in the Division of State Police in the Department of Law and Public Safety established pursuant to section 2 of P.L.1983, c.467 (C.52:17B-9.7).

2. a. A law enforcement agency shall accept without delay any report of a missing person. No law enforcement agency may refuse to accept a missing person report on the basis that:

   i. The missing person is an adult;

   ii. The circumstances do not indicate foul play;

   iii. The person has been missing for a short period of time;

   iv. The person has been missing for a long period of time;

   v. There is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;

   vi. The circumstances suggest that the disappearance may be voluntary;

   vii. The reporting person lacks a familial or other relationship with the missing person; or

   viii. For any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the exact whereabouts and welfare of the subject individual are known to the agency at the time the report is being made.

b. The law enforcement agency that receives a report of a missing person shall be the lead law enforcement agency in charge of the missing person investigation, and shall continue in that
capacity unless another law enforcement agency assumes primary
responsibility over the investigation.

c. The lead law enforcement agency shall be entitled to the
cooperation of any other law enforcement agency in the State.²

3. At the time ['of'] a missing person report is filed, the law
enforcement agency shall seek to ascertain and record the following
information about the missing person:
   a. The name of the missing person, including any aliases ¹                                                           
   b. Date of birth;
   c. Identifying marks, such as birthmarks, moles, tattoos ² and
   scars;
   d. Height and weight;
   e. Gender;
   f. Race;
   g. Current hair color and true or natural hair color;
   h. Eye color;
   i. Prosthetics, surgical implants, or cosmetic implants;
   j. Physical anomalies;
   k. Blood type, if known;
   l. Any medications the missing person is taking or needs to
take;
   m. Driver’s license number, if known;
   n. Social security number, if known;
   o. A recent photograph of the missing person, if available;
   p. A description of the clothing the missing person was
believed to be wearing at the time of disappearance;
   q. A description of notable items that the missing person may
be carrying and wearing;
   r. Information ['on'] regarding⁴ the missing person’s
   electronic communications devices, such as a cell phone number or
   e-mail address⁵;
   s. The reasons why the reporting person believes that the
   person is missing;
   t. ['Name] The name⁶ and location of ['the] missing person’s
   school or employer, if known;
   u. ['Name] The name⁶ and location of ['the] missing person’s
dentist and primary care physician, if known;
   v. Any circumstances that may indicate that the disappearance
   was not voluntary;
   w. Any circumstances that indicate that the missing person may
be at risk of injury or death;
   x. A description of the possible means of transportation of the
   missing person, such as the make, model, color, license, and
   Vehicle Identification Number (VIN)⁷ of a motor vehicle;
   y. Any identifying information about a known or possible
abductor or the person last seen with the missing person including:
4. a. The law enforcement agency shall notify the person making the report, a family member, or any other person in a position to assist the law enforcement agency in its efforts to locate the missing person by providing to that person or family member:

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

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

   (3) in those cases where DNA samples are requested, the law enforcement agency shall notify the person or family member that all such DNA samples are provided on a voluntary basis and shall not be used for any other purpose; and

   (4) the law enforcement agency, upon acceptance of a missing person report, shall inform the person filing the report that there are two clearing houses for missing person’s information. If the person reported missing is age 17 or under, the person filing the report shall be provided with contact information for the National Center for Missing and Exploited Children. If the person reported missing is age 18 or older, the person filing the report shall be provided with contact information for the National Center for Missing Adults.

b. If the person identified in the missing person report remains missing for 30 days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain.
(1) DNA samples from family members and, if possible, from the missing person along with any needed documentation, including any consent forms, required for the use of State or Federal DNA databases;

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

(3) any additional photographs of the missing person that may aid the investigation or an identification. The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person; and

(4) fingerprints.

c. All DNA samples obtained in missing persons cases shall be immediately forwarded to the New Jersey Forensic DNA Laboratory for analysis. The laboratory shall establish procedures for determining how to prioritize analysis of the samples relating to missing persons cases.

d. Information relevant to the Federal Bureau of Investigation’s Violent Criminal Apprehension Program shall be entered as soon as possible.

e. Nothing is this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

5. a. Upon the initial receipt of a missing person report, a law enforcement agency shall seek to determine whether the person reported missing is to be designated a high risk missing person.

A high-risk missing person is an individual whose whereabouts are not currently known and the circumstances indicate that the individual may be at risk of injury or death. The circumstances that indicate that an individual is high-risk missing person shall include, but not be limited to:

(1) the person is missing as a result of a stranger abduction;

(2) the person is missing under suspicious circumstances;

(3) the person is missing under unknown circumstances;

(4) the person is missing under known dangerous circumstances;

(5) the person is missing more than 30 days;

(6) the person has already been designated as a high-risk missing person by another law enforcement agency;

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

(a) the person missing is in need of medical attention, or prescription medication;

(b) the person missing does not have a pattern of running away or disappearing;
(c) the person missing may have been abducted by a non-custodial parent;
(d) the person missing is mentally impaired;
(e) the person missing is a person under the age of 21 years; or
(f) the person missing has been the subject of past threats or acts of violence.
(8) any other factor that may, in the judgment of the chief of the law enforcement agency receiving the missing person report, determine that the missing person may be at risk.

b. [A finding that a person reported missing is not high risk does not preclude a later determination, based on further investigation or the discovery of additional information, that the missing person is high risk.]

6. a. [When a law enforcement agency determines that a missing person investigation involves a high-risk missing person, it shall notify the State Police Missing Persons Unit. It shall immediately provide the State Police Missing Persons Unit with the information that is most likely to aid in the location and safe return of the high-risk missing person. As soon as practicable, the law enforcement agency shall provide all other information obtained relating to the missing person case to the State Police Missing Persons Unit or a missing child, the lead law enforcement agency shall take such actions as are specified in the uniform investigative standards for a high risk missing person or a missing child, as the case may be, as set forth in the protocol developed pursuant to section 10 of P.L. , c. (pending before the Legislature as this bill), and also may contact the Missing Persons Unit and request assistance. The Missing Persons Unit, in consultation with the lead law enforcement agency, shall determine whether the circumstances warrant a cooperative investigative effort. If the determination is made that a cooperative effort is warranted, then the Missing Persons Unit shall coordinate the deployment of additional State Police resources in support of the investigation.]

b. The State Police Missing Persons Unit lead law enforcement agency shall promptly notify all law enforcement agencies within the State and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of the information that may aid in the prompt location and safe return of the high-risk missing person .

c. Local law enforcement agencies that receive notification from the State Police Missing Persons Unit lead law enforcement agency pursuant to subsection b. of this section shall forward that information immediately to its officers and members.
d. The lead law enforcement agency shall, as expeditiously as possible, prepare and disseminate a photographic information bulletin utilizing the Missing Child Alert System, or any successor law enforcement notification system the State may employ.

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

1. a missing person report, and relevant information, in a high-risk missing person case shall be entered in the National Crime Information Center database immediately, but in no case no more than two hours after the determination that the missing person is a high-risk missing person.

2. a missing person report, and relevant information, in a case not involving a high risk missing person shall be entered within 24 hours of the initial filing of the missing person report.

3. all DNA profiles shall be uploaded into the missing persons databases of the New Jersey Forensic DNA Laboratory and all appropriate and suitable federal database systems.

4. information relevant to the Federal Bureau of Investigation’s Violent Criminal Apprehension Program shall be entered as soon as practicable.

5. all due care shall be given to insure that the data, particularly medical and dental records, entered in State and federal database systems is accurate and, to the greatest extent possible, complete.

6. the State Police shall, when deemed appropriate and likely to facilitate a resolution to a particular missing person report, activate the Amber Alert program for the State.

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

7. a. The Attorney General shall provide information to local law enforcement agencies about best practices and protocols for handling death scene investigations.

b. The Attorney General shall identify any publications or training opportunities that may be available to local law enforcement officers concerning the handling of death scene investigations.
8. a. After performing any death scene investigation, as deemed appropriate under the circumstances, the official with custody of the human remains shall ensure that the human remains are delivered to the appropriate county medical examiner.

b. Any county medical examiner with custody of human remains that are not identified within 24 hours of discovery shall promptly notify the [State Police Missing Persons Unit] of the location of those remains.

c. If the county medical examiner with custody of remains cannot determine whether or not the remains found are human, the medical examiner shall so notify the [State Police Missing Persons Unit].

9. a. If the official with custody of the human remains is not a medical examiner, the official shall promptly transfer the unidentified remains to the appropriate county medical examiner.

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

1. photographs of the human remains;
2. dental or skeletal X-rays;
3. photographs of items found with the human remains;
4. fingerprints from the remains, if possible;
5. samples of tissue suitable for DNA typing, if possible;
6. samples of whole bone [and/or] hair suitable for DNA typing;
7. any other information that may support identification efforts.

c. No medical examiner or any other person shall dispose of, or engage in actions that will materially affect the unidentified human remains before the county medical examiner obtains:

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

d. Unidentified human remains shall not be cremated.

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

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

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

(1) information for the National Crime Information Center within 24 hours;

(2) DNA profiles and information shall be entered into the National DNA Index System (NDIS) within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile; and

(3) information sought by the Violent Criminal Apprehension Program database as soon as practicable.

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

i. Agencies handling the remains of a missing person who is deceased shall notify the law enforcement agency handling the missing person’s case. Documented efforts must be made to locate family members of the deceased person to inform them of the death and location of the remains of their family member.

10. The Attorney General, pursuant to the provisions of the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), shall promulgate rules and regulations to effectuate the purposes of this act.

In implementing the provisions of this act and prior to the effective date, the Superintendent of State Police shall develop and disseminate to all law enforcement agencies in the State a best practices protocol for State and local law enforcement agencies to follow when addressing reports of missing persons, which protocol shall set forth uniform investigative standards for missing persons cases and any other procedures, practices and standards that the superintendent deems appropriate for handling missing person cases. The protocol shall include specific procedures practice and standards applicable to cases involving high risk missing persons or missing children. The Superintendent of State Police shall develop and make available to each law enforcement agency in this State a training program on the procedures, practices and standards for the handling of high risk missing persons, missing children and missing
persons cases set forth in the protocol adopted pursuant to and consistent with this act and section. Each law enforcement agency in this State shall comply with this protocol when the agency is notified of a missing person.

To assess the effectiveness of this protocol, the Missing Persons Unit annually shall review a sample of open missing persons cases from the immediately preceding year. Based upon its assessment, the Missing Persons Unit may recommend to the superintendent that the protocol be revised or amended and whether the training programs currently available to law enforcement agencies are adequate.

11. This act shall take effect on the first day of the seventh month following enactment, but the Attorney General may take such anticipatory administrative action in advance as shall be necessary for the implementation of this act.