

**HOUSE BILL NO. 1040**

Introduced by

Legislative Council

(Judicial Process Committee)

1 A BILL for an Act to provide for a procedure for missing person investigations.

2 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

3 **SECTION 1. Missing person reports.**

4 1. A report of a missing person may be made to any law enforcement agency in the  
5 state. The law enforcement agency may not refuse to accept a missing person  
6 report solely on the basis that:

7 a. The missing person is an adult;

8 b. The circumstances do not indicate foul play;

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

10 d. The person has been missing for a long period of time; or

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

13 2. Notwithstanding subsection 1, if, upon receiving sufficient information from the  
14 person making the report, the law enforcement agency that receives the initial  
15 report of a missing person determines that a law enforcement agency in another  
16 jurisdiction is clearly the more appropriate law enforcement agency to receive the  
17 missing person report, the law enforcement agency that receives the initial report  
18 may refer the missing person report to the more appropriate law enforcement  
19 agency. The responsibility for the missing person report remains with the law  
20 enforcement agency that receives the initial missing person report until the law  
21 enforcement agency in the other jurisdiction confirms, in writing, its acceptance of  
22 responsibility for the missing person report. If the law enforcement agency to  
23 which the missing person report is referred is located within this state, that law  
24 enforcement agency shall accept or decline the responsibility for the referred

1           missing person report within twenty-four hours after receiving the request from the  
2           initial law enforcement agency. The law enforcement agency to which the report is  
3           referred may not decline acceptance of responsibility for the missing person report  
4           without good cause shown and may not decline acceptance of responsibility for the  
5           report solely on the basis of the factors listed in subsection 1.

6           3. The law enforcement agency shall accept a missing person report in person. A law  
7           enforcement agency also may accept reports by telephone or by electronic or other  
8           media to the extent that the reporting is consistent with law enforcement policies or  
9           practices. If the missing person is under twenty-one years of age, the report must  
10           be handled in a manner consistent with the National Child Search Assistance Act  
11           of 1990 [42 U.S.C. 5119a] and the Adam Walsh Child Protection Act of 2006  
12           [42 U.S.C. 16901].

13           4. In accepting a report of a missing person, the law enforcement agency shall gather  
14           relevant information relating to the disappearance. At the time of the report, the  
15           law enforcement agency shall gather information that includes:

- 16           a. The name of the missing person, including possible alternative names;  
17           b. The date of birth;  
18           c. Identifying marks, such as birthmarks, moles, tattoos, or scars;  
19           d. Height and weight;  
20           e. Gender;  
21           f. Race;  
22           g. Current hair color and true or natural hair color;  
23           h. Eye color;  
24           i. Prosthetics, surgical implants, or cosmetic implants;  
25           j. Physical anomalies;  
26           k. Blood type;  
27           l. Driver's license number;  
28           m. Social security number;  
29           n. Credit card numbers;  
30           o. A recent photograph of the missing person and an approximate age of the  
31           missing person when the photograph was taken;

- 1           p. A description of the clothing the missing person was believed to have been  
2           wearing;
- 3           q. A description of items that might be with the missing person, such as jewelry,  
4           accessories, handbag, and shoes;
- 5           r. Information on the missing person's electronic communications devices, such  
6           as cellular telephone numbers and e-mail addresses;
- 7           s. The reasons why the reporting person believes that the person is missing;
- 8           t. Name and location of the missing person's school or employer;
- 9           u. Name and location of the missing person's dentist and primary care physician;
- 10          v. Any circumstances that may indicate that the disappearance of the missing  
11          person was not voluntary;
- 12          w. Any circumstances that indicate that the missing person may be at risk of  
13          injury or death;
- 14          x. A description of the possible means of transportation of the missing person,  
15          including make, model, color, license plate number, and vehicle identification  
16          number of a vehicle;
- 17          y. Any identifying information about a known or possible abductor or other  
18          person last seen with the missing person, including that person's name,  
19          physical description, date of birth, identifying marks, known associates, and a  
20          description of a possible means of transportation; and
- 21          z. Date of last contact and any other information that can aid in locating the  
22          missing person.

23       **SECTION 2. Notification and other action.**

- 24       1. When possible, the law enforcement agency shall inform the person making the  
25       report, a family member of the missing person, or other person who may be in a  
26       position to assist the law enforcement agency regarding the agency's efforts to  
27       locate the missing person about general information regarding the handling of the  
28       missing person case or information regarding intended efforts in the case to the  
29       extent that the law enforcement agency determines that disclosure would not  
30       adversely affect the agency's ability to locate or protect the missing person or to  
31       apprehend or prosecute any person criminally involved in the disappearance.

- 1           2. If the person identified in the missing person report remains missing after thirty  
2           days and the additional information and materials specified in this subsection have  
3           not been received, the law enforcement agency shall attempt to obtain:
- 4           a. DNA samples from family members and from the missing person along with  
5           any needed documentation, including any consent forms required for the use  
6           of state or federal DNA databases;
- 7           b. Dental information and x-rays of the missing person;
- 8           c. Any additional photographs of the missing person which may aid the  
9           investigation or identification; and
- 10          d. Fingerprints.
- 11          3. The law enforcement agency is not required to obtain written authorization before it  
12          releases publicly any photograph that would aid in the investigation or identification  
13          of the missing person.
- 14          4. All DNA samples obtained in missing person cases must be forwarded immediately  
15          to the state crime laboratory to perform a DNA analysis. The state crime laboratory  
16          shall establish procedures for determining how to prioritize analysis of the samples  
17          relating to missing person cases.
- 18          5. The law enforcement agency shall submit relevant information to the federal  
19          bureau of investigation's violent criminal apprehension program as soon as is  
20          practicable.
- 21          6. This section does not preclude a law enforcement agency from attempting to  
22          obtain the materials identified in this section before the expiration of the thirty-day  
23          period.

24          **SECTION 3. Prompt determination of high-risk missing person.**

- 25          1. A high-risk missing person is an individual whose whereabouts are not currently  
26          known and the circumstances indicate that the individual may be at risk of injury or  
27          death. The circumstances that indicate that an individual is a high-risk missing  
28          person include:
- 29          a. The person is missing as a result of abduction by a stranger;
- 30          b. The person is missing under suspicious circumstances;
- 31          c. The person is missing under unknown circumstances;

- 1           d. The person is missing under known dangerous circumstances;  
2           e. The person is missing more than thirty days;  
3           f. The person previously has been designated as a "high-risk missing person"  
4           by another law enforcement agency;  
5           g. There is evidence that the person is at risk because:  
6               (1) The person missing is in need of medical attention or prescription  
7               medication;  
8               (2) The person missing does not have a pattern of running away or  
9               disappearing;  
10              (3) The person missing may have been abducted by a noncustodial parent;  
11              (4) The person missing is mentally impaired;  
12              (5) The person missing is a person under the age of twenty-one; or  
13              (6) The person missing has been the subject of past threats or acts of  
14              violence; or  
15           h. Any other factor that, in the judgment of the law enforcement agency, may  
16              determine that the missing person may be at risk.  
17           2. Upon initial receipt of a missing person report, the law enforcement agency shall  
18              determine immediately whether there is a basis to determine that the person  
19              missing is a high-risk missing person.  
20           3. If a law enforcement agency has previously determined that a missing person is  
21              not a high-risk missing person, but obtains new information, the agency shall  
22              determine immediately whether the new information provided to the law  
23              enforcement agency indicates that the person missing is a high-risk missing  
24              person.

25           **SECTION 4. Law enforcement agency reports.**

- 26           1. Upon the determination by the law enforcement agency that the missing person is  
27              a high-risk missing person, the law enforcement agency shall notify the bureau of  
28              criminal investigation. The law enforcement agency shall provide to the bureau of  
29              criminal investigation the information most likely to aid in the location and safe  
30              return of the high-risk missing person. The law enforcement agency shall provide

- 1           as soon as practicable all other information obtained relating to the missing person  
2           case.
- 3           2. The bureau of criminal investigation promptly shall notify all law enforcement  
4           agencies within the state and surrounding region of any information that will aid in  
5           the prompt location and safe return of the high-risk missing person.
- 6           3. Each local law enforcement agency that receives the notification from the bureau  
7           of criminal investigation shall notify that local law enforcement agency's officers to  
8           be on alert for the missing person or a suspected abductor.
- 9           4. The responding local law enforcement agency immediately shall enter all collected  
10           information relating to the missing person case in available state and federal  
11           databases. If the responding local law enforcement agency does not have the  
12           capability to enter this data directly in the state and federal databases, the bureau  
13           of criminal investigation shall enter all collected information relating to the missing  
14           person case in available state and federal databases. The information shall be  
15           provided in accordance with applicable guidelines relating to the databases. The  
16           information must be entered as follows:
- 17           a. A missing person report in a high-risk missing person case must be entered in  
18           the endangered or involuntary category in the national crime information  
19           center database immediately, but no more than two hours after the  
20           determination that the missing person is a high-risk missing person. All other  
21           missing person reports must be entered within one day after the missing  
22           person report is received. Supplemental information in high-risk missing  
23           person cases must be entered as soon as is practicable.
- 24           b. All DNA profiles must be uploaded into the missing person databases of the  
25           state DNA index system, the national DNA index system, and the combined  
26           DNA index system after completion of the DNA analysis and other procedures  
27           required for database entry.
- 28           c. Information relevant to the federal bureau of investigation's violent criminal  
29           apprehension program must be entered as soon as possible.
- 30           5. The bureau of criminal investigation shall ensure that the person entering data  
31           relating to medical or dental records in state or federal databases is specifically

1           trained to understand and correctly enter the information sought by these  
2           databases. The bureau of criminal investigation shall use persons with specific  
3           expertise in medical or dental records for this purpose to ensure the accuracy and  
4           completeness of information entered into the state and federal databases.  
5        6. Pursuant to any applicable state criteria, local law enforcement agencies also shall  
6           provide for the prompt use of an AMBER alert or public dissemination of  
7           photographs in appropriate high-risk cases.

8        **SECTION 5. Reporting of unidentified persons and human remains.**

- 9        1. The bureau of criminal investigation shall provide information to local law  
10           enforcement agencies about best practices for handling death scene  
11           investigations. The bureau of criminal investigation shall identify any publications  
12           or training opportunities that may be available to local law enforcement agencies or  
13           law enforcement officers concerning the handling of death scene investigations.  
14        2. After performing any death scene investigation deemed appropriate under the  
15           circumstances, the official with custody of the human remains shall ensure that the  
16           human remains are delivered to a coroner or medical examiner.  
17        3. Any person with custody of human remains that are not identified within twenty-four  
18           hours of discovery promptly shall notify the bureau of criminal investigation of the  
19           location of those remains.  
20        4. If the person with custody of remains cannot determine whether the remains found  
21           are human, the person shall notify the bureau of criminal investigation of the  
22           existence of possible human remains.

23        **SECTION 6. Unidentified person or human remains identification responsibilities.**

- 24        1. If the official with custody of the human remains is not a coroner or medical  
25           examiner, the official promptly shall transfer the unidentified remains to the coroner  
26           or medical examiner to examine human remains for the purpose of identification of  
27           the human remains.  
28        2. The coroner or medical examiner shall make reasonable attempts to promptly  
29           identify the human remains. These actions may include obtaining:  
30           a. Photographs of the human remains before an autopsy;  
31           b. Dental or skeletal x-rays;

- 1           c. Photographs of items found with the human remains;
- 2           d. Fingerprints from the remains;
- 3           e. Samples of tissue suitable for DNA typing;
- 4           f. Samples of whole bone and hair suitable for DNA typing; and
- 5           g. Any other information that may support identification efforts.
- 6        3. A coroner or medical examiner or any other person may not dispose of or engage
- 7           in actions that will materially affect the unidentified human remains before the
- 8           coroner or medical examiner:
- 9           a. Obtains samples suitable for DNA identification and archiving;
- 10          b. Obtains photographs of the unidentified person or human remains; and
- 11          c. Exhausts all other appropriate steps for identification.
- 12        4. Unidentified human remains may not be cremated.
- 13        5. The coroner or medical examiner or other person designated by the bureau of
- 14           criminal investigation shall make reasonable efforts to obtain prompt DNA analysis
- 15           of biological samples if the human remains have not been identified by other
- 16           means within thirty days.
- 17        6. The coroner or medical examiner or other person designated by the bureau of
- 18           criminal investigation shall seek support from the appropriate federal and state
- 19           agencies for efforts to identify human remains. The support may include available
- 20           mitochondrial or nuclear DNA testing, federal grants for DNA testing, or federal
- 21           grants for crime laboratory or medical examiner office improvement.
- 22        7. The coroner or medical examiner or other person designated by the bureau of
- 23           criminal investigation promptly shall enter information in federal and state
- 24           databases which can aid in the identification of a missing person.
- 25        8. This section does not preclude any coroner or medical examiner office, the bureau
- 26           of criminal investigation, or a local law enforcement agency from pursuing other
- 27           efforts to identify unidentified human remains, including efforts to publicize
- 28           information, descriptions, or photographs that may aid in the identification of the
- 29           unidentified remains; from allowing family members to identify a missing person;
- 30           and from pursuing efforts that seek to protect the dignity of the missing person.