

Enrolled Senate Bill 351

Sponsored by Senator BROWN (at the request of Michelle Duffy in memory of her daughter Miranda Gaddis, Lori Pond in memory of her daughter Ashley Pond, Yvonne and Javier Company in memory of their son Domingo Company-Ramirez) (Pre-session filed.)

CHAPTER

AN ACT

Relating to missing persons; creating new provisions; and amending ORS 146.003, 146.515, 146.525, 146.535, 146.545, 181.505, 181.506 and 181.643.

Be It Enacted by the People of the State of Oregon:

SECTION 1. ORS 146.003 is amended to read:

146.003. As used in ORS 146.003 to 146.165 and 146.710 to 146.992, unless the context requires otherwise:

(1) "Approved laboratory" means a laboratory approved by the State Medical Examiner as competent to perform the blood sample analysis required by ORS 146.113 (2).

(2) "Assistant district medical examiner" means a physician appointed by the district medical examiner to investigate and certify deaths within a county or district.

(3) "Cause of death" means the primary or basic disease process or injury ending life.

(4) "Death requiring investigation" means the death of a person occurring in any one of the circumstances set forth in ORS 146.090.

(5) "Deputy medical examiner" means a person appointed by the district medical examiner to assist in the investigation of deaths within a county.

(6) "District medical examiner" means a physician appointed by the State Medical Examiner to investigate and certify deaths within a county or district, including a Deputy State Medical Examiner.

(7) "Law enforcement agency" means a county sheriff's office, municipal police department and the Oregon State Police.

[(7)] **(8)** "Legal intervention" includes an execution pursuant to ORS 137.463, 137.467 and 137.473 and other legal use of force resulting in death.

[(8)] **(9)** "Manner of death" means the designation of the probable mode of production of the cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.

[(9)] **(10)** "Medical examiner" means a physician appointed as provided by ORS 146.003 to 146.165 to investigate and certify the cause and manner of deaths requiring investigation, including the State Medical Examiner.

[(10)] **(11)** "Pathologist" means a physician holding a current license to practice medicine and surgery and who is eligible for certification by the American Board of Pathology.

(12) "Unidentified human remains" does not include human remains that are unidentified human remains that are part of an archaeological site or suspected of being Native American and covered under ORS chapters 97 and 390 and ORS 358.905 to 358.961.

SECTION 2. Written policies adopted by Oregon law enforcement agencies regarding missing persons shall specify the procedures for investigating missing persons in order to ensure that reported missing persons cases, particularly those involving minor children, are investigated as soon as possible, utilizing all available resources. In adopting policies under this section, Oregon law enforcement agencies may consider standards set by the Oregon Accreditation Alliance and adopt policies consistent with Oregon Accreditation Alliance standards. Policies adopted under this section should include the following:

- (1) Requirements for accepting missing persons reports;
- (2) Procedures for initial investigations;
- (3) Responsibility for follow-up investigations;
- (4) Standards for maintaining and clearing computer data of missing persons information stored in the Law Enforcement Data System and the National Crime Information Center; and

(5) Initiation and activation criteria for Amber Plan alerts under ORS 181.035.

SECTION 3. ORS 146.525 is amended to read:

146.525. (1) When a person is reported as missing to any city, county or state police agency, the agency, within 12 hours thereafter, shall enter into state and federal records maintained for that purpose, a report of the missing person in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

(2) The [police] law enforcement agency to which the report is made:

(a) [Shall] **May** request from the person making the report information **or material** likely to be useful in identifying the missing person or the human remains of the missing person, **including, but not limited to**[:; *and*]

(A) The name of the missing person and any alternative names the person uses;

(B) The date of birth of the missing person;

(C) A physical description of the missing person, including the height, weight, gender, race, eye color, current hair color and natural hair color of the missing person, any identifying marks on the missing person, any prosthetics used by, or surgical implants in, the missing person and any physical anomalies of the missing person;

(D) The blood type of the missing person;

(E) The driver license number of the missing person;

(F) The Social Security number of the missing person;

(G) A recent photograph of the missing person;

(H) A description of the clothing the missing person is believed to have been wearing at the time the person disappeared;

(I) A description of items that the missing person is believed to have had with the person at the time the person disappeared;

(J) Telephone numbers and electronic mail addresses of the missing person;

(K) The name and address of any school the missing person attends;

(L) The name and address of any employer of the missing person;

(M) The name and address of the primary care physician and dentist of the missing person;

(N) A description of any vehicle that the missing person might have been driving or riding in when the person disappeared;

(O) The reasons why the person making the missing person report believes the person is missing;

(P) Any circumstances that indicate that the missing person may be at risk of injury or death;

(Q) Any circumstances that may indicate that the disappearance is not voluntary;

(R) Information about a known or possible abductor or a person who was last seen with the missing person; and

(S) The date of the last contact with the missing person.

(b) May request in writing from any dentist, denturist, physician, optometrist or other medical practitioner possessing it such medical, dental [and] or other physically descriptive information as is likely to be useful in identifying the missing person or the human remains of the missing person.

(3) The [police] **law enforcement** agency, upon obtaining information pursuant to subsection (2) of this section, shall make a supplementary entry of that information into the state and federal records described in subsection (1) of this section. The supplementary report shall be in a format and according to procedures established by the authorities responsible respectively for the state and federal records.

SECTION 4. (1) **If a person who has been reported as missing has not been located within 30 days after the missing person report is made, the law enforcement agency that accepted the missing persons report shall attempt to obtain a DNA sample from the missing person or from family members of the missing person in addition to any documentation necessary to enable the agency to use the samples in conducting searches of DNA databases.**

(2) **A law enforcement agency shall forward a DNA sample obtained for use in a missing persons case as directed by the Department of State Police.**

(3) **A person, or the executor of the person's estate, who was a missing person and who had a DNA sample obtained for use in the person's case may request the destruction of the DNA sample, and any resultant database entries, when the missing person has been located or identified. The request shall be made in writing to the department. The department, upon confirming that the status of the missing person has been resolved, shall destroy the DNA sample and remove any database entries related to the DNA sample.**

(4) **As used in this section, "DNA" means deoxyribonucleic acid.**

SECTION 5. ORS 146.515 is amended to read:

146.515. (1) **If a medical examiner is unable to determine the identity of human remains, the medical examiner shall, not later than 30 days after such remains are brought to the medical examiner's attention, notify and provide to the Superintendent of State Police or the superintendent's designee all information in the medical examiner's records concerning the remains.**

(2) **The medical examiner shall make reasonable attempts to promptly identify human remains and may consider procedures consistent with current forensic autopsy performance standards of the National Association of Medical Examiners. Reasonable attempts to identify human remains include, but are not limited to, obtaining:**

(a) **Photographs of the remains prior to an autopsy;**

(b) **Dental or skeletal X-rays of the remains;**

(c) **Photographs of items found with the remains;**

(d) **Fingerprints of the remains; and**

(e) **Samples of tissue, bone or hair from the remains that are suitable for DNA (deoxyribonucleic acid) analysis.**

(3) **The medical examiner may not dispose of unidentified human remains, or take any action that materially affects the unidentified human remains, before the medical examiner completes the steps described in subsection (2) of this section.**

SECTION 6. ORS 146.535 is amended to read:

146.535. (1) **A dentist, denturist, physician, optometrist or other medical practitioner, upon receipt of a written request from a [police] law enforcement agency for identifying information pursuant to ORS 146.525, shall furnish to the [police] agency such information known to the practitioner upon the request forms provided by the [police] agency.**

(2) **Information obtained under this section is restricted to use for the identification of missing persons or the identification of unidentified human remains and [shall not otherwise be] may not be made available to the public.**

(3) **Compliance with a written request for information under this section by a dentist, denturist, physician, optometrist or other medical practitioner does not constitute a breach of confidentiality.**

SECTION 7. ORS 146.545 is amended to read:

146.545. (1) If the Superintendent of State Police is notified that a record of unidentified human remains filed by the Department of State Police under ORS 146.505 corresponds with the record of a person reported [to be] as missing, the superintendent shall immediately notify the medical examiner who reported the unidentified human remains and the [police] **law enforcement** agency that filed the missing person report under ORS 146.525. If the medical examiner identifies the remains, **the medical examiner shall immediately notify** the superintendent [shall be notified] and the superintendent shall cancel the report of unidentified human remains.

(2) When a person reported as missing under ORS 146.525 is found, or when the remains of the person have been discovered and identified, the [police] **law enforcement** agency to which the person was reported missing shall cancel the reports to state and federal authorities under ORS 146.525. The agency shall destroy all information **and material** received under ORS 146.525 relating to a missing person who is discovered to be living. In the case of a missing person found to be no longer living, the agency shall seal the information **and material** obtained under ORS 146.525, except as otherwise may be necessary to investigate or prosecute a criminal action relating to the person's disappearance or death.

SECTION 8. ORS 181.505 is amended to read:

181.505. (1) The Oregon State Police shall establish and maintain a missing children **and adults** clearinghouse that receives from and distributes to local law enforcement agencies, school districts, state and federal agencies and the general public information regarding missing children **and adults**.

(2) The information shall include technical and logistical assistance, pictures, bulletins, training sessions, reports and biographical materials that assist local efforts to locate missing children **and adults**.

(3) The Oregon State Police shall maintain a regularly updated computerized link with national and other statewide missing person reporting systems or clearinghouses.

SECTION 9. ORS 181.506 is amended to read:

181.506. The administrator of the **missing children and adults** clearinghouse established pursuant to ORS 181.505 shall:

(1) Provide information and training to local law enforcement **agencies** and child welfare agencies and to other state agencies having child welfare duties.

(2) Appoint an advisory committee consisting of persons with interest and training related to missing children **and adults** to advise **the administrator** on operation of the clearinghouse and to serve without compensation or expense reimbursement.

(3) Seek public and private grants and gifts for purposes of the clearinghouse and the duties required by this section.

(4) Maintain a 24-hour hotline to receive and provide information on missing children **and adults**.

SECTION 10. ORS 181.643 is amended to read:

181.643. Subject to the availability of funds, the Board on Public Safety Standards and Training shall ensure that all police officers and certified reserve officers are trained to investigate and report cases of missing children **and adults**. When federal training programs are made available to the state at no cost to the state, the board shall offer the training to police officers and certified reserve officers.

SECTION 11. ORS 146.505, 146.515, 146.525, 146.535 and 146.545 and sections 2 and 4 of this 2007 Act are added to and made a part of ORS 146.003 to 146.165.

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Secretary of Senate

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President of Senate

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Speaker of House

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