

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.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Establishes procedures for reporting missing persons and investigating missing person cases, including cases involving unidentified human remains.

A BILL FOR AN ACT

1
2 Relating to missing persons; creating new provisions; and amending ORS 146.003, 146.505, 146.515,
3 146.525, 146.535, 146.545, 181.505, 181.506, 181.643 and 419A.250.

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

5 **SECTION 1.** ORS 146.003 is amended to read:

6 146.003. As used in ORS 146.003 to 146.165 and 146.710 to 146.992, unless the context requires
7 otherwise:

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

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

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

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

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

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

20 (7) "**Law enforcement agency**" means a county sheriff's office, municipal police depart-
21 **ment and the Oregon State Police.**

22 [(7)] (8) "Legal intervention" includes an execution pursuant to ORS 137.463, 137.467 and 137.473
23 and other legal use of force resulting in death.

24 [(8)] (9) "Manner of death" means the designation of the probable mode of production of the
25 cause of death, including natural, accidental, suicidal, homicidal, legal intervention or undetermined.

26 [(9)] (10) "Medical examiner" means a physician appointed as provided by ORS 146.003 to
27 146.165 to investigate and certify the cause and manner of deaths requiring investigation, including
28 the State Medical Examiner.

29 [(10)] (11) "Pathologist" means a physician holding a current license to practice medicine and
30 surgery and who is eligible for certification by the American Board of Pathology.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **SECTION 2.** ORS 146.525 is amended to read:

2 146.525. (1)(a) **A law enforcement agency shall accept a report of a missing person at the**
3 **time the report is made. A law enforcement agency may not refuse to accept a missing**
4 **person report for any reason.**

5 **(b) Notwithstanding paragraph (a) of this subsection, a law enforcement agency may re-**
6 **quire a person to personally appear at an office of the law enforcement agency to make a**
7 **missing person report. A law enforcement agency may allow a person to make a missing**
8 **person report in any other manner consistent with the policies of the agency.**

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

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

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

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

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

19 **(C) A physical description of the missing person, including the height, weight, gender,**
20 **race, eye color, current hair color and natural hair color of the missing person, any identi-**
21 **fying marks on the missing person, any prosthetics used by, or surgical implants in, the**
22 **missing person and any physical anomalies of the missing person;**

23 **(D) The blood type of the missing person;**

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

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

26 **(G) A recent photograph of the missing person;**

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

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

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

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

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

34 **(M) The name and address of the primary care physician and dentist of the missing per-**
35 **son;**

36 **(N) A description of any vehicle that the missing person might have been driving or rid-**
37 **ing in when the person disappeared;**

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

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

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

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

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

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

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

8 **SECTION 3. (1) After accepting a missing person report under ORS 146.525, a law**
9 **enforcement agency shall:**

10 (a) **Notify the person making the report of any additional information or material the**
11 **agency needs to assist the agency in locating the missing person;**

12 (b) **Provide the person making the report with general information concerning the han-**
13 **dling of the missing person case and, to the extent that it does not interfere with the agen-**
14 **cy's ability to investigate the missing person case, inform the person making the report of**
15 **the agency's progress on the case; and**

16 (c) **Instruct the person making the report to notify the agency immediately if the missing**
17 **person is found.**

18 (2) **If a person who has been reported as missing has not been located within 30 days af-**
19 **ter the missing person report is made, the law enforcement agency that accepted the missing**
20 **person report shall attempt to obtain the following materials unless the agency has obtained**
21 **the material previously:**

22 (a) **DNA (deoxyribonucleic acid) samples from the missing person or family members of**
23 **the missing person in addition to any documentation needed to enable the agency to use the**
24 **samples in conducting searches of DNA databases;**

25 (b) **Fingerprints of the missing person; and**

26 (c) **Additional photographs of the missing person.**

27 (3) **Before requesting a DNA sample under this section, a law enforcement agency shall**
28 **inform the person from whom a sample is being requested that providing the sample is vol-**
29 **untary and that the sample may not be used for any purpose other than to help locate or**
30 **identify the missing person.**

31 (4) **A law enforcement agency shall forward a DNA sample obtained for use in a missing**
32 **person case to the Department of State Police for analysis. The department shall adopt rules**
33 **establishing procedures for prioritizing analysis of DNA samples relating to missing person**
34 **cases.**

35 (5) **A law enforcement agency obtaining fingerprints for use in a missing person case**
36 **may submit the fingerprint file to the department. The department shall enter the finger-**
37 **print information into the Law Enforcement Data System and the Western Identification**
38 **Network Automated Fingerprint Identification System.**

39 (6) **When fingerprint files are submitted under subsection (5) of this section, the depart-**
40 **ment shall enter in a special index in the computerized criminal history files the name of the**
41 **missing person and the name of the law enforcement agency that submitted the fingerprint**
42 **file or record.**

43 **SECTION 4. (1) As used in this section, "high-risk missing person" means a person whose**
44 **whereabouts are unknown and who may be at risk of injury or death.**

45 (2) **Circumstances that indicate a missing person may be at risk of injury or death in-**

1 clude, but are not limited to:

- 2 (a) The person is missing under known dangerous circumstances;
- 3 (b) The person is missing under suspicious circumstances;
- 4 (c) The person is missing under unknown circumstances;
- 5 (d) The person has been missing for more than 30 days;
- 6 (e) The missing person is in need of medical attention or prescription medication;
- 7 (f) The missing person may have been abducted by a noncustodial parent;
- 8 (g) The missing person has a mental impairment;
- 9 (h) The missing person is under 21 years of age;
- 10 (i) The missing person has been the subject of threats or acts of violence in the past; and
- 11 (j) The missing person has previously been designated a high-risk missing person by a law
12 enforcement agency.

13 (3) No later than _____ hours after accepting a missing person report under ORS
14 146.525, a law enforcement agency shall determine whether the missing person is a high-risk
15 missing person.

16 (4) If a law enforcement agency receives additional information about a missing person
17 after the agency has determined under subsection (3) of this section that a missing person
18 is not a high-risk missing person, the agency shall make a redetermination as to whether the
19 missing person is a high-risk missing person based upon the new information. The agency
20 shall make the redetermination no later than _____ hours after receiving the additional
21 information.

22 **SECTION 5.** (1) When a law enforcement agency determines under section 4 of this 2007
23 Act that a missing person is a high-risk missing person, the agency shall notify the Oregon
24 State Police. The agency shall immediately provide the state police with all information
25 concerning the case that the agency believes is most likely to aid in locating the missing
26 person. The agency shall provide the state police with all other information concerning the
27 case as soon as is practicable.

28 (2) Upon receiving notification under subsection (1) of this section, the Oregon State
29 Police shall immediately notify all other law enforcement agencies within the state and the
30 state police agencies of adjacent states of the high-risk missing person and provide the
31 agencies with all information that will aid the agencies in locating the missing person.

32 (3) When a law enforcement agency receives notification under subsection (2) of this
33 section, the agency shall notify its officers of the high-risk missing person.

34 **SECTION 6.** (1) A law enforcement agency that accepts a missing person report under
35 ORS 146.525 shall enter the report into state and federal databases maintained for that pur-
36 pose in a format and according to procedures established by the authorities responsible re-
37 spectively for the state and federal databases. If the agency does not have access to the
38 databases, the Oregon State Police shall enter the information.

39 (2) If a missing person is determined to be a high-risk missing person, the law enforce-
40 ment agency or Oregon State Police shall enter the report into the databases of the National
41 Crime Information Center of the United States Department of Justice no later than two
42 hours after the high-risk missing person determination is made. If a missing person is not
43 determined to be a high-risk missing person, the agency or state police shall enter the report
44 into the databases of the National Crime Information Center of the United States Depart-
45 ment of Justice no later than 24 hours after accepting the missing person report.

1 **(3) The Department of State Police shall enter DNA (deoxyribonucleic acid) profiles ob-**
 2 **tained as a result of analysis of DNA samples under section 3 (4) of this 2007 Act into the**
 3 **state DNA index system and the National DNA Index System of the Federal Bureau of In-**
 4 **vestigation.**

5 **(4) The Department of Public Safety Standards and Training shall ensure that a person**
 6 **entering data under this section has received all training that is necessary to enable the**
 7 **person to correctly enter the data.**

8 **SECTION 7.** ORS 146.505 is amended to read:

9 146.505. (1) The Superintendent of State Police shall establish and maintain a file of records
 10 relating to unidentified human remains found within the state and of which the Oregon State Police
 11 are notified under ORS 146.515. The records shall be maintained in order to facilitate the identifi-
 12 cation of such remains.

13 (2) The Superintendent of State Police shall establish the file described under subsection (1) of
 14 this section after consultation with the State Medical Examiner to determine what areas of infor-
 15 mation generally shall be requested, obtained and preserved in the file. General areas of information
 16 determined under this section shall be for the purpose of developing file format and standard forms
 17 for collecting data to aid in identifying human remains. Information having potential value in iden-
 18 tifying human remains shall not be excluded from a file because it does not fall within a general
 19 area of information determined under this section or is not required by federal authorities.

20 (3) In addition to any other file it maintains, the Department of State Police shall enter appro-
 21 priate information relating to unidentified human remains into any file maintained by federal au-
 22 thorities to facilitate the identification of such remains. The department shall conform file entries
 23 under this subsection to the format prescribed by the authorities responsible for the federal file.
 24 **The department shall enter information into the National Crime Information Center of the**
 25 **United States Department of Justice no later than _____ hours after obtaining the infor-**
 26 **mation and shall enter DNA (deoxyribonucleic acid) profiles obtained as a result of analysis**
 27 **of DNA samples into the National DNA Index System of the Federal Bureau of Investigation**
 28 **no later than five business days after completion of the analyses.**

29 **SECTION 8.** ORS 146.515 is amended to read:

30 146.515. (1) If a medical examiner is unable to determine the identity of human remains, the
 31 medical examiner shall, not later than [30 days] **24 hours** after such remains are brought to the
 32 medical examiner's attention, notify and provide to the Superintendent of State Police or the su-
 33 perintendent's designee all information in the medical examiner's records concerning the remains.

34 **(2) The medical examiner shall make reasonable attempts to promptly identify human**
 35 **remains, including, but not limited to, obtaining:**

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

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

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

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

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

42 **(3) The medical examiner may not dispose of unidentified human remains, or take any**
 43 **action that materially affects the unidentified human remains, before the medical examiner**
 44 **obtains the materials described in subsection (2) of this section and all appropriate steps for**
 45 **identification have been exhausted. Notwithstanding ORS 97.170 and 146.121, unidentified**

1 **human remains may not be cremated.**

2 **SECTION 9.** ORS 146.535 is amended to read:

3 146.535. (1) A dentist, denturist, physician, optometrist or other medical practitioner, upon re-
4 ceipt of a written request from a [*police*] **law enforcement** agency for identifying information pur-
5 suant to ORS 146.525, shall furnish to the [*police*] agency such information known to the practitioner
6 upon the request forms provided by the [*police*] agency.

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

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

12 **SECTION 10.** ORS 146.545 is amended to read:

13 146.545. (1) If the Superintendent of State Police is notified that a record of unidentified human
14 remains filed by the Department of State Police under ORS 146.505 corresponds with the record of
15 a person reported [*to be*] **as** missing, the superintendent shall immediately notify the medical exam-
16 iner who reported the unidentified human remains and the [*police*] **law enforcement** agency that
17 filed the missing person report under ORS 146.525. If the medical examiner identifies the remains,
18 **the medical examiner shall immediately notify** the superintendent [*shall be notified*] and the su-
19 perintendent shall cancel the report of unidentified human remains.

20 (2) When a person reported as missing under ORS 146.525 is found, or when the remains of the
21 person have been discovered and identified, the [*police*] **law enforcement** agency to which the per-
22 son was reported missing shall cancel the reports to state and federal authorities under [*ORS*
23 *146.525*] **section 6 of this 2007 Act**. The agency shall destroy all information **and material** received
24 under ORS 146.525 **and section 3 of this 2007 Act** relating to a missing person who is discovered
25 to be living. In the case of a missing person found to be no longer living, the agency shall seal the
26 information **and material** obtained under ORS 146.525 **and section 3 of this 2007 Act**, except as
27 otherwise may be necessary to investigate or prosecute a criminal action relating to the person's
28 disappearance or death.

29 **SECTION 11.** ORS 181.505 is amended to read:

30 181.505. (1) The Oregon State Police shall establish and maintain a missing [*children*] **persons**
31 clearinghouse that receives from and distributes to local law enforcement agencies, school districts,
32 state and federal agencies and the general public information regarding missing [*children*] **persons**.

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

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

38 **SECTION 12.** ORS 181.506 is amended to read:

39 181.506. The administrator of the **missing persons** clearinghouse established pursuant to ORS
40 181.505 shall:

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

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

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

3 (4) Maintain a 24-hour hotline to receive and provide information on missing [*children*]
 4 **persons**.

5 **SECTION 13.** ORS 181.643 is amended to read:

6 181.643. Subject to the availability of funds, the Board on Public Safety Standards and Training
 7 shall ensure that all police officers and certified reserve officers are trained to investigate and re-
 8 port cases of missing [*children*] **persons**. When federal training programs are made available to the
 9 state at no cost to the state, the board shall offer the training to police officers and certified reserve
 10 officers.

11 **SECTION 14.** ORS 419A.250 is amended to read:

12 419A.250. (1) A child, ward, youth or youth offender may be photographed or fingerprinted by
 13 a law enforcement agency:

14 (a) Pursuant to a search warrant;

15 (b) According to laws concerning adults if the youth has been transferred to criminal court for
 16 prosecution;

17 (c) Upon consent of both the child or youth and the child or youth's parent after advice that
 18 they are not required to give such consent;

19 (d) Upon request or consent of the child's parent alone if the child is less than 10 years of age,
 20 and if the law enforcement agency delivers the original photographs or fingerprints to the parent
 21 and does not make or retain any copies thereof; or

22 (e) By order of the juvenile court.

23 (2) When a youth is taken into custody under ORS 419C.080, the law enforcement agency taking
 24 the youth into custody shall photograph and fingerprint the youth. When a youth is found within the
 25 jurisdiction of the juvenile court for the commission of an act that would constitute a crime if
 26 committed by an adult, the court shall ensure that the youth offender's fingerprints have been taken.
 27 The law enforcement agency attending upon the court is the agency responsible for obtaining the
 28 fingerprints. The law enforcement agency attending upon the court may, by agreement, arrange for
 29 another law enforcement agency to obtain the fingerprints on the attending agency's behalf.

30 (3) Fingerprint and photograph files or records of children, wards, youths and youth offenders
 31 must be kept separate from those of adults, and fingerprints and photographs known to be those of
 32 a child may be maintained on a local basis only and may not be sent to a central state or federal
 33 depository.

34 (4) Fingerprint and photograph files or records of a child, ward, youth or youth offender are
 35 open to inspection only by, or the contents disclosed only to, the following:

36 (a) Public agencies for use in investigation or prosecution of crimes and of conduct by a child,
 37 ward, youth or youth offender that if committed by an adult would be an offense, provided that a
 38 law enforcement agency may provide information to another agency only when the information is
 39 pertinent to a specific investigation by that agency;

40 (b) The juvenile department and the juvenile court having the child, ward, youth or youth
 41 offender before it in any proceeding;

42 (c) Caseworkers and counselors taking action or otherwise responsible for planning and care of
 43 the child, ward, youth or youth offender;

44 (d) The parties to the proceeding and their counsel; and

45 (e) The victim or a witness of an act or behavior described under ORS 419C.005 (1) or the vic-

1 tim’s parent, guardian, personal representative or subrogee, when necessary to identify the youth
 2 or youth offender committing the act or behavior and identifying the apparent extent of the youth
 3 or youth offender’s involvement in the act or behavior.

4 (5)(a) Fingerprint and photograph files or records of youths and youth offenders must be sent to
 5 a central state depository in the same manner as fingerprint and photograph files or records of
 6 adults. The fingerprint and photograph files or records of a youth or youth offender sent to a central
 7 depository under this subsection are open to inspection in the same manner and under the same
 8 circumstances as fingerprint and photograph files or records of adults.

9 (b) A party filing a petition alleging that a youth is within the jurisdiction of the court under
 10 ORS 419C.005 shall notify the central state depository of the following:

11 (A) The filing of a petition alleging that a youth committed an act that if committed by an adult
 12 would constitute a crime; or

13 (B) The dismissal of a petition alleging that a youth committed an act that if committed by an
 14 adult would constitute a crime.

15 (c) The juvenile court shall notify the central state depository of the disposition of a case in
 16 which jurisdiction is based on ORS 419C.005.

17 (d) The Department of State Police shall delete the fingerprint and photograph files or records
 18 of a youth or youth offender from the depository and destroy the files or records relating to the
 19 conduct that caused the files or records to be sent to the depository:

20 (A) One year after receiving the files, if the central state depository has not received notice
 21 under paragraph (b) of this subsection;

22 (B) No later than one year following receipt of a notice of dismissal of a petition under para-
 23 graph (b)(B) of this subsection; or

24 (C) In all other circumstances, no later than five years and 30 days after fingerprint and pho-
 25 tograph files or records are sent to the central state depository.

26 (6) Fingerprint and photograph files and records of a child, ward, youth or youth offender must
 27 be expunged when the juvenile court orders expunction of a child, ward, youth or youth offender’s
 28 record pursuant to ORS 419A.260 and 419A.262.

29 *[(7) The parent or guardian of a missing child may submit a fingerprint card and photograph of*
 30 *the child to a law enforcement agency at the time a missing person report is made. The law enforcement*
 31 *agency may submit the fingerprint file to the Department of State Police Bureau of Criminal Identifi-*
 32 *cation. The information must be entered into the Law Enforcement Data System and the Western*
 33 *Identification Network Automated Fingerprint Identification System.]*

34 *[(8) When fingerprint files or records are submitted under subsection (7) of this section, the De-*
 35 *partment of State Police shall enter in a special index in the computerized criminal history files the*
 36 *name of the child and the name of the county or agency that submitted the fingerprint file or record.]*

37 *[(9) Fingerprints and other information entered in any data system pursuant to subsection (7) of*
 38 *this section must be deleted when the child is located.]*

39 **SECTION 15. ORS 146.505, 146.515, 146.525, 146.535 and 146.545 and sections 3 to 6 of this**
 40 **2007 Act are added to and made a part of ORS 146.003 to 146.165.**