



H.B. 571*

126th General Assembly
(As Reported by H. Criminal Justice)

Reps. Hughes, Collier, C. Evans, D. Evans, Widener, Latta

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 depending on whether there is evidence of foul play.
- 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.

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

- 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 a 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 that are 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

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 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 there is no evidence that the person was a victim of foul play, the law enforcement agency must make the information available in LEADS not later than 30 days after receiving the report that the person is missing. However, if evidence of foul play arises before the end of the seven-day reporting period required when there is initial evidence of foul play, the agency must make the 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 the 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. (R.C. 2901.42(A), (B), and (C).)

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) 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.

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 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."*

Peace officer training

The bill requires the Attorney General to adopt rules governing the training of peace officers in the handling of missing persons. This requirement is in addition to current law's requirement that peace officers receive training in the handling of missing children and child abuse and neglect cases. (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 for identification and disposal. 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(E)):

- (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");
- (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.

Current law requires BCII to provide the coroners with the fingerprint forms, specimen vials, items necessary for mailing, and instructions needed for the collection. BCII is also responsible for taking the required fingerprints and photographs if the coroner requests. (R.C. 313.08(E)(4), (G), and (H).)

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. The bill additionally 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(C) and (D).)

Third, 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

HISTORY

ACTION	DATE
Introduced	04-25-06
Reported, H. Criminal Justice	---

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² "DNA analysis," "DNA specimen," and "unidentified person database" have the same meaning as in R.C. 109.573.