

1 § -1 **Short title.** This chapter may be cited as the
2 "Missing Persons Protection and Identification Act of 2006".

3 § -2 **Definitions.** As used in this chapter:

4 "Abduction" means a case in which a child or a person with
5 disability is reported to be involuntarily missing from the
6 caregiver and there is an eyewitness who can provide a physical
7 description of the abductor, the vehicle involved if applicable,
8 and the direction of travel. If an eyewitness is lacking, there
9 exists credible evidence that the disappearance was involuntary.

10 "Child" means a person under the age of eighteen years.

11 "Child abduction alert system" means the system developed
12 by law enforcement agencies to assist in the recovery of an
13 abducted child and in the capture of the abductor.

14 "Code Adam alert" means a set of procedures used in
15 buildings to alert employees and other users of the building
16 that a child is missing.

17 "DNA" means deoxyribonucleic acid.

18 "Familial relationship" means a relationship that
19 establishes two individuals as members of a family.

20 "Family member" means:

21 (1) A person related by blood, legal custody, or marriage;



1 (2) A child who lives with an adult and for whom the adult
2 permanently assumes and discharges parental
3 responsibility; or

4 (3) A person with whom the individual shares or has
5 shared, within the last year, a mutual residence.

6 "High-risk missing person" means an individual whose
7 whereabouts are not currently known and where circumstances
8 indicate that the individual may be at risk of injury or death.

9 "Law enforcement agency" means any county police
10 department, the department of the attorney general, the
11 department of public safety, or any other governmental agency
12 that has the authority to investigate and make arrests for
13 criminal or delinquency offenses, including any state or county
14 agency that employs law enforcement officers; provided that, for
15 purposes of this chapter, the department of the prosecuting
16 attorney for each of the respective counties shall not be deemed
17 a law enforcement agency.

18 "Missing person" means a person whose whereabouts, safety,
19 and welfare are unknown.

20 "Person with a disability" means a person with a physical
21 or mental disability.



1 § -3 **Missing person report.** (a) All law enforcement
2 agencies within the State shall accept without delay any report
3 of a missing person or persons. No law enforcement agency may
4 refuse to accept a missing person report on the basis that:

- 5 (1) The missing person is an adult;
- 6 (2) The circumstances do not indicate foul play;
- 7 (3) The person has been missing for a short period of
8 time;
- 9 (4) The person has been missing for a long period of time;
- 10 (5) There is no indication that the missing person was in
11 the State at the time of the disappearance;
- 12 (6) The circumstances suggest that the disappearance may
13 be voluntary;
- 14 (7) The person or persons making the report do not have
15 personal knowledge of the facts;
- 16 (8) The reporting individual cannot provide all of the
17 information requested by the law enforcement agency;
18 or
- 19 (9) The reporting person lacks a familial or other
20 relationship with the missing person.

21 (b) All law enforcement agencies shall accept missing
22 person reports made in person. An initial report may be made by



1 phone or by electronic or other media but the law enforcement
2 agency may require confirmation in person.

3 (c) In accepting a missing person report, a law
4 enforcement agency shall gather relevant information relating to
5 the missing person, including but not limited to the following:

- 6 (1) The name of the missing person, including alternative
7 names used;
- 8 (2) The date of birth;
- 9 (3) Identifying marks, such as birthmarks, moles, tattoos,
10 and scars;
- 11 (4) Height and weight;
- 12 (5) Gender;
- 13 (6) Race;
- 14 (7) Current hair color and true or natural hair color;
- 15 (8) Eye color;
- 16 (9) Prosthetics, surgical implants, or cosmetic implants;
- 17 (10) Physical anomalies;
- 18 (11) Blood type;
- 19 (12) Driver license number;
- 20 (13) Social security number;
- 21 (14) A photograph or photographs of the missing person,
22 with the approximate date the photograph was taken;



- 1 (15) A description of the clothing the missing person was
2 believed to be wearing;
- 3 (16) A description of items that might be with the missing
4 person, such as jewelry, accessories, shoes, or boots;
- 5 (17) Information on the missing person's electronic
6 communication devices such as cell phone numbers and
7 email addresses;
- 8 (18) The reasons why the reporting person believes that the
9 person is missing;
- 10 (19) Name and location of the missing person's school or
11 employer;
- 12 (20) Name and location of the missing person's dentist and
13 primary care physician;
- 14 (21) Circumstances that may indicate that the disappearance
15 was not voluntary;
- 16 (22) Circumstances that may indicate that the missing
17 person may be at risk of injury or death;
- 18 (23) A description of the possible means of transportation
19 of the missing person, including make, model, color,
20 license, and vehicle identification number of a
21 vehicle;



1 (24) Identifying information about a known or possible
2 abductor, and about any person or persons last seen
3 with the missing person including:

4 (A) Name;

5 (B) Physical description;

6 (C) Date of birth;

7 (D) Identifying marks;

8 (E) A description of possible means of
9 transportation, including the make, model, color,
10 license, and vehicle identification number of a
11 vehicle; and

12 (F) Known associates;

13 (25) Other information that can aid in locating the missing
14 person; and

15 (26) Date of last contact with the missing person.

16 § -4 **Notification and follow-up action.** (a) The law
17 enforcement agency shall provide a person making a missing
18 person report, a family member of the missing person, or other
19 person in a position to help the law enforcement agency locate
20 the missing person, with general information about the handling
21 of the missing person case or about intended efforts in the
22 case, provided that the law enforcement agency determines that



1 disclosure would not adversely affect its ability to locate or
2 protect the missing person, or to apprehend or prosecute any
3 person criminally involved in the disappearance.

4 (b) The law enforcement agency shall advise the person
5 making the report, the family member of the missing person, or
6 other person in a position to help locate the missing person to
7 promptly contact the law enforcement agency to provide
8 additional information and materials that will aid in locating
9 the missing person. The law enforcement agency shall also
10 notify the person of the specific information or materials
11 needed, such as credit or debit cards and other banking
12 information, and records of cell phone use.

13 (c) The law enforcement agency shall notify the person
14 making a missing person report that the agency may seek DNA
15 samples from family members of the missing person and that any
16 DNA samples provided for the missing person case are provided on
17 a voluntary basis and will be used solely to help locate or
18 identify the missing person.

19 (d) The law enforcement agency is encouraged to make
20 available informational materials, such as publications or
21 electronic or other media, that advise the public about how the



1 information or materials identified in this section are used to
2 help locate or identify missing persons.

3 (e) If a person identified in a missing person report
4 remains missing after thirty days, and the additional
5 information and materials specified below have not already been
6 received, the law enforcement agency shall attempt to obtain:

- 7 (1) DNA samples from family members and from the missing
8 person along with any needed documentation, including
9 consent forms, required for the use of local, state,
10 or national DNA databases including the Federal Bureau
11 of Investigation's National DNA Index System ("NDIS");
12 (2) Dental information and x-rays and an authorization to
13 release dental or skeletal x-rays of the missing
14 person;
15 (3) Additional photographs of the missing person that may
16 aid the investigation or identification; and
17 (4) Fingerprints.

18 (f) The law enforcement agency shall not be required to
19 obtain written authorization before it releases publicly any
20 photograph that would aid in the investigation or identification
21 of the missing person.



1 (g) All DNA samples obtained in missing person cases
2 determined to involve high-risk missing persons pursuant to
3 section -5 shall be immediately forwarded to the appropriate
4 county police department's forensic sciences division for
5 analysis, processing, and recording in the missing persons
6 database of the Federal Bureau of Investigation's National DNA
7 Index System.

8 (h) Information relevant to the Federal Bureau of
9 Investigation's violent criminal apprehension program shall be
10 forwarded to the county police department for entry into the
11 violent criminal apprehension program database as soon as
12 possible.

13 (i) Subsection (e) shall not preclude a law enforcement
14 agency from attempting to obtain the materials identified in
15 this section before the expiration of the thirty-day period.

16 **§ -5 High-risk missing persons.** (a) For the purpose of
17 taking action pursuant to this section, a law enforcement agency
18 shall consider, but shall not be limited to, the following
19 criteria in determining whether an individual is a high-risk
20 missing person:

21 (1) The person is missing as a result of an abduction by a
22 stranger;



- 1 (2) The person is missing under suspicious circumstances;
- 2 (3) The person is missing under unknown circumstances;
- 3 (4) The person is missing under known dangerous
- 4 circumstances;
- 5 (5) The person is missing more than thirty days;
- 6 (6) The person has already been designated as a high-risk
- 7 missing person by another law enforcement agency;
- 8 (7) There is evidence that the person is at risk because:
- 9 (A) The missing person is in need of medical
- 10 attention or prescription medication;
- 11 (B) The missing person does not have a pattern of
- 12 running away or disappearing;
- 13 (C) The missing person may have been abducted by a
- 14 non-custodial parent;
- 15 (D) The missing person is a person with a disability;
- 16 (E) The missing person is under the age of eighteen;
- 17 (F) The missing person has been the subject of past
- 18 threats or acts of violence; or
- 19 (8) Any other factor that, in the judgment of the law
- 20 enforcement agency, may determine that the missing
- 21 person is at risk.



1 (b) Upon receiving a missing person report, a law
2 enforcement agency shall immediately determine whether there is
3 a basis to determine that the missing person is a high-risk
4 missing person. If a law enforcement agency has previously
5 determined that a missing person is not a high-risk missing
6 person, but obtains new information, it shall immediately
7 determine whether the new information indicates that the missing
8 person is a high-risk missing person.

9 (c) Risk assessments required by this section shall be
10 performed no later than twelve hours after the initial missing
11 person report is filed or the new information is provided to the
12 law enforcement agency.

13 (d) Law enforcement agencies shall establish written
14 protocols for the handling of missing person cases to accomplish
15 the purpose of this chapter.

16 (e) When a law enforcement agency determines that a
17 missing person is a high-risk missing person, it shall notify
18 the county police departments. The law enforcement agency shall
19 immediately provide to the county police departments the
20 information most likely to aid in the location and safe return
21 of the high-risk missing person, and shall provide as soon as
22 practicable all other information obtained relating to the case.



1 (f) The county police departments shall promptly notify
2 all law enforcement agencies within the State of the information
3 that will aid in the prompt location and safe return of the
4 high-risk missing person.

5 (g) The law enforcement agencies that receive the
6 notification from any county police department shall notify
7 officers to issue lookouts for the missing person or a suspected
8 abductor.

9 (h) The county police departments shall immediately enter
10 all collected information relating to the missing person case in
11 available local, state, federal, and national databases. The
12 information shall conform with applicable guidelines relating to
13 the databases, and shall be entered as follows:

14 (1) A missing person report in a high-risk missing person
15 case as well as relevant information provided in the
16 report shall be entered in the National Crime
17 Information Center database within no more than two
18 hours of the determination that the missing person is
19 a high-risk missing person. All other missing person
20 reports, as well as relevant information provided in
21 the report, shall be entered into the National Crime
22 Information Center database within twenty-four hours



1 after the missing person report is received.

2 Supplemental information in high-risk missing person
3 cases should be entered as soon as practicable.

4 (2) All DNA samples shall be immediately forwarded to the
5 appropriate county police department's forensic
6 sciences division for analysis, processing, and
7 recording in the missing persons database of the
8 Federal Bureau of Investigation's National DNA Index
9 System.

10 (3) Information relevant to the Federal Bureau of
11 Investigation's violent criminal apprehension program
12 shall be forwarded to the county police departments
13 for entry into the violent criminal apprehension
14 program database as soon as possible.

15 (i) The county police departments shall ensure that a
16 person entering data relating to medical or dental records into
17 criminal justice databases is specifically trained to enter the
18 information into these databases. The county police departments
19 are strongly encouraged either to use persons with specific
20 expertise in medical or dental records for this purpose or
21 consult with the chief medical examiner of the city and county



1 of Honolulu to ensure the accuracy and completeness of
2 information entered into the databases.

3 (j) Pursuant to any applicable state criteria, law
4 enforcement agencies should also provide for the prompt use of a
5 Maile Amber alert or public dissemination of photographs in
6 appropriate high-risk cases.

7 § -6 **Reporting of unidentified persons and human**
8 **remains.** (a) The county medical examiner or coroner shall
9 provide information to law enforcement agencies about best
10 practices for handling death scene investigations and shall
11 identify and disseminate any publications or training
12 opportunities that may be available to law enforcement agencies
13 or law enforcement officers concerning the handling of death
14 scene investigations.

15 (b) After performing any death scene investigation deemed
16 appropriate under the circumstances, the official with custody
17 of the human remains shall ensure that the human remains are
18 delivered to the county medical examiner or coroner.

19 (c) Any person with custody of human remains that are not
20 identified within twenty-four hours of discovery shall promptly
21 notify the office of the county medical examiner or coroner of
22 the location of those remains.



1 (d) If the person with custody of remains cannot determine
2 whether or not the remains found are human, it shall notify the
3 county medical examiner or coroner of the existence of possible
4 human remains.

5 **§ -7 Responsibilities for the identification of**
6 **unidentified persons or human remains.** (a) If the official
7 with custody of the human remains is not a medical examiner or
8 coroner, the official shall promptly transfer the unidentified
9 remains to the medical examiner or coroner to determine the
10 identity of the human remains.

11 (b) Notwithstanding any other action deemed appropriate
12 for the handling of the human remains, the county medical
13 examiner or coroner shall make reasonable attempts to identify
14 promptly any human remains. These actions may include but are
15 not limited to obtaining:

- 16 (1) Photographs of the human remains;
- 17 (2) Dental or skeletal x-rays;
- 18 (3) Photographs of items found with the human remains;
- 19 (4) Fingerprints from the remains;
- 20 (5) Tissue samples suitable for DNA typing;
- 21 (6) Samples of whole bone or hair suitable for DNA typing;
- 22 and



1 (7) Any other information that may support identification
2 efforts.

3 (c) No person shall dispose of unidentified human remains,
4 or engage in any action that will materially affect the
5 unidentified human remains before the county medical examiner or
6 coroner obtains samples suitable for DNA identification and
7 archiving, takes photographs of the unidentified person or human
8 remains, and completes all other appropriate steps for
9 identification.

10 (d) Cremation of unidentified human remains is prohibited,
11 except as provided in sections 346-15 and 841-16.

12 (e) The county medical examiner or coroner shall make
13 reasonable efforts to obtain prompt DNA analysis of biological
14 samples, if the human remains have not been identified by other
15 means within thirty days.

16 (f) The county medical examiner or coroner shall seek
17 support from appropriate federal agencies for human remains
18 identification efforts. Such support may include but is not
19 limited to available mitochondrial or nuclear DNA testing,
20 federal grants for DNA testing, or federal grants for crime
21 laboratory improvements or improvements to the medical examiner
22 or coroner's facilities.



1 (g) The county medical examiner or coroner shall promptly
2 forward to the county police department any information that can
3 aid in the identification of missing persons. The police
4 department shall provide the staff of the chief medical examiner
5 or coroner of the same county with training about the data
6 needed by the police department and the formats in which the
7 data shall be recorded.

8 (h) Nothing in this chapter shall be interpreted to
9 preclude the county medical examiner or coroner or any county
10 police department from pursuing other efforts to identify
11 unidentified human remains, including efforts to publicize
12 information, descriptions, or photographs that may aid in the
13 identification of the unidentified remains, allow family members
14 to identify a missing person, or seek to protect the dignity of
15 the missing person.

16 **PART II. MANDATORY REPORT OF CERTAIN VIOLENT CRIMES**

17 **§ -21 Reporting of certain crimes to the Federal Bureau**
18 **of Investigation.** The county police departments shall be
19 responsible for fostering and coordinating the State's
20 participation in the violent criminal apprehension program
21 administered by the United States Federal Bureau of
22 Investigation. Each chief of police shall compile, in a format



1 compatible with the national violent criminal apprehension
2 program database maintained by the Federal Bureau of
3 Investigation, and regularly transmit to the Federal Bureau of
4 Investigation for inclusion in the violent criminal apprehension
5 program database, information regarding:

- 6 (1) Solved or unsolved homicides or homicide attempts;
- 7 (2) Missing persons, as defined in section -2;
- 8 (3) Unidentified dead bodies, where the manner of death is
9 known or suspected to be homicide;
- 10 (4) Sexual assaults or attempted sexual assaults; and
- 11 (5) Crimes committed by sex offenders required to register
12 in the State pursuant to state or federal sex offender
13 registration requirements."

14 SECTION 3. Section 346-15, Hawaii Revised Statutes, is
15 amended by amending subsection (f) to read as follows:

16 "(f) All unclaimed corpses shall be cremated~~[-]~~; provided
17 that samples suitable for DNA identification and archiving have
18 been taken pursuant to section -7. The department of human
19 services shall authorize the cremation of unclaimed corpses."

20 SECTION 4. Section 841-16, Hawaii Revised Statutes, is
21 amended to read as follows:



1 "§841-16 Disposal of decomposed remains. The coroner's
 2 physician may order forthwith the cremation of the remains of
 3 any person appearing to have come to death under any of the
 4 circumstances set forth in section 841-3 if, in the coroner's
 5 physician's opinion, the remains constitute an immediate menace
 6 to the public health. The cremation shall be supervised by the
 7 coroner and shall take place only after a reasonable amount of
 8 investigation has taken place in an effort to establish the
 9 identity of the remains and the cause of death[-]; provided that
 10 samples suitable for DNA identification and archiving have been
 11 taken pursuant to section -7. Such cremation shall take
 12 place after a burial-transit permit authorizing cremation has
 13 been secured from the local agent of the department of health."

14 SECTION 5. Statutory material to be repealed is bracketed
 15 and stricken. New statutory material is underscored.

16 SECTION 6. This Act shall take effect upon its approval.

17 Karen Furana

INTRODUCED BY:

Shane O'Leary
John Murphy
Cindy Evans
Malik
Michelle Casale
James Hwang
Jyle B. Berg
Nurmi

Marilyn B. Lee
Stephanie
Barbara Mammol
Gynthia Helen
John M. Negro
Paul Moody

JAN 19 2007

HB LRB 07-0478.doc



Al Hanger
Carine W. L. King
Selle A. Belatti
Thurmon

Report Title:

Missing Persons; Identification

Description:

Improves the capacity of law enforcement agencies to locate and return missing persons by adopting new procedures and by using technology and databases.

