

HOUSE BILL 44

By Windle

AN ACT to amend Tennessee Code Annotated, Title 38,
relative to identification of unknown and missing
persons.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 38, Chapter 6, Part 1, is amended by adding the following language as a new section:

(a) This section shall be known and may be cited as the "Help Find the Missing Act".

(b) As used in this section, "missing citizen" means the same as provided by § 38-6-121.

(c) Every county medical examiner and coroner shall promptly furnish the Tennessee Bureau of Investigation (TBI) and the National Missing and Unidentified Persons System created by the United States Department of Justice's National Institute of Justice with copies of fingerprints on standardized eight inch by eight inch (8" x 8") fingerprint cards or the equivalent digital image, personal descriptions, and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the medical examiner or coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. The TBI shall promptly make available personal descriptions and other identifying data, including date and place of death, of such deceased persons to all law enforcement agencies in the state, and upon request, to law enforcement agencies outside of the state.

(d) In any case where it is not physically possible to furnish prints of the ten (10) fingers of the deceased, prints or partial prints of any fingers with other identifying data shall be forwarded by the county medical examiner or coroner to the TBI.

(e) The county medical examiner or coroner shall cause a dentist authorized to practice pursuant to § 63-5-107 or a dental student in a registered school of dentistry in this state to carry out a dental examination of the deceased. The medical examiner or coroner shall forward the dental examination records to the TBI on a form supplied by the TBI for that purpose.

(f) The TBI shall compare the fingerprints received from the county medical examiners or coroners to fingerprints on file with the TBI for purposes of attempting to determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall also be compared to records maintained by the TBI concerning missing persons. The TBI shall submit the results of the comparisons to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement agency which submitted the report of the missing person.

(g)

(1)

(A) When any person makes a report of a missing person to a law enforcement agency, the agency shall request a member of the family or next of kin of the missing person to authorize the release to the TBI of the dental records of the person reported missing. The release shall be on a form supplied by the TBI. If the person reported missing is still missing thirty (30) days after the report is made, the law enforcement agency shall deliver the release to the dentist or dentists of the missing person, and request the dentist or dentists to deliver such records, including dental x-rays, to the TBI within ten (10) days. The form of such request shall also

include means by which the law enforcement agency shall be notified of the delivery of such records.

(B) If the person reported missing has not been found within thirty (30) days and no family or next of kin exists or can be located, the law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing person is being conducted and that the dental records are necessary for the exclusive purpose of furthering the investigation. Such written declaration, signed by a law enforcement officer, is sufficient authority for the dentist or dentists to release the missing person's dental records, including dental x-rays, to the TBI, and shall not be the basis for disciplinary action pursuant to § 63-5-124.

(2) Upon receipt of a properly executed release and request or declaration, the dentist or dentists shall forward the dental records, including dental x-rays, to the TBI, where a file shall be maintained concerning persons reported as missing and who have not been reported as found. The file shall contain dental records and such other information as the TBI finds to be relevant to assisting in the location of a missing person. The law enforcement agency shall be notified of the delivery of such records.

(h) The TBI shall compare the dental records received from the county medical examiners or coroners to dental records of missing persons on file with the TBI. The TBI shall submit the results of the comparison to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement agency which submitted the report of the missing person.

(i)

(1) When a person previously reported missing has been found, the sheriff, chief of police, coroner, or medical examiner, or other law enforcement agency shall erase all records with respect to such person or destroy any documents which are maintained pursuant to this section and shall report to the TBI that the person has been found and that the records and documents have been so erased or destroyed. After receiving such a report, the TBI shall maintain a sealed record of the case file in accordance with subdivision (i)(3)(A), and shall erase all other records and destroy any other documents with respect to such person that are maintained pursuant to this section.

(2) Nothing in subdivision (i)(1) shall prohibit law enforcement agencies from maintaining case files relating to missing citizens who were reported missing; provided, that any DNA, fingerprints, or dental records acquired in the course of such investigation shall be destroyed in accordance with subdivision (i)(1) after the person previously reported missing has been found.

(3)

(A) Notwithstanding subdivision (i)(1), if a missing citizen previously reported missing has been found, the TBI shall maintain a sealed record of the case file for a period of ten (10) years, after which it shall be destroyed. The sealed record shall be unsealed if the individual to whom the record pertains is reported missing on a subsequent occasion or if needed for evidentiary purposes in any civil litigation against the TBI or its personnel that arises from the investigation. In the event that there are grounds for a criminal action arising from the investigation, nothing in this subdivision shall prohibit the TBI from

allowing such records to remain unsealed until criminal action is concluded or otherwise resolved.

(B) The TBI shall establish rules relating to the unsealing of records. Such rules shall require that, pursuant to this subdivision (i)(3)(B), the process of unsealing such records shall take no longer than two (2) hours from the time the TBI receives a report that a citizen, for whom there is a previous record, is missing.

(j) The information contained in the TBI's missing person files shall be made available to law enforcement agencies attempting to locate missing persons.

(k) No law enforcement agency shall establish or maintain any policy which requires the observance of a waiting period before accepting and investigating a missing child report. Upon receipt of a report of a missing child, law enforcement agencies shall make entries of such report to the registry in the manner provided by § 38-6-117.

(l) No law enforcement agency shall establish or maintain any policy that requires the observance of a waiting period before accepting and investigating a report of a missing citizen. Upon receipt of a report of a missing citizen, law enforcement agencies shall make entries of such report as provided by subsection (m).

(m) Whenever a law enforcement agency determines that a person is a missing citizen, or that an unidentified living person may be a missing citizen, such law enforcement agency shall enter the report of such missing citizen in any database of missing persons maintained by the TBI and the federal government.

SECTION 2. This act shall take effect July 1, 2017, the public welfare requiring it.