

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

Originating

House Bill 4847

BY DELEGATES CAPITO, GRAVES, WESTFALL, FAST,
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AND FLUHARTY

[Originating in the Committee on the Judiciary

Introduced February 24, 2022]

1 A BILL to amend and reenact §15-3D-4, and §15-3D-5 of the Code of West Virginia, 1931, as
2 amended, relating to missing persons generally; providing that missing persons
3 information shall be furnished to West Virginia State Police; providing that persons aged
4 over 75 years qualify as high risk persons; and, providing that an investigation shall start
5 in all such instances as soon as the missing persons complaint is received..

Be it enacted by the Legislature of West Virginia:

ARTICLE 3D. MISSING PERSONS ACT.

§15-3D-4. Missing persons complaints; law-enforcement procedures.

1 (a) Complaint requirements. — A person may file a missing persons complaint with any
2 law-enforcement agency having jurisdiction. The law-enforcement agency shall attempt to collect
3 the following information from a complainant and, as soon thereafter as is practicable, shall then
4 furnish the information to the West Virginia State Police; who upon receipt of such information
5 may, at their discretion, monitor and supervise such investigation:

6 (1) The missing person's name;

7 (2) The missing person's date of birth;

8 (3) The missing person's address;

9 (4) The missing person's identifying characteristics, including, but not limited to:
10 Birthmarks, moles, tattoos, scars, height, weight, gender, race, current hair color, natural hair
11 color, eye color, prosthetics, surgical implants, cosmetic implants, physical anomalies, and blood
12 type;

13 (5) A description of the clothing the missing person was believed to have been wearing
14 when he or she went missing and any items that might be with the missing person, such as
15 jewelry, accessories, shoes, or any other distinguishing garments or items;

16 (6) The date of the last known contact with the missing person;

17 (7) The missing person's driver's license and Social Security number, or any other
18 numbers related to other forms of identification;

19 (8) A recent photograph of the missing person;

20 (9) Information related to the missing person's electronic communication devices or
21 electronic accounts, such as cell phone numbers, social networking login information, and email
22 addresses and login information;

23 (10) Any circumstances that the complainant believes may explain why the person is
24 missing;

25 (11) The name and location of the missing person's school or employer;

26 (12) The name and location of the missing person's dentist or primary care physician;

27 (13) A description of the missing person's possible means of transportation, including
28 make, model, color, license, and identification number of a vehicle;

29 (14) Any identifying information related to a known or possible abductor, or the person last
30 seen with the missing person, including the person's name, physical description, date of birth,
31 identifying physical marks, a description of the person's possible means of transportation,
32 including the make, model, color, license, and identification number of the person's vehicle, and
33 any known associates;

34 (15) The name of the complainant and his or her relationship to the missing person; and

35 (16) Any additional information considered relevant by either the complainant or the
36 law-enforcement agency.

37 (b) High-risk determination; requirements. —

38 (1) Upon initial receipt of a missing persons report, the lead law-enforcement agency shall
39 immediately assess whether facts or circumstances indicate that the person meets any of the
40 following risk indicators, which, if applicable, will be entered into NCIC:

41 (A) The person is or was likely involved in a natural disaster;

42 (B) The person is a juvenile, or was a juvenile when he or she went missing;

43 (C) The person is likely endangered;

44 (D) The person has mental or physical disabilities;

45 (E) The disappearance is believed to have been the result of abduction or kidnapping, or
46 was otherwise involuntary;

47 (F) The person is 75 years of age or older;

48 (G) The person is under the age of 21 and declared emancipated by the laws of his or her
49 state of residence; and

50 ~~(G)~~ (H) None of the criteria in paragraphs (A) through ~~(E)~~ (F), inclusive, of this subdivision
51 apply, but additional facts support a reasonable concern for the person's safety.

52 (2) If, upon assessment, the lead law-enforcement agency determines that the missing
53 person meets one of the classifications in subdivision (1) of this subsection, the lead law-
54 enforcement agency shall:

55 (A) Immediately notify the terminal operator responsible for WEAPON system entries for
56 the law-enforcement agency and provide the operator with all relevant information collected from
57 the missing persons complainant as soon as possible. The terminal operator will enter all
58 information into the WEAPON system and submit the information to the West Virginia State Police
59 communications section. If the law-enforcement agency does not have an agreement with a local
60 terminal agency, then the law-enforcement agency will contact the West Virginia State Police
61 terminal agency for that particular area and request that the West Virginia State Police enter the
62 information into the WEAPON system. Once the missing persons complaint has been entered
63 into the WEAPON system, the West Virginia State Police communications section shall
64 immediately notify all law-enforcement agencies within the state and surrounding region by means
65 of the WEAPON system with all information that will promote efforts to promptly locate and safely
66 recover the missing person. Local law-enforcement agencies that receive the notification of a
67 missing persons complaint shall notify all officers to be on the lookout for the missing person or a
68 suspected abductor; and

69 (B) Immediately, and no later than two hours, after the determination that a juvenile is
70 missing, take appropriate steps to ensure that the case is entered into the NCIC database with a
71 photograph and other applicable information related to that missing person.

72 (c) General requirements. —

73 (1) The lead law-enforcement agency shall take appropriate steps to ensure that all
74 relevant information related to a missing persons complaint is submitted in a timely manner to the
75 WEAPON system, and as applicable, NCIC, CODIS, NDIS, NamUs, and NCMEC. Any
76 information that the West Virginia State Police obtains from these databases must be provided to
77 the lead law-enforcement agency and to other law-enforcement agencies who may come in
78 contact with or be involved in the investigation or location of a missing person.

79 (2) The lead law-enforcement agency or the West Virginia State Police shall submit any
80 available DNA profiles that may aid in a missing persons investigation and that have not already
81 been submitted by a medical examiner into appropriate DNA databases, including, but not limited
82 to, NamUs.

83 (d) Removal upon location of person. — Upon the determination that the person is no
84 longer missing, the lead law-enforcement agency or the West Virginia State Police shall
85 immediately remove or request the removal of all records of the missing person from all missing
86 persons databases.

§15-3D-5. Missing persons investigation requirements.

1 (a) A law-enforcement agency may not delay an investigation of a missing persons
2 complaint on the basis of a written or unwritten policy requiring that a certain period of time pass
3 after any event, including the receipt of a complaint, before an investigation may commence; and
4 shall commence an active investigation immediately upon receipt of the missing persons
5 complaint.

6 (b) A law-enforcement agency may not refuse to accept a missing person report over
7 which it has investigatory jurisdiction.

8 (c) A law-enforcement agency is not required to obtain written authorization before publicly
9 releasing any photograph that would aid in the location or recovery of a missing person.

10 (d) A The lead law-enforcement agency shall notify the complainant, a family member, or
11 other person in a position to assist in efforts to locate the missing person of the following:

12 (1) Whether additional information or materials would aid in the location of the missing
13 person, such as information related to credit or debit cards the missing person may have access
14 to, other banking information, or phone or computer records;

15 (2) That any DNA samples requested for the missing persons investigation are requested
16 on a voluntary basis, to be used solely to help locate or identify the missing person and will not
17 be used for any other purpose; and

18 (3) Any general information about the handling of the investigation and the investigation's
19 progress, unless disclosure would adversely affect the ability to locate or protect the missing
20 person, or to apprehend or prosecute any person criminally involved in the person's
21 disappearance.

22 (e) A law-enforcement agency may provide informational materials through publications,
23 or other means, regarding publicly available resources for obtaining or sharing missing persons
24 information.

25 (f) ~~Lead~~ The lead law-enforcement agencies agency shall coordinate with all other law-
26 enforcement agencies to ~~make~~ ensure the appropriate use of all available and applicable tools,
27 resources, and technologies to resolve a missing persons investigation, including but not limited
28 to:

29 (1) Assistance from other law-enforcement agencies, whether at a local, state, or federal
30 level;

31 (2) Nonprofit search and rescue organizations, which may provide trained animal
32 searches, use of specialized equipment, or man trackers;

33 (3) Cell phone triangularization and tracking services;

34 (4) Subpoenas of cell phone, land line, Internet, email, and social networking website
35 records; and

36 (5) Services of technology experts to examine any available information collected from a
37 computer or communications device belonging to or used by the missing person.

38 (g) If a person remains missing for 30 days after the receipt of a missing persons complaint
39 or the date on which the person was last seen, whichever occurs earlier, the lead law-enforcement
40 agency shall attempt to obtain the following information:

41 (1) DNA samples from family members and the missing person, along with any necessary
42 authorizations to release such information. All DNA samples obtained in a missing persons
43 investigation shall be immediately forwarded to an appropriate laboratory for analysis;

44 (2) Any necessary written authorization to release the missing person's medical and dental
45 records, including any available x-rays, to the lead law-enforcement agency. If no family or next
46 of kin exists or can be located, the lead law-enforcement agency may execute a written
47 declaration, stating that an active investigation seeking to locate the missing person is being
48 conducted and that the records are required for the exclusive purpose of furthering the
49 investigation. The written declaration, signed by the supervising or chief officer of the
50 law-enforcement agency, is sufficient authority for a health care practitioner to immediately
51 release the missing person's x-rays, dental records, dental x-rays, and records of any surgical
52 implants to the law-enforcement agency;

53 (3) Additional photographs of the missing person that may aid the investigation; and

54 (4) Fingerprints of the missing person.

55 (h) Nothing in this section precludes a law-enforcement agency from attempting to obtain
56 the materials identified in subsection (g) of this section before the expiration of the 30-day period.