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DELAWARE STATE SENATE
152nd GENERAL ASSEMBLY

SENATE SUBSTITUTE NO. 1
FOR
SENATE BILL NO. 46

AN ACT TO AMEND TITLE 11 OF THE DELAWARE CODE RELATING TO MISSING PERSONS.

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

1 Section 1. Amend § 8531, Title 11 of the Delaware Code by making deletions as shown by strike through and
2 insertions as shown by underline as follows:

3 § 8531. Definitions.

4 ~~The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in~~
5 ~~this section, except where the context clearly indicates a different meaning:~~ For purposes of this subchapter:

6 (1) "Complaint" ~~shall mean any~~ means a report, ~~notification~~ notification, or information given to a law-
7 enforcement officer that a person is missing or cannot, with reasonable care, be ~~located~~; located.

8 (2) "Missing person" ~~shall mean~~ means a person who is missing, and who also meets 1 of the following
9 characteristics:

10 a. ~~Such~~ The person is physically or mentally ~~disabled~~; disabled.

11 b. ~~Such~~ The person was, or is, in the company of another person under circumstances indicating that the
12 missing person's safety may be in ~~danger~~; danger.

13 c. ~~Such~~ The person is missing under circumstances indicating that the disappearance was not ~~voluntary~~;
14 voluntary.

15 d. ~~Such~~ The person is an ~~unemancipated minor~~; a child.

16 (3) "Unemancipated minor" ~~shall mean a minor who has not married, and who resides with a parent or other~~
17 ~~legal guardian~~.

18 (4)(3) “Verified location” ~~shall mean~~ means the location where it has been confirmed that the missing person
19 was last seen. ~~Such confirmation may include~~ For purposes of this paragraph (3), “confirmed” includes credible
20 witness identification and ~~or verification by video surveillance or similar technology verification.~~ technology.

21 Section 2. Amend § 8535, Title 11 of the Delaware Code by making deletions as shown by strike through and
22 insertions as shown by underline as follows:

23 § 8535. ~~Unemancipated minors.~~ Missing person report involving a child.

24 (a) If a report of a missing person under § 8532 of this title involves an ~~unemancipated minor~~, a child, the law-enforcement
25 agency ~~shall immediately transmit all proper information for inclusion into the National Crime Information Center~~
26 ~~(N.C.I.C.) computer.~~ a child, the law-enforcement agency preparing the report under § 8533 of this title shall comply with §
27 8544 of this title.

28 (b) If a report of a missing person under § 8532 of this title involves an ~~unemancipated minor~~, a child, the law-
29 enforcement agency ~~shall~~ may not prevent an immediate active investigation ~~on the basis of any agency rule which based~~
30 on an agency rule that specifies an automatic time limitation for a missing person investigation.

31 Section 3. Amend § 8536, Title 11 of the Delaware Code by making deletions as shown by strike through and
32 insertions as shown by underline as follows:

33 § 8536. Dental records.

34 (a) Each law-enforcement agency shall be provided with dental authorization forms, promulgated by the Attorney
35 General, which when signed by a ~~parent or guardian of a minor~~ shall permit a parent, guardian, or legal custodian of a child
36 permits the release of dental records to law-enforcement authorities.

37 (b) ~~Where~~ If the missing person complaint indicates that the missing person is ~~under 18 years of age~~, a child, a
38 properly executed dental authorization ~~shall~~ must be taken to the family dentist and any other dentist who has records
39 ~~which that~~ that would assist in identification of the missing person. ~~Such~~ The dental identification ~~shall~~ must be disseminated to
40 the Medical Examiner and all other appropriate state agencies.

41 Section 4. Amend § 8537, Title 11 of the Delaware Code by making deletions as shown by strike through and
42 insertions as shown by underline as follows:

43 § 8537. Unidentified deceased persons — Duties of law-enforcement agency.

44 ~~It shall be the duty of every law-enforcement agency to:~~ A law-enforcement agency shall do all of the following:

45 (1) Acquire, collect, ~~classify~~ classify, and preserve any information ~~which that~~ that would assist in the
46 identification of any deceased individual who has not been identified after the discovery of ~~such~~ the deceased
47 ~~individual;~~ individual.

48 (2) Acquire, collect, ~~classify~~ classify, and preserve immediately any information ~~which~~ that would assist in the
49 location of any missing person, including any ~~minor~~, child, and provide confirmation as to any entry to the ~~parent, legal~~
50 ~~guardian or next of kin of such person~~; parent, guardian, legal custodian, or next of kin; and the agency shall acquire,
51 collect, ~~classify~~ classify, and preserve ~~such~~ the information as it deems necessary from each ~~such parent, guardian or~~
52 ~~next of kin~~; and parent, guardian, legal custodian, or next of kin.

53 (3) Exchange ~~such~~ the records and information as are provided for in this section with other law-enforcement
54 agencies of this State, of any other state, or of the United States. With respect to missing ~~minors~~, such information shall
55 children, the records and information must be transmitted immediately to other law-enforcement agencies.

56 Section 5. Amend § 8543, Title 11 of the Delaware Code by making deletions as shown by strike through and
57 insertions as shown by underline as follows:

58 § 8543. Duties.

59 (a) ~~The Clearinghouse shall~~; shall do all of the following:

60 (1) Provide a form of missing child report for use by private citizens and law-enforcement ~~agencies~~; agencies.

61 (2) Establish a system of interstate communication of information relating to children determined to be
62 ~~missing by the parent, guardian or legal custodian of the child, or by a law-enforcement agency~~; missing.

63 (3) Provide a centralized file for the exchange of information of missing children within the ~~State~~; State.

64 (4) Interface with the National Crime Information Center ("NCIC") for the exchange of information on a
65 missing child suspected of interstate ~~travel~~; travel.

66 (5) Collect, process, ~~maintain~~ maintain, and disseminate information on missing children and strive to
67 maintain or disseminate only accurate and complete information.

68 (6) Publish the name of and relevant available information on a missing child.

69 (7) Publish annual statistics regarding missing children.

70 (b) The Clearinghouse may establish and maintain a list of organizations and groups that provide volunteer search
71 teams for resources relating to missing children.

72 Section 6. Amend § 8544, Title 11 of the Delaware Code by making deletions as shown by strike through and
73 insertions as shown by underline as follows:

74 § 8544. Filing missing child reports; notification upon location; purging information; return of fingerprints.

75 (a) Every constable, chief police officer, officer in charge, member of the State Police and other law-enforcement
76 ~~agency~~ agency, and officer of the State and of any local governmental unit shall do all of the following:

77 (1) ~~immediately~~ Immediately accept and act ~~upon~~ on information on any missing child by police radio
78 broadcasts and by causing missing child entries to be made into ~~DELJIS and NCIC~~ the Delaware Criminal Justice
79 Information System (“DELJIS”) and NCIC.

80 (2) ~~and shall transmit~~ Transmit information to the Clearinghouse, so far as available, on a missing child report
81 concerning a missing child within 24 hours after receipt ~~thereof.~~ of the information.

82 (3) ~~The investigating law enforcement agency shall also notify~~ Notify the Delaware Information Analysis
83 Center (DIAC) ~~who shall assist the investigating law enforcement agency in regard to the search and location of the~~
84 ~~missing child.~~ (“DIAC”). At the request of the law-enforcement agency, DIAC shall assist by providing intelligence
85 and disseminating information on the missing child to the appropriate law-enforcement partners.

86 (4) Institute appropriate search procedures, including the coordination of volunteer search teams.

87 (5) Notify the National Center for Missing and Exploited Children.

88 (b) Any ~~parent, guardian or legal custodian~~ person may submit a missing child report to a local law-enforcement
89 agency having jurisdiction for investigation and referral of the missing child report to the Clearinghouse on any child whose
90 whereabouts is unknown, regardless of the circumstances, ~~which shall be~~ and the report must be included in the
91 Clearinghouse ~~data base.~~ database.

92 (c) The ~~parent, guardian or legal custodian~~ person responsible for notifying the Clearinghouse or a law-
93 enforcement agency of a missing child shall immediately notify ~~such agency or~~ the Clearinghouse or the law-enforcement
94 agency of any child whose location has been determined.

95 (d) Information received ~~pursuant to this section shall~~ under this section must be purged by the appropriate law-
96 enforcement agency and the Clearinghouse immediately ~~upon~~ on location of a missing child who has been included in the
97 Clearinghouse database. ~~Any fingerprints~~ Fingerprints of a missing child provided to a law-enforcement agency or the
98 Clearinghouse ~~by a parent, guardian or legal custodian shall~~ must be returned to the person providing ~~them upon the~~
99 fingerprints on location of a the missing child.

100 (e) The Delaware State Police shall adopt rules and regulations for the utilization of ~~the~~ DIAC to assist
101 investigative law-enforcement agencies during their investigation as a resource for the receipt, ~~analysis~~ analysis, and
102 dissemination of information to those entities that have a need and right to know about the missing child.

SYNOPSIS

According to the National Center for Missing and Exploited Children, an estimated 800,000 children are reported missing each year.

This Act is a substitute for Senate Bill No. 46. Like Senate Bill No. 46, this Act revises this State's missing children laws to improve search efforts, increase collaboration between law enforcement agencies, and increase public information about missing children.

This Act differs from Senate Bill No. 46 in that it does all of the following:

(1) Removes language relating to “unemancipated minors” and instead uses the term “child”, as defined in § 302 of Title 1 of the Delaware Code, uniformly throughout Subchapter II of Chapter 85 of Title 11 of the Delaware Code. Delaware does not have emancipation of minors and anyone under the age of 18 is considered a child under our laws.

(2) Includes a legal custodian as a person who can sign a dental authorization form to permit release of dental records to law-enforcement agencies. This allows the Department of Services for Children, Youth and their Families to authorize the release of dental records for any child in its legal custody.

(3) Includes a legal custodian as a point of contact for law-enforcement agencies when fulfilling their duties regarding unidentified deceased persons. This allows the Department of Services for Children, Youth and their Families to be a point of contact and receive information for any child in its legal custody.

(4) Removes the limitation on who may report a missing child and instead allows a child to be reported missing by any person. This enables schools, daycares, group homes, relatives, or persons caring for a child without legal authority to report a child missing from their care.

This Act also makes technical corrections to conform existing law to the standards of the Delaware Legislative Drafting Manual.

Author: Senator Brown