

CS FOR SENATE BILL NO. 247(JUD)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FIFTH LEGISLATURE - SECOND SESSION

BY THE SENATE JUDICIARY COMMITTEE

Offered: 2/13/08

Referred: Finance

Sponsor(s): SENATOR GREEN

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to missing persons and unidentified human remains."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 *** Section 1.** AS 12.65.100 is amended by adding a new subsection to read:

4 (b) If human remains remain unidentified after investigation, those remains
5 may not be disposed of under this section unless samples suitable for DNA
6 identification and archiving and photographs of the remains have been obtained and
7 reasonable measures to identify the remains have been exhausted. A person may not
8 bring a civil action for damages for failure to comply with a provision of this
9 subsection.

10 *** Sec. 2.** AS 18.60.125 is amended to read:

11 **Sec. 18.60.125. Civil immunity.** A person may not bring a civil action for
12 damages against the state, a political subdivision of the state, or the officers, agents, or
13 employees of the state or a political subdivision of the state for a death, personal
14 injury, or property damage that results from an act or omission in performing or failing
15 to perform activities or duties authorized under, or otherwise comply with a

1 **provision of**, AS 18.60.120 - 18.60.175 **and AS 18.65.630**. This section does not
 2 apply to a civil action for damages as a result of intentional misconduct within the
 3 course and scope of employment or agency and with complete disregard for the safety
 4 and property of others.

5 * **Sec. 3.** AS 18.60.150 is amended by adding new subsections to read:

6 (b) Each law enforcement agency in the state with reason to believe a missing
 7 person is in the jurisdiction served by the agency shall accept a report of a missing
 8 person. A law enforcement agency may not refuse to accept a missing person report
 9 solely on the basis that

- 10 (1) the missing person is an adult;
- 11 (2) the circumstances do not indicate foul play;
- 12 (3) the person has been missing for a short period of time;
- 13 (4) the person has been missing for a long period of time.

14 (c) In accepting a report of a missing person, the law enforcement agency shall
 15 request from the person making the report, and make reasonable efforts to gather to
 16 the extent it is available and permissible to disclose, information including

- 17 (1) the name of the missing person, including alternative names used;
- 18 (2) the date of birth;
- 19 (3) identifying marks such as birthmarks, moles, tattoos, and scars;
- 20 (4) height and weight;
- 21 (5) gender;
- 22 (6) race;
- 23 (7) current hair color and true or natural hair color;
- 24 (8) eye color;
- 25 (9) prosthetics, surgical implants, or cosmetic implants;
- 26 (10) physical anomalies;
- 27 (11) blood type;
- 28 (12) driver's license number, social security number, and credit and
 29 bank card numbers;
- 30 (13) a photograph of the missing person;
- 31 (14) a description of the clothing the missing person was believed to

1 have been wearing;

2 (15) a description of items that might be with the missing person;

3 (16) information on the missing person's electronic communications
4 devices, such as wireless telephone numbers and electronic mail addresses;

5 (17) the circumstances surrounding the disappearance, including where
6 the person may have been, whom the person might have been with, when the person
7 was last seen or heard from, and the reasons why the reporting person believes that the
8 person is missing;

9 (18) the name and location of the missing person's school or employer;

10 (19) the name and location of the missing person's dentist and primary
11 care physician;

12 (20) any circumstances that may indicate that the disappearance of the
13 missing person was not voluntary;

14 (21) any circumstances that indicate that the missing person may be at
15 risk of injury or death;

16 (22) a description of the possible means of transportation of the
17 missing person;

18 (23) any identifying information about a known or possible abductor
19 and the person last seen with the missing person, including

20 (A) name;

21 (B) physical description;

22 (C) date of birth;

23 (D) identifying marks;

24 (E) description of a possible means of transportation, including
25 make, model, color, license plate number, and vehicle identification number of
26 a vehicle;

27 (F) known associates; and

28 (24) any other information that can aid in locating the missing person.

29 (d) The law enforcement agency shall notify the person making the report, a
30 family member, or another person in a position to assist in the efforts to locate the
31 missing person; the law enforcement agency

1 (1) shall provide general information about the handling of the missing
2 person case or about intended efforts in the case to the extent that the law enforcement
3 agency determines that disclosure would not adversely affect its ability to locate or
4 protect the missing person, or to apprehend or prosecute any person criminally
5 involved in the disappearance;

6 (2) shall notify the person making the report or other necessary person
7 that the person notified promptly contact the law enforcement agency if the missing
8 person remains missing to provide additional information and materials that may aid
9 in locating the missing person; the law enforcement agency shall also notify the person
10 of the specific information or materials needed, such as credit cards the missing person
11 has access to, other banking information, and records of wireless telephone use;

12 (3) shall notify the person making the report that any DNA samples
13 provided for the missing person case are provided on a voluntary basis and may be
14 used to help locate or identify the missing person;

15 (4) is encouraged to make available informational materials that advise
16 the public about how the information or materials identified in this subsection are used
17 to help locate or identify missing persons.

18 (e) If the person identified in the missing person report remains missing after
19 30 days, and the additional information and materials specified below have not been
20 received, the law enforcement agency shall make reasonable efforts to obtain

21 (1) DNA samples from immediate family members and from the
22 missing person along with any needed documentation, including any consent forms,
23 required for the use of state or federal DNA databases;

24 (2) an authorization to release dental or skeletal x-rays of the missing
25 person;

26 (3) any additional photographs of the missing person that may aid the
27 investigation or an identification; the law enforcement agency is not required to obtain
28 written authorization before it releases publicly any photograph that would aid in the
29 investigation or identification of the missing person;

30 (4) dental information and x-rays; and

31 (5) fingerprints.

1 (f) DNA samples provided by family members under (e) of this section shall
2 be provided voluntarily. Nothing in this section requires a family member to provide a
3 DNA sample. All DNA samples obtained in a missing person case shall be
4 immediately forwarded to an approved facility for analysis. When a missing person
5 case is closed, DNA samples obtained from family members during the investigation
6 shall be destroyed.

7 (g) Information relevant to the Federal Bureau of Investigation, Violent
8 Criminal Apprehension Program shall be entered as soon as is reasonably possible. All
9 missing person reports accepted by a law enforcement agency shall be immediately
10 entered into the National Crime Information Center Missing Person File, Unidentified
11 Person File, and the state crime information system.

12 (h) This subsection does not preclude a law enforcement agency from
13 attempting to obtain the materials identified in this subsection before the expiration of
14 the 30-day period.

15 * **Sec. 4.** AS 18.60 is amended by adding new sections to read:

16 **Sec. 18.60.153. High-risk missing person.** (a) On initial receipt of a missing
17 person report, the law enforcement agency shall immediately determine whether there
18 is a basis to determine that the person missing is a high-risk missing person. If a law
19 enforcement agency has previously determined that a missing person is not a high-risk
20 missing person, but obtains new information, it shall immediately determine whether
21 the information provided to the law enforcement agency indicates that the person
22 missing is a high-risk missing person. The law enforcement agency shall perform risk
23 assessments identified in this subsection not later than 72 hours after the initial
24 missing person report or the new information was provided to the law enforcement
25 agency.

26 (b) A high-risk missing person is an individual whose whereabouts are not
27 currently known and the circumstances indicate that the individual may be at risk of
28 injury or death. The circumstances that indicate that an individual is a high-risk
29 missing person include any of the following:

- 30 (1) the person is missing as a result of abduction by a stranger;
31 (2) the person is missing under suspicious circumstances;

- 1 (3) the person is missing under known dangerous circumstances;
 2 (4) the person is missing more than 30 days;
 3 (5) the person has already been designated as a high-risk missing
 4 person by another law enforcement agency;
 5 (6) there is evidence that the person is at risk because the missing
 6 person
- 7 (A) is in need of medical attention or prescription medication;
 - 8 (B) may have been abducted by a noncustodial parent;
 - 9 (C) is mentally impaired;
 - 10 (D) is a person under 18 years of age; or
 - 11 (E) has been the subject of past threats or acts of violence;
- 12 (7) any other circumstance that the law enforcement agency uses to
 13 determine that the missing person may be at risk.

14 (c) When the law enforcement agency determines that the missing person is a
 15 high-risk missing person, the law enforcement agency shall notify the Alaska state
 16 troopers. The law enforcement agency shall immediately provide to the Alaska state
 17 troopers the information most likely to aid in the location and safe return of the high-
 18 risk missing person, and shall provide, as soon as practicable, all other information
 19 obtained relating to the missing person case. The Alaska state troopers shall promptly
 20 notify all law enforcement agencies within the state of the information that may aid in
 21 the prompt location and safe return of the high-risk missing person. The local law
 22 enforcement agencies who receive the notification from the Alaska state troopers shall
 23 notify officers to be on the lookout for the missing person or a suspected abductor.

24 (d) The law enforcement agency receiving a high-risk missing person report
 25 shall immediately enter all collected information relating to the missing person case in
 26 available state and federal databases. The information shall be provided in accordance
 27 with applicable guidelines relating to the databases.

28 **Sec. 18.60.155. Missing persons report protocols.** Law enforcement agencies
 29 shall establish written protocols for the handling of missing person cases to
 30 accomplish the purpose of AS 18.60.150 - 18.60.170.

31 * **Sec. 5.** The uncodified law of the State of Alaska is amended by adding a new section to

1 read:

2 APPLICABILITY. AS 18.60.150(b) - (h), added by sec. 3 of this Act, and
3 AS 18.60.153 - 18.60.155, added by sec. 4 of this Act, apply to reports and investigations of
4 missing persons when the person is reported as missing after the effective date of this Act.