

ALASKA LEGISLATURE COMMITTEE FILES 2007-2008 SJUD 12561

AMENDMENT # 1

OFFERED IN THE SENATE  
TO: CSSB 247 (JUD)

BY SENATOR

French

- 1 Page 2, line 1, following "18.60.175":
- 2 Insert "and 18.65.630"
- 3
- 4
- 5 Page 2, line 16, following "is available"
- 6 Insert "and permissible to disclose"

25-LS1157E  
Luckhaupt  
2/5/08

**CS FOR SENATE BILL NO. 247( )**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FIFTH LEGISLATURE - SECOND SESSION**

**BY**

**Offered:**  
**Referred:**

**Sponsor(s): SENATOR GREEN**

RECEIVED

FEB - 5 2008

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

# ALASKA STATE LEGISLATURE



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**SENATOR LYDA GREEN**  
PRESIDENT OF THE SENATE

## MEMORANDUM

TO: Senator Hollis French, Chairman  
Senate Judiciary Committee

FROM: Senator Lyda Green  
President of the Senate

A handwritten signature in black ink, appearing to be "LGS", written over the printed name of Senator Lyda Green.

DATE: January 28<sup>th</sup>, 2008

RE: SB 247, "An Act relating to missing persons and unidentified human remains."

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Thank you for scheduling SB 247 to be heard in the Senate Judiciary Committee. I appreciate your cooperation on moving forward on this important legislation.

Attached to this memorandum, please find:

- A copy of the legislation
- A copy of model legislation
- A sponsor statement
- Letters of support
- Newspaper articles

Please contact Dirk Craft in my office if further information is necessary.

*Franc  
Fullico*

# ALASKA STATE LEGISLATURE



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**SENATOR LYDA GREEN**  
PRESIDENT OF THE SENATE

## **SB 247**

### Sponsor Statement

On October 30, 2004, President Bush signed into law the "Justice for All Act of 2004," which established enforceable rights for victims of crimes, enhances DNA collection and analysis efforts, and provides for postconviction DNA testing. As a result of this law, the President's DNA Initiative was launched by the U.S. Department of Justice to help Federal, State and local governments improve their laws to solve more crimes, protect the innocent and identify missing persons. In August 2005, the Department of Justice published "**Identifying the Missing: Model State Legislation.**" Based on this model legislation, I have introduced SB 247.

Every year, numerous Alaskan families go through the agonizing process of reporting missing persons to law enforcement so they can begin the process of finding their loved ones. I believe it is a worthwhile effort to do anything we can to improve that process and increase the success rate of finding missing persons. I am very proud of our law enforcement community in Alaska. It is my intent through the introduction of this bill to help improve their ability to locate and safely return missing persons. This legislation provides the framework necessary for that improvement.

Specifically, SB 247:

- Prohibits the disposal of unidentified human remains unless DNA samples are archived.
- Prohibits a law enforcement agency from refusing to accept a missing persons report.
- Provides a detailed list of specific information to be gathered and recorded by law enforcement about a missing person.

- **Allows law enforcement to obtain a DNA sample from the family of a missing person who has been missing for more than 30 days and forward that DNA to an approved facility for analysis and dissemination to missing persons databases.**
- **Requires all missing person reports to be entered into the National Crime Information Center (NCIC) Missing Person File, the Unidentified Person File, and the state crime information system.**
- **Provides a mechanism for law enforcement to determine if a missing person is deemed "high-risk" and if so, take immediate action.**
- **Improves procedures for handling human remains and communicating with the family of a missing person.**

**This legislation will give more hope to all the families of the missing and also keeps families actively engaged in helping to bring home their missing loved ones. I encourage your support for this important step forward to help law enforcement find missing persons as quickly as possible.**

AUGUST 2005

**Identifying the Missing:  
Model State Legislation**

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**PRESIDENT'S**

**DNA**

**INITIATIVE**



[www.DNA.gov](http://www.DNA.gov)

**U.S. Department of Justice**  
**Office of Justice Programs**  
810 Seventh Street N.W.  
Washington, DC 20531

**Alberto R. Gonzales**  
*Attorney General*

**Regina B. Schofield**  
*Assistant Attorney General*

**Sarah V. Hart**  
*Director, National Institute of Justice*

The National Institute of Justice is the research, development, and evaluation agency of the U.S. Department of Justice. NIJ's mission is to advance scientific research, development, and evaluation to enhance the administration of justice and public safety.

On October 30, 2004, President Bush signed into law the "Justice for All Act of 2004," which establishes enforceable rights for victims of crimes, enhances DNA collection and analysis efforts, provides for postconviction DNA testing, and authorizes grants to improve the quality of representation in State capital cases.

The President's DNA Initiative—Advancing Justice Through DNA Technology—is a 5-year program that directs more than \$1 billion to improve the use of DNA in the criminal justice system. Designed to help Federal, State, and local forensic laboratories in particular, the initiative provides funding, training, and assistance to ensure that DNA technology reaches its full potential to solve crimes, protect the innocent, and identify missing persons.

**Office of Justice Programs**  
**Partnerships for Safer Communities**  
[www.ojp.usdoj.gov](http://www.ojp.usdoj.gov)



# **Identifying the Missing: Model State Legislation**

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AUGUST 2005

Findings and conclusions of the research reported here are those of the authors and do not necessarily reflect the official position or policies of the U.S. Department of Justice.

NCJ 210740

**MODEL STATE MISSING PERSONS STATUTE**

\*\*\*\*\*

AN ACT relating to improving the ability of law enforcement to locate and return missing persons, to improving the identification of human remains, and to improving timely information and notification to family members of missing persons.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF \_\_\_\_\_:

(A) TITLE \_\_\_\_\_, \_\_\_\_\_ CODE, is amended by adding Article XXX to read as follows:

**ARTICLE XXX: PROCEDURES FOR LAW ENFORCEMENT OFFICERS, CORONERS/  
MEDICAL EXAMINERS AND OTHER GOVERNMENT PERSONNEL  
RELATING TO MISSING PERSONS REPORTS AND IDENTIFYING UNIDENTIFIED  
PERSONS/HUMAN REMAINS**

**SEC. XXX.1. MISSING PERSON(S) REPORTS**

- (1) **REPORT ACCEPTANCE.** All law enforcement agencies within the State shall accept without delay any report of a missing person(s). Acceptance of a missing person(s) report may not be refused on any ground. No law enforcement agency may refuse to accept a missing person report on the basis that—
- (A) the missing person(s) is an adult;
  - (B) the circumstances do not indicate foul play;
  - (C) the person(s) has been missing for a short period of time;
  - (D) the person(s) has been missing a long period of time;
  - (E) there is no indication that the missing person(s) was in the jurisdiction served by the law enforcement agency at the time of the disappearance;
  - (F) the circumstances suggest that the disappearance may be voluntary;
  - (G) the person(s) reporting does not have personal knowledge of the facts;

- (H) the reporting individual cannot provide all of the information requested by the law enforcement agency;
- (I) the reporting person lacks a familial or other relationship with the missing person;
- (J) or for any other reason.

(2) **MANNER OF REPORTING.** All law enforcement agencies shall accept missing person(s) reports in person. Law enforcement agencies are encouraged to accept reports by phone or by electronic or other media to the extent that such reporting is consistent with law enforcement policies or practices.

(3) **CONTENTS OF REPORT.** In accepting a report of a missing person(s), the law enforcement agency shall attempt to gather relevant information relating to the disappearance. The law enforcement agency shall attempt to gather at the time of the report information that shall include, but not be limited to, the following:

- (A) The name of the missing person(s) (including alternative names used);
- (B) The date of birth;
- (C) Identifying marks (such as birthmarks, moles, tattoos, scars, etc.);
- (D) Height and weight;
- (E) Gender;
- (F) Race;
- (G) Current hair color and true or natural hair color;
- (H) Eye color;
- (I) Prosthetics, surgical implants, or cosmetic implants;
- (J) Physical anomalies;
- (K) Blood type (if known);
- (L) Drivers License number (if known);
- (M) Social Security Number (if known);

- (N) A photograph of the missing person(s) (recent photographs are preferable; the agency is encouraged to attempt to ascertain the approximate date the photograph was taken);
- (O) A description of the clothing the missing person(s) was believed to be wearing;
- (P) A description of items that might be with the missing person(s) (jewelry, accessories, shoes or boots etc.);
- (Q) Information on missing person's electronic communications devices such as but not limited to cell phone numbers, email addresses, etc.;
- (R) The reasons why the reporting person(s) believes that the person(s) is missing;
- (S) Name and location of missing person's school or employer (if known);
- (T) Name and location of missing person's dentist and/or primary care physician (if known);
- (U) Any circumstances that may indicate that the disappearance was not voluntary;
- (V) Any circumstances that indicate that the missing person(s) may be at risk of injury or death;
- (W) A description of the possible means of transportation of the missing person(s) (including make, model, color, license, and VIN of a vehicle);
- (X) Any identifying information about a known or possible abductor and/or person(s) last seen with the missing person(s) including:
  - (1) Name;
  - (2) A physical description;
  - (3) Date of birth;
  - (4) Identifying marks;

- (5) The description of possible means of transportation (including make, model, color, license, and VIN of a vehicle);
  - (6) Known associates.
- (Y) Any other information that can aid in locating the missing person(s); and
- (Z) Date of last contact.
- (4) **NOTIFICATION AND FOLLOW UP ACTION.**
- (A) **NOTIFICATION.** The law enforcement agency shall notify the person(s) making the report, a family member, or other person(s) in a position to assist the law enforcement agency in its efforts to locate the missing person(s):
- (1) General information about the handling of the missing person(s) case or about intended efforts in the case to the extent that the law enforcement agency determines that disclosure would not adversely affect its ability to locate or protect the missing person(s), to apprehend or prosecute any person(s) criminally involved in the disappearance;
  - (2) That the person(s) making the report or other necessary person(s) should promptly contact the law enforcement agency if the missing person(s) remains missing to provide additional information and materials that will aid in locating the missing person(s). The law enforcement agency should also notify the person(s) of the specific information or materials needed such credit/debit cards the missing person has access to (and other banking information) and records of cell phone use;
  - (3) The law enforcement agency shall notify the person(s) making the report that any DNA samples provided for the missing person(s) case are provided on a voluntary basis and will be used solely to help locate or identify the missing person and will not be used for any other purpose;
  - (4) The law enforcement agency is encouraged to make available informational materials (through publications or electronic or other media) that advise the public about how the information or materials identified in this subsection are used to help locate or identify missing persons.

- (B) FOLLOW UP ACTION.** If the person(s) identified in the missing person report remain missing after thirty days, and the additional information and materials specified below have not been received, the law enforcement agency shall attempt to obtain:
- (1)** DNA samples from family members and/or from the missing person(s) along with any needed documentation, including any consent forms, required for the use of State or Federal DNA databases including but not limited to the Local DNA Database (LDIS), State DNA Database (SDIS), and National DNADatabase (NDIS);
  - (2)** An authorization to release dental or skeletal x-rays of the missing person(s);
  - (3)** Any additional photographs of the missing person(s) that may aid the investigation or an identification. The law enforcement agency shall not be required to obtain written authorization before it releases publicly any photograph that would aid in the investigation or identification of the missing person(s);
  - (4)** Dental information and x-rays; and
  - (5)** Fingerprints.
- (C)** All DNA samples obtained in missing person(s) cases shall be immediately forwarded to [specify state crime laboratory or other accredited laboratory that will perform the DNA analysis] for analysis. The laboratory should establish procedures for determining how to prioritize analysis of the samples relating to missing persons cases;
- (D)** Information relevant to the Federal Bureau of Investigation's Violent Criminal Apprehension Program shall be entered as soon as possible.
- (E)** This subsection shall not be interpreted to preclude a law enforcement agency from attempting to obtain the materials identified in this subsection before the expiration of the thirty-day period.

**SEC XXX.2. LAW ENFORCEMENT ANALYSIS AND REPORTING OF MISSING PERSON(S) INFORMATION.**

**(1) PROMPT DETERMINATION OF HIGH-RISK MISSING PERSON(S)**

**(A) DEFINITION.** A high-risk missing person(s) is an individual whose whereabouts are not currently known and the circumstances indicate that the individual may be at risk of injury or death. The circumstances that indicate that an individual is a "high-risk missing person(s)" include any of the following, but are not limited to:

- (1) The person(s) is missing as a result of a stranger abduction;**
- (2) The person(s) is missing under suspicious circumstances;**
- (3) The person(s) is missing under unknown circumstances;**
- (4) The person(s) is missing under known dangerous circumstances;**
- (5) The person(s) is missing more than thirty (30) days;**
- (6) The person(s) has already been designated as a "high-risk missing person(s)" by another law enforcement agency;**
- (7) There is evidence that the person(s) is at risk because:**
  - (A) The person(s) missing is in need of medical attention, or prescription medication;**
  - (B) The person(s) missing does not have a pattern of running away or disappearing;**
  - (C) The person(s) missing may have been abducted by non-custodial parent;**
  - (D) The person(s) missing is mentally impaired;**
  - (E) The person(s) missing is a person under the age of twenty-one;**
  - (F) The person(s) missing has been the subject of past threats or acts of violence.**

- (8) Any other factor that may, in the judgment of the law enforcement official, determine that the missing person may be at risk.

**(B) LAW ENFORCEMENT RISK ASSESSMENT.**

- (1) Upon initial receipt of a missing person(s) report, the law enforcement agency shall immediately determine whether there is a basis to determine that the person(s) missing is a high-risk missing person(s);
- (2) If a law enforcement agency has previously determined that a missing person(s) is not a high-risk missing person(s), but obtains new information, it shall immediately determine whether the information provided to the law enforcement agency indicates that the person(s) missing is a high-risk missing person(s);
- (3) Risk assessments identified in this subsection shall be performed no later than \_\_\_ hours after the initial missing person(s) report or the new information was provided to the law enforcement agency.
- (4) Law enforcement agencies are encouraged to establish written protocols for the handling of missing person(s) cases to accomplish the purpose of this act.

**(C) LAW ENFORCEMENT AGENCY REPORTS.**

- (1) When the law enforcement agency determines that the missing person(s) is a high-risk missing person(s) it shall notify [specify here the central state agency responsible for handling missing person(s) cases and notifying law enforcement agencies of missing person(s)]. It shall immediately provide to the [specify here the central state agency] the information most likely to aid in the location and safe return of the high-risk missing person(s). It shall provide as soon as practicable all other information obtained relating to the missing person(s) case;
- (2) The [specify here the central state agency] shall promptly immediately notify all law enforcement agencies within the State and surrounding region of the information that will aid in the prompt location and safe return of the high-risk missing person(s);

- (3) The local law enforcement agencies who receive the notification from the State agency specified in subsection (2) shall notify officers to "be on the look out" for the missing person(s) or a suspected abductor;
- (4) The responding local law enforcement agency shall immediately enter all collected information relating to the missing person(s) case in available State and Federal databases. If the responding local law enforcement agency does not have the capability to enter this data directly in the State and Federal databases, the [specify the central state agency] shall immediately enter all collected information relating to the missing person(s) case in available State and Federal databases. The information shall be provided to in accordance with applicable guidelines relating to the databascs. The information shall be entered as follows:

  - (A) A missing person(s) report in high-risk missing person(s) cases (and relevant information provided in the report) shall be entered in the National Crime Information Center database immediately, by no more than 2 hours of the determination that the missing person is a high-risk missing person; All other missing person(s) reports (and relevant information provided in the report) shall be entered within one day after the missing person(s) report is received. Supplemental information is high-risk missing person(s) cases should be entered as soon as practicable;
  - (B) All DNA profiles shall be uploaded into the missing persons databases of the State DNA Index System (SDIS) and National DNA Index System (NDIS) after completion of the DNA analysis and other procedures required for database entry;
  - (C) Information relevant to the Federal Bureau of Investigation's Violent Criminal Apprehension Program shall be entered as soon as possible.
- (5) The [specify the central state agency] shall ensure that person(s) entering data relating to medical or dental records in State or Federal databases are specifically trained to understand and correctly enter the information sought by these databases. The [specify the central agency] is strongly encouraged to either use person(s) with specific expertise in

medical or dental records for this purpose or consult with the [specify here a chief medical examiner, forensic anthropologist, or an odontologist] to ensure the accuracy and completeness of information entered into the State and Federal databases;

- (6) Pursuant to any applicable State criteria, local law enforcement agencies should also provide for the prompt use of an Amber Alert or public dissemination of photographs in appropriate high risk cases;

### **SEC.XXX.3. REPORTING OF UNIDENTIFIED PERSONS/HUMAN REMAINS**

#### **(1) HANDLING OF DEATH SCENE INVESTIGATIONS.**

- (A) The [specify central state agency] shall provide information to local law enforcement agencies about best practices for handling death scene investigations;
- (B) The [specify central state agency] shall identify any publications or training opportunities that may be available to local law enforcement agencies or law enforcement officers concerning the handling of death scene investigations.

#### **(2) LAW ENFORCEMENT REPORTS.**

- (A) After performing any death scene investigation deemed appropriate under the circumstances, the official with custody of the human remains shall ensure that the human remains are delivered to [specify here appropriate coroner or medical examiner];
- (B) Any person with custody of human remains that are not identified within 24 hours of discovery shall promptly notify the [specify central state agency] of the location of those remains;
- (C) If the person with custody of remains cannot determine whether or not the remains found are human, it shall notify the [specify central state agency] of the existence of possible human remains.

**SEC. XXX.4. UNIDENTIFIED PERSONS/HUMAN REMAINS IDENTIFICATION RESPONSIBILITIES.**

- (1) If the official with custody of the human remains is not a medical examiner, the official shall promptly transfer the unidentified remains to the [specify the medical examiner agency qualified to examine human remains for the purpose of identification] with responsibility for seeking to determine the identity of the human remains;
- (2) Notwithstanding any other action deemed appropriate for the handling of the human remains, the medical examiner shall make reasonable attempts to promptly identify human remains. These actions may include but not are limited to obtaining:
  - (A) Photographs of the human remains (prior to an autopsy);
  - (B) Dental or skeletal X-rays;
  - (C) Photographs of items found with the human remains;
  - (D) Fingerprints from the remains (if possible);
  - (E) Sample[s] of tissue suitable for DNA typing (if possible);
  - (F) Sample[s] of whole bone and/or hair suitable for DNA typing;
  - (G) Any other information that may support identification efforts.
- (3) No medical examiner or any other person shall, dispose of, or engage in actions that will materially affect the unidentified human remains before the medical examiner obtains—
  - (A) Samples suitable for DNA identification, archiving;
  - (B) Photographs of the unidentified person/human remains; and
  - (C) All other appropriate steps for identification have been exhausted;
- (4) Cremation of unidentified human remains is prohibited.
- (5) The medical examiner, coroner, or the [agency designated by the central state law enforcement agency] shall make reasonable efforts to obtain prompt DNA analysis of biological samples, if the human remains have not been identified by other means within 30 days.

- (6) The medical examiner, coroner, or the [agency designated by the central state law enforcement agency] shall seek support from appropriate State and Federal agencies for human remains identification efforts. Such support may include, but is not be limited to, available mitochondrial or nuclear DNA testing, federal grants for DNA testing, or Federal grants for crime laboratory or medical examiner office improvement;
- (7) The [medical examiner or other agency designated by central state law enforcement agency] shall promptly enter information in Federal and State databases that can aid in the identification of missing person(s). Information shall be entered into Federal databases as follows:
- (A) Information for the National Crime Information Center within [X] hours;
  - (B) DNA profiles and information shall be entered into the National DNA Index System (NDIS) within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile; and
  - (C) Information sought by the Violent Criminal Apprehension Program database as soon as practicable.
- (8) If medical examiner office personnel do not input the data directly into the Federal databases, the [specify the central state agency] shall consult with the medical examiners office to ensure appropriate training of the data entry personnel and the establishment of a quality assurance protocol for ensuring the ongoing quality of data entered in the Federal and State databases;
- (9) Nothing in this Act shall be interpreted to preclude any medical examiner office, the [central state law enforcement agency], or a local law enforcement agency from pursuing other efforts to identify unidentified human remains including efforts to publicize information, descriptions or photographs that may aid in the identification of the unidentified remains, allow family members to identify missing person(s), and seek to protect the dignity of the missing person(s).

## **Explanatory Comments**

Each year families in the United States struggle with the agony of having to report a missing loved one. Far too often, missing persons investigations grow cold leaving many to cope with the loss of a loved one without closure. Historically, law enforcement community's ability to locate and ensure a safe return of those missing has been hampered by an inability to share resources and information when conducting investigations and identifying remains.

This model state legislation seeks to address this significant national problem as it relates to reporting persons as missing and the identification of human remains. For cases involving missing persons, law enforcement's ability to locate and ensure a safe return must be improved. This can occur if law enforcement is granted additional tools to identify high-risk missing persons cases and can promptly disseminate critical information to other law enforcement agencies and the public. This model legislation provides a framework for improving law enforcement's response in this regard.

**Sec XXX.1. Missing Person(s) Reports.** This section provides a proposed statutory scheme that ensures that missing persons reports are promptly taken by law enforcement. National experts on the issues of missing persons and identification have reported that some law enforcement policies are inadvertently impeding the collection of missing persons information. Subsections XXX.1(1)–(2) ensure that any family member or interested person will have multiple options available to make a missing persons report. For jurisdictions covering large geographic areas, the legislation may need to require law enforcement agencies to accept missing persons reports by phone. Subsection XXX.1(3) encourages the collection of specific information that is most likely to aid in the location, swift return, or identification of the missing person. At the same time, this section provides a scheme that allows immediate collection of information likely to be available to the reporting person. Subsection XXX.1(4) provides for notification to persons making law enforcement reports, family members and loved ones about law enforcement efforts for missing person cases generally and, to the extent appropriate, provides information relating to their specific missing person. Subsections XXX.1(4)(B)–(C) ensure the collection within 30 days of additional information or samples that can aid in the identification of human remains.

**Section XXX.2. Law Enforcement Analysis and Reporting of Missing Persons(s) Information.** After the collection of critical information, law enforcement agencies need to be able to analyze it promptly to determine whether the missing person is at risk of immediate harm. This section establishes a mechanism for determining high-risk missing persons cases and disseminating critical information to other law enforcement agencies and the public that can help locate the missing person. The dissemination strategy for high-risk cases maximizes the use of national databases, ensures prompt dissemination of information to patrolling officers, and encourages the use of Amber Alerts (proven to be highly effective in promptly locating abducted juveniles).

Specifically, subsections XXX.2(1)(A)–(B) provide a mechanism for promptly making an assessment whether the missing person is a “high-risk missing person.” Subsection XXX.2(C) provides for the centralized and prompt reporting of a high-risk missing person, the notification of appropriate local law enforcement agencies of the high-risk missing person, and encourages patrolling officers to seek to locate the high-risk missing person and abductor. If the central state agency official in subsection XXX.2(C)(2) is not staffed 24 hours a day, the statute should specify how this notification will be accomplished. Subsection XXX.2(C)(4) ensures prompt reporting of essential information to national and State databases. Subsection XXX.2(C)(6) encourages the use of specially trained person who can enter information in the national databases (as national experts have reported that data entry of this forensic and medical information requires specialized training). Subsection XXX.2(C)(6) also encourages the use of Amber Alerts to locate promptly high-risk missing juveniles.

**Section XXX.3. Reporting of Unidentified Persons/Human Remains.** Section XXX.3 and Section XXX.4 together provide a step-by-step approach for improving the collection, analysis and dissemination of information that will aid in the identification of human remains. Subsection XXX.3(1) seeks to improve death scene investigations through increased dissemination of best practice information, publications and notification of training opportunities. Subsection XXX.3(2) seeks to ensure that remains are delivered to appropriate agencies and that there is centralized reporting for the state of the existence of unidentified human remains.

**Section XXX.4 Unidentified Persons/Human Remains Identification Responsibilities.** Subsection XXX.4(1) seeks to ensure that unidentified remains are transferred to a medical examiners office, as that office would be most likely to possess the expertise necessary for an identification. Subsection XXX.4(2) ensures reasonable means are pursued by the medical examiner to make an identification. Section XXX.4.(3) ensures that the remains of unidentified persons are protected from cremation or other actions until the medical examiner conducts an examination and collects of samples to assist in the identification investigation. Section XXX.4(4) encourages that State agencies to seek available support from appropriate Federal agencies for the identification effort. (Currently, such support is available through the National Institute of Justice and the Federal Bureau of Investigation. Additional information relating to available resources can be found at [www.dna.gov](http://www.dna.gov).) Section XXX.4(5) and (6) ensures that information critical to identification efforts is entered into existing Federal databases. Section XXX.4(7) makes clear that other identification efforts should be examined and pursued, if appropriate.

For more information on this and other issues, please visit [www.DNA.gov](http://www.DNA.gov).

NIJ is a component of the Office of Justice Programs, which also includes the Bureau of Justice Assistance, the Bureau of Justice Statistics, the Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime.

It has come to my attention that there is a very real and growing problem here in the state of Alaska.

Each year, families in Alaska struggle with the agony of having to report a missing loved one. Far too often missing persons investigations grow cold, leaving many to cope with this loss. Historically, the law enforcement community's ability to locate and ensure a safe return of those missing has been hampered by an inability to share resources and information when conducting investigations and identifying remains.

In collaboration with experts representing State and local law enforcement, policymakers, forensic scientists, medical examiners and coroners, and crime victims, the U.S. Department of Justice has developed model State legislation. This model legislation seeks to address the national problems of missing persons and the identification of human remains.

For cases involving missing persons, law enforcement's ability to locate and ensure a safe return must be improved. Law enforcement must be granted additional tools to identify high-risk missing persons cases and promptly disseminate critical information to other law enforcement agencies and the public. This model legislation provides framework for improving law enforcement's response.

It suggests ways States can improve the collection of critical information about missing persons, prioritize high-risk missing persons cases, and ensure prompt dissemination of critical information to other law enforcement agencies and the public that can improve the likelihood of a safe return. At the same time, this model legislation suggests an approach for collecting information during the missing persons reporting process that can later be used to help identify human remains.

The model legislation will also ensure that information that could help identify human remains is promptly collected and reported to national databases. Specifically, the model legislation suggests a mechanism for improving death scene investigations, centralizing within the State the reporting of unidentified remains, ensuring the delivery of human remains to an entity that can conduct an appropriate examination, ensuring the timely reporting of identifying information to national databases, and maximizing available resources that can reduce the cost of identifications.

There are an estimated 40,000-50,000 unidentified deceased persons in the US. Many of these persons may be reported missing, but without the model legislation in place as law, this number will continue to grow. This leaves families of the missing without answers, sometimes for years, and unfortunately, sometimes forever.

With more than 100,000+ missing persons cases open in the US, it is clear that we must place more importance upon actions taken that will decrease this number. We are, after all, not talking about numbers, but about human beings. These missing persons are loved and missed by their families. We need to take swift and firm action to put into place laws which will give these families hope and increase the number who come back home.

Sincerely,

Mary Weir  
407 E Caribou Ave  
Palmer AK 99645  
janedoe.17@hotmail.com

*Mother of:  
Samantha Bonnell 3/19/87-9/24/05  
aka: Jane Doe #17-05*

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GARY PENROD, SHERIFF-CORONER

August 17, 2007

To: Legislators for the state of Alaska

RE: Letter in support of for Missing Persons Legislation in Alaska

I am a deputy coroner investigator with 15 years of experience in one of the largest county jurisdictions in the world (20,000 square miles). This department serves a population of nearly two million, and investigates just over 10,000 deaths a year. I have personally investigated nearly 6,000 deaths in my career. My current duties as Unidentified Persons Coordinator are to identify the just over 300 long-term unidentified persons cases being actively investigated. I directly assist the Sheriff Department's administration of nearly 10,000 missing persons reports annually and have developed a missing persons identifier records acquisition protocol.

My experience tells me that there are only three scientific means by which a person who is either unwilling (actively hiding or psychological disability) or unable (unconscious or dead) to identify themselves: fingerprints, dental records, and DNA. These vital "identifier records" must be obtained and submitted into state and federal searchable databases. Our goal, as missing person investigators, must be to put into play those items that will allow the missing person to be detected by law enforcement's "radar." The only way to ensure that these crucial records are obtained and submitted is to compel their acquisition by legislation.

It is a sad reality that those jurisdictions that do not require submissions do not regularly or adequately complete these submissions. Nationally, dental records are the most common identifier records submitted, and on average these are entered for only approximately 4% of the missing persons records.

**Legislation must mandate the following:**

- Missing person reports must be taken without fail and without delay - priority assigned over crimes of property
- Identifier records must be obtained and submitted into state and national databases:
  - Fingerprints "registered" into Automated Fingerprint Identification System (state) and Integrated AFIS (federal)
  - Dental records (charts and X-rays) to the state clearinghouse and the National Dental Image Repository (FBI)
    - dental characteristics updated into the NCIC record
  - DNA (direct and reference samples) into the Combined DNA Index System (CODIS)
- Training for missing persons investigators

For the legislature of the State of Alaska to settle for any less is to perpetuate this epidemic in our society.

Sincerely,

David Van Norman  
Deputy Coroner Investigator/Unidentified Persons Coordinator  
San Bernardino County Sheriff Department - Coroner Division  
175 S. Lena Rd., San Bernardino, CA 92415  
Office: 909-387-2978  
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**Palmer woman's daughter disappeared for 19 months****Photos of bodies on Web sites left mother with nightmares**

By ANDREW WELLNER

awellner@adn.com

*(Published: September 14, 2007)*

PALMER -- The phone call came Sept. 24, 2005.

Mary Weir's daughter, Samantha Bonnell, had left Alaska for California earlier that year, just two or three days shy of her 18th birthday.

Now, Samantha's boyfriend was calling. He told Weir he and her daughter had had a fight at a movie theater in Montclair. Samantha had run off. Had Weir heard from her daughter?

She said she hadn't.

It was the last she heard of Samantha for almost six months. And it would be a year and a half before she found out what had happened that night.

Her daughter died crossing a busy highway on foot. Her body ended up in a San Bernardino County morgue, one of hundreds of unidentified corpses waiting for family members or friends to find them, claim them and take them home, according to deputy coroner David Van Norman.

Even after all this time, her mother still doesn't know exactly what led to Samantha's death. The San Bernardino County Sheriff's Department announced this week it had ruled out foul play, according to coroner's spokeswoman Sandy Fatland.

As authorities tried to piece together the girl's last minutes, Weir searched the Internet, scanning Web pages devoted to unidentified bodies for her missing daughter.

The search left her skeptical of -- and at times angry at -- the system that allows a body to go unidentified for so long.

"For the last 19 months I've been searching every Internet Web site I can find with unidentified bodies," Weir said in April. "It is, it's not something I would want anybody to have to go through,"

Though she said a handful of Web sites post photos of the actual bodies, photos that left her with nightmares, most show artist renderings or computer composite images instead.

But they still contain stories of what happened to the person. That, in some ways, is almost worse



Weir's hands frame a portrait of her daughter that was made when Bonnell was 16 years old. "I'd like to get her story out so that this doesn't happen to anyone else," Weir said recently. (EVAN R. STEINHAUSER / Anchorage Daily News)



Mary Weir is the mother of Samantha Bonnell, who lived in California after leaving Alaska in 2005. Police reports there show that Bonnell was struck and fatally injured by cars on Interstate 10 in Montclair in September 2005. Her body went unidentified for a year and a half. (EVAN R. STEINHAUSER / Anchorage Daily News)

than the photos, Weir said.

"Before I knew what she was doing, she was staying up all night long while I slept, going through sites on the computer," said Weir's husband, Paul Weir.

"I thought as long as I kept it secret I wasn't looking for a dead body," Mary Weir said.

### **NO KNOWN ADDRESS**

Samantha was an avid reader who wanted to be a corporate lawyer, her mother said. As a girl, she read law books and the entirety of Shakespeare before she left elementary school.

But her daughter was also a free spirit, Weir said. She got into the Valley meth scene in high school and was impossible to keep home. Though they'd fought in the past, it was strange Samantha hadn't called. The longest she'd stayed out of contact was six weeks.

Soon after Samantha's boyfriend called, Weir tried to file a missing persons report. She said she got the same response from all the agencies she called in California -- without a last known address she couldn't file a report. And besides, Bonnell was 18. It's not illegal for an adult to be missing, Weir said she was told.

Then, in February 2006, Bonnell's suitcases showed up, inexplicably, under a carport in Hanahan, S.C.

"I was like, 'On my God, she's still alive. There's hope. There's hope,' " Weir said. "But it just turned into another dead end."

The police in Hanahan called Weir asking if she knew her daughter's whereabouts. Weir told them the story and they told her to file a report with Alaska State Troopers, just to get the information into the system.

So finally a trooper, Sgt. Kathy Peterson -- now a lieutenant-- took the report.

Weir said she kept looking.

Nearly a year after they were found, Bonnell's bags arrived from South Carolina. Inside, Weir found one sock she'd bought her and a shirt that might have been hers. Otherwise, the contents belonged to someone else, probably a man, Weir said. She still has no idea how the bags ended up in South Carolina or who was using them.

In April she found a composite photo on a Web site, [doenetwork.org](http://doenetwork.org).

"I looked at it and I said I think that might be her," Weir said.

April 1 she e-mailed the Web site to Peterson and asked that she check with San Bernardino County, where Jane Doe 17-05 was in cold storage. Peterson said she'd look into it.

More than two weeks later, on the 19th, Weir called San Bernardino herself.

"I said, 'I don't even know if I can do this but I think this is my daughter. I want to check it,' " Weir said.

Within 24 hours she'd sent them Samantha's dental records and been told they matched. In less

than a week, she'd sent the coroner the originals and it was confirmed.

The young woman's body in that California cemetery belonged to her daughter.

### **SHE RAN AS IF BEING CHASED**

Then more details of Samantha's death emerged.

Five months later, her mother says she's numb to the details but her words stall when trying to recount them.

The California police reports show that, within an hour of when Weir got that call in 2005, her daughter was hit by at least two cars on Interstate 10 in Montclair, Calif., Weir said.

"I don't even want to think about what kind of a mess it made," she said. "I'm afraid to ask."

The spot on the highway is close to a theater. Witnesses said Bonnell ran across the highway, as if being chased, Weir said. She was not carrying identification.

"No personal belongings whatsoever except for the clothing on her back," Paul Weir said.

"Nothing, not Chap Stick or lip gloss," Mary Weir said.

Once Samantha was identified, Weir talked to coroners in California. They told her they had kept Samantha's body in cold storage longer than most because she seemed like the type of person who had people who cared for her.

The only people at the burial were coroner's staff.

Weir said that at first she was planning on leaving her daughter there. But then the coroner's office told her she was in the county cemetery, in a grave used to store unclaimed bodies.

They told her "right now she was in there by herself," Weir said, "I said, 'She's in there by her ... what?' Well, they stack them up to five deep."

She arranged to have Samantha's body flown to Oregon.

### **WHAT TOOK SO LONG?**

Though she was noticeably more subdued during an interview this month, in April Weir was visibly angry with Peterson. What did Peterson do with the information she'd forwarded and why did she have to track her daughter down on her own? What took so long?

Earlier this month Peterson explained that law enforcement generally wants reports filed closer to where the person went missing.

"You don't have any idea where to start in another state," she said. "The reason I took this case is because she had already indicated she had tried those avenues and was unsuccessful."

Peterson said she did what she could, then forwarded the case to the state's Missing Person's Clearing House. Those folks have in-state cases to deal with that they prioritize before moving on to others, she said.

What angered Weir the most, she said, is her perception that she sent Peterson a link to Samantha's [doenetwork.org](http://doenetwork.org) page and the trooper did nothing with it.

Peterson said she did do something -- she sent it to the clearinghouse. But she didn't feel right asking Weir to work directly with them as she'd been bounced around so much already.

Weir this summer started working to get legislation passed to make it mandatory for law enforcement agencies to take missing persons reports, even for people over the age of 18 missing out of state. She's been talking to legislators and, really, anybody she can buttonhole.

"You're not safe standing next to me at the grocery store," Weir said. "I've become the very thing I never wanted to be -- an activist."

She gets e-mails from people with missing children.

And she hasn't stopped looking at unidentified bodies on the Internet. There's one case she thinks she can solve -- a woman found wearing a necklace from a fraternity or sorority.

"I'll probably spend the rest of my life trying to put a name to somebody," Weir said.

On Mother's Day, Samantha was buried in Rainier, Ore., where a lot of Weir's family lives.

The funeral was well attended. There was a collection box for donations to [doenetwork.org](http://doenetwork.org).

Afterwards, they collected petals from Bonnell's coffin piece and spread them on the aisle at her sister's wedding.

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## **With help from advocacy group, mom finds body of missing daughter**

By ANDREW WELLNER, Anchorage Daily News

*(Published: September 20, 2007)*

WASILLA, Alaska (AP) - Law enforcement didn't help Mary Weir track down her missing daughter this spring. On her own, she found her daughter's picture on the Internet and connected her to Jane Doe 17-05 in San Bernardino County, Calif.

Samantha Bonnell left her Palmer home two or three days shy of her 18th birthday and moved to California, Weir said. The last Weir heard of Samantha was a September 2005 phone call from her boyfriend saying she'd run off after a fight at a Montclair, Calif., movie theater.

It wasn't until April that Weir learned her daughter died that night, struck by several cars as she ran across Interstate 10. Samantha had no identification on her and she lay unclaimed at the San Bernardino County Coroner's Office until Weir called.

Alaska State Troopers took a missing persons report for Weir after Samantha's luggage surfaced in South Carolina. Weir's tenacity led her to the coroner's office.

Still she wasn't acting alone. She had help from Doe Network, a missing/unidentified persons advocacy group and from deputy coroner investigator David Van Norman, San Bernardino County's unidentified persons coordinator.

Though the news was bad, Weir said Van Norman gave her the first comfort she'd had in 19 months. Finally she knew what happened.

---

### **160 ATTEMPTS TO IDENTIFY BODY**

"Can you imagine the courage it would take for a mother, terrified, not knowing the fate of her young daughter, to call a coroner?" Van Norman wrote by e-mail.

Weir's call was the 160th attempt by someone to match a missing person with Jane Doe 17-05, Van Norman wrote.

He counts himself an advocate for unidentified persons. His e-mail was at its most strident in criticizing law enforcement for what he sees as its relaxed attitude toward missing persons reports. He said he's heard countless stories of people turned away while trying to report someone missing. And he was very critical of the National Crime Information Center report troopers made for Weir.

"Samantha's NCIC gave the date that she was last seen as six months after she died!" Van Norman wrote.

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Lt. Kathy Peterson, who took the report, said that's true, the dates were incorrect. But she was working with the best Weir could remember at the time. She pointed out that the other information that leads to matches - height, weight, hair and eye color - was correct.

Definitive matches come from dental records, DNA or fingerprints, Peterson said. And she forwarded dental records Weir gave her to the state's Missing Persons Clearinghouse to be entered electronically with the report. They were waiting to be entered when Weir called California, she said.

Weir and Van Norman both said Weir could have corrected the report had she been allowed to read it. Peterson said that generally those reports are confidential.

Van Norman said that about 100 bodies show up at his office every year and are labeled Jane, John or Undetermined Doe. He said 95 percent of those are quickly identified and claimed. But the unclaimed cases add up. Currently there are 250 active unidentified person cases in his office, he said.

Nationally, as of July, law enforcement lists 6,048 unidentified bodies and 106,255 missing persons, according to Todd Matthews, media director for Doe Network.

Trooper spokeswoman Megan Peters said troopers know of 1,154 missing people as of Sept. 10 in Alaska. The number fluctuates daily, Peters said, as it includes 157 runaways, who are lost and found frequently.

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#### PUBLIC WEB SITE OFFERS HOPE

The Web site on which Weir found Samantha's picture, doenetwork.org, is run by a group composed of hundreds of members, dozens of whom are actively working to match missing persons with unidentified bodies nationwide, Matthews said by phone from Livingston, Tenn.

"I knew about her case before I knew Mary," Matthews said.

He hosts an Internet radio show devoted to unidentified bodies and missing persons and at one point interviewed Van Norman.

"He actually described a Jane Doe and that turned out to be Samantha," Matthews said.

Almost all of Doe Network's members have a story similar to Weir's, Matthews said. He's no exception.

In 1998, after 10 years obsessed with the case, Matthews managed to identify the body of Barbara Ann Hackman-Taylor, whose unidentified body was discovered by h's father-in-law in 1968 in Kentucky. The story of his search is detailed on his Web site, tentgirl.com.

Matthews said that when Weir called him after having identified Samantha, he put her in touch with Hackman-Taylor's sister to help Weir with what she was going through.

In his work with the Doe Network, Matthews said information is the one thing he thinks would help most in solving the problem of missing and unidentified persons. If law enforcement could create a standard missing persons report that is entered into a national database to be compared against other uniform reports, maybe the number of open cases would drop.

But the key is to get law enforcement to use the system.

"It's not going to be effective if you don't use it," Matthews said.

Until that happens, Van Norman's advice for families of missing persons was clear.

"If any family, anywhere, is told by law enforcement that they will not take a report, that family should keep calling up the chain of command of the department, and keep on calling, through their legislative representatives, to the governor, if that's what it takes," he wrote.

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Information from: Anchorage Daily News, <http://www.adn.com>

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**Sec. 18.65.630. Medical and dental records of missing persons.**

(a) When a person files a report of a missing person with a law enforcement agency or with the clearinghouse, a form authorizing the release of medical and dental records to the law enforcement agency and to the clearinghouse shall be supplied to the family, next of kin, or legal guardian of the missing person. The family, next of kin, or legal guardian of the missing person may complete the release form and deliver the release form to the physician or dentist of the missing person. The physician or dentist who receives a release form signed by the family, next of kin, or legal guardian of the missing person shall release to the law enforcement agency and the clearinghouse only that information that is necessary to identify the missing person.

(b) When the family, next of kin, or legal guardian of a missing person cannot be located or does not exist, a law enforcement agency may execute a written declaration stating that an active investigation is being conducted and that medical and dental records are required for the exclusive purpose of furthering the investigation. Notwithstanding AS 40.25.120 and AS 17.30.155, the declaration signed by a peace officer under this subsection is sufficient authority for the physician or dentist to release information necessary to aid in the identification of the missing person. The physician or dentist may only release that information that is necessary to identify the missing person.

(c) Medical and dental records obtained under this section shall be provided to the clearinghouse.

(d) When a missing person is found, the law enforcement agency and the clearinghouse shall destroy all records in their files obtained under this section.

disaster relief efforts, for the purpose of coordinating with such entities the uses or disclosures permitted by paragraph (b)(1)(ii) of this section. The requirements in paragraphs (b)(2) and (3) of this section apply to such uses and disclosure to the extent that the covered entity, in the exercise of professional judgment, determines that the requirements do not interfere with the ability to respond to the emergency circumstances.

[65 FR 82802, Dec. 28, 2000, as amended at 67 FR 53270, Aug. 14, 2002]

**§ 164.512 Uses and disclosures for which an authorization or opportunity to agree or object is not required.**

A covered entity may use or disclose protected health information without the written authorization of the individual, as described in §164.508, or the opportunity for the individual to agree or object as described in §164.510, in the situations covered by this section, subject to the applicable requirements of this section. When the covered entity is required by this section to inform the individual of, or when the individual may agree to, a use or disclosure permitted by this section, the covered entity's information and the individual's agreement may be given orally.

(a) *Standard: Uses and disclosures required by law.*

(1) A covered entity may use or disclose protected health information to the extent that such use or disclosure is required by law and the use or disclosure complies with and is limited to the relevant requirements of such law.

(2) A covered entity must meet the requirements described in paragraph (c), (e), or (f) of this section for uses or disclosures required by law.

(b) *Standard: uses and disclosures for public health activities*

(1) *Permitted disclosures.* A covered entity may disclose protected health information for the public health activities and purposes described in this paragraph to:

(i) A public health authority that is authorized by law to collect or receive such information for the purpose of preventing or controlling disease, injury, or disability, including, but not limited to, the reporting of disease, injury, vital events such as birth or death, and the conduct of public health

surveillance, public health investigations, and public health interventions; or, at the direction of a public health authority, to an official of a foreign government agency that is acting in collaboration with a public health authority;

(ii) A public health authority or other appropriate government authority authorized by law to receive reports of child abuse or neglect;

(iii) A person subject to the jurisdiction of the Food and Drug Administration (FDA) with respect to an FDA-regulated product or activity for which that person has responsibility, for the purpose of activities related to the quality, safety or effectiveness of such FDA-regulated product or activity. Such purposes include:

(A) To collect or report adverse events (or similar activities with respect to food or dietary supplements), product defects or problems (including problems with the use or labeling of a product), or biological product deviations;

(B) To track FDA-regulated products;

(C) To enable product recalls, repairs, or replacement, or lookback (including locating and notifying individuals who have received products that have been recalled, withdrawn, or are the subject of lookback); or

(D) To conduct post marketing surveillance;

(iv) A person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading a disease or condition, if the covered entity or public health authority is authorized by law to notify such person as necessary in the conduct of a public health intervention or investigation; or

(v) An employer, about an individual who is a member of the workforce of the employer, if:

(A) The covered entity is a covered health care provider who is a member of the workforce of such employer or who provides health care to the individual at the request of the employer:

(1) To conduct an evaluation relating to medical surveillance of the workplace; or

(2) To evaluate whether the individual has a work-related illness or injury;

(B) The protected health information that is disclosed consists of findings concerning a work-related illness or injury or a workplace-related medical surveillance;

(C) The employer needs such findings in order to

health information in response to lawful process described in paragraph (e)(1)(ii) of this section without receiving satisfactory assurance under paragraph (e)(1)(ii)(A) or (B) of this section, if the covered entity makes reasonable efforts to provide notice to the individual sufficient to meet the requirements of paragraph (e)(1)(iii) of this section or to seek a qualified protective order sufficient to meet the requirements of paragraph (e)(1)(iv) of this section.

(2) *Other uses and disclosures under this section.* The provisions of this paragraph do not supersede other provisions of this section that otherwise permit or restrict uses or disclosures of protected health information.

(f) *Standard: Disclosures for law enforcement purposes.* A covered entity may disclose protected health information for a law enforcement purpose to a law enforcement official if the conditions in paragraphs (f)(1) through (f)(6) of this section are met, as applicable.

(1) *Permitted disclosures: Pursuant to process and as otherwise required by law.* A covered entity may disclose protected health information:

(i) As required by law including laws that require the reporting of certain types of wounds or other physical injuries, except for laws subject to paragraph (b)(1)(ii) or (c)(1)(i) of this section; or

(ii) In compliance with and as limited by the relevant requirements of:

(A) A court order or court-ordered warrant, or a subpoena or summons issued by a judicial officer;

(B) A grand jury subpoena; or

(C) An administrative request, including an administrative subpoena or summons, a civil or an authorized investigative demand, or similar process authorized under law, provided that:

(1) The information sought is relevant and material to a legitimate law enforcement inquiry;

(2) The request is specific and limited in scope to the extent reasonably practicable in light of the purpose for which the information is sought; and

(3) De-identified information could not reasonably be used.

(2) *Permitted disclosures: Limited information for identification and location purposes.* Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law

enforcement official's request for such information for the purpose of identifying or locating a suspect, fugitive, material witness, or missing person, provided that:

(i) The covered entity may disclose only the following information:

(A) Name and address;

(B) Date and place of birth;

(C) Social security number;

(D) ABO blood type and rh factor;

(E) Type of injury;

(F) Date and time of treatment;

(G) Date and time of death, if applicable; and

(H) A description of distinguishing physical characteristics, including height, weight, gender, race, hair and eye color, presence or absence of facial hair (beard or moustache), scars, and tattoos.

(ii) Except as permitted by paragraph (f)(2)(i) of this section, the covered entity may not disclose for the purposes of identification or location under paragraph (f)(2) of this section any protected health information related to the individual's DNA or DNA analysis, dental records, or typing, samples or analysis of body fluids or tissue.

(3) *Permitted disclosure: Victims of a crime.*

Except for disclosures required by law as permitted by paragraph (f)(1) of this section, a covered entity may disclose protected health information in response to a law enforcement official's request for such information about an individual who is or is suspected to be a victim of a crime, other than disclosures that are subject to paragraph (b) or (c) of this section, if:

(i) The individual agrees to the disclosure; or

(ii) The covered entity is unable to obtain the individual's agreement because of incapacity or other emergency circumstance, provided that:

(A) The law enforcement official represents that such information is needed to determine whether a violation of law by a person other than the victim has occurred, and such information is not intended to be used against the victim;

(B) The law enforcement official represents that immediate law enforcement activity that depends upon the disclosure would be materially and adversely affected by waiting until the individual is able to agree to the disclosure; and

(C) The disclosure is in the best interests of the individual as determined by the covered entity, in the

**Sec. 18.65.630. Medical and dental records of missing persons.**

(a) When a person files a report of a missing person with a law enforcement agency or with the clearinghouse, a form authorizing the release of medical and dental records to the law enforcement agency and to the clearinghouse shall be supplied to the family, next of kin, or legal guardian of the missing person. The family, next of kin, or legal guardian of the missing person may complete the release form and deliver the release form to the physician or dentist of the missing person. The physician or dentist who receives a release form signed by the family, next of kin, or legal guardian of the missing person shall release to the law enforcement agency and the clearinghouse only that information that is necessary to identify the missing person.

(b) When the family, next of kin, or legal guardian of a missing person cannot be located or does not exist, a law enforcement agency may execute a written declaration stating that an active investigation is being conducted and that medical and dental records are required for the exclusive purpose of furthering the investigation. Notwithstanding AS 40.25.120 and AS 17.30.155, the declaration signed by a peace officer under this subsection is sufficient authority for the physician or dentist to release information necessary to aid in the identification of the missing person. The physician or dentist may only release that information that is necessary to identify the missing person.

(c) Medical and dental records obtained under this section shall be provided to the clearinghouse.

(d) When a missing person is found, the law enforcement agency and the clearinghouse shall destroy all records in their files obtained under this section.

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**SB**

**264**

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# Alaska State Legislature



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### SPONSOR STATEMENT

#### SENATE BILL 264

#### An Act Relating to Partial Birth Abortion

Since the Supreme Court of the United States determined that states, not the federal government should control certain medical procedures within their state boundaries, abortions have been legal in Alaska. Despite strong controversies on the abortion issue there is one practice that many people agree needs to stop. Partial-Birth or late term abortion is a process that few people support.

Senate Bill 264 will end this practice in Alaska. The procedure is well described by its name with the child being partially born and then terminated. Alaska is one of only 14 states that have not restricted this practice. Recently, congress has passed legislation with broad bi-partisan support to ban it nationwide.

Senate Bill 264 will bring State of Alaska statutes more in line with federal law.

February 20, 2008

Nos. 05-380/1382

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IN THE  
**Supreme Court of the United States**

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ALBERTO R. GONZALES, ATTORNEY GENERAL, *Petitioner,*

*v.*

LEROY CARHART, ET AL., *Respondents.*

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ALBERTO R. GONZALES, ATTORNEY GENERAL, *Petitioner,*

*v.*

PLANNED PARENTHOOD FEDERATION  
OF AMERICA, INC., ET AL., *Respondents.*

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On Writs Of Certiorari To The United States  
Courts Of Appeals For The Eighth and Ninth Circuits

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**BRIEF OF THE AMERICAN COLLEGE OF  
OBSTETRICIANS AND GYNECOLOGISTS  
AS AMICUS CURIAE SUPPORTING RESPONDENTS**

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## STATEMENT OF INTEREST<sup>1</sup>

The American College of Obstetricians and Gynecologists (“ACOG”) is a non-profit educational and professional organization founded in 1951. ACOG is the leading professional association of physicians who specialize in the health care of women. Its more than 50,000 members represent approximately 90% of all board-certified obstetricians and gynecologists practicing in the United States.

ACOG represents the vast majority of physicians affected by the Partial-Birth Abortion Ban Act of 2003 (“the Act”). Though their views on abortion differ, ACOG’s members agree that their chief goal is to improve women’s health by providing their patients with the safest possible care. As a result, ACOG opposes laws, such as the Act, that would expose patients to serious, unnecessary health risks.

## INTRODUCTION

ACOG has consistently opposed bans such as the Act because they endanger women’s health. While the Act threatens a broad array of safe abortion procedures used after the first trimester of pregnancy, the Act would endanger women even if—as the Government sometimes asserts—it reached only dilation-and-evacuation procedures in which the physician removes the fetus intact (“intact D&Es”).

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<sup>1</sup> No counsel for a party authored any portion of this brief, and no person other than *Amicus* and its counsel contributed any money to the preparation or submission of this brief. See Rule 37.6. Letters of consent to the filing of this brief have been lodged with the Clerk of the Court. See Rule 37.3.

In defending the Act, the Government repeats Congress's finding that an intact D&E is "never medically indicated to preserve the health of the mother." See *Carhart* Pet'r Br. 2; *PPFA* Pet'r Br. 2. This core premise is, however, medically incorrect. The safety advantages of intact D&E include fewer insertions of instruments into the uterus, reduced risk of perforation, reduced likelihood of retained fetal tissue, reduced blood loss, and shorter time of anesthesia exposure. These safety advantages are particularly significant for women who suffer from serious medical conditions.

The averted harms are not "marginal," as the Government asserts, and include massive hemorrhaging, serious infection, and subsequent infertility. Indeed, after considering the issue in depth, ACOG concluded that intact D&E procedures "may be the best or most appropriate . . . in a particular circumstance to save the life or preserve the health of a woman." *Carhart* J.A. 976 (1997 ACOG Statement of Policy).<sup>2</sup>

The medical advantages of D&Es involving intact removal are now widely acknowledged. As reflected by hearings before Congress and in the courts, the safety advantages of the intact variant are recognized by an array of skilled physicians with impeccable credentials and vast clinical experience. These safety advantages are confirmed by leading medical texts and peer-reviewed studies; the curricula of leading medical schools; and even some of the Act's supporters—including the Government's

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<sup>2</sup> "*Carhart* Pet. App." and "*PPFA* Pet. App." refer to the Appendices to the Petitions for Writs of Certiorari filed in *Carhart v. Gonzales* and *Planned Parenthood Federation of America, Inc. v. Gonzales*. "*Carhart* J.A." and "*PPFA* J.A." refer to the Joint Appendices for the two cases. "CA8 App." refers to the *Carhart* Plaintiffs' Appendix in the Court of Appeals. "S.A." refers to the Supplemental Appendix attached to this brief.