

**CRIMES CODE (18 PA.C.S.) AND LAW AND JUSTICE (44 PA.C.S.) -
OMNIBUS AMENDMENTS**

Act of Feb. 3, 2022, P.L. 16, No. 4

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Session of 2022
No. 2022-4

HB 930

AN ACT

Amending Titles 18 (Crimes and Offenses) and 44 (Law and Justice) of the Pennsylvania Consolidated Statutes, in kidnapping, further providing for missing children; and, in DNA data and testing, further providing for policy, for definitions and for State DNA Data Base, providing for collection of DNA in investigations of high-risk missing persons and missing children, for collection of DNA in investigations of missing persons and for collection of DNA in investigations of unidentified decedents and further providing for DNA data base exchange.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Section 2908(a) and (a.1) of Title 18 of the Pennsylvania Consolidated Statutes are amended to read:
§ 2908. Missing children.

(a) Duties of law enforcement agencies.--Law enforcement agencies shall have the following duties with respect to missing children:

(1) To investigate a report of a missing child immediately upon receipt of the report regardless of the age of the missing child or the circumstances surrounding the disappearance of the child. In no case shall law enforcement agencies impose a mandatory waiting period prior to commencing the investigation of a missing child.

(2) When conducting a missing child investigation, to record all information relevant to the missing child and the circumstances surrounding the disappearance of the missing child on the appropriate law enforcement investigative report.

(3) To make an entry into the Missing Persons File through the Commonwealth Law Enforcement Assistance Network (CLEAN) in accord with Pennsylvania State Police policy and procedures immediately upon receipt of sufficient identification information on the missing child.

(3.1) To make an entry into the Unidentified Persons File through Commonwealth Law Enforcement Assistance Network (CLEAN) in accord with Pennsylvania State Police policy and procedures immediately upon:

(i) taking custody of an unidentified living child, such as an infant, or a physically or mentally disabled child; or

(ii) discovering an unidentified deceased child.

(3.2) To deliver any of the missing child's DNA to the Pennsylvania State Police in accordance with 44 Pa.C.S. § 2316.2 (relating to collection of DNA in investigations of high-risk missing persons and missing children) for submission to the National Missing and Unidentified Persons System.

(4) To insure timely cancellation of any entry made pursuant to this section where the missing child has returned

or is located.

(a.1) Unidentified deceased children.--Law enforcement agencies and coroners shall, with respect to unidentified deceased children, have the duty to **collect DNA samples from the unidentified deceased child and submit the DNA samples to the Pennsylvania State Police in accordance with 44 Pa.C.S. § 2316.4 (relating to collection of DNA in investigations of unidentified decedents) for law enforcement identification purposes** and make an entry into the Unidentified Deceased Person File through the Commonwealth Law Enforcement Assistance Network (CLEAN) in accordance with Pennsylvania State Police policy and procedures immediately upon observing or receiving any descriptive information on an unidentified deceased child.

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Section 2. Section 2302 of Title 44 is amended to read:
§ 2302. Policy.

The General Assembly finds and declares that:

(1) Forensic DNA testing is an important tool in criminal investigations **and investigations of missing persons or unidentified decedents**, in excluding innocent individuals who are the subject of criminal investigations or prosecutions and in detecting and deterring repeated crimes by the same individual.

(2) Several states have enacted laws requiring persons convicted of certain crimes, especially sex offenses, to provide genetic samples for DNA profiling.

(3) Moreover, it is the policy of the Commonwealth to assist Federal, State and local criminal justice and law enforcement agencies in the identification and detection of individuals in criminal investigations **and investigations of missing persons or unidentified decedents**.

(4) It is in the best interest of the Commonwealth to establish a DNA data base and a DNA data bank containing DNA samples submitted by individuals convicted of, adjudicated delinquent for or accepted into ARD for felony sex offenses and other specified offenses **and containing DNA samples collected as part of an investigation into missing persons or unidentified decedents**.

(5) It is in the best interest of the Commonwealth to authorize the State Police to use DNA analysis and to identify these individuals to a criminal justice agency in certain cases.

Section 3. Section 2303 of Title 44 is amended by adding definitions to read:
§ 2303. Definitions.

The following words and phrases when used in this chapter shall have the meanings given to them in this section unless the context clearly indicates otherwise:

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"High-risk missing person." An individual who is 18 years of age or older and:

(1) whose temporary or permanent residence is in this Commonwealth or is believed to be in this Commonwealth;

(2) whose whereabouts are unknown;

(3) who has been reported missing to a law enforcement agency; and

(4) circumstances indicate any of the following:

(i) the individual is missing as a result of a stranger abduction;

(ii) the individual is missing under suspicious, unknown or dangerous circumstances and the law enforcement agency reasonably believes that the individual is at risk of injury or death;

(iii) the individual is missing for more than 30 days;
or

(iv) the individual has been designated as a high-risk missing person by another law enforcement agency.

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"National Missing and Unidentified Persons System." A national centralized repository and resource center for missing persons, unidentified decedents and unclaimed decedents that is maintained by the National Institute of Justice within the United States Department of Justice.

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Section 4. Section 2312 of Title 44 is amended to read:
§ 2312. State DNA Data Base.

A Statewide DNA Data Base is reestablished within the State Police to store forensic DNA profiles and records developed by or submitted to the State Police under the former DNA Act, the former provisions of 42 Pa.C.S. Ch. 47 (relating to DNA data and testing) or this chapter, and to contribute forensic DNA profiles and records to CODIS, **the National Missing and Unidentified Persons System** and the national DNA identification index system. The State DNA Data Base shall have the capability provided by computer software and procedures administered by the State Police to store and maintain forensic DNA profiles and records related to:

- (1) forensic casework;
- (2) convicted or delinquency adjudicated offenders required to provide a DNA sample under this chapter; [and]
- (3) anonymous DNA records used for statistical research on the frequency of DNA genotypes, quality control or the development of new DNA identification methods[.]; and
- (4) **missing persons and unidentified decedents.**

Section 5. Title 44 is amended by adding sections to read:
§ 2316.2. **Collection of DNA in investigations of high-risk missing persons and missing children.**

(a) **Collection of DNA samples.**--In an investigation of a high-risk missing person or missing child, the law enforcement agency shall, within seven days of the receipt of a missing persons report or within seven days of the commencement of a missing persons investigation, whichever is earlier, collect a DNA sample from available personal articles belonging to the missing person or missing child for law enforcement identification purposes.

(b) **Submission of DNA samples.**--Within 48 hours of the collection under subsection (a), the DNA sample shall be delivered to the Pennsylvania State Police for submission to the National Missing and Unidentified Persons System as provided in section 2319 (relating to DNA data base exchange), along with any known personal identifying information that may assist efforts to identify the high-risk missing person or missing child.

(c) **Definition.**--As used in this section, the term "child" means an individual under 18 years of age.

§ 2316.3. **Collection of DNA in investigations of missing persons.**

(a) **Collection of DNA samples.**--In an investigation of a missing person, the law enforcement agency shall, within 30 days of the receipt of a missing persons report or within 30 days of the commencement of a missing persons investigation, whichever is earlier, collect a DNA sample from available personal articles belonging to the missing person for law enforcement identification purposes.

(b) **Submission of DNA samples.**--Within 48 hours of the collection under subsection (a), the DNA sample shall be delivered to the Pennsylvania State Police for submission to the National Missing and Unidentified Persons System as provided in section 2319 (relating to DNA data base exchange), along with

any known personal identifying information that may assist efforts to identify the missing person.

§ 2316.4. Collection of DNA in investigations of unidentified decedents.

(a) Collection of DNA samples.--Within 24 hours of discovering an unidentified decedent, the investigating law enforcement agency or coroner shall collect DNA samples from the unidentified decedent for law enforcement identification purposes.

(b) Submission of DNA samples.--Within 48 hours of the collection under subsection (a), the DNA sample shall be delivered by the law enforcement agency or coroner to the Pennsylvania State Police for submission to the National Missing and Unidentified Persons System as provided in section 2319 (relating to DNA data base exchange), along with any known personal identifying information that may assist efforts to identify the unidentified decedent.

Section 6. Section 2319 of Title 44 is amended by adding a subsection to read:

§ 2319. DNA data base exchange.

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(a.2) National Missing and Unidentified Persons System.--Any DNA sample collected in accordance with section 2316.2 (relating to collection of DNA in investigations of high-risk missing persons and missing children), 2316.3 (relating to collection of DNA in investigations of missing persons) or 2316.4 (relating to collection of DNA in investigations of unidentified decedents) shall be submitted to the National Missing and Unidentified Persons System, along with any of the information delivered to the Pennsylvania State Police in accordance with section 2316.2(b), 2316.3(b) or 2316.4(b).

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Section 7. The Pennsylvania State Police shall promulgate, as necessary, rules, regulations or guidelines to implement this act, including providing that law enforcement agencies may not disclose to a person requesting the information the missing person's location if the missing person is not a minor and requests confidentiality and:

(1) the missing person was the victim of a personal injury crime, as that term is defined in the act of November 24, 1998 (P.L.882, No.111), known as the Crime Victims Act, committed by the person requesting the information;

(2) an order has been issued under 23 Pa.C.S. Ch. 61 or 42 Pa.C.S. Ch. 62A against the person requesting the information for the protection of the missing person;

(3) the missing person is enrolled in the Address Confidentiality Program administered by the Office of Victim Advocate; or

(4) the missing person is under the protection of the Witness Protection Program of the United States Department of Justice or a similar program administered by a state or local government.

Section 8. This act shall take effect in 60 days.

APPROVED--The 3rd day of February, A.D. 2022.

TOM WOLF