**South Carolina General Assembly**

119th Session, 2011-2012

**H. 4931**

**STATUS INFORMATION**

General Bill

Sponsors: Reps. Mack, Brantley, Gilliard, Govan, Butler Garrick, Bales, Alexander, Williams, Johnson, Hosey, Patrick, Jefferson, J.H. Neal, King, Sabb, Bowen, Branham, R.L. Brown, Cobb‑Hunter, Harrison, Gambrell, Hart, Herbkersman, Hodges, Knight, Limehouse, Long, Lowe, Parks, Taylor, Whipper and Willis

Document Path: l:\council\bills\swb\5169cm12.docx

Introduced in the House on March 1, 2012

Currently residing in the House Committee on **Judiciary**

Summary: Missing person cases

**HISTORY OF LEGISLATIVE ACTIONS**

Date Body Action Description with journal page number

3/1/2012 House Introduced and read first time ([House Journal‑page 14](file:///h:\hj%20archive\2012\03-01-12.docx))

3/1/2012 House Referred to Committee on **Judiciary** ([House Journal‑page 14](file:///h:\hj%20archive\2012\03-01-12.docx))

**VERSIONS OF THIS BILL**

[3/1/2012](file:///p:\pprever\2011-12\4931_20120301.docx)

**A** **BILL**

TO AMEND SECTION 23‑3‑200, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE CREATION OF THE MISSING PERSON INFORMATION CENTER, SO AS TO REVISE THE PROCEDURES FOR ACCEPTING INFORMATION TO GENERATE A MISSING PERSON’S REPORT; AND BY ADDING SECTIONS 23‑3‑340 AND 23‑3‑350 SO AS TO PROVIDE PROCEDURES FOR HANDLING HIGH‑RISK MISSING PERSON CASES AND DEATH SCENE INVESTIGATIONS.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 23‑3‑200 of the 1976 Code is amended to read:

“Section 23‑3‑200. (A) There is created a Missing Person Information Center, hereinafter referred to as MPIC, to be located in Columbia as a part of the State Law Enforcement Division (SLED). The purpose of the MPIC is to serve as a central repository for information regarding missing persons and missing and exploited children, with special emphasis on missing children. The MPIC shall utilize the Federal Bureau of Investigation/National Crime Information Center’s missing person computerized file through the use of the State Law Enforcement Division’s law enforcement communications network. This center is hereinafter referred to as FBI/NCIC.

(B) No law enforcement agency may refuse to accept a missing person report on the basis that:

(1) the missing person is an adult;

(2) the circumstances do not indicate foul play;

(3) the person has been missing for a short period of time;

(4) the person has been missing for a long period of time;

(5) there is no indication that the missing person was in the jurisdiction served by the law enforcement agency at the time of the disappearance;

(6) the circumstances suggest that the disappearance may be voluntary;

(7) the reporting individual does not have personal knowledge of the facts;

(8) the reporting individual cannot provide all of the information requested by the law enforcement agency;

(9) the reporting individual lacks a familial or other relationship with the missing person; or

(10) for any other reason.

(C) A law enforcement agency shall accept a missing person report in person. However, law enforcement agencies may accept reports by telephone or by electronic or other media to the extent that such reporting is consistent with law enforcement policies or practices.

(D) When accepting a report of a missing person, 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 about the person that shall include, but not be limited to, the following:

(1) the person’s name;

(2) the person’s date of birth;

(3) identifying marks, such as birthmarks, moles, tattoos, scars, etc.;

(4) height and weight;

(5) gender;

(6) race;

(7) current hair color and true or natural hair color;

(8) eye color;

(9) prosthetics, surgical implants, or cosmetic implants;

(10) physical anomalies;

(11) blood type;

(12) driver’s license number;

(13) Social Security Number;

(14) photograph of the missing person;

(15) a description of the clothing the missing person was believed to be wearing;

(16) a description of items that might be with the missing person including jewelry, accessories, shoes or boots;

(17) information on the missing person’s electronic communications devices such as, but not limited to, cell phone numbers, social networking login information, email addresses;

(18) the reasons why the reporting person believes that the person is missing;

(19) name and location of the missing person’s school or employer;

(20) name and location of the missing person’s dentist or primary care physician, or both;

(21) any circumstances that may indicate that the disappearance was not voluntary;

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

(23) a description of the possible means of transportation of the missing person including the make, model, color, license, and vehicle identification number of a vehicle;

(24) any identifying information about a known or possible abductor or person last seen with the missing person including their:

(a) name;

(b) physical description;

(c) date of birth;

(d) identifying marks;

(e) means of transportation, including make, model, color, license, and vehicle identification number of a vehicle; and

(f) known associates;

(25) any other information that can aid in locating the missing person; and

(26) date of last contact.

(E) The law enforcement agency shall provide the person making the report, a family member, or another person in a position to assist the law enforcement agency in its efforts to locate the missing person:

(1) general information about the handling of the missing person 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, or to apprehend or prosecute any person criminally involved in the disappearance;

(2) notice that the person making the report or other necessary person should promptly contact the law enforcement agency if the missing person remains missing to provide additional information and materials that will aid in locating the missing person. The law enforcement agency should also notify the person of the specific information or materials needed such as credit/debit cards the missing person has access to, other banking information, and records of cell phone use; and

(3) notice that the law enforcement agency shall notify the person making the report that any DNA samples provided for the missing person 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.

The law enforcement agency shall make available informational materials through publications or electronic or other media that advise the public about how the information or materials identified in this section are used to help locate or identify missing persons.

(F) The law enforcement agency, upon acceptance of a missing persons report, shall inform the reporting citizen of one of two resources, based upon the age of the missing person. If the missing person is seventeen years of age or under, contact information for the National Center for Missing and Exploited Children shall be given. If the missing person is eighteen years of age or older, contact information for a qualified source of assistance shall be given.

(G) If the person identified in the missing person report remains 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 from the missing person 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 state DNA database and the national DNA database ;

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

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

(4) dental information and x‑rays; and

(5) fingerprints.

(H) All DNA samples obtained in missing person cases must be forwarded to SLED for analysis. SLED shall establish procedures for determining how to prioritize analysis of the samples relating to missing person cases.

(I) Fingerprints and dental records must be entered into the appropriate state and federal databases as soon as possible.”

SECTION 2. Article 5, Chapter 3, Title 23 of the 1976 Code is amended by adding:

“Section 23‑3‑340. (A) A high‑risk missing person is an individual whose whereabouts are not 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, include any of the following, but are not limited to:

(1) the person is missing as a result of a stranger abduction;

(2) the person is missing under suspicious circumstances;

(3) the person is missing under unknown circumstances;

(4) the person is missing under known dangerous circumstances;

(5) the person is missing for more than thirty days;

(6) the person has already been designated as a high‑risk missing person by another law enforcement agency; or

(7) there is evidence that the person is at risk because he:

(a) is in need of medical attention, or prescription medication;

(b) does not have a pattern of running away or disappearing;

(c) may have been abducted by a non‑custodial parent;

(d) is mentally impaired;

(e) is a person under the age of twenty‑one; or

(f) has been the subject of past threats or acts of violence; or

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

(B) Upon initial receipt of a missing person report, the law enforcement agency shall determine whether there is a basis to determine that the person missing is a high‑risk missing person.

(C) If a law enforcement agency has previously determined that a missing person is not a high‑risk missing person, but obtains new information, it shall immediately determine whether the information provided to the law enforcement agency indicates that the person is a high‑risk missing person.

(D) Risk assessments identified in this section must be performed no later than twenty‑four hours after the initial missing person report or the new information was provided to the law enforcement agency.

(E) When a law enforcement agency determines that the missing person is a high‑risk missing person, it shall notify SLED about this determination. It shall immediately provide to SLED the information most likely to aid in the location and safe return of the high‑risk missing person. It shall provide as soon as practicable all other information obtained relating to the missing person case.

(F) SLED shall promptly 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.

(G) The local law enforcement agencies who receive the notification from SLED shall notify officers to be on the lookout for the missing person or a suspected abductor.

(H) The responding local law enforcement agency shall immediately enter all collected information relating to the missing person 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, SLED shall enter all collected information relating to the missing person case in available state and federal databases. The information shall be provided in accordance with applicable guidelines relating to the databases.

(I) A missing person report in a high‑risk missing person case shall be entered in the National Crime Information Center database no more than two hours of the determination that the missing person is a high‑risk missing person. All other missing person reports must be entered within one day after the missing person report is received.

(J) All DNA profiles must be uploaded into the missing persons databases of the state DNA database and National DNA Index System after completion of the DNA analysis and other procedures required for database entry.

(K) Information relevant to the Federal Bureau of Investigation Violent Criminal Apprehension Program must be entered as soon as possible.

(L) In cases of missing persons between the ages of eighteen and twenty, the responding local law enforcement agency shall contact the National Center for Missing and Exploited Children and request the case be entered into their database and the photograph and information of that missing person be displayed on their website.

(M) SLED shall ensure that the persons entering data relating to fingerprints, medical, or dental records in state or federal databases are specifically trained to understand and correctly enter the information sought by these databases.

(N) Local law enforcement agencies shall make use of all available tools, resources, and technologies available as applicable to resolve a missing person case. This includes assistance from other law enforcement agencies, whether at a local, state, or federal level, nonprofit search and rescue organizations which may provide at no charge trained animal searches, use of specialized equipment, and man trackers, services provided by the National Center for Missing and Exploited Children and other qualified organizations, cell phone triangularization and tracking, the subpoena of cell phone, land line, internet email and social networking website records, and technology experts to examine any available information gleaned from a computer belonging to or used by the missing person.

Section 23‑3‑350. (A) SLED shall provide information to local law enforcement agencies about best practices for handling death scene investigations and 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.

(B) 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 the county coroner.

(C) Any person with custody of human remains that are not identified within twenty‑four hours of discovery shall promptly notify SLED of the location of those remains.

(D) If the person with custody of the remains cannot determine whether or not the remains found are human, it shall notify SLED of the existence of possible human remains.

(E) Notwithstanding any other action deemed appropriate for the handling of the human remains, the coroner shall make reasonable attempts to promptly identify human remains. These actions may include but not are limited to obtaining:

(1) photographs of the human remains before an autopsy;

(2) dental or skeletal X‑rays;

(3) photographs of items found with the human remains;

(4) fingerprints from the remains ;

(5) samples of tissue suitable for DNA typing ;

(6) samples of whole bone and hair suitable for DNA typing; and

(7) any other information that may support identification efforts.

(F) No person shall, dispose of, or engage in actions that will materially affect any unidentified human remains before a coroner obtains:

(1) samples suitable for DNA identification, archiving;

(2) photographs of the unidentified human remains; and

(3) all other appropriate steps for identification have been exhausted.

(G) Cremation of unidentified human remains is prohibited.

(H) The medical examiner, coroner, or the agency designated by SLED shall make reasonable efforts to obtain prompt DNA analysis of biological samples, if the human remains have not been identified by other means within thirty days.

(I) The coroner or other agency designated by SLED shall promptly enter information in federal and state databases that can aid in the identification of missing person.

(J) Documented efforts must be made to locate family members of the deceased person to inform them of the death and location of the remains of their family member.”

SECTION 3. This act takes effect upon approval by the Governor.

‑‑‑‑XX‑‑‑‑