



The Legislature
of the
State of New Mexico

49th Legislature, Second Session

LAWS 2010

CHAPTER 33

SENATE BILL 55, as amended

Introduced by

SENATOR SANDER RUE AND SENATOR LINDA M. LOPEZ
SENATOR MARY JANE M. GARCIA



CHAPTER 33

AN ACT

1
2 RELATING TO MISSING PERSONS; REQUIRING LAW ENFORCEMENT
3 TRAINING FOR MISSING PERSON AND AMBER ALERT INCIDENTS;
4 COMBINING THE STATUTES PERTAINING TO MISSING PERSONS AND TO
5 MISSING CHILDREN INTO THE MISSING PERSONS INFORMATION AND
6 REPORTING ACT; SPECIFYING INFORMATION FOR MISSING PERSON
7 REPORTS; ESTABLISHING TIME FRAMES FOR LAW ENFORCEMENT AGENCY
8 ACTION; PROVIDING FOR DISCIPLINARY ACTION FOR NONCOMPLIANCE
9 WITH DUTIES; AMENDING, REPEALING AND ENACTING SECTIONS OF THE
10 NMSA 1978.

11
12 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

13 Section 1. A new section of the Law Enforcement
14 Training Act is enacted to read:

15 "MISSING PERSON AND AMBER ALERT TRAINING.--A minimum of
16 four hours of combined missing person and AMBER alert
17 training shall be included in the curriculum of each basic
18 law enforcement training class. Missing person and AMBER
19 alert training shall be included as a component of in-service
20 training each year for certified police officers."

21 Section 2. Section 29-15-1 NMSA 1978 (being Laws 1995,
22 Chapter 146, Section 1) is amended to read:

23 "29-15-1. SHORT TITLE.--Chapter 29, Article 15 NMSA
24 1978 may be cited as the "Missing Persons Information and
25 Reporting Act"."

1 Section 3. Section 29-15-2 NMSA 1978 (being Laws 1995,
2 Chapter 146, Section 2, as amended) is amended to read:

3 "29-15-2. DEFINITIONS.--As used in the Missing Persons
4 Information and Reporting Act:

5 A. "child" means an individual under the age of
6 eighteen years who is not emancipated;

7 B. "clearinghouse" means the missing persons
8 information clearinghouse;

9 C. "custodian" means a parent, guardian or other
10 person who exercises legal physical control, care or custody
11 of a child;

12 D. "endangered person" means a missing person who:

13 (1) is in imminent danger of causing harm to
14 the person's self;

15 (2) is in imminent danger of causing harm to
16 another;

17 (3) is in imminent danger of being harmed by
18 another or who has been harmed by another; or

19 (4) has Alzheimer's disease or another
20 degenerative brain disorder;

21 E. "immediate family member" means the spouse or
22 nearest relative of a person;

23 F. "law enforcement agency" means a law
24 enforcement agency of the state, a state agency or a
25 political subdivision of the state;

1 G. "lead station" means an AM radio station that
2 has been designated as the "state primary station" by the
3 federal communications commission for the emergency alert
4 system;

5 H. "missing person" means a person whose
6 whereabouts are unknown to the person's custodian or
7 immediate family member and the circumstances of whose
8 absence indicate that:

9 (1) the person did not leave the care and
10 control of the custodian or immediate family member
11 voluntarily and the taking of the person was not authorized
12 by law; or

13 (2) the person voluntarily left the care and
14 control of the custodian without the custodian's consent and
15 without intent to return;

16 I. "missing person report" means information that
17 is:

18 (1) given to a law enforcement agency on a
19 form used for sending information to the national crime
20 information center; and

21 (2) about a person whose whereabouts are
22 unknown to the reporter and who is alleged in the form
23 submitted by the reporter to be missing;

24 J. "person" means an individual, regardless of
25 age;

1 K. "possible match" means the similarities between
2 unidentified human remains and a missing person that would
3 lead one to believe they are the same person;

4 L. "reporter" means the person who reports a
5 missing person;

6 M. "state agency" means an agency of the state, a
7 political subdivision of the state or a public post-secondary
8 educational institution; and

9 N. "state registrar" means the employee so
10 designated by the public health division of the department of
11 health pursuant to the Vital Statistics Act."

12 Section 4. Section 29-15-3 NMSA 1978 (being Laws 1995,
13 Chapter 146, Section 3) is amended to read:

14 "29-15-3. MISSING PERSONS INFORMATION
15 CLEARINGHOUSE--FUNCTION.--

16 A. The "missing persons information clearinghouse"
17 is established in the department of public safety. The
18 department of public safety shall provide for the
19 administration of the clearinghouse. The department of
20 public safety may adopt rules to carry out the provisions of
21 the Missing Persons Information and Reporting Act in the
22 manner prescribed in Subsection E of Section 9-1-5 NMSA 1978.

23 B. The clearinghouse is a central repository of
24 information on missing persons and shall be used by all law
25 enforcement agencies, including tribal agencies, in this

1 state.

2 C. The clearinghouse shall:

3 (1) establish a system of intrastate
4 communication of information relating to missing persons;

5 (2) provide a centralized file for the
6 exchange of information on missing persons and unidentified
7 human remains within the state;

8 (3) communicate with the national crime
9 information center for the exchange of information on missing
10 persons suspected of interstate travel;

11 (4) collect, process, maintain and
12 disseminate accurate and complete information on missing
13 persons;

14 (5) provide a statewide toll-free telephone
15 line for the reporting of missing persons and for receiving
16 information on missing persons;

17 (6) disseminate to custodians, law
18 enforcement agencies, the public education department, the
19 children, youth and families department and the general
20 public information that explains how to prevent child
21 abduction and what to do if a child becomes missing;

22 (7) compile statistics relating to the
23 incidence of missing persons within the state;

24 (8) provide training and technical
25 assistance to law enforcement agencies and social services

1 agencies pertaining to missing persons; and

2 (9) establish a media protocol for
3 disseminating information pertaining to missing persons.

4 D. The clearinghouse shall print and distribute
5 posters, flyers and other forms of information containing
6 descriptions of missing persons.

7 E. The department of public safety may accept
8 public or private grants, gifts and donations to assist the
9 department in carrying out the provisions of the Missing
10 Persons Information and Reporting Act."

11 Section 5. Section 29-15-5 NMSA 1978 (being Laws 1995,
12 Chapter 146, Section 5) is amended to read:

13 "29-15-5. CUSTODIAN OR IMMEDIATE FAMILY MEMBER REQUEST
14 FOR INFORMATION.--

15 A. Upon written or oral request to a law
16 enforcement agency by a custodian or immediate family member
17 of a missing person, the law enforcement agency shall
18 immediately request from the clearinghouse information
19 concerning the missing person that may aid the custodian or
20 immediate family member in the identification or location of
21 the missing person.

22 B. A law enforcement agency to which a request has
23 been made pursuant to Subsection A of this section shall
24 report to the custodian or immediate family member on the
25 results of its inquiry to the clearinghouse within seven

1 calendar days after the day the request is received by the
2 law enforcement agency, or as soon as the results of its
3 inquiry become available, whichever occurs last."

4 Section 6. Section 29-15-6 NMSA 1978 (being Laws 1995,
5 Chapter 146, Section 6) is amended to read:

6 "29-15-6. MISSING PERSON REPORT FORMS.--

7 A. The clearinghouse shall distribute missing
8 person report forms to law enforcement agencies in the state.

9 B. A missing person report may be made to a law
10 enforcement agency in person, or by telephone, electronic
11 media or other indirect method of communication and the
12 person taking the report may enter the information on the
13 form for the reporter. A missing person report form may be
14 completed by the reporter and delivered to a law enforcement
15 officer.

16 C. A copy of the missing person report form shall
17 be filed with the clearinghouse.

18 D. A missing person report form shall include, to
19 the extent available, the following information:

20 (1) the missing person's:

21 (a) name, including any alternative
22 names used;

23 (b) date of birth;

24 (c) identifying marks, including
25 birthmarks, moles, tattoos and scars;

- 1 (d) height and weight;
- 2 (e) gender;
- 3 (f) race;
- 4 (g) current hair color and true or
5 natural hair color;
- 6 (h) eye color;
- 7 (i) prosthetics, surgical implants or
8 cosmetic implants;
- 9 (j) physical anomalies;
- 10 (k) blood type;
- 11 (l) driver's license number; and
- 12 (m) social security number;
- 13 (2) a photograph of the missing person, with
14 a recent photograph being preferable;
- 15 (3) a description of the clothing the
16 missing person was believed to be wearing;
- 17 (4) a description of items that might be
18 with the missing person, such as jewelry and accessories;
- 19 (5) information on the missing person's
20 electronic communications devices, including cell phone
21 numbers and email addresses;
- 22 (6) reasons why the reporting person
23 believes that the person is missing;
- 24 (7) the name and location of the missing
25 person's school or employer;

1 (8) the name and location of the missing
2 person's dentist or primary care physician;

3 (9) any circumstances that may indicate that
4 the disappearance of the missing person was not voluntary;

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

7 (11) a description of the possible means of
8 transportation of the missing person, including make, model,
9 color, license and vehicle identification number of a
10 vehicle;

11 (12) any identifying information about a
12 known or possible abductor of the missing person or the
13 person last seen with the missing person;

14 (13) any other information that can aid in
15 locating the missing person; and

16 (14) the date of last contact with the
17 missing person."

18 Section 7. Section 29-15-7 NMSA 1978 (being Laws 1995,
19 Chapter 146, Section 7, as amended) is amended to read:

20 "29-15-7. LAW ENFORCEMENT REQUIREMENTS--MISSING PERSON
21 REPORTS--UNIDENTIFIED HUMAN REMAINS.--

22 A. A law enforcement agency shall accept without
23 delay and without exception for any reason any report of a
24 missing person and, no later than two hours after receiving a
25 missing person report or additional or supplemental

1 information for the report, shall:

2 (1) start an appropriate investigation to
3 determine the present location of the missing person and to
4 determine whether the missing person is an endangered person;

5 (2) provide to the clearinghouse all
6 information the law enforcement agency has relating to an
7 investigation regarding or the location or identification of
8 a missing person;

9 (3) enter the name of the missing person
10 into the clearinghouse and the national crime information
11 center missing person file; and

12 (4) if the missing person is determined to
13 be an endangered person, notify the department of public
14 safety in accordance with procedures prescribed by the
15 department.

16 B. Information not immediately available shall be
17 obtained as soon as possible by the law enforcement agency
18 and, no later than two hours after receipt of the
19 information, entered into the clearinghouse and the national
20 crime information center file as a supplement to the original
21 entry.

22 C. All New Mexico law enforcement agencies are
23 required to enter information about all unidentified human
24 remains found in their jurisdiction into the clearinghouse
25 and the national crime information center unidentified person

1 file, including all available identifying features of the
2 human remains and a description of the clothing found on the
3 human remains. If an information entry into the national
4 crime information center file results in an automatic entry
5 of the information into the clearinghouse, the law
6 enforcement agency is not required to make a direct entry of
7 that information into the clearinghouse."

8 Section 8. A new section of the Missing Persons
9 Information and Reporting Act, Section 29-15-7.1 NMSA 1978,
10 is enacted to read:

11 "29-15-7.1. MISSING CHILD REPORTS--LAW ENFORCEMENT
12 AGENCIES--DUTIES--REGISTRAR.--

13 A. Upon receiving a report of a child believed to
14 be missing, a law enforcement agency shall:

15 (1) no later than two hours after receiving
16 the report, enter identifying and descriptive information
17 about the child into the national crime information center
18 computer. Law enforcement agencies having direct access to
19 the national crime information center computer shall enter
20 and retrieve the data directly and shall cooperate in the
21 entry and retrieval of data on behalf of law enforcement
22 agencies that do not have direct access to the system; and

23 (2) notify the state registrar within
24 twenty-four hours, by telephone, facsimile or electronic
25 transmission, of the missing child. Within three days of

1 this initial notification, the law enforcement agency shall
2 make a written notification in a manner and form prescribed
3 by the state registrar. Both notifications shall include the
4 missing child's name, date of birth and county and state of
5 birth; the mother's maiden name; the name of the noncustodial
6 parent if the parents are not married; the name and telephone
7 number of a contact person at the reporting law enforcement
8 agency; and any other information required by the state
9 registrar.

10 B. Immediately after a missing child is located,
11 the law enforcement agency that located or returned the
12 missing child shall notify the law enforcement agency having
13 jurisdiction over the investigation, and the originating
14 agency shall clear the entry from the national crime
15 information center computer and shall, within twenty-four
16 hours, notify the state registrar in writing that the missing
17 child has been located."

18 Section 9. A new section of the Missing Persons
19 Information and Reporting Act, Section 29-15-7.2 NMSA 1978,
20 is enacted to read:

21 "29-15-7.2. BIRTH RECORDS OF MISSING CHILDREN--STATE
22 REGISTRAR'S DUTIES.--

23 A. Upon notification by a law enforcement agency
24 that a child born in the state is missing, the state
25 registrar shall flag the child's birth record in such a

1 manner that whenever a copy of the birth certificate or
2 information concerning the birth record is requested, the
3 state registrar shall be alerted to the fact that the
4 certificate is that of a missing child.

5 B. Upon notification by a law enforcement agency
6 that a child born outside the state is missing, the state
7 registrar shall notify the corresponding officer in the state
8 where the child was born that the child has been reported
9 missing.

10 C. In response to any inquiry, the state registrar
11 or any local registrar appointed by the state registrar or
12 any employee of the vital statistics bureau of the health
13 services division of the department of health shall not
14 provide a copy of a birth certificate or information
15 concerning the birth record of any missing child whose birth
16 record is flagged pursuant to this section, except following
17 notification of the law enforcement agency having
18 jurisdiction over the investigation of the missing child.
19 Such inquiries shall be handled in the following manner:

20 (1) when a copy of the birth certificate of
21 a missing child whose record has been flagged is requested in
22 person, the local registrar or employee accepting the request
23 shall immediately notify that person's supervisor or the
24 state registrar. If possible, the person making the request
25 shall complete a form supplying the requester's name,

1 address, telephone number and relationship to the missing
2 child and the name, address and birth date of the missing
3 child. The driver's license of the requester, if available,
4 shall be photocopied and returned. The requester shall be
5 informed that a copy of the birth certificate will be mailed
6 to the requester. The local registrar or employee shall note
7 the physical description of the requester, and, upon that
8 requester's departure from the vital statistics bureau
9 office, the supervisor or state registrar shall immediately
10 notify the law enforcement agency having jurisdiction of the
11 request and the information obtained pursuant to this
12 paragraph. The state registrar will retain the form
13 completed by the person making the request; and

14 (2) when a copy of the birth certificate of
15 a missing child whose birth record has been flagged is
16 requested in writing, the state registrar shall immediately
17 notify the law enforcement agency having jurisdiction of the
18 request and shall provide a copy of the written request. The
19 state registrar shall retain the original written request.

20 D. Upon notification by a law enforcement agency
21 that a missing child has been recovered, the state registrar
22 shall remove the flag from the child's birth record."

23 Section 10. Section 29-15-8 NMSA 1978 (being Laws 1995,
24 Chapter 146, Section 8) is amended to read:

25 "29-15-8. RELEASE OF DENTAL RECORDS--IMMUNITY.--

1 A. At the time a missing person report is made,
2 the law enforcement agency to which the missing person report
3 is given shall provide a dental record release form
4 conforming to the requirements of the federal Health
5 Insurance Portability and Accountability Act of 1996 to the
6 custodian or immediate family member of the missing person,
7 provided that the custodian or immediate family member is
8 authorized pursuant to that federal act to execute a release
9 on behalf of the missing person. The law enforcement agency
10 shall endorse the dental record release form with a notation
11 that a missing person report has been made in compliance with
12 the provisions of the Missing Persons Information and
13 Reporting Act. When the dental record release form is
14 properly completed by the custodian or immediate family
15 member of the missing person and contains the endorsement,
16 the form is sufficient to permit a dentist or physician in
17 this state to release dental records relating to the missing
18 person to the law enforcement agency.

19 B. If a release form cannot be executed, the law
20 enforcement agency shall seek disclosure of the dental
21 records of a missing person directly from the records
22 custodian pursuant to the provisions of the federal Health
23 Insurance Portability and Accountability Act of 1996 that
24 allow disclosure of health information for law enforcement
25 purposes.

1 C. The law enforcement agency shall send the
2 dental records to the clearinghouse.

3 D. A dentist or physician who releases dental
4 records pursuant to this section is immune from civil
5 liability or criminal prosecution for the release of the
6 dental records."

7 Section 11. Section 29-15-9 NMSA 1978 (being Laws 1995,
8 Chapter 146, Section 9) is amended to read:

9 "29-15-9. CROSS-CHECKING AND MATCHING.--

10 A. The clearinghouse shall cross-check and attempt
11 to match unidentified human remains with descriptions of
12 missing persons. When the clearinghouse discovers a possible
13 match between unidentified human remains and a missing person
14 description, the clearinghouse shall notify the appropriate
15 law enforcement agencies.

16 B. Law enforcement agencies that receive notice of
17 a possible match shall make arrangements for positive
18 identification. If a positive identification is made, the
19 law enforcement agency shall complete and close the
20 investigation with written notification to the clearinghouse.

21 C. Law enforcement agencies that receive notice of
22 a possible match between human remains and a missing person
23 description shall notify the office of the state medical
24 investigator."

25 Section 12. Section 29-15-10 NMSA 1978 (being Laws

1 1995, Chapter 146, Section 10) is amended to read:

2 "29-15-10. INTERAGENCY COOPERATION.--

3 A. State agencies and public and private schools
4 shall cooperate with a law enforcement agency that is
5 investigating a missing person report and shall furnish any
6 information that will assist the law enforcement agency in
7 completing the investigation.

8 B. Information provided by a state agency or a
9 public or private school shall not be released to any person
10 outside the law enforcement agency or the clearinghouse,
11 except as provided by rule of the department of public
12 safety."

13 Section 13. Section 29-15-11 NMSA 1978 (being Laws
14 1995, Chapter 146, Section 11) is amended to read:

15 "29-15-11. CONFIDENTIALITY OF RECORDS.--

16 A. The department of public safety shall by rule
17 provide for the classification of information and records as
18 confidential that:

19 (1) are otherwise confidential under state
20 or federal law or rules adopted pursuant to state or federal
21 law;

22 (2) are related to the investigation by a
23 law enforcement agency of a missing person or unidentified
24 human remains, if the department of public safety, in
25 consultation with the law enforcement agency, determines that

1 release of the information would be deleterious to the
2 investigation;

3 (3) are records or notations that the
4 clearinghouse maintains for internal use in matters relating
5 to missing persons and unidentified human remains and the
6 department of public safety determines that release of the
7 internal documents might interfere with an investigation by a
8 law enforcement agency in New Mexico or any other
9 jurisdiction; or

10 (4) the department of public safety
11 determines might interfere with an investigation or otherwise
12 harm a person, custodian or reporter.

13 B. The rule may provide for the sharing of
14 confidential information with the custodian or immediate
15 family member of the missing person."

16 Section 14. Section 29-15-12 NMSA 1978 (being Laws
17 1995, Chapter 146, Section 12) is amended to read:

18 "29-15-12. ATTORNEY GENERAL TO REQUIRE
19 COMPLIANCE--REMOVAL OR DISCIPLINE.--

20 A. The attorney general shall enforce state agency
21 compliance with the provisions of the Missing Persons
22 Information and Reporting Act as appropriate to assure the
23 immediate response to a report of a missing person."

24 Section 15. REPEAL.--Sections 32A-14-1 through 32A-14-4
25 NMSA 1978 (being Laws 1987, Chapter 25, Sections 1 through 4,

as amended) are repealed.

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Diane D. Denish

Diane D. Denish, President
Senate

Lenore M. Naranjo
Lenore M. Naranjo, Chief Clerk
Senate

Ben Lujan

Ben Lujan, Speaker
House of Representatives

Stephen R. Arias
Stephen R. Arias, Chief Clerk
House of Representatives

Approved by me this 5th day of March, 2010

Diane D. Denish

Governor Bill Richardson
State of New Mexico

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