

A bill for an act

relating to public safety; establishing Brandon's Law; implementing procedures for investigating missing person cases; amending Minnesota Statutes 2008, sections 299C.51; 299C.52; 299C.53; 299C.54, subdivisions 1, 2, 3, 3a; 299C.55; 299C.56; 299C.565; 390.25, subdivision 2; 626.8454, by adding a subdivision; proposing coding for new law in Minnesota Statutes, chapter 299C.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

Section 1. Minnesota Statutes 2008, section 299C.51, is amended to read:

299C.51 CITATION.

Sections 299C.51 to ~~299C.53~~ 299C.565 may be cited as the "Minnesota Missing ~~Children's~~ Persons' Act."

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 2. Minnesota Statutes 2008, section 299C.52, is amended to read:

299C.52 MINNESOTA MISSING ~~CHILD~~ CHILDREN AND ENDANGERED PERSONS PROGRAM.

Subdivision 1. **Definitions.** As used in sections 299C.52 to ~~299C.56~~ 299C.565, the following terms have the meanings given them:

(a) "Child" means any person under the age of 18 years or any person certified or known to be mentally incompetent.

(b) "CJIS" means Minnesota criminal justice information system.

(c) "Missing" means the status of a ~~child~~ person after a law enforcement agency that has received a report of a missing ~~child~~ person has conducted a preliminary investigation and determined that the ~~child~~ person cannot be located.

(d) "NCIC" means National Crime Information Center.

(e) "Endangered" means that a law enforcement official has received sufficient evidence that the ~~child is with a~~ missing person who presents a threat of immediate is at risk of physical injury ~~to the child or physical or sexual abuse of the child.~~ or death. The following circumstances indicate that a missing person is at risk of physical injury or death:

(1) the person is missing as a result of a confirmed abduction or under circumstances that indicate that the person's disappearance was not voluntary;

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

(3) the person is missing more than 30 days;

(4) the person is under the age of 21;

(5) there is evidence the person is in need of medical attention or prescription medication such that it will have a serious adverse effect on the person's health if the person does not receive the needed care or medication;

(6) the person does not have a pattern of running away or disappearing;

(7) the person is mentally impaired;

(8) there is evidence that the person may have been abducted by a noncustodial parent;

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

(10) there is evidence the person is lost in the wilderness, backcountry, or outdoors where survival is precarious and immediate and effective investigation and search and rescue efforts are critical; or

(11) any other factor that the law enforcement agency deems to indicate that the person may be at risk of physical injury or death, including a determination by another law enforcement agency that the person is missing and endangered.

(f) "DNA" means deoxyribonucleic acid from a human biological specimen.

Subd. 2. **Establishment.** The commissioner of public safety shall maintain a Minnesota missing ~~child~~ children and endangered persons program within the department to enable documented information about missing Minnesota children and endangered persons to be entered into the NCIC computer.

Subd. 3. **Computer equipment and programs.** (a) The commissioner shall provide the necessary computer hardware and computer programs to enter, modify, and cancel information on missing children and endangered persons in the NCIC computer through the CJIS. These programs must provide for search and retrieval of information using the following identifiers: physical description, name and date of birth, name and Social Security number, name and driver's license number, vehicle license number, and vehicle identification number.

(b) The commissioner shall also provide a system for regional, statewide, multistate, and nationwide broadcasts of information on missing children and endangered persons. These broadcasts shall be made by local law enforcement agencies where possible or, in the case of statewide or nationwide broadcasts, by the Bureau of Criminal Apprehension upon request of the local law enforcement agency.

Subd. 4. **Authority to enter or retrieve information.** Only law enforcement agencies may enter missing ~~child~~ children and endangered person information through the CJIS into the NCIC computer or retrieve information through the CJIS from the NCIC computer.

Subd. 5. **Statistical data.** The commissioner shall annually compile and make available statistical information on the number of missing children and endangered persons entered into the NCIC computer and, if available, information on the number located.

Subd. 6. **Rules.** The commissioner may adopt rules in conformance with sections 299C.52 to ~~299C.56~~ 299C.565 to provide for the orderly collection and entry of missing ~~child~~ children and endangered persons information and requests for retrieval of missing ~~child~~ children and endangered persons information.

Subd. 7. **Cooperation with other agencies.** The commissioner shall cooperate with other states and the NCIC in the exchange of information on missing persons.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 3. Minnesota Statutes 2008, section 299C.53, is amended to read:

299C.53 MISSING ~~CHILD~~ PERSONS REPORT; DUTIES OF COMMISSIONER AND LAW ENFORCEMENT AGENCIES.

Subdivision 1. **Investigation and entry of information.** (a) A law enforcement agency shall accept without delay any report of a missing person. The law enforcement agency shall not 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 amount of time;

(4) the person has been missing for a long amount 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 person does not have personal knowledge of the facts;

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

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

(10) for any other reason, except in cases where the law enforcement agency has direct knowledge that the person is, in fact, not missing and the exact whereabouts and welfare of the person are known at the time the report is being made.

A law enforcement agency shall accept missing person reports in person. An agency may also accept reports by telephone or other electronic means to the extent such reporting is consistent with the agency's policies or practices.

(b) At the time a missing person report is filed, the law enforcement agency shall seek to ascertain and record the following information about the missing person:

(1) the name of the missing person, including any aliases;

(2) date of birth;

(3) identifying marks, such as birthmarks, moles, tattoos, piercings, and scars;

(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, if known;

(12) any medications the missing person is taking or needs to take;

(13) driver's license number, if known;

(14) Social Security number, if known;

(15) a recent photograph of the missing person, if available;

(16) a description of the clothing the missing person was believed to be wearing at the time of disappearance;

(17) a description of notable items that the missing person may be carrying or wearing;

(18) information regarding the missing person's electronic communications devices, such as a cell phone number, e-mail address, and social networking usernames and Web sites;

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

(20) the name and location of the missing person's school or employer, if known;

(21) the name and location of the missing person's dentist and primary care physician, if known;

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

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

(24) a description of the possible means of transportation of the missing person, such as the make, model, color, license, and vehicle identification number (VIN) of a motor vehicle;

(25) any identifying information about a known or possible abductor or the person last seen with the missing person, including name; physical description; date of birth; identifying marks; description of possible means of transportation, such as the make, model, color, license, and vehicle identification number (VIN) of a motor vehicle; and known associates;

(26) date of last contact; and

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

(c) Upon receiving a report of a ~~child~~ person believed to be missing, a law enforcement agency shall immediately conduct a preliminary investigation to determine whether the ~~child~~ person is missing, and if missing, whether the person is endangered. If the ~~child~~ person is initially determined to be missing and endangered, the agency shall immediately consult the Bureau of Criminal Apprehension during the preliminary investigation, in recognition of the fact that the first two hours are critical. If the ~~child~~ person is determined to be missing and endangered, the agency shall immediately enter identifying and descriptive information about the ~~child~~ person through the CJIS into the NCIC computer. Law enforcement agencies having direct access to the CJIS and the NCIC computer shall enter and retrieve the data directly and shall cooperate in the entry and retrieval of data on behalf of law enforcement agencies which do not have direct access to the systems.

Subd. 2. **Location of missing ~~child~~ person.** Immediately after a missing ~~child~~ person is located, the law enforcement agency which located or returned the missing ~~child~~ person shall notify the law enforcement agency having jurisdiction over the investigation, and that agency shall cancel the entry from the NCIC computer.

Subd. 3. **Missing and endangered ~~children~~ persons.** If the Bureau of Criminal Apprehension receives a report from a law enforcement agency indicating that a ~~child~~ person is missing and endangered, the superintendent may assist the law enforcement agency in conducting the preliminary investigation, offer resources, and assist the agency in helping implement the investigation policy with particular attention to the need for

immediate action. The law enforcement agency shall promptly notify all law enforcement agencies in the state and, if deemed appropriate, law enforcement agencies in adjacent states or jurisdictions of any information that may aid in the prompt location and safe return of a missing and endangered person.

Subd. 4. **Federal requirements.** In addition to the provisions of sections 299C.51 to 299C.565, the law enforcement agency and the Bureau of Criminal Apprehension shall comply with requirements provided in federal law on reporting and investigating missing children cases. For purposes of this subdivision, the definition of "child," "children," or "minor" shall be determined in accordance with the applicable federal law.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 4. [299C.535] INFORMATION PROVIDED TO FAMILY MEMBERS OR PERSON FILING REPORT.

Subdivision 1. **Notification.** The law enforcement agency shall provide the following information to the person making the report, a family member, or any other 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, to apprehend or to prosecute any persons criminally involved in the disappearance;

(2) contact information for the law enforcement agency in case the person is able to provide additional information and materials that will aid in locating the missing person, such as any credit or debit cards the missing person has access to, other banking or financial information, and any records of cell phone use;

(3) in those cases where DNA samples are requested, a notification that all the DNA samples are provided on a voluntary basis and shall be used solely to help locate or identify the missing person and shall not be used for any other purpose;

(4) information on how to report a missing person case to the National Missing and Unidentified Persons System; and

(5) information on the two clearinghouses for missing persons information. If the person reported missing is age 17 or under, the law enforcement agency shall provide contact information for the National Center for Missing and Exploited Children. If the person reported missing is age 18 or older, the law enforcement agency shall provide contact information for the National Center for Missing Adults. If the person reported

missing is age 18, 19, or 20, the law enforcement agency may contact the National Center for Missing and Exploited Children and report the missing person information.

Subd. 2. **Request for additional information.** (a) If the person identified in the missing person report remains missing for 30 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, if possible, from the missing person along with any needed documentation, including consent forms, required for the use of state or federal DNA databases;

(2) dental information and x-rays, and an authorization to release dental information or x-rays of the missing person;

(3) any additional photographs of the missing person that may aid the investigation or an identification; and

(4) fingerprints.

(b) The law enforcement agency shall immediately determine whether any additional information received on the missing person indicates that the person is endangered.

(c) Any additional information or materials received by the law enforcement agency shall be entered into the applicable state or federal database as soon as possible.

(d) Nothing in this section shall be construed to preclude a law enforcement agency from obtaining any of the materials identified in this section before the 30th day following the filing of the missing person report.

(e) 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.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 5. Minnesota Statutes 2008, section 299C.54, subdivision 1, is amended to read:

Subdivision 1. **Distribution.** The commissioner shall distribute a missing children and endangered persons bulletin on a quarterly basis to local law enforcement agencies, county attorneys, and, in the case of missing children, to public and nonpublic schools. The commissioner shall also make this information accessible to other parties involved in efforts to locate missing children and endangered persons and to other persons as the commissioner considers appropriate. The commissioner may distribute the bulletin through print or electronic media.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 6. Minnesota Statutes 2008, section 299C.54, subdivision 2, is amended to read:

Subd. 2. **Photograph.** ~~The commissioner shall provide appropriate local law enforcement agencies with a list of missing children, with an appropriate waiver form to assist the agency in obtaining a photograph of each missing child.~~ Local agencies shall obtain the most recent photograph available for missing children and endangered persons and forward those photographs to the commissioner. The commissioner shall include these photographs, as they become available, in the quarterly bulletins.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 7. Minnesota Statutes 2008, section 299C.54, subdivision 3, is amended to read:

Subd. 3. **Included with mailing.** State and local elected officials and agencies may enclose in their mailings information regarding missing children and endangered persons obtained from law enforcement agencies or from any organization that is recognized as a nonprofit, tax-exempt organization under state or federal law and has an ongoing missing children and endangered persons program. Elected officials and commissioners of state agencies are urged to develop policies to enclose missing children and endangered persons information in mailings when it will not increase postage costs and is otherwise considered appropriate.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 8. Minnesota Statutes 2008, section 299C.54, subdivision 3a, is amended to read:

Subd. 3a. **Collection of data.** Identifying information on missing children and endangered persons entered into the NCIC computer regarding cases that are still active at the time the missing children and endangered persons bulletin is compiled each quarter may be included in the bulletin.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 9. Minnesota Statutes 2008, section 299C.55, is amended to read:

299C.55 TRAINING.

The commissioner shall adopt standards for training appropriate personnel concerning the investigation of missing children cases and shall include a briefing on endangered person cases.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 10. Minnesota Statutes 2008, section 299C.56, is amended to read:

299C.56 RELEASE OF MEDICAL DATA.

Subdivision 1. **Definitions.** (a) For purposes of this section, the following terms have the meanings given.

(b) "Health care facility" means the office of a dentist or physician, or another medical facility, that is in possession of identifying data.

(c) "Identifying data" means dental or skeletal X-rays, or both, and related information, previously created in the course of providing dental or medical care to a child who has now been reported as missing or a person who has now been reported as missing and endangered.

Subd. 2. **Written declaration.** If a child is reported missing or a person is reported missing and endangered, a law enforcement agency may execute a written declaration, stating that an active investigation seeking the location of the missing child or endangered person is being conducted, and that the identifying data are necessary for the exclusive purpose of furthering the investigation. Notwithstanding chapter 13 or section 144.651, subdivision 16, when a written declaration executed under this subdivision, signed by a peace officer, is presented to a health care facility, the facility shall provide access to the missing ~~child's~~ child or endangered person's identifying data to the law enforcement agency.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 11. Minnesota Statutes 2008, section 299C.565, is amended to read:

299C.565 MISSING PERSON REPORT.

(a) The local law enforcement agency having jurisdiction over the location where a person has been missing or was last seen has the responsibility to take a missing person report from an interested party. If this location cannot be clearly and easily established, the local law enforcement agency having jurisdiction over the last verified location where the missing person last resided has the responsibility to take the report.

(b) The law enforcement agency that has the responsibility to take the report of a missing person shall be the lead law enforcement agency in charge of the missing person investigation, and shall continue in that capacity unless another law enforcement agency assumes primary responsibility over the investigation. The lead law enforcement agency shall be entitled to the cooperation of any other law enforcement agency in the state.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 12. Minnesota Statutes 2008, section 390.25, subdivision 2, is amended to read:

Subd. 2. **Report to BCA.** (a) After ~~60~~ 30 days, the coroner or medical examiner shall provide to the Bureau of Criminal Apprehension missing persons clearinghouse information to be entered into federal and state databases that can aid in the identification, including the National Crime Information Center database. The coroner or medical examiner shall provide to the Bureau of Criminal Apprehension specimens suitable for DNA analysis. DNA profiles and information shall be entered by the Bureau of Criminal Apprehension into federal and state DNA databases within five business days after the completion of the DNA analysis and procedures necessary for the entry of the DNA profile.

(b) If a deceased's remains are identified as a missing person, the Bureau of Criminal Apprehension shall attempt to locate family members of the deceased person and inform them of the death and location of the deceased person's remains. All efforts to locate and notify family members shall be recorded and retained by the Bureau of Criminal Apprehension.

EFFECTIVE DATE. This section is effective July 1, 2009.

Sec. 13. Minnesota Statutes 2008, section 626.8454, is amended by adding a subdivision to read:

Subd. 4. **Available resources.** If an agency, board, or local representative reviews or updates its policies for missing children or persons investigations, it may consider the following resources:

(1) nonprofit search and rescue organizations that provide trained animal searches, specialized equipment, and man trackers;

(2) assistance from other law enforcement agencies at the local, state, or federal level, or qualified missing persons organizations;

(3) use of subpoenas or search warrants for electronic and wireless communication devices, computers, and Web sites;

(4) triangulation and tracking of cellular telephones and other wireless communication devices; and

(5) assistance and services provided by the Civil Air Patrol.

EFFECTIVE DATE. This section is effective July 1, 2009.