

Second Regular Session
Sixty-fifth General Assembly
STATE OF COLORADO

INTRODUCED

LLS NO. 06-0275.01 Richard Sweetman

HOUSE BILL 06-1122

HOUSE SPONSORSHIP

Todd, Benefield, Berens, Decker, Hodge, and Lindstrom

SENATE SPONSORSHIP

Spence,

House Committees
Judiciary

Senate Committees

A BILL FOR AN ACT

101 CONCERNING PROCEDURES RELATING TO MISSING PERSONS.

Bill Summary

(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)

Requires law enforcement officials to accept missing person reports promptly. Specifies the minimum actions a law enforcement agency may take upon receiving a missing person report. Requires coroners and medical examiners to take steps, including the obtaining of DNA samples, to assist in the identification of unidentified human remains. Prohibits cremation of unidentified human remains.

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters indicate new material to be added to existing statute.
Dashes through the words indicate deletions from existing statute.

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** Title 16, Colorado Revised Statutes, is amended BY
3 THE ADDITION OF A NEW ARTICLE to read:

4 **ARTICLE 2.7**

5 **Missing Person Reports - Unidentified Human Remains**

6 **16-2.7-101. Definitions.** AS USED IN THIS ARTICLE, UNLESS THE
7 CONTEXT OTHERWISE REQUIRES:

8 (1) "DNA" MEANS DEOXYRIBONUCLEIC ACID.

9 (2) "MISSING PERSON" MEANS A PERSON WHOSE WHEREABOUTS
10 ARE UNKNOWN AND WHOSE SAFETY OR WELFARE IS THE SUBJECT OF
11 CONCERN.

12 **16-2.7-102. Missing person reports - acceptance.** (1) ANY
13 PERSON WITH RELEVANT, CREDIBLE INFORMATION SUGGESTING THAT A
14 PERSON IS MISSING MAY MAKE A MISSING PERSON REPORT TO A LAW
15 ENFORCEMENT AGENCY.

16 (2) A LAW ENFORCEMENT AGENCY SHALL ACCEPT WITHOUT DELAY
17 A MISSING PERSON REPORT THAT IS SUBMITTED IN PERSON IF:

18 (a) THE MISSING PERSON RESIDES, OR WAS LAST KNOWN TO RESIDE,
19 WITHIN THE JURISDICTION OF THE LAW ENFORCEMENT AGENCY AND THE
20 MISSING PERSON'S LAST-KNOWN LOCATION IS THE MISSING PERSON'S
21 RESIDENCE OR HIS OR HER LOCATION IS UNKNOWN; OR

22 (b) THERE IS CREDIBLE INFORMATION INDICATING THAT THE
23 MISSING PERSON WAS LAST BELIEVED TO BE WITHIN THE JURISDICTION OF
24 THE LAW ENFORCEMENT AGENCY.

25 (3) EACH LAW ENFORCEMENT AGENCY IS ENCOURAGED TO ACCEPT
26 A MISSING PERSON REPORT SUBMITTED BY TELEPHONE OR BY ELECTRONIC
27 OR OTHER MEDIA TO THE EXTENT THAT:

1 (a) THE REPORT MEETS THE CONDITIONS OF PARAGRAPH (a) OR (b)
2 OF SUBSECTION (2) OF THIS SECTION; AND

3 (b) ACCEPTANCE OF THE REPORT IS CONSISTENT WITH LAW
4 ENFORCEMENT POLICIES OR PRACTICES.

5 (4) A LAW ENFORCEMENT AGENCY SHALL NOT REFUSE TO ACCEPT
6 A MISSING PERSON REPORT ON THE BASIS THAT THE MISSING PERSON HAS
7 NOT YET BEEN MISSING FOR ANY LENGTH OF TIME.

8 (5) NOTWITHSTANDING THE PROVISIONS OF SUBSECTIONS (2) AND
9 (3) OF THIS SECTION, A LAW ENFORCEMENT AGENCY IS NOT REQUIRED TO
10 ACCEPT A MISSING PERSON REPORT IF THE PERSON IS THE SUBJECT OF A
11 MISSING PERSON REPORT UNDER INVESTIGATION BY ANOTHER LAW
12 ENFORCEMENT AGENCY WITHIN THIS STATE.

13 **16-2.7-103. Missing person reports - response.** UPON
14 RECEIVING A REPORT OF A MISSING PERSON, A LAW ENFORCEMENT AGENCY
15 SHALL ASSESS THE INFORMATION RECEIVED FROM THE REPORTING PERSON
16 AND OTHER AVAILABLE INFORMATION. THE LAW ENFORCEMENT AGENCY
17 SHALL THEN DETERMINE THE BEST COURSE OF ACTION BASED ON THE
18 CIRCUMSTANCES. SUCH ACTION SHALL INCLUDE ENTRY OF RELEVANT
19 INFORMATION INTO STATE AND NATIONAL DATABASES AND APPROPRIATE
20 COMMUNICATIONS WITH OTHER LAW ENFORCEMENT AGENCIES THAT MAY
21 ASSIST IN LOCATING THE MISSING PERSON.

22 **16-2.7-104. Unidentified human remains - reporting - DNA**
23 **samples.** (1) EXCEPT AS PROVIDED IN SECTION 24-80-1303, C.R.S., WITH
24 REGARD TO ANTHROPOLOGICAL INVESTIGATIONS, A PERSON WHO HAS
25 CUSTODY OF UNIDENTIFIED HUMAN REMAINS SHALL IMMEDIATELY NOTIFY
26 THE CORONER OR MEDICAL EXAMINER OF THE COUNTY IN WHICH THE
27 REMAINS ARE LOCATED AND THE SHERIFF, POLICE CHIEF, OR LAND

1 MANAGING AGENCY OFFICIAL IN ACCORDANCE WITH SECTION 24-80-1302
2 (1), C.R.S.

3 (2) IF A CORONER OR MEDICAL EXAMINER TAKES LEGAL CUSTODY
4 OF UNIDENTIFIED HUMAN REMAINS PURSUANT TO SECTION 24-80-1302 (2),
5 C.R.S., OR SECTION 30-10-606 (1.2), C.R.S., THE CORONER OR MEDICAL
6 EXAMINER SHALL MAKE REASONABLE ATTEMPTS TO IDENTIFY THE HUMAN
7 REMAINS. THESE ATTEMPTS MAY INCLUDE, BUT NEED NOT BE LIMITED TO,
8 OBTAINING:

- 9 (a) PHOTOGRAPHS OF THE HUMAN REMAINS PRIOR TO AN AUTOPSY;
- 10 (b) DENTAL OR SKELETAL X RAYS OF THE HUMAN REMAINS;
- 11 (c) PHOTOGRAPHS OF ITEMS FOUND WITH THE HUMAN REMAINS;
- 12 (d) FINGERPRINTS FROM THE HUMAN REMAINS;
- 13 (e) SAMPLES OF TISSUE SUITABLE FOR DNA TYPING FROM THE
14 HUMAN REMAINS;
- 15 (f) SAMPLES OF WHOLE BONE OR HAIR FROM THE HUMAN REMAINS
16 SUITABLE FOR DNA TYPING.

17 (3) IF A CORONER OR MEDICAL EXAMINER TAKES LEGAL CUSTODY
18 OF UNIDENTIFIED HUMAN REMAINS PURSUANT TO SECTION 24-80-1302 (2),
19 C.R.S., OR SECTION 30-10-606 (1.2), C.R.S., THE CORONER OR MEDICAL
20 EXAMINER SHALL:

- 21 (a) ENTER INFORMATION CONCERNING THE PHYSICAL APPEARANCE
22 AND STRUCTURE OF THE UNIDENTIFIED HUMAN REMAINS, INCLUDING DNA
23 TYPING INFORMATION, INTO THE NATIONAL CRIME INFORMATION CENTER
24 DATABASE; OR
- 25 (b) WORK WITH LAW ENFORCEMENT OFFICIALS TO ENSURE THAT
26 INFORMATION CONCERNING THE PHYSICAL APPEARANCE AND STRUCTURE
27 OF THE UNIDENTIFIED HUMAN REMAINS, INCLUDING DNA TYPING

1 INFORMATION, IS ENTERED INTO THE NATIONAL CRIME INFORMATION
2 CENTER DATABASE.

3 (4) A CORONER OR MEDICAL EXAMINER SHALL NEITHER DISPOSE
4 OF NOR ENGAGE IN ACTIONS THAT WILL MATERIALLY AFFECT
5 UNIDENTIFIED HUMAN REMAINS BEFORE THE CORONER OR MEDICAL
6 EXAMINER:

7 (a) OBTAINS FROM THE UNIDENTIFIED HUMAN REMAINS SAMPLES
8 SUITABLE FOR DNA IDENTIFICATION AND ARCHIVING, IF POSSIBLE;

9 (b) OBTAINS PHOTOGRAPHS OF THE UNIDENTIFIED HUMAN
10 REMAINS; AND

11 (c) EXHAUSTS ALL OTHER APPROPRIATE STEPS FOR IDENTIFICATION
12 OF THE HUMAN REMAINS.

13 (5) UNTIL ALL AVAILABLE INFORMATION CONCERNING THE
14 PHYSICAL APPEARANCE AND STRUCTURE OF UNIDENTIFIED HUMAN
15 REMAINS IS ENTERED INTO THE NATIONAL CRIME INFORMATION CENTER
16 DATABASE, CREMATION OF UNIDENTIFIED HUMAN REMAINS IS PROHIBITED.

17 **SECTION 2.** Part 6 of article 10 of title 30, Colorado Revised
18 Statutes, is amended BY THE ADDITION OF A NEW SECTION to
19 read:

20 **30-10-622. Unidentified human remains - DNA samples.**

21 (1) IF A CORONER OR MEDICAL EXAMINER TAKES LEGAL CUSTODY OF
22 UNIDENTIFIED HUMAN REMAINS PURSUANT TO SECTION 24-80-1302 (2),
23 C.R.S., OR SECTION 30-10-606 (1.2), THE CORONER OR MEDICAL
24 EXAMINER SHALL:

25 (a) MAKE REASONABLE ATTEMPTS TO IDENTIFY THE REMAINS
26 PURSUANT TO SECTION 16-2.7-104 (2), C.R.S.; AND

27 (b) ENSURE THAT INFORMATION CONCERNING THE PHYSICAL

1 APPEARANCE AND STRUCTURE OF THE UNIDENTIFIED HUMAN REMAINS,
2 INCLUDING DNA TYPING INFORMATION, IS ENTERED INTO THE NATIONAL
3 CRIME INFORMATION CENTER DATABASE, PURSUANT TO SECTION
4 16-2.7-104 (3), C.R.S.

5 **SECTION 3.** 24-80-1302, Colorado Revised Statutes, is amended
6 to read:

7 **24-80-1302. Discovery of human remains.** (1) Except as
8 provided in section 24-80-1303 with regard to anthropological
9 investigations, any person who discovers on any land suspected human
10 skeletal remains or who knowingly disturbs such remains shall
11 immediately notify the coroner OR MEDICAL EXAMINER of the county
12 wherein the remains are located and the sheriff, police chief, or land
13 managing agency official.

14 (2) The coroner OR MEDICAL EXAMINER shall conduct an on-site
15 inquiry within forty-eight hours ~~of~~ AFTER such notification to attempt to
16 determine whether such skeletal remains are human remains and to
17 determine their forensic value. If the coroner OR MEDICAL EXAMINER is
18 unable to make such determinations, the police chief, the sheriff, the
19 coroner OR MEDICAL EXAMINER, or the land managing agency official
20 shall request the forensic anthropologist of the Colorado bureau of
21 investigation to assist in making such determinations. IF IT IS CONFIRMED
22 THAT THE REMAINS ARE HUMAN REMAINS AND OF FORENSIC VALUE,
23 EITHER THE COLORADO BUREAU OF INVESTIGATION SHALL TAKE LEGAL
24 CUSTODY OF THE HUMAN REMAINS, OR THE CORONER OR MEDICAL
25 EXAMINER SHALL TAKE LEGAL CUSTODY OF THE HUMAN REMAINS
26 PURSUANT TO SECTION 30-10-606 (1.2), C.R.S. If it is confirmed that the
27 remains are human remains but of no forensic value, the coroner OR

1 MEDICAL EXAMINER shall notify the state archaeologist of the discovery.

2 The state archaeologist shall recommend security measures for the site.

3 (3) Prior to further disturbance, the state archaeologist shall cause
4 the human remains to be examined by a qualified archaeologist to
5 determine whether the remains are more than one hundred years old and
6 to evaluate the integrity of their archaeological context. Complete
7 documentation of the archaeological context of the human remains shall
8 be accomplished in a timely manner.

9 (4) (a) If the on-site inquiry discloses that the human remains are
10 native American, the state archaeologist shall notify the commission.

11 (b) The remains shall be disinterred unless the landowner, the
12 state archaeologist, and the chairman of the commission or his designee
13 unanimously agree to leave the remains in situ.

14 (c) Disinterment shall be conducted carefully, respectfully, and in
15 accordance with proper archaeological methods and by an archaeologist
16 who holds a permit issued under sections 24-80-405 and 24-80-406. In
17 the event the remains are left in situ, they shall be covered over.

18 (d) Without the landowner's express consent for an extension of
19 time, disinterment shall be accomplished no later than ten consecutive
20 days after the state archaeologist has received notification from the
21 coroner OR MEDICAL EXAMINER pursuant to subsection (2) of this section.

22 (e) The archaeologist who conducts the disinterment will assume
23 temporary custody of the human remains, for a period not to exceed one
24 year from the date of disinterment, for the purpose of study and analysis.
25 In the event that a period in excess of one year is required to complete
26 such study and analysis, the commission shall hold a hearing and may,
27 based upon its findings, grant an extension. During the period that the

1 human remains are in the temporary custody of the archaeologist who
2 conducted the disinterment, an archaeological analysis and report shall be
3 prepared. At the same time, a physical anthropological study shall be
4 conducted to include, but not be limited to, osteometric measurement,
5 pathological analysis, and age, sex, and cause of death determinations.
6 The cost of the disinterment, archaeological analysis, and physical
7 anthropological study shall be borne by the state archaeologist except
8 when the human remains are recovered from private lands. In the latter
9 case, if no party can be identified who will bear the cost of such scientific
10 study, the state archaeologist shall bear such costs.

11 (f) Upon completion of the studies pursuant to paragraph (e) of
12 this subsection (4), the state archaeologist shall consult with the
13 commission regarding reinterment.

14 (5) Those remains which are verifiably nonnative American and
15 are otherwise unclaimed will be delivered to the county coroner OR
16 MEDICAL EXAMINER for further conveyance to the Colorado state
17 anatomical board.

18 **SECTION 4. Safety clause.** The general assembly hereby finds,
19 determines, and declares that this act is necessary for the immediate
20 preservation of the public peace, health, and safety.