

NOTE: This bill has been prepared for the signature of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 06-1122

BY REPRESENTATIVE(S) Todd, Benefield, Berens, Decker, Hodge, Lindstrom, Borodkin, Larson, and Stafford;
also SENATOR(S) Spence, Evans, Groff, and Williams.

CONCERNING PROCEDURES RELATING TO MISSING PERSONS.

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

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

ARTICLE 2.7

Missing Person Reports - Unidentified Human Remains

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

(1) "DNA" MEANS DEOXYRIBONUCLEIC ACID.

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

16-2.7-102. Missing person reports - acceptance. (1) ANY

Capital letters indicate new material added to existing statutes; dashes through words indicate deletions from existing statutes and such material not part of act.

PERSON WITH RELEVANT, CREDIBLE INFORMATION SUGGESTING THAT A PERSON IS MISSING MAY MAKE A MISSING PERSON REPORT TO A LAW ENFORCEMENT AGENCY.

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

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

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

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

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

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

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

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

16-2.7-103. Missing person reports - response. UPON RECEIVING A REPORT OF A MISSING PERSON, A LAW ENFORCEMENT AGENCY SHALL ASSESS THE INFORMATION RECEIVED FROM THE REPORTING PERSON AND OTHER AVAILABLE INFORMATION. THE LAW ENFORCEMENT AGENCY SHALL

THEN DETERMINE THE BEST COURSE OF ACTION BASED ON THE CIRCUMSTANCES. IF THE MISSING PERSON IS EIGHTEEN YEARS OF AGE OR OLDER AND HAS ALLEGEDLY BEEN MISSING FOR TWENTY-FOUR HOURS OR MORE, SUCH ACTION SHALL INCLUDE ENTRY OF RELEVANT INFORMATION INTO STATE AND NATIONAL DATABASES AND APPROPRIATE COMMUNICATIONS WITH OTHER LAW ENFORCEMENT AGENCIES THAT MAY ASSIST IN LOCATING THE MISSING PERSON. IF THE MISSING PERSON IS UNDER EIGHTEEN YEARS OF AGE, THE LAW ENFORCEMENT AGENCY SHALL, WITHIN TWENTY-FOUR HOURS AFTER RECEIVING THE REPORT, NOTIFY THE COLORADO BUREAU OF INVESTIGATION PURSUANT TO SECTION 24-33.5-415.1 (3).

16-2.7-104. Unidentified human remains - reporting - DNA samples. (1) EXCEPT AS PROVIDED IN SECTION 24-80-1303, C.R.S., WITH REGARD TO ANTHROPOLOGICAL INVESTIGATIONS, A PERSON WHO HAS CUSTODY OF UNIDENTIFIED HUMAN REMAINS SHALL IMMEDIATELY NOTIFY THE CORONER OR MEDICAL EXAMINER OF THE COUNTY IN WHICH THE REMAINS ARE LOCATED AND THE SHERIFF, POLICE CHIEF, OR LAND MANAGING AGENCY OFFICIAL IN ACCORDANCE WITH SECTION 24-80-1302 (1), C.R.S.

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

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

SUITABLE FOR DNA TYPING.

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

(a) ENTER INFORMATION CONCERNING THE PHYSICAL APPEARANCE AND STRUCTURE OF THE UNIDENTIFIED HUMAN REMAINS, INCLUDING DNA TYPING INFORMATION, INTO THE NATIONAL CRIME INFORMATION CENTER DATABASE; OR

(b) WORK WITH LAW ENFORCEMENT OFFICIALS TO ENSURE THAT INFORMATION CONCERNING THE PHYSICAL APPEARANCE AND STRUCTURE OF THE UNIDENTIFIED HUMAN REMAINS, INCLUDING DNA TYPING INFORMATION, IS ENTERED INTO THE NATIONAL CRIME INFORMATION CENTER DATABASE.

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

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

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

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

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

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

30-10-622. Unidentified human remains - DNA samples. (1) IF

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

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

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

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

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

(2) The coroner OR MEDICAL EXAMINER shall conduct an on-site inquiry within forty-eight hours ~~of~~ AFTER such notification to attempt to determine whether such skeletal remains are human remains and to determine their forensic value. ~~If the coroner is unable to make such determinations, the police chief, the sheriff, the coroner, or the land managing agency official shall request the forensic anthropologist of the Colorado bureau of investigation to assist in making such determinations.~~ IF IT IS CONFIRMED THAT THE REMAINS ARE HUMAN REMAINS AND OF FORENSIC VALUE, THE CORONER OR MEDICAL EXAMINER SHALL TAKE LEGAL CUSTODY OF THE HUMAN REMAINS PURSUANT TO SECTION 30-10-606 (1.2), C.R.S. If it is confirmed that the remains are human remains but of no forensic value, the coroner OR MEDICAL EXAMINER shall notify the state archaeologist of the discovery. The state archaeologist shall recommend security measures for the site.

(3) Prior to further disturbance, the state archaeologist shall cause the human remains to be examined by a qualified archaeologist to determine

whether the remains are more than one hundred years old and to evaluate the integrity of their archaeological context. Complete documentation of the archaeological context of the human remains shall be accomplished in a timely manner.

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

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

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

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

(e) The archaeologist who conducts the disinterment will assume temporary custody of the human remains, for a period not to exceed one year from the date of disinterment, for the purpose of study and analysis. In the event that a period in excess of one year is required to complete such study and analysis, the commission shall hold a hearing and may, based upon its findings, grant an extension. During the period that the human remains are in the temporary custody of the archaeologist who conducted the disinterment, an archaeological analysis and report shall be prepared. At the same time, a physical anthropological study shall be conducted to include, but not be limited to, osteometric measurement, pathological analysis, and age, sex, and cause of death determinations. The cost of the disinterment, archaeological analysis, and physical anthropological study shall be borne by the state archaeologist except when the human remains are recovered from private lands. In the latter case, if no party can be identified who will bear the cost of such scientific study, the state archaeologist shall bear such costs.

(f) Upon completion of the studies pursuant to paragraph (e) of this

subsection (4), the state archaeologist shall consult with the commission regarding reinterment.

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

SECTION 4. Safety clause. The general assembly hereby finds,

determines, and declares that this act is necessary for the immediate preservation of the public peace, health, and safety.

Andrew Romanoff
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Joan Fitz-Gerald
PRESIDENT OF
THE SENATE

Marilyn Eddins
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Karen Goldman
SECRETARY OF
THE SENATE

APPROVED _____

Bill Owens
GOVERNOR OF THE STATE OF COLORADO