

Delaware:

TITLE 11. CRIMES AND CRIMINAL PROCEDURE
PART V. LAW-ENFORCEMENT ADMINISTRATION
CHAPTER 85. STATE BUREAU OF IDENTIFICATION
SUBCHAPTER II. MISSING PERSONS

§ 8531. Definitions

The following words, terms and phrases, when used in this subchapter, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning:

(1) "Complaint" shall mean any report, notification or information given to a law-enforcement officer that a **person is missing** or cannot, with reasonable care, be located;

(2) "**Missing person**" shall mean a **person who is missing**, and who also meets 1 of the following characteristics:

a. Such **person** is physically or mentally disabled;

b. Such **person** was, or is, in the company of another **person** under circumstances indicating that the **missing person's** safety may be in danger;

c. Such **person is missing** under circumstances indicating that the disappearance was not voluntary;

d. Such **person** is an unemancipated minor.

(3) "Unemancipated minor" shall mean a minor who has not married, and who resides with a parent or other legal guardian.

§ 8532. Original complaint

A missing person complaint may be made to any county, town, city or state law-enforcement agency or any other appropriate state agency. Such complaint shall state the age of the missing person. When an agency has received a missing person complaint, such agency shall immediately disseminate all known facts concerning the missing person to all county and state law-enforcement agencies, and to any other law-enforcement agency which may be appropriate. A new missing person complaint shall have high priority.

§ 8533. Law-enforcement reports

The law-enforcement agency which has primary jurisdiction in the area from which a missing person complaint has been filed shall prepare, as soon as practicable, a report on the missing person. Such report shall include, but is not limited to, the following:

(1) All information contained in the original complaint;

(2) All information or evidence gathered by the preliminary investigation, if one was made;

(3) A statement, by the law-enforcement officer in charge, setting forth that officer's assessment of the case, based upon all evidence and information received;

(4) Any additional, supplemental or unusual information which the agency feels may be of importance in locating the missing person.

§ 8534. Dissemination of missing person report

Upon completion of the missing person report, the law-enforcement agency shall send a copy of the report to:

- (1) Each law-enforcement officer having jurisdiction over the location in which the missing person lives, or was last seen;
- (2) Each state agency which the reporting law-enforcement agency considers to be potentially involved, and each private agency known to the law-enforcement agency which has, as a part of its functions, the searching for or location of missing persons;
- (3) Each state agency to which the nearest relative to the missing person, or the complaint if no relative is located, requests that the report be sent; provided, however, that the forwarding of any report under this section shall be at the discretion of the law-enforcement agency;
- (4) Each law-enforcement agency which requests a copy of the missing person report.

§ 8535. Unemancipated minors

- (a) If a report of a missing person involves an unemancipated minor, the law-enforcement agency shall immediately transmit all proper information for inclusion into the National Crime Information Center (N.C.I.C.) computer.
- (b) If a report of a missing person involves an unemancipated minor, the law-enforcement agency shall not prevent an immediate active investigation on the basis of any agency rule which specifies an automatic time limitation for a missing person investigation.

§ 8536. Dental records

Each law-enforcement agency shall be provided with dental authorization forms, promulgated by the Attorney General, which when signed by a parent or guardian of a minor shall permit release of dental records to law-enforcement authorities. Where the missing person complaint indicates that the missing person is under 18 years of age, a properly executed dental authorization shall be taken to the family dentist and any other dentist who has records which would assist in identification of the missing person. Such dental identification shall be disseminated to the Medical Examiner and all other appropriate state agencies.

§ 8537. Unidentified deceased persons -- Duties of law-enforcement agency

It shall be the duty of every law-enforcement agency to:

- (1) Acquire, collect, classify and preserve any information which would assist in the identification of any deceased individual who has not been identified after the discovery of such deceased individual;
- (2) Acquire, collect, classify and preserve immediately any information which would assist in the location of any missing person, including any minor, and provide confirmation as to any entry to the parent, legal guardian or next of kin of such person; and the agency shall acquire, collect, classify and preserve such information as it deems necessary from each such parent, guardian or next of kin; and
- (3) Exchange such records and information as are provided for in this section with other law-enforcement agencies of this State, of any other state, or of the United States. With respect to

missing minors, such information shall be transmitted immediately to other law-enforcement agencies.

§ 8538. Unidentified deceased persons -- Fingerprints

The Medical Examiner shall promptly furnish the Department of Safety and Homeland Security with copies of the fingerprints of each unidentified deceased person. The copies of such fingerprints shall be on standardized cards, and shall be accompanied by descriptions and other identifying data, including any available information concerning the date and place of death. In any instance where it is not physically possible to furnish prints of all 10 fingers, the prints or partial prints of any fingers, together with identifying data, shall be forwarded by the Medical Examiner to the Department.

TITLE 11. CRIMES AND CRIMINAL PROCEDURE
PART V. LAW-ENFORCEMENT ADMINISTRATION
CHAPTER 85. STATE BUREAU OF IDENTIFICATION
SUBCHAPTER III. MISSING CHILDREN INFORMATION CLEARINGHOUSE

§ 8541. Established

The Missing Children Information Clearinghouse, hereinafter referred to as "Clearinghouse," is created within the State Bureau of Identification. The Clearinghouse is established as a central repository of information regarding missing children. Such information shall be collected and disseminated to assist in the location of missing children. The Director of the State Bureau of Identification shall establish services deemed appropriate by the Superintendent of State Police to aid in the location of missing children.

§ 8542. Definitions

As used in this subchapter:

(1) "Missing child" means any person who is under the age of 18 years, whose temporary or permanent residence is in Delaware, or is believed to be in Delaware, whose location has not been determined, and who has been reported as missing to a law-enforcement agency.

(2) "Missing child report" is a report prepared on a form designed by the Clearinghouse for use by private citizens and law-enforcement agencies to report missing children information to the Clearinghouse.

§ 8543. Duties

The Clearinghouse shall:

(1) Provide a form of missing child report for use by private citizens and law-enforcement agencies;

(2) Establish a system of interstate communication of information relating to children determined to be missing by the parent, guardian or legal custodian of the child, or by a law-enforcement agency;

(3) Provide a centralized file for the exchange of information of missing children within the State;

(4) Interface with the National Crime Information Center for the exchange of information on a missing child suspected of interstate travel;

(5) Collect, process, maintain and disseminate information on missing children and strive to maintain or disseminate only accurate and complete information.

§ 8544. Filing missing child reports; notification upon location; purging information; return of fingerprints

(a) Every sheriff, constable, chief police officer, officer in charge, member of the State Police and other law-enforcement agency and officer of the State and of any local governmental unit shall immediately accept and act upon information on any missing child by police radio broadcasts and by causing missing child entries into DELJIS and NCIC and shall transmit information to the Clearinghouse, so far as available, on a missing child report concerning a missing child within 24 hours after receipt thereof.

(b) Any parent, guardian or legal custodian may submit a missing child report to a local law-enforcement agency having jurisdiction for investigation and referral of the missing child report to the Clearinghouse on any child whose whereabouts is unknown, regardless of the circumstances, which shall be included in the Clearinghouse data base.

(c) The parent, guardian or legal custodian responsible for notifying the Clearinghouse or a law-enforcement agency of a missing child shall immediately notify such agency or the Clearinghouse of any child whose location has been determined.

(d) Information received pursuant to this section shall be purged by the appropriate law-enforcement agency and the Clearinghouse immediately upon location of a missing child who has been included in the Clearinghouse database. Any fingerprints of a missing child provided to a law-enforcement agency or the Clearinghouse by a parent, guardian or legal custodian shall be returned to the person providing them upon location of a missing child.

TITLE 16. HEALTH AND SAFETY
PART II. REGULATORY PROVISIONS CONCERNING PUBLIC HEALTH
CHAPTER 9. ABUSE OF CHILDREN
SUBCHAPTER I. REPORTS AND INVESTIGATIONS OF ABUSE AND NEGLECT;
CHILD PROTECTION ACCOUNTABILITY COMMISSION

§ 907A. Safe Arms for Babies [Expiration effective July 9, 2006. See notes.]

(a) The General Assembly finds and declares that the abandonment of a baby is an irresponsible act by parent(s) and places the baby at risk of injury or death from exposure, actions by other individuals, and harm from animals. However, the General Assembly does recognize that delivering a live baby to a safe place is far preferable to a baby killed or abandoned by the parent(s). The General Assembly further finds and declares that the purpose of this section is not to circumvent the responsible action of parent(s) who adhere to the current process of placing the baby for adoption, but to prevent the unnecessary risk of harm to or death of that baby by desperate parent(s) who would otherwise abandon or cause the death of that baby. The General Assembly further finds and declares that medical information about the baby and the baby's parent(s) is critical for the adoptive parents and that every effort should be made, without risking the safe placement of the baby, to obtain that medical information and provide counseling information to those parent(s). The General Assembly further finds and declares that if this section does not result in the safe placement of such babies or is abused by parent(s) attempting to circumvent the current process of adoption, it should be repealed.

(b) A person may voluntarily surrender a baby directly to an employee or volunteer of the emergency department of a Delaware hospital inside of the emergency department, provided that said baby is surrendered alive, unharmed and in a safe place therein.

(c) A Delaware hospital shall be authorized to take temporary emergency protective custody of the baby who is surrendered pursuant to this section. The person who surrenders the baby shall not be required to provide any information pertaining to his or her identity, nor shall the hospital inquire as to same. If the identity of the person is known to the hospital, the hospital shall keep the identity confidential. However, the hospital shall either make reasonable efforts to directly obtain pertinent medical history information pertaining to the baby and the baby's family or attempt to provide the person with a postage paid medical history information questionnaire.

(d) The hospital shall attempt to provide the person leaving the baby with the following:

(1) Information about the Safe Arms program;

(2) Information about adoption and counseling services, including information that confidential adoption services are available and information about the benefits of engaging in a regular, voluntary adoption process; and

(3) Brochures with telephone numbers for public or private agencies that provide counseling or adoption services.

(e) The hospital shall attempt to provide the person surrendering the baby with the number of the baby's identification bracelet to aid in linking the person to the baby at a later date, if reunification is sought. Such an identification number is an identification aid only and does not permit the person possessing the identification number to take custody of the baby on demand.

(f) If a person possesses an identification number linking the person to a baby surrendered at a hospital under this section and parental rights have not already been terminated, possession of the identification number creates a presumption that the person has standing to participate in an action. Possession of the identification number does not create a presumption of maternity, paternity or custody.

(g) Any hospital taking a baby into temporary emergency protective custody pursuant to this section shall immediately notify the Division and the State Police of its actions. The Division shall obtain ex parte custody and physically appear at the hospital within 4 hours of notification under this subsection unless there are exigent circumstances. Immediately after being notified of the surrender, the State Police shall submit an inquiry to the Delaware Missing Children Information Clearinghouse.

(h) The Division shall notify the community that a baby has been abandoned and taken into temporary emergency protective custody by publishing notice to that effect in a newspaper of statewide circulation. The notice must be published at least 3 times over a 3-week period immediately following the surrender of the baby unless the Division has relinquished custody. The notice, at a minimum, shall contain the place, date and time where the baby was surrendered, the baby's sex, race, approximate age, identifying marks, any other information the Division deems necessary for the baby's identification, and a statement that such abandonment shall be:

(1) The surrendering person's irrevocable consent to the termination of all parental rights, if any, of such person on the ground of abandonment; and

(2) The surrendering person's irrevocable waiver of any right to notice of or opportunity to participate in any termination of parental rights proceeding involving such child, unless such surrendering person manifests an intent to exercise parental rights and responsibilities within 30 days of such abandonment.

(i) When the person who surrenders a baby pursuant to this section manifests a desire to remain anonymous, the Division shall neither initiate nor conduct an investigation to determine the identity of such person, and no court shall order such an investigation unless there is good cause to suspect child abuse or neglect other than the act of surrendering such baby.

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