

# New York

## EXECUTIVE LAW ARTICLE 35. DIVISION OF CRIMINAL JUSTICE SERVICES

### § 837-e. Statewide central register for missing children

1. There is hereby established through electronic data processing and related procedures, a statewide central register for missing children which shall be compatible with the national crime information center register maintained pursuant to the federal missing children act of nineteen hundred eighty-two, such missing child hereinafter defined as any person under the age of eighteen years missing from his or her normal and ordinary place of residence and whose whereabouts cannot be determined by a person responsible for the child's care and any child known to have been taken, enticed or concealed from the custody of his or her lawful guardian by a person who has no legal right to do so.

1-a. (a) Upon the entry of a report of a missing child born in New York into the register, the division shall notify the commissioner of the state department of health or if the child was born in the city of New York, the commissioner of the New York city department of health, of such entry and shall provide such commissioner with information concerning the identity of the missing child and request that the birth certificate record of such child be flagged in accordance with section four thousand one hundred of the public health law.

(b) If the division has reason to believe that a missing child has at any time been enrolled in a New York school, it shall notify the last known school at which time the school shall flag the missing child's schooling record in accordance with section three thousand two hundred twenty-two of the education law. If the division has reason to believe that a child who is listed as a missing child is currently enrolled in and attending a New York school, it shall notify the school and upon receiving notification, such school shall immediately notify the statewide central register for missing children within the division of criminal justice services.

(c) Upon learning of the recovery of any missing child whose birth certificate record or schooling record has been flagged as the result of notification made pursuant to this subdivision, the division shall so notify the state commissioner of health or if the child was born in the city of New York, the commissioner of the New York city department of health, and the school as appropriate.

2. The following may make inquiries to determine if any entries in the register or in the national crime information center register could match the subject of the inquiry:

(a) a police or criminal justice agency investigating a report of a missing or unidentified child, whether living or deceased; and

(b) the agency licensing, certifying or registering a family day care home, day care center or head start program funded pursuant to Title V of the Federal Economic Opportunity Act of nineteen hundred sixty-four as amended, when an operator or director of such program has reasonable

cause to believe that a child in attendance at the home, center or program may be a missing person provided, however, that upon notification that such child appears to match a child registered herein such agency shall immediately notify such operator or director to contact an appropriate local criminal justice agency; and

(c) a district attorney or a county medical examiner or coroner upon a showing that information contained in the register may be necessary for the determination of an issue regarding a missing or unidentified child; and

(d) an authorized agency or state official pursuant to subdivision seven of section three hundred seventy-two of the social services law; and

(e) a superintendent of schools or his authorized representative pursuant to paragraph a of subdivision two of section three thousand two hundred twelve of the education law. No civil or criminal liability shall arise or attach to any school district or employee thereof for any act or omission to act as a result of, or in connection with, the duties or activities authorized or directed by this paragraph.

3. The central register shall contain all available identifying data of any child including, but not limited to, fingerprints, blood types, dental information, and photographs subject to the following conditions:

(a) Except as provided for in paragraph (c) of this subdivision and in section eight hundred thirty-seven-f of this article, the data contained in the register shall be confidential.

(b) Any person who knowingly and intentionally permits the release of any data and information contained in the central register to persons or agencies not permitted by this title shall be guilty of a class A misdemeanor.

(c) Such data may be made available only to:

(i) a police or criminal justice agency investigating a report of a missing child or unidentified child, whether living or deceased;

(ii) the public at large, to expedite the finding of a missing child, when the parent or legal guardian of such a child provides written authorization to the investigating police department for the release of such data except when, according to such department, the release of such data would jeopardize the investigation or the safety of the child. When such department deems the release of such data to be appropriate, it shall transmit such written authorization to the division; and

(iii) any qualified person engaged in bona fide research when approved by the commissioner, provided that the researcher in no event disclose information tending to identify the child or his or her family or caregiver.

4. The commissioner shall promulgate rules and regulations:

(a) insuring the timeliness, completeness and confidentiality of the data contained in the register;

(b) prescribing the manner in which entries to the register shall be made and updated as the investigation progresses;

(c) prescribing the form and manner in which entries and inquiries to the register and notices to other agencies and entities shall be made and processed;

(d) insuring that criminal justice agencies and agencies defined by subdivision seven of section three hundred seventy-two of the social services law making inquiries to the register will be promptly informed if any entries in the statewide central register or in the national crime information center register could match the subject of the inquiry;

(e) insuring the proper disposition of all obsolete register data, provided however that such data for a person who has reached the age of eighteen and remains missing shall be preserved; and

(f) linking the register with the national crime information center register.

5. The division shall not charge a fee for inquiries made pursuant to this section.

6. When a person previously reported missing has been found alive and there is no ground for criminal action, the superintendent of state police, sheriff, chief of police, coroner or medical examiner, or other criminal justice agency shall purge and destroy identifying material contained in such records and documents with respect to such person which are made and maintained pursuant to this section and shall report to the division that the person has been found and that the identifying materials contained in such records and documents have been so purged or destroyed. After receiving such a report, the division shall purge identifying material contained in such records with respect to such person and/or destroy any identifying material contained in documents which are maintained pursuant to this section.

#### § 837-f. Missing and exploited children clearinghouse

There is hereby established within the division a missing and exploited children clearinghouse to provide a comprehensive and coordinated approach to the tragic problems of missing and exploited children. In addition to the activities of the statewide central register for missing children, the commissioner shall be authorized to:

1. Plan and implement programs to ensure the most effective use of federal, state and local resources in the investigation of missing and exploited children;

2. Exchange information and resources with other states, and within New York state, concerning missing and exploited children;

3. Establish a case data base which will include nonidentifying information on reported children and facts developed in the phases of a search, and analyze such data for the purposes of: assisting law enforcement in their current investigations of missing and exploited children, developing prevention programs and increasing understanding of the nature and extent of the problem; and

share the data and analysis on a regular basis with the National Center for Missing and Exploited Children;

4. Disseminate a directory of resources to assist in the locating of missing children;

5. Cooperate with public and private schools and organizations to develop education and prevention programs concerning child safety for communities, parents and children;

6. Provide assistance in returning recovered children who are located out-of-state;

7. By January first, nineteen hundred eighty-seven arrange for the development of a curriculum for the training of law enforcement personnel investigating cases involving missing and exploited children;

8. Assist federal, state and local agencies in the investigation of cases involving missing and exploited children;

9. Utilize available resources to duplicate photographs and posters of children reported as missing by police and with consent of parents, guardians or others legally responsible, disseminate this information throughout the state;

10. Beginning on January first, nineteen hundred eighty-seven, disseminate, on a regular basis, a bulletin containing information on children in the missing children's register to the state education department which shall then forward such bulletin to every public and private school where parents, guardians or others legally responsible for such children have given consent;

10-a. (Added, L 1997)

(a) By November first, nineteen hundred ninety-seven prescribe general guidelines to enable the state legislature and state agencies to assist in the location and recovery of missing children. The guidelines shall provide information relating to:

(i) the form and manner in which materials and information pertaining to missing children including but not limited to biographical data and pictures, sketches or other likenesses may be included in stationery, newsletters and other written or electronic printings;

(ii) appropriate sources from which such materials and information may be obtained;

(iii) the procedures by which such materials and information may be obtained; and

(iv) any other matter the clearinghouse considers appropriate.

(b) By January first, nineteen hundred ninety-eight arrange for the transmission of biographical information and pictures, sketches or other likenesses of missing children to state agencies, departments and the legislature to use in printings.

11. Operate a toll-free twenty-four hour hotline for the public to use to relay information concerning missing children;

12. Submit an annual report to the governor and legislature regarding the activities of the clearinghouse including statistical information involving reported cases of missing children pursuant to section eight hundred thirty-seven-m of this article and a summary of the division's

efforts with respect to the use of monies from the missing and exploited children clearinghouse fund created pursuant to section ninety-two-w of the state finance law; and

13. Take such other steps as necessary to assist in education, prevention, service provision and investigation of cases involving missing and exploited children.

14. (Added, L 2002)

(a) In consultation with the division of state police and other appropriate agencies, develop, and regularly update and distribute, model missing child prompt response and notification plans, which shall be available for use, in their discretion, as appropriate, by local communities and law enforcement personnel. Such plans shall involve a pro-active, coordinated response, planned in advance, that may be promptly triggered by law enforcement personnel upon confirmation by a police officer, peace officer or police agency of a report of a missing child, as defined in subdivision one of section eight hundred thirty-seven-e of this article.

(b) Such plans shall, at a minimum, provide that:

(i) the name of such missing child, a description of the child and other pertinent information may be promptly dispatched over the police communication system, pursuant to subdivision three of section two hundred twenty-one of this chapter;

(ii) such information may be immediately provided orally, electronically or by facsimile transmission to one or more radio stations and other broadcast media outlets serving the community including, but not limited to, those which have voluntarily agreed, in advance, to promptly notify other such radio stations and other broadcast media outlets in like manner;

(iii) participating radio stations and other participating broadcast media outlets serving the community may voluntarily agree to promptly broadcast a missing child alert providing pertinent details concerning the child's disappearance, breaking into regular programming where appropriate;

(iv) police agencies not connected with the basic police communication system in use in such jurisdiction may transmit such information to the nearest or most convenient electronic entry point, from which point it may be promptly dispatched, in conformity with the orders, rules or regulations governing the system; and

(v) no dispatch or transmission of a report concerning a missing child shall be required by such plan if the investigating police department advises, in its discretion, that the release of such information may jeopardize the investigation or the safety of the child, or requests forbearance for any reason.

(c) The commissioner shall also designate a unit within the division that shall assist law enforcement agencies and representatives of radio stations and broadcast media outlets in the design, implementation and improvement of missing child prompt response and notification plans.

(d) The commissioner shall also maintain and make available to appropriate state and local law enforcement agencies up-to-date information concerning technological advances that may assist in facilitating the recovery of missing children. Such information shall include, but not be limited to, technology using computer assisted imaging to "age enhance" photographs of missing children, and technology that may be used to enter such photographs and other pertinent information concerning missing children into a database accessible to appropriate officials and persons.

§ 837-m. \*Reporting duties of law enforcement departments with respect to missing children  
\* There are two sections 837-m.

The chief of every police department, each county sheriff and the superintendent of state police shall report, at least semi-annually, to the division with respect to specified cases of missing children that are closed. Such reports shall be in the form and manner prescribed by the division and shall contain such information as the division deems necessary including, but not limited to, information regarding recovered children who were arrested, children who were the victims of criminal activity or exploitation and children who were found deceased and information regarding the alleged abductor or killer of such children.

PUBLIC HEALTH LAW  
ARTICLE 41. VITAL STATISTICS  
TITLE I. GENERAL PROVISIONS

§ 4100. Vital statistics; functions, powers and duties of the department, commissioner and public health council

1. The department shall, except in the city of New York:
  - (a) have charge of the registration of births and deaths;
  - (b) procure the faithful registration of births and deaths;
  - (c) provide the necessary instructions and forms for obtaining and preserving records of births and deaths; and,
  - (d) be charged with the uniform and thorough enforcement of the provisions of this article throughout the state.
2. The commissioner shall:
  - (a) have general supervision of vital statistics;
  - (b) provide suitably equipped offices for the permanent and safe preservation of all records received or made under the provisions of this article;
  - (c) prepare, print, and supply to all registrars all forms used in registering, recording and preserving the returns, or in otherwise carrying out the purposes of this article;
  - (d) prepare and issue such detailed instructions, not inconsistent with the sanitary code, as may be required to procure the uniform observance of the provisions of this article and the maintenance of a good system of registration;

(e) examine the certificates received monthly and if any such are incomplete or unsatisfactory, he shall require such further information to be supplied as may be necessary to make the record complete and satisfactory;

(f) arrange, and permanently preserve the certificates in a systematic manner;

(g) prepare and maintain a complete typewritten, printed, photographic or magnetically stored index of all births and deaths registered; said index to be arranged, in the case of deaths, by the names of decedents, and in the case of births, by the names of fathers, or the names of mothers if the names of the fathers do not appear; and

(h) prescribe and prepare the necessary methods and forms for obtaining and preserving records and statistics of autopsies which are conducted by a coroner or by a medical examiner, or by his order, within the state of New York, and shall require all those performing such autopsies, for the purpose of determining the cause of death or the means or manner of death, to enter upon such record the pathological appearances and findings embodying such information as may be prescribed, and to append thereto the diagnosis of the cause of death and the means or manner of death.

(i) upon notification by the division of criminal justice services that a person who was born in the state is a missing child, flag the certificate record of that person in such manner that whenever a copy of the record is requested, he or she shall be alerted to the fact that the record is that of a missing child. The commissioner shall also notify the appropriate registrar to likewise flag his or her records. The commissioner or registrar shall immediately report to the local law enforcement authority and the division of criminal justice services any request concerning flagged birth records or knowledge as to the whereabouts of any missing child. Upon notification by the division of criminal justice services that the missing child has been recovered, the commissioner shall remove the flag from the person's certificate record and shall notify any other previously notified registrar to remove the flag from his or her record. In the city of New York, the commissioner of the department of health for the city of New York shall implement the requirements of this paragraph.

3. The public health council may from time to time establish such rules and regulations in the sanitary code supplementary to the provisions of this article and not inconsistent therewith, as it may deem necessary, in relation to the registration of births, deaths and fetal deaths. Such rules and regulations shall be observed by all persons upon whom duties are imposed by this chapter in connection with the registration of births, deaths and fetal deaths.

#### § 4104. Vital statistics; application of article

The provisions of this article except for the provisions contained in paragraph (i) of subdivision two of section four thousand one hundred [fig 1] , section four thousand one hundred three, subdivision two of section four thousand one hundred thirty-five, section four thousand one hundred thirty-five-b, subdivision eight of section four thousand one hundred seventy-four,

paragraphs (b) and (e) of subdivision one of section four thousand one hundred thirty-eight, and section four thousand one hundred seventy-nine, shall not apply to the city of New York.

PUBLIC HEALTH LAW  
ARTICLE 41. VITAL STATISTICS  
TITLE VII. VITAL STATISTICS RECORDS

§ 4170. Records; general duties of registrars

Each registrar shall:

- (a) supply blank forms of certificate to such persons as require them;
- (b) examine each certificate of birth or death when presented for record in order to ascertain whether or not it has been made out in accordance with the provisions of this article and the instructions of the commissioner;
- (c) number consecutively the certificates of birth and death, in two separate series, beginning with the number one for the first birth and the first death, in each calendar year, and sign his name as registrar in attest of the date of filing in his office;
- (d) make a complete and accurate copy of each birth and death certificate registered by him in such form as approved by the commissioner;
- (e) file the permit for each burial, or cremation or other disposition of bodies of deceased persons in his district as the local record, in such manner as directed by the commissioner and which shall be subject to disposition at such time and in such manner as may be prescribed by rules and regulations promulgated by the commissioner;
- (f) at such times as the commissioner shall direct, and as otherwise ordered by the commissioner as provided in section four thousand one hundred seventy-two of this chapter transmit to the commissioner all original certificates, including reports of foundlings, as required by section three hundred ninety-eight of the social services law, and orders relating to parentage registered by him;
- (g) maintain a count of reports of fetal death with such reports to be destroyed at the end of each month.
- (h) immediately notify the division of criminal justice services in the event that a copy of a birth certificate or information concerning the birth records of any person whose record is flagged pursuant to paragraph (i) of subdivision two of section four thousand one hundred of this article is requested. In the event that a copy of the birth certificate of a person whose record is so flagged is requested in person, the registrar's personnel accepting the request shall immediately notify his or her supervisor who shall notify the local law enforcement agency and department in accordance with regulations promulgated by the department. The person making the request shall complete a form as prescribed by the commissioner, which shall include the name, address,

telephone numbers and social security numbers [number] \* of the person making the request. A motor vehicle operator's license, or if such license is not available, such other identification as the commissioner determines to be satisfactory, shall be presented, photocopied and returned to him or her. When a copy of the birth certificate of a person whose record has been flagged is requested in writing, the registrar shall notify the local law enforcement agency and the department in accordance with regulations promulgated by the department.

STATE FINANCE LAW  
ARTICLE 6. FUNDS OF THE STATE

NY CLS St Fin § 92-w

§ 92-w. [n1]Missing and exploited children clearinghouse fund

1. A special fund to be known as the "missing and exploited children clearinghouse fund" is hereby established in the custody of the state comptroller and the commissioner of taxation and finance.
2. The fund shall consist of all monies transferred to such fund pursuant to law, all monies required by any provision of law to be paid into or credited to the fund, all moneys from gifts pursuant to section six hundred twenty-eight of the tax law and any interest earnings which may accrue from the investment of monies in the fund. Nothing contained herein shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.
3. Monies of the fund, when allocated, shall be available to the division of criminal justice services for the enhancement of public information and prevention education efforts including production of print, video and radio advertising materials, brochures, pamphlets and outdoor advertising, or for any other activity or purpose that will aid in the prevention of the exploitation of children or in the recovery of missing and exploited children, as deemed necessary by the missing and exploited children clearinghouse created pursuant to section eight hundred thirty-seven-f of the executive law.
4. Monies shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the director of the division of criminal justice services.

NEW YORK STATE PRINTING AND PUBLIC DOCUMENTS LAW  
ARTICLE 2. GENERAL PROVISIONS

NY CLS St Print § 3-a

§ 3-a. Assistance in locating missing children

Every state agency shall consult with the missing and exploited children clearinghouse on means by which public printing including stationery, newsletters and other written or electronic

printings may be used to assist in the location of missing children in conformance with the guidelines prescribed in section eight hundred thirty-seven-f of the executive law.

#### § 4. Legislative printing

1. The legislative printing shall be further divided into two sub-parts to be known as legislative printing for the legislature and legislative printing for the executive.

2. Legislative printing for the legislature shall include, but not be limited to or restricted to the printing, publication and binding of the following:

(a) bills of the legislature;

(b) amended bills of the legislature;

(c) journals;

(d) session laws;

(e) state of New York legislative digest; [fig 1] and

(f) other legislative documents as may be ordered by the legislature through the commissioner.

Prior to the advertisement for [fig 1] bids for any of the foregoing, the commissioner shall give timely written notice to the temporary president of the senate and the speaker of the assembly or a legislative employee designated by them, apprising them of the date of such prospective advertisement and the date by which he must be in receipt of their joint requirements of the terms, conditions and specifications to be contained in the bid specifications and any contract let thereon. Such joint requirements may be developed in consultation with the commissioner and reliance upon his expert advice. [fig 2]

3. Legislative printing for the executive shall include, but not be limited or restricted to the printing, publication and binding of the following:

(a) bills of appropriation in support of government submitted by the governor;

(b) executive budget;

(c) messages from the governor; and

(d) other documents as may be included in the bid proposal.

The commissioner shall prescribe the terms, conditions and specifications to be contained in the bid specifications and any contract let thereon for the legislative printing for the executive.

4. The contract for legislative printing may provide for the printing of additional copies of bills for sale to persons, firms, corporations or associations requesting the same. Such price shall not exceed the per page price fixed for additional copies ordered by the legislature by resolution for its own use.

5. In consultation with the missing and exploited children clearinghouse, the temporary president of the senate and speaker of the assembly shall prescribe procedures in which printing including stationery, newsletters and other written or electronic printings may be used to assist in the location of missing children in conformance with the guidelines prescribed in section eight hundred thirty-seven-f of the executive law.

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