

1 SENATE BILL 429

2 **51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013**

3 INTRODUCED BY

4 Linda M. Lopez

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10 AN ACT

11 RELATING TO MISSING PERSONS; CLARIFYING THAT A VICTIM OF
12 DOMESTIC ABUSE WHO VOLUNTARILY FLEES IS NOT A MISSING PERSON;
13 PROVIDING THAT A LAW ENFORCEMENT AGENCY SHALL NOT PROVIDE
14 INFORMATION, SEEK TO LOCATE OR ENTER INFORMATION INTO THE
15 MISSING PERSONS CLEARINGHOUSE REGARDING A VICTIM OF DOMESTIC
16 VIOLENCE WHO IS VOLUNTARILY MISSING; RECONCILING MULTIPLE
17 AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2010; RECONCILING
18 CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2010
19 BY REPEALING LAWS 2010, CHAPTER 32, SECTION 3.
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21 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

22 SECTION 1. Section 29-15-2 NMSA 1978 (being Laws 1995,
23 Chapter 146, Section 2, as amended by Laws 2010, Chapter 32,
24 Section 2 and by Laws 2010, Chapter 33, Section 3) is amended
25 to read:

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1 "29-15-2. DEFINITIONS.--As used in the Missing Persons
2 Information and Reporting Act:

3 A. "child" means an individual under the age of
4 eighteen years who is not emancipated;

5 B. "clearinghouse" means the missing persons
6 information clearinghouse;

7 C. "custodian" means a parent, guardian or other
8 person who exercises legal physical control, care or custody of
9 a child;

10 D. "endangered person" means a missing person who:

11 (1) is in imminent danger of causing harm to
12 the person's self;

13 (2) is in imminent danger of causing harm to
14 another;

15 (3) is in imminent danger of being harmed by
16 another or who has been harmed by another;

17 (4) has been a victim of [~~a crime as provided~~
18 ~~in the Crimes Against Household Members Act or in Section~~
19 ~~30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any~~
20 ~~other jurisdiction;~~

21 ~~(5) is or was protected by an order of~~
22 ~~protection pursuant to the Family Violence Protection Act]~~
23 domestic abuse and did not voluntarily flee; or

24 [~~(6)~~] (5) has Alzheimer's disease or another
25 degenerative brain disorder;

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1 E. "immediate family member" means the spouse,
2 nearest relative or close friend of a person;

3 F. "law enforcement agency" means a law enforcement
4 agency of the state, a state agency or a political subdivision
5 of the state;

6 G. "lead station" means an AM radio station that
7 has been designated as the "state primary station" by the
8 federal communications commission for the emergency alert
9 system;

10 H. "missing person" means a person whose
11 whereabouts are unknown to the person's custodian or immediate
12 family member and the circumstances of whose absence indicate
13 that:

14 (1) the person did not leave the care and
15 control of the custodian or immediate family member voluntarily
16 and the taking of the person was not authorized by law; or

17 (2) the person voluntarily left the care and
18 control of the custodian without the custodian's consent and
19 without intent to return;

20 I. "missing person report" means information that
21 is:

22 (1) given to a law enforcement agency on a
23 form used for sending information to the national crime
24 information center; and

25 (2) about a person whose whereabouts are

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1 unknown to the reporter and who is alleged in the form
2 submitted by the reporter to be missing;

3 J. "person" means an individual, regardless of age;

4 K. "possible match" means the similarities between
5 unidentified human remains and a missing person that would lead
6 one to believe they are the same person;

7 L. "reporter" means the person who reports a
8 missing person;

9 M. "state agency" means an agency of the state, a
10 political subdivision of the state or a public post-secondary
11 educational institution; ~~and~~

12 N. "state registrar" means the employee so
13 designated by the public health division of the department of
14 health pursuant to the Vital Statistics Act; and

15 O. "victim of domestic abuse" means a person who
16 has been a victim of a crime as provided in the Crimes Against
17 Household Members Act or in Section 30-3A-3 or 30-3A-3.1 NMSA
18 1978, or their equivalents in any other jurisdiction, or a
19 person who is or was protected by an order of protection
20 pursuant to the Family Violence Protection Act."

21 SECTION 2. Section 29-15-5 NMSA 1978 (being Laws 1995,
22 Chapter 146, Section 5, as amended) is amended to read:

23 "29-15-5. CUSTODIAN OR IMMEDIATE FAMILY MEMBER REQUEST
24 FOR INFORMATION.--

25 A. Upon written or oral request to a law

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1 enforcement agency by a custodian or immediate family member of
2 a missing person, and after determining that the missing person
3 was not a victim of domestic abuse who voluntarily fled, the
4 law enforcement agency shall immediately request from the
5 clearinghouse information concerning the missing person that
6 may aid the custodian or immediate family member in the
7 identification or location of the missing person.

8 B. A law enforcement agency to which a request has
9 been made pursuant to Subsection A of this section shall report
10 to the custodian or immediate family member on the results of
11 its inquiry to the clearinghouse within seven calendar days
12 after the day the request is received by the law enforcement
13 agency, or as soon as the results of its inquiry become
14 available, whichever occurs last; provided that the law
15 enforcement agency shall not report any information about a
16 missing person if the law enforcement agency has reason to
17 believe that the missing person is a victim of domestic abuse
18 who has voluntarily fled."

19 SECTION 3. Section 29-15-7 NMSA 1978 (being Laws 1995,
20 Chapter 146, Section 7, as amended by Laws 2010, Chapter 32,
21 Section 3 and by Laws 2010, Chapter 33, Section 7) is amended
22 to read:

23 "29-15-7. LAW ENFORCEMENT REQUIREMENTS--MISSING PERSON
24 REPORTS--UNIDENTIFIED HUMAN REMAINS.--

25 A. Except as provided in Subsection C of this

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1 section, a law enforcement agency shall accept without delay
2 and without exception for any reason any report of a missing
3 person and, no later than two hours after receiving a missing
4 person report or additional or supplemental information for the
5 report, shall:

6 (1) start an appropriate investigation to
7 determine the present location of the missing person and to
8 determine whether the missing person is an endangered person;

9 (2) provide to the clearinghouse all
10 information the law enforcement agency has relating to an
11 investigation regarding or the location or identification of a
12 missing person;

13 (3) enter the name of the missing person into
14 the clearinghouse and the national crime information center
15 missing person file; and

16 (4) if the missing person is determined to be
17 an endangered person, notify the department of public safety in
18 accordance with procedures prescribed by the department.

19 B. Information not immediately available shall be
20 obtained as soon as possible by the law enforcement agency and,
21 no later than two hours after receipt of the information,
22 entered into the clearinghouse and the national crime
23 information center file as a supplement to the original entry.

24 C. Subsections A and B of this section shall not
25 apply to a missing person who is a victim of domestic abuse if

