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SENATE BILL 473

**50TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2011**

INTRODUCED BY

Linda M. Lopez

AN ACT

RELATING TO MISSING PERSONS; CLARIFYING THAT A VICTIM OF  
DOMESTIC ABUSE WHO VOLUNTARILY FLEES IS NOT A MISSING PERSON;  
PROVIDING THAT A LAW ENFORCEMENT AGENCY SHALL NOT PROVIDE  
INFORMATION, SEEK TO LOCATE OR ENTER INFORMATION INTO THE  
MISSING PERSONS CLEARINGHOUSE REGARDING A VICTIM OF DOMESTIC  
VIOLENCE WHO IS VOLUNTARILY MISSING; RECONCILING MULTIPLE  
AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2010; RECONCILING  
CONFLICTING AMENDMENTS TO THE SAME SECTION OF LAW IN LAWS 2010  
BY REPEALING LAWS 2010, CHAPTER 32, SECTION 3.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

**SECTION 1.** Section 29-15-2 NMSA 1978 (being Laws 1995,  
Chapter 146, Section 2, as amended by Laws 2010, Chapter 32,  
Section 2 and by Laws 2010, Chapter 33, Section 3) is amended  
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

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1 the law enforcement agency has reason to believe that the  
2 person has voluntarily fled.

3           [~~G-~~] D. All New Mexico law enforcement agencies are  
4 required to enter information about all unidentified human  
5 remains found in their jurisdiction into the clearinghouse and  
6 the national crime information center unidentified person file,  
7 including all available identifying features of the human  
8 remains and a description of the clothing found on the human  
9 remains. If an information entry into the national crime  
10 information center file results in an automatic entry of the  
11 information into the clearinghouse, the law enforcement agency  
12 is not required to make a direct entry of that information into  
13 the clearinghouse."

14           SECTION 4. REPEAL.--Laws 2010, Chapter 32, Section 3 is  
15 repealed.

16           SECTION 5. EFFECTIVE DATE.--The effective date of the  
17 provisions of this act is July 1, 2011.