

4533

2009-2010 Regular Sessions

I N A S S E M B L Y

February 4, 2009

Introduced by M. of A. MAYERSOHN, GALEF, AUBRY, MARKEY, GUNTHER --
Multi-Sponsored by -- M. of A. ABBATE, DIAZ, FARRELL, GABRYSZAK,
HOOPER, JOHN, KOON, P. LOPEZ, McDONOUGH, McENENY, NOLAN, ORTIZ, PHEF-
FER -- read once and referred to the Committee on Governmental Oper-
ations

AN ACT to amend the executive law, in relation to the classification
procedure and use of DNA samples to identify unidentified dead and
missing persons

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Subdivision 1 of section 838 of the executive law, as added
2 by chapter 670 of the laws of 1982, is amended to read as follows:
3 1. Every county medical examiner and coroner shall furnish the divi-
4 sion promptly with copies of fingerprints on standardized eight inch by
5 eight inch fingerprint cards, SHALL FURNISH THE NEW YORK STATE POLICE
6 FORENSIC LABORATORY PROMPTLY WITH DNA SAMPLES OF DECEASED PERSONS OR
7 UNIDENTIFIED BODY PARTS, FOR THE PURPOSE OF CLASSIFICATION, WHICH
8 SAMPLES SHALL THEN BE FORWARDED BY THE STATE POLICE FORENSIC LABORATORY
9 TO THE DIVISION FOR THE PURPOSE OF COMPARISON AND FILING, AND SHALL
10 FURNISH THE DIVISION PROMPTLY WITH personal descriptions and other iden-
11 tifying data, including date and place of death, of all deceased persons
12 whose deaths are in a classification requiring inquiry by the coroner
13 where the deceased is not identified or the medical examiner or coroner
14 is not satisfied with the decedent's identification. THE DIVISION SHALL
15 FORWARD SUCH RECORDS REGARDING SUCH DECEASED PERSONS OR UNIDENTIFIED
16 BODY PARTS TO THE NATIONAL CRIME INFORMATION CENTER UPON SUCH CENTER
17 ADOPTING A POLICY TO ACCEPT SUCH RECORDS.
18 S 2. Subdivision 4 of section 838 of the executive law, as added by
19 chapter 670 of the laws of 1982, is amended to read as follows:
20 4. The division shall compare the fingerprints AND DNA SAMPLES
21 received from the county medical examiners or coroners to fingerprints

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 AND DNA BAND PATTERNS on file with the division for purposes of attempt-
2 ing to determine the identity of the deceased. Other descriptive data
3 supplied with the fingerprints shall also be compared to records main-
4 tained by the division concerning missing persons. The division shall
5 submit the results of the comparisons to the appropriate medical examin-
6 er or coroner and if a tentative or positive identification is made, to
7 the law enforcement authority which submitted the report of the missing
8 person.

9 S 3. Section 995-d of the executive law is amended by adding a new
10 subdivision 3 to read as follows:

11 3. ALL RECORDS, FINDINGS, REPORTS AND RESULTS OF DNA TESTING PERFORMED
12 PURSUANT TO SUBDIVISION ONE OR FOUR OF SECTION EIGHT HUNDRED
13 THIRTY-EIGHT OF THIS CHAPTER SHALL BE SUBJECT TO THE PROVISIONS OF THIS
14 SECTION, AND SHALL BE TREATED IN A MANNER CONSISTENT WITH SUBDIVISIONS
15 FIVE, SIX, SEVEN AND EIGHT OF SECTION NINE HUNDRED NINETY-FIVE-C OF THIS
16 ARTICLE.

17 S 4. This act shall take effect on the first of the calendar month
18 next succeeding the sixtieth day after it shall have become a law.