

5166

2011-2012 Regular Sessions

I N A S S E M B L Y

February 14, 2011

Introduced by M. of A. MAYERSOHN, GALEF, AUBRY, MARKEY, GUNTHER --  
Multi-Sponsored by -- M. of A. ABBATE, FARRELL, GABRYSZAK, HOOPER,  
P. LOPEZ, McDONOUGH, McENENY, NOLAN, ORTIZ, PHEFFER -- read once and  
referred to the Committee on Governmental Operations

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  
22 AND DNA BAND PATTERNS on file with the division for purposes of attempt-

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

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

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

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

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