

1853

2015-2016 Regular Sessions

I N A S S E M B L Y

January 13, 2015

Introduced by M. of A. GUNTHER, GALEF, AUBRY, MARKEY, COOK, COLTON, MOSLEY, CLARK, BROOK-KRASNY, WALTER, GRAF, MONTESANO, McDONOUGH, LUPI-NACCI -- Multi-Sponsored by -- M. of A. ABBATE, CAMARA, DUPREY, FARRELL, HAWLEY, HOOPER, PERRY, RIVERA, SCHIMEL, SCHIMMINGER, SIMANOW-ITZ -- 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 ASSEMBLY, 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 1-a. Subdivision 1 of section 838 of the executive law, as amended
19 by chapter 331 of the laws of 2014, is amended to read as follows:

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

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13 FORWARD SUCH RECORDS REGARDING SUCH DECEASED PERSONS OR UNIDENTIFIED
14 BODY PARTS TO THE NATIONAL CRIME INFORMATION CENTER UPON SUCH CENTER
15 ADOPTING A POLICY TO ACCEPT SUCH RECORDS. The division shall promptly
16 make available personal descriptions and other identifying data, includ-
17 ing date and place of death, of such deceased persons to all law
18 enforcement agencies in the state, and upon request, to law enforcement
19 agencies outside of the state.

20 S 2. Subdivision 4 of section 838 of the executive law, as added by
21 chapter 670 of the laws of 1982, is amended to read as follows:

22 4. The division shall compare the fingerprints AND DNA SAMPLES
23 received from the county medical examiners or coroners to fingerprints
24 AND DNA BAND PATTERNS on file with the division for purposes of attempt-
25 ing to determine the identity of the deceased. Other descriptive data
26 supplied with the fingerprints shall also be compared to records main-
27 tained by the division concerning missing persons. The division shall
28 submit the results of the comparisons to the appropriate medical examin-
29 er or coroner and if a tentative or positive identification is made, to
30 the law enforcement authority which submitted the report of the missing
31 person.

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

34 3. ALL RECORDS, FINDINGS, REPORTS AND RESULTS OF DNA TESTING PERFORMED
35 PURSUANT TO SUBDIVISION ONE OR FOUR OF SECTION EIGHT HUNDRED
36 THIRTY-EIGHT OF THIS CHAPTER SHALL BE SUBJECT TO THE PROVISIONS OF THIS
37 SECTION, AND SHALL BE TREATED IN A MANNER CONSISTENT WITH SUBDIVISIONS
38 FIVE, SIX, SEVEN AND EIGHT OF SECTION NINE HUNDRED NINETY-FIVE-C OF THIS
39 ARTICLE.

40 S 4. This act shall take effect on the first of the calendar month
41 next succeeding the sixtieth day after it shall have become a law;
42 provided, however, that the amendments to subdivision 1 of section 838
43 of the executive law made by section one-a of this act shall take effect
44 on the same date and in the same manner as section 2 of chapter 331 of
45 the laws of 2014, takes effect.