S T A T E O F N E W Y O R K

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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, LUPINACCI -- Multi-Sponsored by -- M. of A. ABBATE, CAMARA, DUPREY, FARRELL, HAWLEY, HOOPER, PERRY, RIVERA, SCHIMEL, SCHIMMINGER, SIMANOWITZ -- 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:

Section 1. Subdivision 1 of section 838 of the executive law, as added by chapter 670 of the laws of 1982, is amended to read as follows:

1. Every county medical examiner and coroner shall furnish the division promptly with copies of fingerprints on standardized eight inch by eight inch fingerprint cards, SHALL FURNISH THE NEW YORK STATE POLICE FORENSIC LABORATORY PROMPTLY WITH DNA SAMPLES OF DECEASED PERSONS OR UNIDENTIFIED BODY PARTS, FOR THE PURPOSE OF CLASSIFICATION, WHICH SAMPLES SHALL THEN BE FORWARDED BY THE STATE POLICE FORENSIC LABORATORY TO THE DIVISION FOR THE PURPOSE OF COMPARISON AND FILING, AND SHALL FURNISH THE DIVISION PROMPTLY WITH personal descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. THE DIVISION SHALL FORWARD SUCH RECORDS REGARDING SUCH DECEASED PERSONS OR UNIDENTIFIED BODY PARTS TO THE NATIONAL CRIME INFORMATION CENTER UPON SUCH CENTER ADOPTING A POLICY TO ACCEPT SUCH RECORDS.

S 1-a. Subdivision 1 of section 838 of the executive law, as amended 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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1. Every county medical examiner and coroner shall furnish the division promptly with copies of fingerprints on standardized eight inch by eight inch fingerprint cards, SHALL FURNISH THE NEW YORK STATE POLICE FORENSIC LABORATORY PROMPTLY WITH DNA SAMPLES OF DECEASED PERSONS OR UNIDENTIFIED BODY PARTS, FOR THE PURPOSE OF CLASSIFICATION, WHICH SAMPLES SHALL THEN BE FORWARDED BY THE STATE POLICE FORENSIC LABORATORY TO THE DIVISION FOR THE PURPOSE OF COMPARISON AND FILING, AND SHALL FURNISH THE DIVISION PROMPTLY WITH personal descriptions and other identifying data, including date and place of death, of all deceased persons whose deaths are in a classification requiring inquiry by the coroner where the deceased is not identified or the medical examiner or coroner is not satisfied with the decedent's identification. THE DIVISION SHALL FORWARD SUCH RECORDS REGARDING SUCH DECEASED PERSONS OR UNIDENTIFIED BODY PARTS TO THE NATIONAL CRIME INFORMATION CENTER UPON SUCH CENTER ADOPTING A POLICY TO ACCEPT SUCH RECORDS. The division shall promptly make available personal descriptions and other identifying data, including date and place of death, of such deceased persons to all law enforcement agencies in the state, and upon request, to law enforcement agencies outside of the state.

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

4. The division shall compare the fingerprints AND DNA SAMPLES received from the county medical examiners or coroners to fingerprints AND DNA BAND PATTERNS on file with the division for purposes of attempting to determine the identity of the deceased. Other descriptive data supplied with the fingerprints shall also be compared to records maintained by the division concerning missing persons. The division shall submit the results of the comparisons to the appropriate medical examiner or coroner and if a tentative or positive identification is made, to the law enforcement authority which submitted the report of the missing person.

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

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

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