

# STATE OF NEW YORK

4496

2023-2024 Regular Sessions

## IN ASSEMBLY

February 16, 2023

Introduced by M. of A. GUNTHER, AUBRY, COOK, COLTON, McDONOUGH -- 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  
2 amended by chapter 153 of the laws of 2016, is amended to read as  
3 follows:  
4 1. Every county medical examiner and coroner shall promptly furnish  
5 the division and the National Missing and Unidentified Persons System  
6 created by the Office of Justice Program's National Institute of  
7 Justice, with copies of fingerprints on standardized eight inch by eight  
8 inch fingerprint cards or the equivalent digital image, shall furnish  
9 the New York state police forensic laboratory promptly with DNA samples  
10 of deceased persons or unidentified body parts, for the purpose of clas-  
11 sification, which samples shall then be forwarded by the state police  
12 forensic laboratory to the division for the purpose of comparison and  
13 filing, and shall furnish the division promptly with personal  
14 descriptions and other identifying data, including date and place of  
15 death, of all deceased persons whose deaths are in a classification  
16 requiring inquiry by the medical examiner or coroner where the deceased  
17 is not identified or the medical examiner or coroner is not satisfied  
18 with the decedent's identification. The division shall promptly make  
19 available personal descriptions and other identifying data, including  
20 date and place of death, of such deceased persons to all law enforcement  
21 agencies in the state, and upon request, to law enforcement agencies  
22 outside of the state. The division shall forward such records regarding  
23 such deceased persons or unidentified body parts to the National Crime

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

LBD09058-01-3

1 Information Center upon such center adopting a policy to accept such  
2 records.

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

5 4. The division shall compare the fingerprints and DNA samples  
6 received from the county medical examiners or coroners to fingerprints  
7 and DNA band patterns on file with the division for purposes of attempt-  
8 ing to determine the identity of the deceased. Other descriptive data  
9 supplied with the fingerprints shall also be compared to records main-  
10 tained by the division concerning missing persons. The division shall  
11 submit the results of the comparisons to the appropriate medical examin-  
12 er or coroner and if a tentative or positive identification is made, to  
13 the law enforcement authority which submitted the report of the missing  
14 person.

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

17 3. All records, findings, reports and results of DNA testing performed  
18 pursuant to subdivision one or four of section eight hundred thirty-  
19 eight of this chapter shall be subject to the provisions of this  
20 section, and shall be treated in a manner consistent with subdivisions  
21 five, six, seven and eight of section nine hundred ninety-five-c of this  
22 article.

23 § 4. This act shall take effect on the first of the calendar month  
24 next succeeding the sixtieth day after it shall have become a law.