



BILL NO. 159

Government Bill

*4th Session, 61st General Assembly
Nova Scotia
61 Elizabeth II, 2012*

An Act Respecting Missing Persons

CHAPTER 47
ACTS OF 2012

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR
DECEMBER 6, 2012**

The Honourable Ross Landry
Minister of Justice

*Halifax, Nova Scotia
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An Act Respecting Missing Persons

Be it enacted by the Governor and Assembly as follows:

1 This Act may be cited as the *Missing Persons Act*.

2 In this Act,

(a) “missing person” means an individual whose whereabouts are unknown and continue to be unknown despite reasonable efforts having been made to locate the person, whose safety and welfare are reasonably feared for given the circumstances surrounding the individual’s absence and who there is a reasonable urgency or necessity to locate;

(b) “person” includes a partnership, an unincorporated association, a public body as defined in the *Freedom of Information and Protection of Privacy Act* and a custodian as defined in the *Personal Health Information Act*;

(c) “police agency” has the same meaning as “agency” in the *Police Act*;

(d) “vulnerable person” means an individual

(i) for whom a guardian has been appointed under the *Incompetent Persons Act*, or

(ii) who is found to be an adult in need of protection by the Minister of Community Services or a court under the *Adult Protection Act*.

3 This Act binds Her Majesty in right of the Province.

4 (1) A member of a police agency may apply for a search order or record-access order if the police agency is conducting a missing person investigation.

(2) An application for a search order or record-access order may be made to a justice, without notice, in the manner prescribed by the regulations.

5 Upon application for a search order, a justice who is satisfied, on considering information provided under oath, that there are reasonable grounds to believe that a missing person who is a minor or a vulnerable person may be in a dwelling or other premises may make an order authorizing members of a police agency to enter, by force if necessary, the dwelling or other premises and search for the missing person.

6 (1) Upon application for a record-access order, a justice who is satisfied that access to and, where requested, copies of any of the records set out in subsection (2)

(a) may assist a police agency in locating the missing person; and

(b) are in the possession or under the control of a person,

may make an order requiring the person to provide members of a police agency access to and, where requested, copies of the records set out in the order in respect of the missing person or, where subsection (3) applies, a person who may be accompanying the missing person.

- (2) A record-access order may be made in respect of
- (a) records containing contact or identification information;
 - (b) telephone and other electronic communication records, including, without limiting the generality of the foregoing,
 - (i) records related to signals from a wireless device that may indicate the location of the wireless device,
 - (ii) cell phone records,
 - (iii) inbound and outbound text messaging records, and
 - (iv) Internet browsing-history records;
 - (c) global-positioning system tracking records;
 - (d) video records, including closed-circuit television footage;
 - (e) records containing employment information;
 - (f) records containing personal health information as defined in the *Personal Health Information Act*;
 - (g) records from a school, university or other educational institution containing attendance information;
 - (h) records containing travel and accommodation information;
 - (i) records containing financial information; and
 - (j) any other records specified in the order that the justice considers appropriate.

(3) Where the missing person is a minor or a vulnerable person and there are reasonable grounds to believe that the missing person may be in the company of another person, the justice may order that members of the police agency be given access to and, where requested, copies of any of the records set out in the order in respect of the person who may be accompanying the missing person.

(4) In a record-access order, the justice may impose any restrictions or limits on the records to be produced that the justice considers appropriate.

(5) The justice may include a provision in a record-access order requiring a person to provide members of the police agency with an accounting of the efforts made by the person to locate any records that cannot be found.

7 (1) Notwithstanding Section 26 of the *Freedom of Information and Protection of Privacy Act* and subsection 485(1) of the *Municipal Government Act*, information and records obtained by a police agency under this Act may be used only for

- (a) the purpose of locating a missing person or a use consistent with that purpose; or
- (b) a purpose for which the information may be disclosed under Section 8.

(2) Where the missing person investigation becomes a criminal investigation, this Section does not prevent information and records obtained by a police agency under this Act from being used in the criminal investigation.

8 (1) Any information or record obtained by a police agency under this Act is confidential and may not be disclosed except in accordance with this Section.

(2) Notwithstanding Section 27 of the *Freedom of Information and Protection of Privacy Act*, subsection 485(2) of the *Municipal Government Act* and clause 38(1)(l) and subsection 45(2) of the *Personal Health Information Act*, information and records obtained by a police agency under this Act may be disclosed only

- (a) for the purpose of locating a missing person or a use consistent with that purpose;
- (b) when required by law;
- (c) to another law-enforcement agency in Canada or a law-enforcement agency in another country under an arrangement, written agreement, treaty or legislative authority but only to the extent necessary to further the missing person investigation;
- (d) if the person the information or record is about has consented to the disclosure; or
- (e) in accordance with subsections (3) to (6).

(3) For the purpose of furthering its missing person investigation, a police agency may release the following information obtained under this Act in respect of the missing person to the public through a media release, by posting the information on a website or in any other manner the police agency considers appropriate:

- (a) the missing person's name;
- (b) a physical description of the missing person;
- (c) a photograph of the missing person;
- (d) information about any medical condition of the missing person that poses a serious or immediate threat to the person's health;
- (e) pertinent vehicle information;
- (f) the location where the missing person was last seen; and
- (g) the circumstances surrounding the disappearance of the missing person.

(4) A police agency may publicly announce that a missing person has been located.

(5) A police agency may disclose information and records obtained under this Act to other police agencies, law-enforcement agencies and government departments or agencies to the extent necessary to co-ordinate investigations and other activities respecting missing persons.

(6) Where a missing person investigation becomes a criminal investigation, this Section does not prevent the disclosure of information and records obtained under this Act for the purpose of the criminal investigation.

9 Nothing in this Act compels the disclosure of any information or record that is restricted from disclosure by a legal privilege.

10 For greater certainty, nothing in this Act is to be construed as

- (a) limiting the powers and duties of the Privacy Review Officer appointed under the *Privacy Review Officer Act*; or
- (b) restricting any authority that a police agency otherwise has to collect any information or records.

11 Any person who wilfully contravenes Section 7 or 8 is guilty of an offence and liable on summary conviction to a fine of not more than \$10,000.

12 No action or proceeding may be brought against a member of a police agency or any other person in respect of anything done or omitted to be done in good faith under this Act.

13 (1) The Governor in Council may make regulations

- (a) respecting applications for search orders and record-access orders made under this Act;
- (b) respecting the collection, use and retention of information and records obtained under this Act;
- (c) defining any word or expression used but not defined in this Act;
- (d) respecting any matter or thing that the Governor in Council considers necessary or advisable to effectively carry out the intent and purpose of this Act.

(2) The exercise by the Governor in Council of the authority contained in subsection (1) is a regulation within the meaning of the *Regulations Act*.

14 This Act comes into force on such day as the Governor in Council orders and declares by proclamation.
