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**SUBSTITUTE HOUSE BILL 2009**

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**State of Washington 68th Legislature 2024 Regular Session**

**By** House Appropriations (originally sponsored by Representatives Mosbrucker, Goodman, Leavitt, Ramos, Jacobsen, Graham, Cheney, Gregerson, Orwall, Riccelli, and Davis)

AN ACT Relating to the use of dental records in missing person investigations; amending RCW 68.50.310 and 68.50.320; adding a new section to chapter 18.32 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

NEW SECTION. **Sec.**  The legislature finds that the highly time-sensitive nature of missing person investigations necessitates responsive processes and systems that avoid unnecessary delays in identification. The legislature further finds that although patients' medical privacy rights should be preserved, the current process of requiring investigating agencies to obtain permission from a missing person's family or next of kin before contacting the person's dentist for a copy of the person's dental records impedes prompt investigation efforts in instances where the person would have consented to disclosure if given the opportunity to do so during a dental appointment.

Therefore, the legislature intends to balance patients' medical privacy rights with the need for more effective investigation practices and systems by requiring dentists to offer patients at the time of receiving dental care the opportunity to consent to the release of their dental records if they later become the subject of a missing person investigation. This opportunity must be presented in a trauma-informed manner.

NEW SECTION. **Sec.**  A new section is added to chapter 18.32 RCW to read as follows:

By November 1, 2024, and subject to the availability of amounts appropriated for this specific purpose, the commission shall:

(1) Work in consultation with the Washington state patrol to develop a process by which licensed dentists may collect and submit information to the Washington state patrol indicating which of their patients have consented to the release of their dental records to the Washington state patrol's dental identification system under RCW 68.50.310 in the event the patient becomes the subject of a missing person investigation;

(2) Develop and publish a standardized consent form to be signed by any patient who agrees to the release of his or her dental records in the event the patient becomes the subject of a missing person investigation;

(3) Adopt rules requiring licensed dentists to:

(a) Using a trauma-informed approach, inform patients at the time of providing dental care that they have the option of consenting to the release of their dental records in the event they become the subject of a missing person investigation;

(b) Using a trauma-informed approach, provide each patient with an explanation of the type of records that would be released, the purpose of consenting to releasing such records, how long the consent form would remain valid, and how the patient may later withdraw consent;

(c) Maintain ongoing records of which patients have consented to the release of their dental records in the event they become the subject of a missing person investigation, including copies of any valid signed consent forms; and

(d) Periodically submit information to the Washington state patrol that sufficiently identifies any patients who have valid signed consent forms; and

(4) Adopt rules regarding how long a patient's consent to the release of his or her dental records as described in this section remains valid, and how frequently licensed dentists must check with their patients to update any expired consent forms.

**Sec.**  RCW 68.50.310 and 1987 c 331 s 65 are each amended to read as follows:

(1) A dental identification system is established in the identification section of the Washington state patrol. The dental identification system shall act as a repository or computer center or both for dental examination records and it shall be responsible for comparing such records with dental records filed under RCW 68.50.330. It shall also determine which scoring probabilities are the highest for purposes of identification and shall submit such information to the coroner or medical examiner who prepared and forwarded the dental examination records. Once the dental identification system is established, operating funds shall come from the state general fund.

(2) By November 1, 2024, and subject to the availability of amounts appropriated for this specific purpose, the Washington state patrol shall develop, in consultation with the dental quality assurance commission, a process by which persons licensed to practice dentistry under chapter 18.32 RCW may submit information to the Washington state patrol identifying patients who have consented to the release of their dental records pursuant to section 2 of this act in the event they become the subject of a missing person investigation.

**Sec.**  RCW 68.50.320 and 2022 c 251 s 5 are each amended to read as follows:

When a person reported missing has not been found within ((~~thirty~~)) 30 days of the report, or at any time the investigating agency suspects criminal activity to be the basis of the victim being missing, the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority initiating and conducting the investigation for the missing person shall: (1) File a missing person's report with the Washington state patrol missing and unidentified persons unit; (2) initiate the collection of DNA samples from the known missing person and their family members for nuclear and mitochondrial DNA testing along with the necessary consent forms; (3) ask the missing person's family or next of kin to give written consent to contact the dentist or dentists of the missing person and request the person's dental records, unless the missing person has already consented to the release of their dental records through a valid signed consent form; and (4) enter the case into the national crime information center system through the Washington state patrol electronic database. Upon knowledge from the national crime information center system, the Washington state patrol's crime information center, or similar or subsequent authority, that a person in custody at a jail, or being released from custody, is the subject of a missing person's report, the jail shall notify the agency of original jurisdiction for the missing person's report.

The missing person's dentist or dentists shall provide diagnostic quality copies of the missing person's dental records or original dental records to the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority, when there is a record of the missing person's valid signed consent form authorizing the release of their dental records or when presented with the written consent from the missing person's family or next of kin or with a statement from the sheriff, chief of police, county coroner or county medical examiner, or other law enforcement authority that the missing person's family or next of kin could not be located in the exercise of due diligence or that the missing person's family or next of kin refuse to consent to the release of the missing person's dental records and there is reason to believe that the missing person's family or next of kin may have been involved in the missing person's disappearance.

As soon as possible after collecting the DNA samples, the sheriff, chief of police, or other law enforcement authority shall submit the DNA samples to the appropriate laboratory. Dental records shall be submitted as soon as possible to the Washington state patrol missing and unidentified persons unit.

The descriptive information from missing person's reports and dental data submitted to the Washington state patrol missing and unidentified persons unit shall be recorded and maintained by the Washington state patrol missing and unidentified persons unit in the applicable dedicated missing person's databases.

When a person reported missing has been found, the sheriff, chief of police, coroner or medical examiner, or other law enforcement authority shall report such information to the Washington state patrol.

The dental identification system shall maintain a file of information regarding persons reported to it as missing. The file shall contain the information referred to in this section and such other information as the Washington state patrol finds relevant to assist in the location of a missing person.

The files of the dental identification system shall, upon request, be made available to law enforcement agencies attempting to locate missing persons.

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