

Regular Session, 2006

# ACT No. 227

HOUSE BILL NO. 1140 (Substitute for House Bill No. 968 by Representative Martiny)

BY REPRESENTATIVE MARTINY AND SENATOR DARDENNE

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AN ACT

To amend and reenact R.S. 44:4.1(B)(7) and to enact Chapter 6-C of Title 15 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 15:651 through 662, relative to the Louisiana Repository for Unidentified and Missing Persons Information Program; to establish the Louisiana Repository for Unidentified and Missing Persons Information Program; to provide with respect to the Forensic Anthropology and Computer Enhancement Services laboratory; to provide for the powers and duties of the laboratory; to provide for definitions; to provide for legislative findings; to provide for laboratory recommendations to the legislature; to provide for procedural compatibility with the Federal Bureau of Investigation; to provide for the collection of forensic anthropology samples; to provide for procedures for collecting, disposition, and use of forensic anthropological analysis; to provide for a central repository for unidentified human remains and missing persons information; to provide for the confidentiality of records; to prohibit disclosure of confidential information; to provide for penalties for disclosure of information; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 6-C of Title 15 of the Louisiana Revised Statutes of 1950, comprised of R.S. 15:651 through 662, is hereby enacted to read as follows:

CHAPTER 6-C. LOUISIANA REPOSITORY FOR UNIDENTIFIED

AND MISSING PERSONS INFORMATION PROGRAM

§651. Short title

This Chapter shall be known as the "Louisiana Repository for Unidentified and Missing Persons Information Program".

1           §652. Legislative findings and objectives

2                   The Legislature of Louisiana finds and declares that forensic anthropology  
3           combined with DNA data banks are important tools in criminal investigations and  
4           in the identification of unidentified human remains. It is the policy of this state to  
5           assist federal, state, and local criminal justice and law enforcement agencies in the  
6           identification and detection of individuals in criminal investigations and in the  
7           identification of missing persons, to assist in the recovery or identification of human  
8           remains from disasters, and to assist with other humanitarian identification purposes.  
9           It is therefore in the best interest of the state to establish a Louisiana Repository for  
10           Unidentified and Missing Persons Information Program to be used in conjunction  
11           with a DNA database and forensic anthropology to assist federal, state, and local  
12           criminal justice and law enforcement agencies in the identification and detection of  
13           individuals in criminal investigations and in the identification of missing persons, to  
14           assist in the recovery or identification of human remains from disasters, and to assist  
15           with other humanitarian identification purposes.

16           §653. Definitions

17                   For purposes of this Chapter, the following terms shall have the following  
18           meanings:

19                   (1) "CODIS" means the Combined DNA Index System, the Federal Bureau  
20           of Investigation's national DNA identification index system that allows the storage  
21           and exchange of DNA records of missing persons submitted by state and local  
22           forensic DNA laboratories.

23                   (2) "Criminal justice agency" means any criminal justice agency as defined  
24           in R.S. 15:576(3).

25                   (3) "DNA" means deoxyribonucleic acid, which is located in cells and  
26           provides an individual's personal genetic blueprint and which encodes genetic  
27           information that is the basis of human heredity and forensic identification.

28                   (4) "DNA record" means DNA identification information stored in the state  
29           DNA database or the Combined DNA Index System for missing persons for the

1 purpose of generating investigative leads or supporting statistical interpretation of  
 2 DNA test results. The DNA record is the result obtained from the DNA typing tests.  
 3 The DNA record is comprised of the characteristics of a DNA sample which is of  
 4 value in establishing the identity of individuals.

5 (5) "DNA sample" means a blood, bone, tissue, or bodily fluid sample  
 6 provided as a result of the location of unidentified human remains submitted to the  
 7 LSU Forensic Anthropology Computer Enhancement Services (F.A.C.E.S.)  
 8 Laboratory or as a result of the collection of said samples from family members of  
 9 missing persons pursuant to this Chapter for analysis or storage, or both.

10 (6) "F.A.C.E.S. Laboratory" means the Forensic Anthropology and  
 11 Computer Enhancement Services Laboratory located within the Department of  
 12 Geography and Anthropology at Louisiana State University and Agricultural and  
 13 Mechanical College in Baton Rouge, Louisiana.

14 (7) "FBI" means the Federal Bureau of Investigation.

15 (8) "Forensic anthropology" means the use of human remains to establish an  
 16 identification based on the anthropological profile which includes age range, sex,  
 17 ancestry, and other identifying characteristics.

18 (9) "Missing person" means any Louisiana resident who has been reported  
 19 missing to local or state law enforcement agencies.

20 (10) "Unidentified human remains" means any human body or portion of a  
 21 human body where the identity is unknown. A "body" refers to both skeletal and/or  
 22 soft tissue remains of a human.

23 §654. Powers and duties of the F.A.C.E.S. Laboratory

24 In addition to any other powers and duties conferred by this Chapter, the  
 25 F.A.C.E.S. Laboratory shall:

26 (1) Be responsible for the policy management and administration of the  
 27 Louisiana Repository for Unidentified and Missing Persons Information Program to  
 28 support law enforcement agencies and other criminal justice agencies.

29 (2) Serve as the central repository for all unidentified human remains  
 30 information and all missing persons data collected pursuant to this Chapter.

1           §655. Louisiana Repository for Unidentified and Missing Persons Information  
2                           Program

3                   A. There is hereby established the Louisiana Repository for Unidentified and  
4           Missing Persons Information Program which shall be administered by the F.A.C.E.S.  
5           Laboratory.

6                   B. The Louisiana Repository for Unidentified and Missing Persons  
7           Information Program shall have the capability to store and maintain forensic  
8           anthropological and DNA records related to all of the following:

9                           (1) Unidentified human remains.

10                           (2) Missing persons.

11                           (3) Anonymous DNA records used for research or quality control.

12                   C. The data stored and maintained as provided in Subsection B of this  
13           Section shall comprise the state forensic anthropology database which shall be a part  
14           of the Louisiana Repository for Unidentified and Missing Persons Information  
15           Program.

16           §656. F.A.C.E.S. Laboratory recommendations

17                   The F.A.C.E.S. Laboratory may recommend proposed legislation to the  
18           legislature regarding the collection and regulation of unidentified and missing  
19           persons information. In determining the need for any such recommendations, the  
20           F.A.C.E.S. Laboratory shall consider any provisions of forensic anthropological  
21           testing that may have a substantial impact on the detection and identification of  
22           unidentified human remains.

23           §657. Applicability of Chapter

24                   The provisions of this Chapter regarding the Louisiana Repository for  
25           Unidentified and Missing Persons Information Program administered by the  
26           F.A.C.E.S. Laboratory shall not be applicable to those unidentified human remains  
27           found within the state resulting from a mass disaster or mass fatality. However, in  
28           the event a mass disaster or mass fatality occurs within the state, the F.A.C.E.S.  
29           Laboratory shall be consulted and work in conjunction with other state agencies and

1           any appropriate federal agencies responding to said mass disaster or mass fatality for  
2           the identification of any unidentified human remains resulting from said mass  
3           disaster or mass fatality.

4           §658. Collection of forensic anthropology samples from unidentified human  
5           remains and missing persons

6           A. Any law enforcement agency or other criminal justice agency located  
7           within the state shall submit all unidentified human remains found within the state  
8           to the F.A.C.E.S. Laboratory after reasonable efforts to identify the person have  
9           failed.

10           B. The F.A.C.E.S. Laboratory personnel shall collect DNA samples from all  
11           available unidentified remains submitted to the laboratory. Working with state and  
12           local law enforcement agencies and other criminal justice agencies and utilizing a  
13           DNA missing persons collection kit as approved by the Louisiana State Police in  
14           accordance with R.S. 15:601 through 620, the F.A.C.E.S. Laboratory personnel shall  
15           collect available biological data and DNA samples from families of missing persons.  
16           Sample collection may be performed at the F.A.C.E.S. Laboratory or at other  
17           locations within the state as deemed appropriate by the F.A.C.E.S. Laboratory.

18           C. The F.A.C.E.S. Laboratory shall develop an anthropological profile on  
19           any unidentified human remains submitted to the laboratory under this Chapter. In  
20           addition, the F.A.C.E.S. Laboratory shall submit a DNA sample from the  
21           unidentified human remains and the families of any missing persons whose DNA  
22           samples have been collected to a qualified forensic DNA laboratory in order to  
23           obtain a DNA profile from said samples. Any forensic DNA laboratory selected by  
24           the F.A.C.E.S. Laboratory shall be qualified to upload DNA profiles into the CODIS  
25           system at the local or state level and shall perform all required DNA analysis on the  
26           submitted specimen in accordance with any applicable Federal Quality Assurance  
27           Standards.

28           D. Any DNA profile developed from any DNA sample from the unidentified  
29           human remains and the families of any missing persons shall be uploaded into the

1 state and national CODIS database in accordance with all applicable FBI procedures  
2 for uploads of missing persons data.

3 E.(1) Upon completion of the development of the anthropological profile,  
4 the F.A.C.E.S. Laboratory shall return the human remains to the submitting law  
5 enforcement agency or other criminal justice agency.

6 (2)(a) After return of the human remains, the submitting law enforcement  
7 agency or other criminal justice agency shall:

8 (i) If the human remains are unidentified, provide for the respectful  
9 maintenance of the human remains pending identification and contact with the  
10 deceased person's family.

11 (ii) If the human remains are identified, return the human remains to the  
12 deceased person's family or make such other disposition of the human remains as the  
13 family requests.

14 (b)(i) If the law enforcement or other criminal justice agency requires the  
15 human remains in furtherance of an ongoing criminal investigation, such agency  
16 shall provide for the respectful maintenance of the human remains until there is no  
17 further such requirement.

18 (ii)(aa) At such time as there is no requirement for identified human remains  
19 in furtherance of an ongoing criminal investigation, the law enforcement or other  
20 criminal justice agency shall return the human remains to the deceased person's  
21 family or make such other disposition of the human remains as the family requests.

22 (bb) At such time as there is no requirement for unidentified human remains  
23 in furtherance of an ongoing criminal investigation, the law enforcement or other  
24 criminal justice agency shall provide for the respectful maintenance of the human  
25 remains pending identification and contact with the deceased person's family.

26 §659. Procedures for conduct, disposition, and use of forensic anthropological  
27 analysis

28 A. The F.A.C.E.S. Laboratory shall prescribe procedures to be used in the  
29 collection, submission, identification, analysis, storage, and disposition of

1 unidentified human remains samples submitted pursuant to this Chapter. The  
2 information obtained by the F.A.C.E.S. Laboratory from analysis of the unidentified  
3 human remains shall be stored in the state forensic anthropology database in the  
4 Louisiana Repository for Unidentified and Missing Persons Information Program  
5 and records of testing shall be retained by the F.A.C.E.S. Laboratory.

6 B. The F.A.C.E.S. Laboratory may store any DNA profile obtained from  
7 analysis of the unidentified human remains and missing persons in the state forensic  
8 anthropology database.

9 C. The F.A.C.E.S. Laboratory may contract with third parties to effectuate  
10 the purposes of this Chapter. Any such third-party contractor shall be subject to all  
11 of the restrictions and requirements of this Chapter which are applicable to the  
12 F.A.C.E.S. Laboratory and shall be subject to any additional restrictions deemed  
13 appropriate by the F.A.C.E.S. Laboratory.

14 D. Except for analysis on quality control samples, tests performed on all  
15 unidentified human remains and missing persons samples shall be used only for law  
16 enforcement identification purposes or to assist in the recovery or identification of  
17 human remains from disasters or for other humanitarian identification purposes.

18 §660. Confidentiality of records

19 Unless otherwise provided, all medical records, dental records, DNA  
20 information, and associated DNA samples submitted to the F.A.C.E.S. Laboratory  
21 pursuant to this Chapter shall be confidential.

22 §661. Disclosure prohibited

23 A. Any person, by virtue of employment or official position, or any person  
24 contracting to carry out any functions pursuant to this Chapter, including any officer,  
25 employee, or agent of such contractor, who has possession of or access to  
26 individually identifiable anthropological or DNA information contained in the state  
27 forensic anthropology database shall not knowingly disclose it in any manner to any  
28 person or agency not authorized to receive it.





1 (7) R.S. 15:242, 440.6, 477.2, 549, 570(F), 574.12, 578.1, 616, 660, 840.1,  
2 1176, 1204.1

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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PRESIDENT OF THE SENATE

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_