

AB 1063 - Search Warrants: Newborn Screening Program

SUMMARY

Nikko's Law clearly and transparently codifies when and how Coroners and Peace Officers can use DNA from Newborn Blood Spot (NBS) Cards from the California Department of Public Health (CDPH) Biobank for the identification of victims and unidentified human remains. This technique has been utilized in California in extreme circumstances as a last-ditch effort to identify remains.

EXISTING LAW

Existing law requires the State Department of Public Health to establish a genetic disease unit to, among other responsibilities, promote a statewide program of information, testing, and counseling services related to genetic diseases, and administer that information, testing, and counseling to each child born in the state.

BACKGROUND AND ISSUE

The California Newborn Screening Program was originally created in 1996, and now screens all babies for over 80 different serious but treatable genetic disorders by taking a small blood sample from a newborn's heel 12 to 48 hours after birth. The aim of the program is to identify treatable genetic disorders early, and allow for treatment to begin as soon as possible. The Newborn Blood Spot cards, otherwise known as "Heel Sticks", are stored by the CDPH in the state's biobank.

In 2007 "Baby Doe" was a murdered infant victim found in a submerged ice chest in Yolo County. "Baby Doe" got his name back (Nikko Lee Perez) when the Yolo County Coroner requested a portion of the Newborn Blood Spot card for Nikko Lee Perez (born in 1996 in Fresno) from the CDPH Biobank. Further investigation revealed that Nikko had a total of five siblings, three brothers and two sisters. The investigation also revealed that only one of these children, Nikko's oldest sister, had survived into adulthood and that all four of Nikko's other siblings had been murdered. As a result of Coroner's Requests and Search Warrants, the DNA of each of the missing murdered children is on file with the Cal DOJ Missing and Unidentified Persons System in the event their bodies are ever located. The criminal case is pending in Yolo County Superior Court.

In another California case, a juvenile was kidnapped and believed to have been murdered. What was thought to be their blood was found in the trunk of a suspect's vehicle. Police obtained a search warrant for a portion of the victim's NBS card from the CDPH Biobank and were able to identify the blood in the trunk as the victim. This ultimately led to the arrest and prosecution of the suspect

in her murder. The victim's remains have never been found.

A key challenge for law enforcement and coroners when identifying victims, especially when there are only partial remains available or when the victim is a newborn, is that the current process for cross referencing DNA is extremely time consuming, restrictive and prohibitive. This means that victims of such crimes are not identified, or given the justice they deserve.

SOLUTION

This bill would authorize the department to release a physical blood test taken from a newborn to law enforcement in response to a search warrant. This may only occur if the objective of the warrant is to obtain the DNA of a missing person suspected to be a victim of homicide, child abuse resulting in death, or manslaughter, in order to compare the DNA to other samples in the Department of Justice Missing Persons DNA Database and to upload the sample for future identification of the person.

Importantly, AB 1063 is tailored only for scenarios when law enforcement have the potential name for the victim. This bill does not create a "DNA database" from NBS cards and does not allow law enforcement to identify suspects in crimes using suspect DNA.

AB 1063 gives Law Enforcement a chance to find some measure of justice for these newly identified victims and will empower Coroners with an alternative method to determine the name and identity of unidentified human remains in extreme circumstances (including disasters and non-criminal deaths). Nikko's law is a necessary and crucial mechanism that will provide victims of significant violent crimes their name and dignity.

SIMILAR LEGISLATION

SB 1099 (2024, Nguyen) – Chaptered
AB 1638 (2019, Obermolte) - Chaptered
AB 170 (2015, Gatto) - Chaptered

SUPPORT

Yolo County District Attorney's Office (Sponsor)

OPPOSITION

None on File.

FOR MORE INFORMATION

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