

Missing Persons Act, 2018

Summary of Proposed Regulations

This proposal describes the Ministry of Community Safety and Correctional Services' proposal for regulations under the Missing Persons Act, 2018, related to:

1. Urgent Demands for Records; and,
2. Annual Reports.

BACKGROUND

The Missing Persons Act, 2018 was passed on March 8, 2018, and is not yet in force.

The act addresses current barriers faced by police officers in Ontario when investigating missing persons occurrences. Police officers are currently limited in their ability to investigate reports of missing persons when there is no evidence of criminal activity. In these non-criminal situations, police officers may be denied access to records and permission to conduct searches of premises to assist in locating the missing person.

The legislation is intended to help police officers respond more effectively to missing persons occurrences by allowing, in certain circumstances, access to records (for example, telephone, banking, and travel), and powers to search premises, while balancing considerations for an individual's privacy.

The ministry is developing regulations that are necessary to operationalize the legislation, and is seeking feedback on the proposed regulatory approach.

OVERVIEW OF THE MISSING PERSONS ACT, 2018

The act includes provisions that:

- Define a missing person, for the purpose of using powers in this legislation
- Create powers for police officers to use, in certain circumstances, to help locate a missing person. These powers are the ability to:
 - Obtain a court order for a person or entity to produce records that may assist in locating a missing person;
 - Obtain a search warrant to allow entry onto a premises to locate a missing person; and
 - Make an urgent demand for records without a court order in certain circumstances.
- Provide what information about a missing person can be publicly disclosed by police services, and
- Establish reporting requirements, including the release of an annual report, for the purpose of accountability.

The act can be read in full at: [Missing Persons Act, 2018](#)

REGULATIONS RELATED TO URGENT DEMANDS FOR RECORDS

Context

Under the Missing Persons Act, 2018, an officer who makes an urgent demand for records is required to:

- Provide a written report to a member of the police service, designated by the chief of police, which outlines the records that were demanded, and how the requirements under the act for an urgent demand for records were met; and
- Make reasonable efforts to provide notice to a person whose information has been produced from an urgent demand for records.

Summary of the Proposed Regulation

Enabling and Related Provisions in the <i>Missing Persons Act, 2018</i>	Summary of the Proposed Regulation
<p>5 (1) Urgent Demand for Records</p> <p>An officer may make an urgent demand in writing to a person requiring the person to produce copies of records... if the officer is satisfied that there are reasonable grounds to believe that,</p> <ul style="list-style-type: none"> (a) The records are in the custody or under the control of the person; (b) The records will assist in locating the missing person; and (c) In the time required to obtain an order in accordance with section 4, <ul style="list-style-type: none"> i. The missing person may be seriously harmed, or ii. The records may be destroyed. <p>5 (2) Factors to Consider</p> <p>An officer shall not make an urgent demand unless the officer is of the opinion that the public interest in locating the missing person outweighs the privacy interest of any person whose information may be contained in a record specified in the demand.</p> <p>5 (8) Report of Request</p> <p>An officer who makes an urgent demand under this section shall, within the prescribed timeframe, provide a written report to the member of the police force designated by the chief of police to receive such reports.</p> <p>5 (9) Content of Report</p> <p>The report shall contain,</p> <ul style="list-style-type: none"> (a) A list of the records specified in the demand; (b) The reasons that, in the view of the officer who requested the records, the requirements under subsections (1) and (2) were met in the circumstances; and (c) Any other prescribed information. 	<p>An officer shall submit the report referenced in section 5 (8) to a member of the police service, designated by the chief of police, within thirty [30] calendar days of making an urgent demand for records.</p>

5 (10) Notice of Request

An officer who makes an urgent demand under this section, or another officer in the same police force, shall make reasonable efforts to provide notice, **in accordance with the regulations**, to a person whose information has been produced pursuant to an urgent demand.

5 (11) Content

The notice shall include any additional information **that may be prescribed**.

5 (12) Timing

An officer shall comply with subsection (10),

- (a) As soon as practicable after the information is produced; or
- (b) If the officer has reasonable grounds to believe that complying with subsection (10) at the time required by clause (a) may interfere with a member of the police force's ability to locate a missing person, pose a risk to any person's safety or interfere with a law enforcement matter or investigation, at the next reasonable time at which complying with subsection (10) would, in the view of the officer, no longer cause such an interference or pose such a risk.

The notice, referenced in sections 5 (10) and 5 (11), to a person whose information has been produced pursuant to an urgent demand for records:

- Shall include a description of what information was accessed;
- Shall include contact information of a member of the police service;
- Can be provided in writing or verbally, and
- If provided verbally, the person receiving the notification is entitled to request that notice also be provided in writing.

REGULATIONS RELATED TO ANNUAL REPORTS

Context

Under the act, police services are required to report annually on the use of urgent demands for records by members of the police service. This includes:

- The total number of urgent demands made that year and the number of missing persons investigations to which they related; and
- A description of the types of records specified in the urgent demands for records made in that year.

The police service board, entity, or Minister receiving the annual report must make the report available to the public.

Summary of the Proposed Regulation

Enabling and Related Provisions in the <i>Missing Persons Act, 2018</i>	Summary of the Proposed Regulation
<p>8 (1) Annual Report</p> <p>On or before the prescribed date in each year, a chief of police shall prepare an annual report under this section and shall,</p> <ul style="list-style-type: none">(a) In the case of a municipal chief of police, provide a copy of the report to the board of the police force;(b) In the case of a chief of police who is in charge of a group of First Nations Constables, provide a copy of the report to the entity that has an agreement with the Minister; and(c) In the case of the Commissioner of the Ontario Provincial Police, provide a copy of the report to the Minister.	<p>The chief of police, or in the case of the Ontario Provincial Police, the Commissioner, must prepare and provide the annual report referenced in section 8 (1), to the board, entity or Minister, respectively, by April 1 of each year, containing data for the previous calendar year (January 1 to December 31).</p>
<p>8 (2) Report Public</p> <p>After receiving a report, a board or entity shall,</p> <ul style="list-style-type: none">(a) Provide a copy of the report to the Minister; and(b) Make the report available to the public in the prescribed manner.	<p>The copy of the annual report must be provided in a Minister-approved format.</p> <p>The board or entity that receives the annual report must make the report available to the public by posting it on a publicly available website by June 1 each calendar year.</p>

<p>8 (3) Same</p> <p>After receiving the report from the Commissioner of the Ontario Provincial Police, the Minister shall make the report available to the public in the prescribed manner.</p>	<p>In the case of the annual report prepared by the Commissioner of the Ontario Provincial Police, the Minister of Community Safety and Correctional Services must make the report available to the public by posting it on a publicly available website by June 1 each calendar year.</p>
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