



PRINCE EDWARD ISLAND
ÎLE-DU-PRINCE-ÉDOUARD

MISSING PERSONS ACT

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For more information concerning the history of this Act, please see the *Table of Public Acts* on the Prince Edward Island Government web site (www.princeedwardisland.ca).

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MISSING PERSONS ACT

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MISSING PERSONS ACT CHAPTER M-9.1

1. Definitions

In this Act,

- (a) “**chief officer**” means a chief officer as defined in clause 1(b) of the *Police Act* R.S.P.E.I. 1988, Cap. P-11.1;
- (b) “**emergency demand**” means an emergency demand for records made under section 5;
- (c) “**judicial justice of the peace**” means a judicial justice of the peace as defined in clause 1(k) of the *Justice of the Peace Act* R.S.P.E.I. 1988, Cap. J-6;
- (d) “**member of a police service**” means a member of a police service as defined in clause 1(o) of the *Police Act*;
- (e) “**Minister**” means the Minister of Justice and Public Safety and Attorney General;
- (f) “**missing person**” means
 - (i) a person whose whereabouts are unknown and who has not been in contact with those persons who would likely or normally be in contact with the person, or
 - (ii) a person whose whereabouts are unknown despite reasonable efforts to locate the person, and whose safety and welfare are feared for given the person’s age, physical or mental capabilities or the circumstances surrounding the person’s absence;
- (g) “**person**”, except when referring to a missing person, includes a partnership, unincorporated association and public body;
- (h) “**personal health information**” means personal health information as defined in clause 1(t) of the *Health Information Act* R.S.P.E.I. 1988, Cap. H-1.41;
- (i) “**police service**” means a police service as defined in clause 1(v) of the *Police Act*;
- (j) “**public body**” means a public body as defined in clause 1(k) of the *Freedom of Information and Protection of Privacy Act* R.S.P.E.I. 1988, Cap. F-15.01;
- (k) “**record access order**” means an order made under section 4;
- (l) “**search order**” means an order made under section 3;
- (m) “**vulnerable person**” means
 - (i) an adult person who requires protective intervention to maintain the safety and well-being of the person due to infirmity, disability or other incapacity, or
 - (ii) an adult person in respect of whom a guardian or a committee has been appointed under an enactment. *2021, c.13, s.1.*

2. When application may be made

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

Application made to judicial justice of the peace - ex parte

- (2) An application for a search order or a record access order may be made to a judicial justice of the peace, without notice, in accordance with the regulations. *2021, c.13, s.2.*

3. Search order

Where a judicial justice of the peace is satisfied by information on 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, the judicial justice of the peace may make an order authorizing members of a police service to enter, by force if necessary, the dwelling or other premises and search for the missing person. *2021, c.13, s.3.*

4. Record access order

- (1) A member of a police service may apply to a judicial justice of the peace for an order requiring a person to give members of the police service access to, and if requested, copies of, the records set out in subsection (2) in respect of a missing person that
- (a) are in the possession or under the control of the person; and
 - (b) may assist the police service in locating the missing person.

Required records

- (2) Access to the following records in respect of a missing person may be required in an order under this section:
- (a) records containing contact or identification information;
 - (b) telephone and other electronic communication records, including, without limitation,
 - (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;
 - (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;
 - (j) any other records specified in the order that the judicial justice of the peace considers appropriate.

Order to assist police in locating missing person

- (3) The judicial justice of the peace may make an order under this section if the judicial justice of the peace is satisfied that the order may assist the police service in its attempt to locate the missing person.

Records of person accompanying missing person

- (4) 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 judicial justice of the peace may order that members of the police service be given access to, and if requested, copies of, the records set out in subsection (2) in respect of the person who may be accompanying the missing person.

Restrictions or limits on records

- (5) The judicial justice of the peace may impose any restrictions or limits on the records to be produced in an order under this section that the judicial justice of the peace considers appropriate.

Accounting of efforts to locate records

- (6) The judicial justice of the peace may include a provision in an order under this section requiring a person to provide members of the police service with an accounting of the efforts made by the person to locate any records that cannot be found. *2021, c.13, s.4.*

5. Emergency demand for records

- (1) A member of a police service may serve an emergency demand, in writing, on a person requiring that person to give members of the police service access to those records that are in the person's possession or under the person's control where the member has reasonable grounds to believe that
- (a) a missing person is at risk of imminent serious bodily harm or death;
 - (b) immediate access to the records set out in subsection (2) may assist the police service in locating the missing person before the missing person suffers any harm; and
 - (c) it is not practicable to obtain a record access order, given the urgency of the circumstances.

Records that may be specified in an emergency demand

- (2) The following records in respect of a missing person may be specified in an emergency demand under subsection (1):
- (a) records containing contact or identification information;
 - (b) telephone and other electronic communication records, including, without limitation,
 - (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 to the extent that the records might indicate when the missing person was last seen or heard from and when, from where and how the missing person is paid;

- (f) records containing personal health information to the extent that the records might indicate whether the missing person has recently been admitted to a hospital and, where the records do so indicate, which hospital and the date and time of, and the reason for, admission and the date and time of discharge;
- (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 to the extent that the records might indicate
 - (i) whether one or more of the missing person's credit cards were recently used and, where the records do so indicate, when, from where and for what purpose the credit cards were used, or
 - (ii) whether one or more of the missing person's bank accounts were recently accessed and, where the records do so indicate, when, from where and for what purpose the bank accounts were accessed;
- (j) any other prescribed records.

Records to be given to police service

- (3) A person who is served with an emergency demand shall locate all the records specified in the demand that are in the person's possession or under the person's control, and give members of the police service access to, and if requested, copies of those records as soon as possible, having regard to the urgent circumstances of the emergency demand.

Report of demand to chief officer of police service

- (4) Where a member of a police service serves an emergency demand on a person, the member shall file a written report with the chief officer of the police service that sets out the circumstances in which the emergency demand was made. *2021, c.13, s.5.*

6. Failure to comply with demand

- (1) Where a person who is served with an emergency demand under section 5 does not comply with the demand, a member of the police service may apply to a judicial justice of the peace for an order directing the person to comply with the emergency demand.

Order requiring compliance

- (2) The judicial justice of the peace may make an order requiring the person to comply with an emergency demand if the judicial justice of the peace is satisfied that
 - (a) the records in question are in the possession or under the control of the person; and
 - (b) the making of the order may assist the police service in locating the missing person.

Terms or conditions in order

- (3) An order under this section may be subject to any terms or conditions that the judicial justice of the peace considers appropriate in the circumstances. *2021, c.13, s.6.*

7. Restriction on use

- (1) Despite the *Freedom of Information and Protection of Privacy Act* and the *Municipal Government Act* R.S.P.E.I. 1988, Cap. M-12.1, a police service may use information and records obtained under this Act 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.

Information and records may be used in criminal investigation

- (2) Where an investigation into a missing person becomes a criminal investigation, this section does not prevent information and records obtained by a police service under this Act from being used in the criminal investigation. 2021,c.13,s.7.

8. Disclosure of information and records limited

- (1) Any information or records obtained by a police service under this Act are confidential and may not be disclosed except in accordance with this section.

Authorized disclosure

- (2) Despite the *Freedom of Information and Protection of Privacy Act* and the *Municipal Government Act*, information or records obtained by a police service under this Act may be disclosed only
- (a) for the purpose of locating a missing person or a use consistent with that purpose;
 - (b) where 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 investigation into the missing person;
 - (d) where the person the information or records are about has consented to the disclosure; or
 - (e) in accordance with subsections (3) to (8).

Authorized disclosure to public

- (3) For the purposes of furthering its investigation into a missing person, a police service 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 service 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 conditions of the missing person that pose a serious or immediate threat to the missing person's health and safety;
 - (e) pertinent vehicle information;
 - (f) the location where the missing person was last seen;
 - (g) the circumstances surrounding the disappearance of the missing person.

Public announcement where missing person located

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

Disclosure of information and records in respect of a minor

- (5) Subject to the regulations, where a missing person who is a minor is located, a police service may, without the person's consent, disclose information and records collected under this Act about the person to a parent or guardian of the person if, in the opinion of the police service, the disclosure will protect the safety of the person.

Disclosure of information and records in respect of a vulnerable person

- (6) Subject to the regulations, where a missing person who is a vulnerable person is located, a police service may, without the person's consent, disclose information and records collected under this Act about the person to a guardian or committee of the person if, in the opinion of the police service, the disclosure will protect the safety of the person.

Disclosure to police services and others

- (7) A police service may disclose information and records obtained under this Act to other police services, law enforcement agencies in accordance with clause 8(2)(c) and public bodies to the extent necessary to coordinate investigations and other activities respecting missing persons.

Information and records may be used in criminal investigation

- (8) Where an investigation into a missing person becomes a criminal investigation, this section does not prevent the disclosure of information and records obtained under this Act for the purposes of the criminal investigation. *2021,c.13,s.8.*

9. No access to privileged information

Nothing in this Act compels the disclosure of any information or records that are subject to any type of legal privilege, including solicitor-client privilege. *2021,c.13,s.9.*

10. No limit on powers of Information and Privacy Commissioner

Nothing in this Act shall be construed as limiting the powers and duties of the Information and Privacy Commissioner appointed under the *Freedom of Information and Protection of Privacy Act*. *2021,c.13,s.10.*

11. Other rights unaffected

This Act does not restrict any authority established at common law or under any federal or other provincial enactment that a police service would otherwise have to collect, use, disclose, retain or dispose of any information or records. *2021,c.13,s.11.*

12. Offence and penalty

Every person who contravenes section 7 or 8 is guilty of an offence and liable on summary conviction to a fine of not less than \$2,000 and not more than \$10,000. *2021,c.13,s.12.*

13. Protection from liability

No action or proceeding may be brought against a member of a police service or any other person in respect of anything done or omitted to be done in good faith under this Act. *2021,c.13,s.13.*

14. Annual report, emergency demands

- (1) A police service shall prepare an annual report respecting its use of emergency demands under section 5.

Contents of report

- (2) The police service shall, in its report,
- (a) indicate the number of missing persons investigations in which an emergency demand under section 5 was made in the year and the total number of persons who were served with a demand in that year; and
 - (b) include prescribed information respecting each emergency demand.

Report to Minister, public

- (3) The police service shall
- (a) provide the annual report to the Minister; and
 - (b) make the annual report available to the public. *2021, c.13, s.14.*

15. Regulations

The Lieutenant Governor in Council may make regulations

- (a) respecting the information required to be included in an application for a search order or a record access order under section 2;
- (b) respecting the content of a search order under section 3;
- (c) respecting the content of a record access order under section 4;
- (d) prescribing records for the purpose of clause 5(2)(j);
- (e) respecting the information required to be included in an emergency demand for records under section 5 and establishing other requirements for the demand;
- (f) respecting the service of orders under this Act and of emergency demands under section 5;
- (g) respecting the content of a written report under subsection 5(4);
- (h) respecting the information required to be included in an application for an order under section 6;
- (i) prescribing the content of an order made or issued under this Act;
- (j) respecting the collection, use, disclosure, retention and disposal of information and records obtained under this Act;
- (k) respecting the type of records to be kept and maintained under this Act;
- (l) defining any term used but not defined in this Act;
- (m) prescribing anything referred to in this Act as being prescribed; and
- (n) respecting any matter the Lieutenant Governor in Council considers necessary or advisable to carry out the intent and purposes of this Act. *2021, c.13, s.15.*