

BILL ANALYSIS

H.B. 3385
By: Coleman
Public Safety
Committee Report (Unamended)

BACKGROUND AND PURPOSE

Currently, Amber Alerts are issued at the request of local law enforcement by the Department of Public Safety (DPS) if the department determines that the request meets certain criteria. However, the criteria for issuance is too narrow in some instances to allow an alert to be issued for a child who is in peril. A child who is willingly taken from the care and custody of the child's legal guardian may be in danger regardless of whether the child meets the legal definition of an abductee. State law must tread a delicate balance between overusing the Amber Alert system, which could undermine its effectiveness, and not effectively using the system to recover a child who is in danger. Currently, an alert will be issued if an abducted child is in immediate danger of serious bodily injury or death, but not if the child is in danger of becoming the victim of sexual assault.

H.B. 3385 adds the alleged abduction of a child that is in immediate danger of become a victim of sexual assault, along with additional criteria, to the list of circumstances under which DPS is required to issue an Amber Alert. The additional criteria relates to situations in which a child under the age of 14 is taken willingly or unwillingly from the custody of the child's guardian without permission by a person who is more than 3 years older and is not a relative of the child. The bill clarifies that a preliminary investigation be conducted before an alert is issued.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

H.B. 3385 amends the Government Code to expand the conditions in which the Department of Public Safety is required, at the request of a local law enforcement agency, to activate the statewide alert system for abducted children to include if the agency believes that there has been an abduction of a child who is younger than 14 years of age and regardless of whether the child departed willingly with the other person, who has been taken from the care and custody and without the permission of the child's parent or legal guardian by another person who is more than three years older than the child and not related to the child by any degree of consanguinity or affinity. The bill further expands these conditions to include if the local law enforcement agency believes the abducted child is in immediate danger of becoming the victim of a sexual assault. The bill clarifies that the investigation required to be conducted by a local law enforcement agency before an alert is issued is a preliminary investigation.

EFFECTIVE DATE

On passage, or, if the act does not receive the necessary vote, the act takes effect September 1, 2009.