

By: Anderson of Dallas

H.B. No. 1075

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the consolidation of certain alert systems into a
3 single statewide alert system and to the addition of other factors
4 that will prompt an alert under the consolidated system.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. The heading to Subchapter L, Chapter 411,
7 Government Code, is amended to read as follows:

8 SUBCHAPTER L. STATEWIDE [AMERICA'S MISSING: BROADCAST EMERGENCY
9 RESPONSE (AMBER)] ALERT SYSTEM [FOR ABDUCTED CHILDREN AND MISSING
10 INCAPACITATED PERSONS]

11 SECTION 2. Section 411.351, Government Code, is amended to
12 read as follows:

13 Sec. 411.351. DEFINITIONS. In this subchapter:

14 (1) "Abducted child" means a child 17 years of age or
15 younger whose whereabouts are unknown and whose disappearance poses
16 a credible threat to the safety and health of the child, as
17 determined by a local law enforcement agency. The term includes any
18 child who did not depart willingly with the other person or who,
19 regardless of whether the child departed willingly with the other
20 person, is younger than 14 years of age. In either case, the child
21 must have been taken from the care and custody of the child's
22 parent, ~~or~~ legal guardian, or primary care giver without the
23 permission of the parent, ~~or~~ legal guardian, or primary care giver
24 by another person who is:

1 (A) more than three years older than the child;
2 and
3 (B) not related to the child by any degree of
4 consanguinity or affinity as defined under Subchapter B, Chapter
5 573.

6 (2) "Alert system" means the statewide [America's
7 Missing: Broadcast Emergency Response (AMBER)] alert system
8 established under Section 411.352 [for abducted children and
9 missing incapacitated persons].

10 (3) "Incapacitated person" means a person who, ÷
11 ~~(A) is 65 years of age or older and has an~~
12 ~~impaired mental condition; or~~
13 ~~(B) because of a diagnosed intellectual and~~
14 ~~developmental disability mental condition,~~ is substantially unable
15 to provide food, clothing, or shelter for himself or herself or to
16 care for the person's own physical health and well-being.

17 (4) "Local law enforcement agency" means a local law
18 enforcement agency with jurisdiction over the investigation of:

19 (A) the abduction of a child; or
20 (B) a missing incapacitated person.

21 (5) [~~(4)~~] "Serious bodily injury" has the meaning
22 assigned by Section 1.07, Penal Code.

23 SECTION 3. Section 411.352, Government Code, is amended to
24 read as follows:

25 Sec. 411.352. STATEWIDE [AMERICA'S MISSING: BROADCAST
26 EMERGENCY RESPONSE (AMBER)] ALERT SYSTEM [FOR ABDUCTED CHILDREN AND
27 MISSING INCAPACITATED PERSONS]. With the cooperation of the Texas

1 Department of Transportation, the office of the governor, and other
2 appropriate law enforcement agencies in this state, the department
3 shall develop and implement a statewide alert system to be
4 activated on behalf of an abducted child or a missing incapacitated
5 person.

6 SECTION 4. Section 411.355, Government Code, is amended to
7 read as follows:

8 Sec. 411.355. ACTIVATION OF ALERT. (a) On establishing
9 that the criteria under Section 411.3551 or 411.3552 have been
10 satisfied, [the request of] a local law enforcement agency[, the
11 department] shall immediately request the activation of the
12 appropriate alert by the department and shall provide to the
13 department all the information necessary to support the agency's
14 request.

15 (b) On verifying the accuracy of the information provided by
16 a local law enforcement agency to the department under Subsection
17 (a), the department shall immediately activate the alert [system]
18 and notify appropriate participants in the alert system, as
19 established by department rule. [~~if:~~

20 [~~(1) the local law enforcement agency believes that a~~
21 ~~child has been abducted, including a child who:~~

22 [~~(A) is younger than 14 years of age, and~~

23 [~~(B) regardless of whether the child departed~~
24 ~~willingly with the other person, has been taken from the care and~~
25 ~~custody of the child's parent or legal guardian without the~~
26 ~~permission of the parent or legal guardian by another person who is:~~

27 [~~(i) more than three years older than the~~

1 child; and

2 [~~(ii) not related to the child by any degree~~
3 ~~of consanguinity or affinity as defined under Subchapter B, Chapter~~
4 ~~573, Government Code;~~

5 [~~(2) the local law enforcement agency believes that~~
6 ~~the abducted child is in immediate danger of serious bodily injury~~
7 ~~or death or of becoming the victim of a sexual assault;~~

8 [~~(3) the local law enforcement agency confirms that a~~
9 ~~preliminary investigation has taken place that verifies the~~
10 ~~abduction and eliminates alternative explanations for the child's~~
11 ~~disappearance; and~~

12 [~~(4) sufficient information is available to~~
13 ~~disseminate to the public that could assist in locating the child, a~~
14 ~~person suspected of abducting the child, or a vehicle suspected of~~
15 ~~being used in the abduction].~~

16 (c) In activating an alert, the [(b) The] department shall
17 send [may modify the criteria described by Subsection (a) as
18 necessary for the proper implementation of] the alert to designated
19 media outlets in Texas [system]. Following receipt of the alert,
20 participating radio stations, television stations, and other media
21 outlets may issue the alert at designated intervals to assist in
22 locating the abducted child or missing incapacitated person.

23 (d) An alert must include:

24 (1) all appropriate information that is provided by
25 the local law enforcement agency and that may lead to the safe
26 location or recovery of the abducted child or missing incapacitated
27 person; and

1 (2) a statement instructing any person with
2 information related to the abducted child or missing incapacitated
3 person to contact a local law enforcement agency.

4 SECTION 5. Subchapter L, Chapter 411, Government Code, is
5 amended by adding Sections 411.3551 and 411.3552 to read as
6 follows:

7 Sec. 411.3551. CRITERIA FOR ALERT REGARDING ABDUCTED CHILD.
8 To activate an alert regarding an abducted child under Section
9 411.355, the following criteria must be satisfied:

10 (1) the local law enforcement agency must believe that
11 a child has been abducted;

12 (2) the local law enforcement agency must believe that
13 the abducted child is in immediate danger of serious bodily injury
14 or death or of becoming the victim of a sexual assault;

15 (3) the local law enforcement agency must confirm that
16 a preliminary investigation has taken place that verifies the
17 abduction and eliminates alternative explanations for the child's
18 disappearance; and

19 (4) sufficient information must be available to
20 disseminate to the public that could assist in locating or
21 recovering the child, a person suspected of abducting the child, or
22 a vehicle suspected of being used in the abduction.

23 Sec. 411.3552. CRITERIA FOR ALERT REGARDING MISSING
24 INCAPACITATED PERSON. (a) To activate an alert regarding a missing
25 incapacitated person under Section 411.355, the following criteria
26 must be satisfied:

27 (1) at the time the incapacitated person is reported

1 missing:

2 (A) the person reported missing:

3 (i) ~~must be 65 years of age or older and~~
4 ~~have an impaired mental condition; or~~

5 ~~(ii)~~ must have a diagnosed intellectual and
6 developmental disability ~~mental condition~~ that causes the person to
7 be substantially unable to provide food, clothing, or shelter for
8 himself or herself or to care for the person's own physical health;

9 (B) the person's location must be unknown; and

10 (C) the person's domicile must be Texas; and

11 (2) the person's disappearance must pose a credible
12 threat to the person's health and safety.

13 (b) A local law enforcement agency that reports a missing
14 incapacitated person shall:

15 (1) require the family, ~~or~~ legal guardian, or primary
16 care giver of the person to provide documentation of the person's
17 intellectual and developmental disability ~~mental condition~~ to
18 confirm the presence of a condition described by Subsection
19 (a)(1)(A); and

20 (2) as soon as practicable, determine whether the
21 person's disappearance poses a credible threat to the person's
22 health and safety for purposes of Subsection (a)(2).

23 SECTION 6. Section 411.358, Government Code, is amended to
24 read as follows:

25 Sec. 411.358. TERMINATION OF ALERT. (a) The director shall
26 terminate the [~~any~~] activation of any the alert [~~system~~] with
27 respect to a particular abducted child or missing incapacitated

1 person [~~abducted child~~] if:

2 (1) the abducted child or missing incapacitated person
3 [~~child~~] is located or recovered or the situation [~~abduction~~] is
4 otherwise resolved; or

5 (2) the director determines that the alert [~~system~~] is
6 no longer an effective tool for locating or [~~and~~] recovering the
7 abducted child or missing incapacitated person [~~child~~].

8 (b) A local law enforcement agency that locates or recovers
9 a person who is the subject of an alert under this subchapter shall
10 notify the department as soon as possible that the person has been
11 located or recovered, as applicable.

12 SECTION 7. The following statutes are repealed:

13 (1) Section 411.356, Government Code; and

14 ~~(2) Subchapter M, Chapter 411, Government Code.~~

15 SECTION 8. Not later than December 1, 2011, the public
16 safety director shall adopt the rules necessary to implement
17 Subchapter L, Chapter 411, Government Code, as amended by this Act.

18 SECTION 9. (a) Not later than December 1, 2011, the
19 Department of Public Safety of the State of Texas shall amend
20 ~~consolidate~~ the AMBER alert system described by Subchapter L,
21 Chapter 411, Government Code, ~~and the silver alert system described~~
22 ~~by Subchapter M, Chapter 411, Government Code, into a statewide~~
23 ~~alert system~~ and shall further develop and implement that system as
24 required by Section 411.352, Government Code, as amended by this
25 Act. ~~On that date, the AMBER alert system and the silver alert~~
26 ~~system are abolished, and any obligations, rules, contracts,~~
27 ~~records, or unspent appropriations relating to the operation of the~~

1 ~~AMBER alert system and the silver alert system are transferred to~~
2 ~~the statewide alert system.~~

3 (b) The rules of the AMBER alert system ~~and the silver alert~~
4 ~~system~~ are continued in effect ~~as rules of the statewide alert~~
5 ~~system~~ until superseded by other rule.

6 (c) Notwithstanding the changes in law made by this Act,
7 until the date the Department of Public Safety amends ~~consolidates~~
8 the AMBER alert system ~~and the silver alert system~~ as provided by
9 this section, the department shall continue to operate the AMBER
10 alert system ~~and the silver alert system independently~~ under the
11 laws that governed those systems before the effective date of this
12 Act, and the prior law is continued in effect for that purpose.

13 SECTION 10. This Act takes effect September 1, 2011.