

BILL ANALYSIS

Senate Research Center

H.B. 103
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Criminal Justice
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Leilah Hernandez, a high-school student, was the final victim of the Midland-Odessa shooting. The shooter murdered her more than an hour after the shooting spree. If an alert system regarding the shooting existed, it would have advised her to stay out of harm's way and could have saved her life.

H.B. 103, the "Leilah Hernandez Act," would require the Department of Public Safety to develop and implement an alert system to be activated when there is a report of an active shooter. This system would notify persons in a 50-mile radius of an active shooter's location at the request of a local law enforcement agency that determines it is necessary.

H.B. 103 amends current law relating to establishment of the Texas Active Shooter Alert System.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the public safety director of the Department of Public Safety of the State of Texas in SECTION 2 (Section 411.373, Government Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Authorizes this Act to be cited as the "Leilah Hernandez Act."

SECTION 2. Amends Chapter 411, Government Code, by adding Subchapter L-1, as follows:

SUBCHAPTER L-1. TEXAS ACTIVE SHOOTER ALERT SYSTEM

Sec. 411.371. DEFINITION. Defines "alert system."

Sec. 411.372. DEVELOPMENT AND IMPLEMENTATION OF ALERT SYSTEM. Requires the Department of Public Safety of the State of Texas (DPS), with the cooperation of the Texas Department of Transportation (TxDOT), the office of the governor, and other appropriate law enforcement agencies in this state, to develop and implement an alert system to be activated on report of an active shooter.

Sec. 411.373. ADMINISTRATION. (a) Provides that the public safety director of DPS (director) is the statewide coordinator of the alert system.

(b) Requires the director to adopt rules and issue directives as necessary to ensure proper implementation of the alert system. Requires that the rules and directives include instructions on the procedures for activating and deactivating the alert system.

(c) Requires the director to prescribe forms for local law enforcement agencies to use in requesting activation of the alert system.

Sec. 411.374. DEPARTMENT TO RECRUIT PARTICIPANTS. (a) Requires DPS to recruit public and commercial television and radio broadcasters, mobile telephone service providers by use of the federal Wireless Emergency Alert system, private commercial

entities, state or local governmental entities, the public, and other appropriate persons to assist in developing and implementing the alert system.

(b) Authorizes DPS to enter into agreements with participants in the alert system to provide necessary support for the alert system.

Sec. 411.375. **ACTIVATION.** (a) Requires DPS, on the request of a local law enforcement agency or as DPS determines appropriate to assist a local law enforcement agency regarding an active shooter, to activate the alert system and notify appropriate participants in the alert system as established by rule if the local law enforcement agency or DPS:

(1) believes an active shooter is in the agency's jurisdiction;

(2) determines an active shooter alert would assist individuals near the active shooter's location;

(3) verifies the active shooter situation through a preliminary investigation; and

(4) provides the active shooter's last known location and any identifiable information for the active shooter.

(b) Authorizes DPS to modify the criteria described by Subsection (a) as necessary for the proper implementation of the alert system.

Sec. 411.376. **LOCAL LAW ENFORCEMENT AGENCIES.** Requires a local law enforcement agency, before requesting activation of the alert system, to verify that the criteria described by Section 411.375(a) have been satisfied. Authorizes the local law enforcement agency, on verification of the applicable criteria, to immediately contact DPS to request activation and supply the necessary information on forms prescribed by the director.

Sec. 411.377. **STATE AGENCIES.** (a) Requires a state agency participating in the alert system to:

(1) cooperate with DPS and assist in developing and implementing the alert system; and

(2) establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, on activation of the alert system.

(b) Requires TxDOT, in addition to its duties as a state agency under Subsection (a), to establish a plan for providing relevant information to the public within 50 miles of an active shooter for which an alert has been issued through an existing system of dynamic message signs located across the state.

Sec. 411.378. **LIMITATION ON PARTICIPATION BY TEXAS DEPARTMENT OF TRANSPORTATION.** Provides that, notwithstanding Section 411.377(b), TxDOT is not required to use any existing system of dynamic message signs in a statewide alert system created under Subchapter (L-1) if TxDOT receives notice from the United States Department of Transportation Federal Highway Administration that the use of the signs would result in the loss of federal highway funding or other punitive actions taken against this state due to noncompliance with federal laws, regulations, or policies.

Sec. 411.379. **TERMINATION.** Requires the director to terminate any activation of the alert system for a particular active shooter if the active shooter situation is resolved, or the director or a local law enforcement agency determines the alert system is no longer an effective tool for providing relevant information to the public about the active shooter.

Sec. 411.380. **LIMITATION OF LIABILITY.** Provides that DPS or a local law enforcement agency is not liable for failure to activate the alert system.

SECTION 3. Requires the director, as soon as practicable after the effective date of this Act, to adopt rules and issue directives necessary to implement Subchapter L-1, Chapter 411, Government Code, as added by this Act.

SECTION 4. Effective date: September 1, 2021.