

HB 2504

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OFFICE WEST VIRGINIA
SECRETARY OF STATE

WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2009



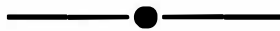
ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2504

(By Delegates Williams, Boggs, Argento, D. Poling, Pethtel,
Marshall, Butcher, Ennis, Rowan and Manypenny)



Passed April 10, 2009

In Effect Ninety Days from Passage

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H. B. 2504

**OFFICE WEST VIRGINIA
SECRETARY OF STATE**

**(BY DELEGATES WILLIAMS, BOGGS, ARGENTO, D. POLING,
PETHTEL, MARSHALL, BUTCHER, ENNIS, ROWAN, AND
MANYPENNY)**

[Passed April 10, 2009; in effect ninety days from passage.]

AN ACT to amend and reenact §15-3A-7 of the Code of West Virginia, 1931, as amended; and by further amending said code by adding thereto a new article, designated §15-3B-1, §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5 and §15-3B-6 of said code, all relating to the establishment of an alert system for missing cognitively impaired persons; providing for the use of video image recording devices for search purposes during a Silver Alert; providing legislative findings; providing criteria for the activation of a Silver Alert; providing for notice and broadcasting of a Silver Alert; and providing immunity for individuals providing information pursuant to a Silver Alert in good faith.

Be it enacted by the Legislature of West Virginia:

That §15-3A-7 of the Code of West Virginia, 1931, as amended, be amended and reenacted; and that said code be further amended by adding thereto a new article, designated §15-3B-1, §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5, and §15-3B-6, all to read as follows:

ARTICLE 3A. AMBER ALERT PLAN.

§15-3A-7. Providing for the use of video image recording devices for search purposes during an Amber Alert or Silver Alert Activation.

1 (a) The State Police and the Division of Highways shall
2 coordinate a process to utilize all available video recording
3 and monitoring devices for the purpose of monitoring Amber
4 Alert or Silver Alert suspect vehicles. This program shall be
5 called the "Guardian Angel Video Monitoring" Program.

6 (b) The Secretary of Military Affairs and Public Safety
7 shall also develop a plan to provide for the State Police to
8 monitor and utilize video recording and monitoring devices
9 during an Amber Alert or Silver Alert. This "Guardian Angel
10 Video Monitoring" implementation plan shall include at a
11 minimum, the following:

12 (1) Utilization of any state or local video recording and
13 monitoring devices upon agreement with the department,
14 agency or political subdivision in control of the video
15 recording device; and,

16 (2) Development of policies and initiatives relating to
17 facilitating sharing of information with neighboring states
18 wherein suspect vehicles in Amber Alerts or Silver Alerts
19 may be crossing state lines.

20 (c) The secretary shall submit the plan to the Joint
21 Committee on Government and Finance no later than
22 December 1, 2008. The plan shall include an analysis of all
23 related costs for equipping and using a statewide video
24 recording and monitoring system during the duration of an
25 Amber Alert and recommendations for any additional
26 legislation or actions necessary to further facilitate the
27 implementation of the "Guardian Angel Video Monitoring"
28 program.

ARTICLE 3B. SILVER ALERT PLAN.

§15-3B-1. Short title.

1 This article shall be known and may be cited as "Silver
2 Alert Plan".

**§15-3B-2. Findings and declarations relative to "Silver Alert
Plan".**

1 (a) The Legislature finds that:

2 (1) Public alerts can be one of the most effective tools in
3 locating missing cognitively impaired persons;

4 (2) Law-enforcement officers and other professionals
5 specializing in the field of missing persons agree that the
6 most critical moments in the search for a missing cognitively
7 impaired person are the first few hours immediately
8 following the discovery that the individual is missing,
9 asserting that if he or she is not found within twenty -four
10 hours, it is unlikely that he or she will be found alive or
11 without serious injury. The rapid dissemination of
12 information, including a description of the missing
13 cognitively impaired person, details of how he or she became
14 missing, and of any vehicle involved, to the citizens of the
15 affected community and region is, therefore, critical;

16 (3) Alerted to the situation, the citizenry become an
17 extensive network of eyes and ears serving to assist law
18 enforcement in quickly locating and safely recovering the
19 missing cognitively impaired person;

20 (4) The most effective method of immediately notifying
21 the public of a missing cognitively impaired person is
22 through the broadcast media; and

23 (5) All forms of developing technologies are required to
24 assist law enforcement in rapidly responding to these alerts
25 and are an additional tool for assuring the well being and
26 safety of our cognitively impaired citizenry. Thus, the use of
27 traffic video recording and monitoring devices for the
28 purpose of surveillance of a suspect vehicle adds yet another
29 set of eyes to assist law enforcement and aid in the safe
30 recovery of the cognitively impaired person.

31 (b) The Legislature declares that given the successes
32 other states and regions have experienced in using broadcast
33 media alerts to quickly locate and safely recover missing
34 cognitively impaired persons, and, with the recent
35 development of highway video recording and monitoring
36 systems, it is altogether fitting and proper, and within the
37 public interest, to establish these programs for West Virginia.

§15-3B-3. Establishment of “Silver Alert” program.

1 (a) The Secretary of the Department of Military Affairs
2 and Public Safety shall establish “Silver Alert”, a program
3 authorizing the broadcast media, upon notice from the State
4 Police, to broadcast an alert to inform the public of a missing
5 cognitively impaired person. The program shall be a
6 voluntary, cooperative effort between state law-enforcement
7 and the broadcast media.

8 (b) For the purposes of this article, the term “cognitively
9 impaired” means a person having a deficiency in his or her
10 short-term or long-term memory, orientation as to person,
11 place, and time, deductive or abstract reasoning, or judgment
12 as it relates to safety: *Provided*, That the cognitive
13 impairment is not caused by the use of alcohol or drugs not
14 legally prescribed by a physician.

15 (c) The secretary shall notify the broadcast media serving
16 the State of West Virginia of the establishment of “Silver
17 Alert” program and invite their voluntary participation.

18 (d) The secretary shall submit a plan to the Joint
19 Committee on Government and Finance no later than
20 December 1, 2009. The plan shall include “Silver Alert”
21 activation protocols, evaluation of first responder training
22 requirements and needs as related to cognitively impaired
23 persons, coordination and utilization of established programs
24 and analysis of any costs. The secretary shall also make
25 recommendations for any additional legislation or actions
26 necessary to further facilitate the implementation of the
27 “Silver Alert” program.

§15-3B-4. Activation of Silver Alert.

1 The following criteria shall be met before the State Police
2 activate the Silver Alert:

3 (1) A person is believed to be cognitively impaired;

4 (2) The person is believed to be missing, regardless of
5 circumstance;

6 (3) A person who has knowledge that the cognitively
7 impaired person is missing has submitted a missing person's
8 report to the State Police or other appropriate law-
9 enforcement agency;

10 (4) The missing person may be in danger of death or
11 serious bodily injury;

12 (5) The missing person is domiciled or believed to be
13 located in the State of West Virginia;

14 (6) The missing person is, or is believed to be, at a
15 location that cannot be determined by an individual familiar
16 with the missing person, and the missing person is incapable
17 of returning to the missing person's residence without
18 assistance; and

19 (7) There is sufficient information available to indicate
20 that a Silver Alert would assist in locating the missing
21 person.

§15-3B-5. Notice to participating media; broadcast of alert.

1 (a) To participate, the media may agree, upon notice from
2 the State Police via email or facsimile, to transmit
3 information to the public about a missing cognitively
4 impaired person that has occurred within their broadcast
5 service region.

6 (b) The alerts shall include a description of the missing
7 cognitively impaired person, such details of the circumstance
8 surrounding him or her becoming missing, as may be known,
9 and such other information as the State Police may deem
10 pertinent and appropriate. The State Police shall in a timely

11 manner update the broadcast media with new information
12 when appropriate concerning the missing cognitively
13 impaired person.

14 (c) The alerts also shall provide information concerning
15 how those members of the public who have information
16 relating to the missing cognitively impaired person may
17 contact the State Police or other appropriate law-enforcement
18 agency.

19 (d) Concurrent with the notice provided to the broadcast
20 media, the State Police shall also notify the Department of
21 Transportation, the Division of Highways and the West
22 Virginia Turnpike Commission of the "Silver Alert" so that
23 the department and the affected authorities may, if possible,
24 through the use of their variable message signs, inform the
25 motoring public that a "Silver Alert" is in progress and may
26 provide information relating to the missing cognitively
27 impaired person and how motorists may report any
28 information they have to the State Police or other appropriate
29 law-enforcement agency.

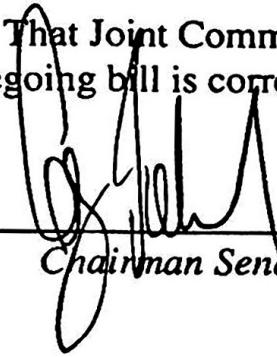
30 (e) The alerts shall terminate upon notice from the State
31 Police.

32 (f) The secretary shall develop and undertake a campaign
33 to inform law-enforcement agencies about the "Silver Alert"
34 program established under this article.

**§15-3B-6. Aid to missing cognitively impaired adult; immunity
from civil or criminal liability.**

1 No person or entity who in good faith follows and abides
2 by the provisions of this article is liable for any civil or
3 criminal penalty as the result of any act or omission in the
4 furtherance thereof unless it is alleged and proven that the
5 information disclosed was false and disclosed with the
6 knowledge that the information was false.

That Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.



Chairman Senate Committee



Chairman House Committee

Originating in the House.

In effect ninety days from passage.



Clerk of the Senate



Clerk of the House of Delegates

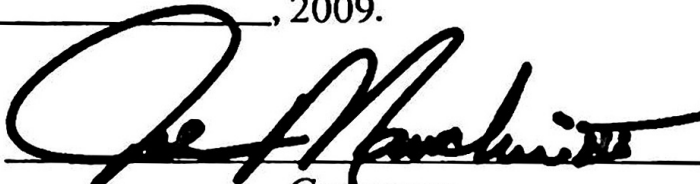


President of the Senate



Speaker of the House of Delegates

The within is approved this the 24th
day of April, 2009.



Governor

PRESENTED TO THE
GOVERNOR

APR 21 2009

Time

4:00 pm