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
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.

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

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

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

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

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

ARTICLE 3B. SILVER ALERT PLAN.

§15-3B-1. Short title.
This article shall be known and may be cited as "Silver Alert Plan".

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

(a) The Legislature finds that:

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

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

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

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

(5) All forms of developing technologies are required to assist law enforcement in rapidly responding to these alerts and are an additional tool for assuring the well being and safety of our cognitively impaired citizenry. Thus, the use of traffic video recording and monitoring devices for the purpose of surveillance of a suspect vehicle adds yet another set of eyes to assist law enforcement and aid in the safe recovery of the cognitively impaired person.
(b) The Legislature declares that given the successes other states and regions have experienced in using broadcast media alerts to quickly locate and safely recover missing cognitively impaired persons, and, with the recent development of highway video recording and monitoring systems, it is altogether fitting and proper, and within the public interest, to establish these programs for West Virginia.

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

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

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

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

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

§15-3B-4. Activation of Silver Alert.
The following criteria shall be met before the State Police activate the Silver Alert:

1. A person is believed to be cognitively impaired;
2. The person is believed to be missing, regardless of circumstances;
3. A person who has knowledge that the cognitively impaired person is missing has submitted a missing person’s report to the State Police or other appropriate law-enforcement agency;
4. The missing person may be in danger of death or serious bodily injury;
5. The missing person is domiciled or believed to be located in the State of West Virginia;
6. The missing person is, or is believed to be, at a location that cannot be determined by an individual familiar with the missing person, and the missing person is incapable of returning to the missing person’s residence without assistance; and
7. There is sufficient information available to indicate that a Silver Alert would assist in locating the missing person.

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

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

(b) The alerts shall include a description of the missing cognitively impaired person, such details of the circumstance surrounding him or her becoming missing, as may be known, and such other information as the State Police may deem pertinent and appropriate. The State Police shall in a timely
manner update the broadcast media with new information when appropriate concerning the missing cognitively impaired person.

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

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

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

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

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

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