

SENATE BILL 42

54TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2019

INTRODUCED BY

Richard C. Martinez

Pursuant to House Rule 24-1, this document incorporates amendments that have been adopted prior to consideration of this measure by the House. It is a tool to show the amendments in context and is not to be used for the purpose of amendments.

AN ACT

RELATING TO PUBLIC SAFETY; EXPANDING THE NOTIFICATION AND REPORTING REQUIREMENTS FOR CERTAIN MISSING PERSONS.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 29-15-2 NMSA 1978 (being Laws 1995, Chapter 146, Section 2, as amended) is amended to read:

"29-15-2. DEFINITIONS.--As used in the Missing Persons Information and Reporting Act:

A. "Brittany alert" means a notification relating to an endangered person:

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(1) who is a missing person; and
(2) about whom there is a clear indication that the person has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that the person's health or safety is at risk;

B. "child" means a person under the age of eighteen years who is not emancipated;

C. "clearinghouse" means the missing persons information clearinghouse;

D. "custodian" means a parent, guardian or other person who exercises legal physical control, care or custody of a child or of an adult with a developmental disability; or a person who performs one or more activities of daily living for an adult;

E. "endangered person" means a missing person who:

(1) is in imminent danger of causing harm to the person's self;

(2) is in imminent danger of causing harm to another;

(3) is in imminent danger of being harmed by another or who has been harmed by another;

(4) has been a victim of a crime as provided in the Crimes Against Household Members Act or in Section 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any other jurisdiction;

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(5) is or was protected by an order of protection pursuant to the Family Violence Protection Act;

(6) has Alzheimer's disease, dementia or another degenerative brain disorder or a brain injury; or

(7) has a developmental disability as defined in Subsection A of Section 28-16A-6 NMSA 1978 and that person's health or safety is at risk;

F. "immediate family member" means the spouse, nearest relative or close friend of a person;

G. "law enforcement agency" means a law enforcement agency of the state, a state agency or a political subdivision of the state;

H. "lead station" means an AM radio station that has been designated as the "state primary station" by the federal communications commission for the emergency alert system;

I. "missing person" means a person whose whereabouts are unknown to the person's custodian or immediate family member and the circumstances of whose absence indicate that:

(1) the person did not leave the care and control of the custodian or immediate family member voluntarily and the taking of the person was not authorized by law; or

(2) the person voluntarily left the care and control of the custodian without the custodian's consent and

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without intent to return;

J. "missing person report" means information that is:

(1) given to a law enforcement agency on a form used for sending information to the national crime information center; and

(2) about a person whose whereabouts are unknown to the reporter and who is alleged in the form submitted by the reporter to be missing;

K. "person" means an individual, regardless of age;

L. "possible match" means the similarities between unidentified human remains and a missing person that would lead one to believe they are the same person;

M. "reporter" means the person who reports a missing person;

N. "silver alert" means a notification relating to an endangered person:

(1) who is a missing person; and

(2) who is fifty years or older; [~~and~~] or

(3) about whom there is a clear indication that the individual [~~has an irreversible deterioration of intellectual faculties~~] suffers from Alzheimer's disease or another form of dementia, regardless of age;

O. "state agency" means an agency of the state, a political subdivision of the state or a public post-secondary

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educational institution; and

P. "state registrar" means the employee so designated by the public health division of the department of health pursuant to the Vital Statistics Act."

SECTION 2. Section 29-15-3.2 NMSA 1978 (being Laws 2013, Chapter 81, Section 1) is amended to read:

"29-15-3.2. SILVER ALERT ADVISORY.--

A. The department of public safety shall issue a silver alert if, after review and investigation of a missing person report of a person subject to the alert, the department makes an independent determination that the missing person is a person subject to the alert.

B. The department of public safety shall develop and implement a silver alert [~~procedures~~] plan for the purpose of disseminating, as rapidly as possible, information about a person subject to the alert. The [~~procedures~~] plan shall:
[~~include:~~

- ~~(1) notification to the lead station of the silver alert;~~
- ~~(2) notification to other public and private media sources and members of the public as necessary; and~~
- ~~(3) providing information about the subject of the silver alert, including all identifying information, to the lead station and other media sources]~~

(1) provide a procedure for the department to

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notify the lead station that a silver alert has been declared.
The procedure shall include codes for use by the department in communicating with the lead station to prevent false alerts;

(2) provide a procedure in which other state and private print, radio, television or other media may alert members of the public of the missing person;

(3) include a procedure for notifying the department of information technology that a silver alert has been declared. The department of information technology shall immediately transmit the notification and related information to all state field operations employees so that they may be aware and vigilant in the course of their regular activities;

SPAC→~~(4) include a procedure for notifying a representative of each cellular service company and paging service company operating in New Mexico so that a text message may be sent to the company's customers at no additional expense to the recipient or to any service that accepts the information from the authorized requester and delivers it to the cellular service or paging service company;~~←SPAC

SPAC→(4) **require cellular service companies to implement silver alerts in accordance with the federal communication commission's wireless emergency alerts processes;**←SPAC

(5) include a procedure for notifying all local and federal law enforcement agencies that a silver alert

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has been declared;

(6) provide for dissemination of information about the missing person to the lead station, the department of information technology and local law enforcement agencies when a silver alert has been declared; and

(7) provide for collecting and maintaining the following records regarding each silver alert issued:

(a) the municipality where the missing person report originated;

(b) the age of the missing person;

(c) the gender of the missing person;

(d) that date of the missing person

report;

(e) the date the silver alert is issued;

and

(f) the date of recovery of the missing

person.

C. The department of public safety shall distribute the silver alert notification plan to all local law enforcement agencies and provide such training and other assistance as is necessary to ensure that the plan can be properly implemented.

D. Once a silver alert has been declared, only the department of public safety may terminate the silver alert."