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SENATE BILL 42

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

INTRODUCED BY

Richard C. Martinez

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:

(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;

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

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

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

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

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

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

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

17 (4) has been a victim of a crime as provided
18 in the Crimes Against Household Members Act or in Section
19 30-3A-3 or 30-3A-3.1 NMSA 1978, or their equivalents in any
20 other jurisdiction;

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

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

25 (7) has a developmental disability as defined

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1 in Subsection A of Section 28-16A-6 NMSA 1978 and that person's
2 health or safety is at risk;

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

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

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

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

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

19 (2) the person voluntarily left the care and
20 control of the custodian without the custodian's consent and
21 without intent to return;

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

24 (1) given to a law enforcement agency on a
25 form used for sending information to the national crime

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1 information center; and

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

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

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

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

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

13 (1) who is a missing person; and

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

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

19 O. "state agency" means an agency of the state, a
20 political subdivision of the state or a public post-secondary
21 educational institution; and

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

25 SECTION 2. Section 29-15-3.2 NMSA 1978 (being Laws 2013,

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1 Chapter 81, Section 1) is amended to read:

2 "29-15-3.2. SILVER ALERT ADVISORY.--

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

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

12 [~~include:~~

13 ~~(1) notification to the lead station of the~~
14 ~~silver alert;~~

15 ~~(2) notification to other public and private~~
16 ~~media sources and members of the public as necessary; and~~

17 ~~(3) providing information about the subject of~~
18 ~~the silver alert, including all identifying information, to the~~
19 ~~lead station and other media sources]~~

20 (1) provide a procedure for the department to
21 notify the lead station that a silver alert has been declared.
22 The procedure shall include codes for use by the department in
23 communicating with the lead station to prevent false alerts;

24 (2) provide a procedure in which other state
25 and private print, radio, television or other media may alert

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1 members of the public of the missing person;

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

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

15 (5) include a procedure for notifying all
16 local and federal law enforcement agencies that a silver alert
17 has been declared;

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

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

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

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- 1 (b) the age of the missing person;
- 2 (c) the gender of the missing person;
- 3 (d) that date of the missing person
- 4 report;
- 5 (e) the date the silver alert is issued;
- 6 and
- 7 (f) the date of recovery of the missing
- 8 person.

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

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