

SECTION III: NARRATIVE

BILL SUMMARY

Section 29-15-3.2 requires DPS to issue a silver alert in specific situations and develop and implement a silver alert plan for doing so. Among other requirements, the silver alert plan requires cellular service companies to implement silver alerts in accordance with the federal communication commission's (FCC) wireless emergency alerts processes. This bill sets forth a new requirement that the silver alert plan 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 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.

FISCAL IMPLICATIONS

The requirement for cellular and paging service providers to send Silver Alerts at no cost introduces potential operational expenses for service providers, which may indirectly affect state negotiations or funding allocations.

SIGNIFICANT ISSUES

House Bill 301 expands the Silver Alert system in New Mexico by requiring cellular and paging companies to send text notifications to all customers at no cost, ensuring faster public awareness of missing persons. It mandates the Department of Public Safety to enhance coordination with law enforcement, state agencies, and media outlets while also maintaining detailed records on Silver Alerts to assess their effectiveness. The bill strengthens efforts to locate missing individuals more efficiently but may require additional resources for implementation and compliance with private sector partners.

There are concerns with the following language in Section B(4), which calls for DPS's plan to require cellular cellphone companies to send a text message to the company's customers...in accordance with the federal communications commission's (FCC) wireless emergency alerting processes. DPS cannot require cellphone carriers to send "text messages" to their customers. Currently, the FCC does not require cellular phone companies to send "text messages." The FCC creates alerting codes which are then implemented into FEMA's IPAWS (Integrated Public Alert and Warning System). Through IPAWS, wireless emergency alerts are sent to mobile phones. These emergency alerts, not to be confused with "text messages," can be sent to mobile phones, regardless of carrier service, and regardless of whether the mobile phone user has an active cell phone account.

Mandating cellular companies to transmit alerts raises concerns about compliance, enforcement, and potential burden on private entities. Additionally, widespread alert dissemination risks alert fatigue, reducing public responsiveness. Ensuring message accuracy and preventing false alerts will be critical for maintaining public trust and law enforcement efficiency.

Some possible ways to enforce a mandate on cellular companies to transmit alerts are:

1. Incorporate the Requirement into Licensing or Franchise Agreements:

The state can make alert transmission a condition of a carrier's operating license or franchise agreement. This means that, similar to a rule in a contract, carriers must comply or face fines, penalties, or even license suspension;

2. Establish Regular Reporting and Auditing Procedures:

The agency can require carriers to periodically submit compliance reports or conduct routine tests (for example, simulated alerts) to verify that their systems function as required. Audits and spot checks ensure that alerts are actually being transmitted when needed;

3. Set Clear Technical Standards and Certification Requirements:

By mandating that carriers use specific technology (or upgrade existing systems) to reliably broadcast alerts, the agency minimizes uncertainty about how alerts are sent. These standards can be designed in coordination with federal guidelines so that the burden on carriers is minimized and interoperability with national systems is maintained;

4. Impose Penalties for Non-Compliance:

If a carrier fails to meet the mandate, the state agency can impose administrative fines or other sanctions under state law. This enforcement mechanism works as an incentive for carriers to remain compliant and invest in necessary technology; and

5. Coordinate with Federal Authorities:

Because telecommunications are federally regulated, the state agency can work in tandem with the Federal Communications Commission (FCC) to align state requirements with federal rules. This helps ensure that state mandates do not conflict with federal law and leverages the FCC's own enforcement mechanisms.

PERFORMANCE IMPLICATIONS

Automated mass notifications will likely improve response times and expand public engagement in locating missing persons. However, overuse or unverified alerts could diminish effectiveness. Training law enforcement and refining verification protocols are necessary to ensure alerts remain reliable, targeted, and actionable.

ADMINISTRATIVE IMPLICATIONS

DPS must coordinate with cellular providers to ensure compliance with alert transmission protocols. Additionally, law enforcement training will be required to integrate new notification procedures. Enhanced record-keeping and reporting mechanisms must be developed to track alert effectiveness and maintain system accountability.

CONFLICT, DUPLICATION, COMPANIONSHIP, RELATIONSHIP

No conflict, duplication, companionship or relationship to DPS.

TECHNICAL ISSUES

In August 2024, the FCC created the alerting code "MEP" or Missing/Endangered Persons. Silver Alerts would qualify for IPAWS alerts under this code. Because this is a new code, the FCC gave software manufacturers until September 2025 to provide their users with access to the MEP code via software updates. *See* 2024-19530 (89 FR 72724). In this document, the Federal Communications Commission (FCC or Commission) amends its regulations governing the Emergency Alert System (EAS) and Wireless Emergency Alerts (WEA) to add a new event code, MEP, to allow alert originators to issue an alert to the public about missing and endangered persons (MEP) whose circumstances do not meet the criteria of "America's Missing: Broadcast Emergency Response" (AMBER) alerts. Effective September 8, 2025.

DPS/NMSP uses "RAVE Mobile Safety," a software manufacturer, to issue wireless emergency alerts through IPAWS. The MEP Code is currently not available in the RAVE software. We are in contact with the Alert Coordinator for New Mexico to see when the code will be available in RAVE.

Integrating alerts into existing national and state databases will require technical upgrades to avoid compatibility issues with law enforcement systems.

OTHER SUBSTANTIVE ISSUES

If DPS/NMSP were to send wireless emergency alerts for all Silver Alerts for every law enforcement agency in the state, it would amount to DPS/NMSP issuing multiple alerts per week, if not per day. Using the IPAWS system to distribute wireless emergency alerts, in this case, for silver alerts, poses the risk of inducing alert fatigue, which occurs when the public is inundated with multiple emergency alerts on a frequent basis.

This will cause the public to become desensitized and dismissive of alerts due to the frequency at which they are sent. The public may also turn off these emergency alerts on their phones which would hurt and hinder any future efforts to find missing persons.

In 2023, RAND, a nonprofit, nonpartisan research organization under contract with the Department of Homeland Security, conducted a survey, *Assessing Public Reach of the 2023 National Test of the Wireless Emergency Alerts (WEA) System*, which found that 17.5% of Americans opted out of at least one or more alert types, with AMBER alerts being the most common. In New Mexico, the average opt-out for alerts is 20-25%.¹

¹ Parker, Andrew M., Rachel Steratore, Melissa A. Bradley, Salimah LaForce, Dulani Woods, Claude Messan Setodji, Gabriel W. Hassler, Devin Tierney, Carlos A. Villegas, Gary Cecchine, Brian A. Jackson, Chuck Story, Katie A. Wilson, Mohammad Ahmadi, and Jan Osburg, *Assessing Public Reach of the 2023 National Test of the Wireless Emergency Alerts (WEA) System: Results of a National Survey*. Homeland Security Operational Analysis Center operated by the RAND Corporation, 2024. https://www.rand.org/pubs/research_reports/RRA2451-1.html. Also available in print form.

ALTERNATIVES

Establish a second set of criteria which states that the IPAWS wireless emergency alerts may be sent, not withstanding any exigent circumstances, after all investigative leads have been exhausted.

WHAT WILL BE THE CONSEQUENCES OF NOT ENACTING THIS BILL

Status quo will remain.

AMENDMENTS

Page 1, Section A reads “The department of public safety shall issue a silver alert if...” This is an issue because it removes autonomy from every law enforcement agency in the state and has them rely on DPS/NMSP to issue the alert. We recommend the language be changed to “The department of public safety or the lead investigating law enforcement agency shall issue a silver alert if...”

Page 4, Section D should be changed to read “Once a silver alert has been declared, only the department of public safety or the lead investigating law enforcement agency may terminate the silver alert.”