

- SUBJECT:** Alert for missing person with intellectual developmental disability
- COMMITTEE:** Homeland Security and Public Safety — committee substitute recommended
- VOTE:** 8 ayes — S. Miller, Fletcher, Beck, Burnam, Driver, Flynn, Peña, Walle
0 nays
1 absent — Mallory Caraway
- WITNESSES:** For — (*on original version:*) Dennis Borel, Coalition of Texans with Disabilities; Lon Craft, Texas Municipal Police Association; Susanne Elrod, Texas Council of Community Centers; Tamela Kelley; Connie Lee Mauk, Aim High Home and Community Services; Michelle Mills, Mary's House; (*Registered, but did not testify:* Melinda Griffith, Combined Law Enforcement Association of Texas; (*on committee substitute:*) Clay Boatright, The ARC of Texas)

Against — None

On — Angela Lello, Texas Council for Developmental Disabilities
- BACKGROUND:** The 78th Legislature in 2003 enacted SB 57 by Zaffirini, which created a statewide AMBER (America's Missing: Broadcast Emergency Response) alert system to track abducted children and return them to safety. This codified the governor's 2002 executive order to create the statewide AMBER alert system. The network is a cooperative program of the Governor's Office, the Department of Public Safety (DPS), the Department of Transportation (TxDOT), and the Texas Association of Broadcasters.

When a local law enforcement officer activates an AMBER Alert, DPS issues a notice on the Emergency Alert System, which is relayed to television and radio stations within a 200-mile radius of the kidnapping. DPS also alerts other law enforcement agencies and instructs TxDOT to flash messages on electronic highway signs warning motorists to watch for the suspect's vehicle. The Texas Lottery Commission also participates by

displaying information about abducted children on electronic lottery terminal signs at businesses selling lottery tickets.

The 80th Legislature in 2007 enacted SB 1315 by Uresti, which created a statewide Silver Alert system for missing senior citizens. DPS issues a Silver Alert upon request of a local law enforcement agency if:

- a Texas resident aged 65 years or older is reported missing;
- the senior citizen has an impaired mental condition; and
- an investigation determines that the senior citizen's disappearance poses a credible threat to his or her health and safety.

Health and Safety Code sec. 593.005 requires a physician or psychologist to base a determination of mental retardation (now more commonly known as intellectual developmental disability) on an interview and assessment that includes, at a minimum:

- a measure of the person's intellectual functioning;
- a determination of the person's adaptive behavior level; and
- evidence of origination during the person's developmental period.

The physician or psychologist may use a previous assessment, social history, or relevant record from a school district, public or private agency, or another physician or psychologist in determining that any of these items is valid. The determination is performed at state expense if the person is indigent.

DIGEST:

CSHB 1075 would establish an alert system for missing persons with intellectual developmental disabilities. DPS would have to activate the AMBER Alert system upon a local law enforcement agency's request for a person with an intellectual developmental disability if:

- a person with an intellectual developmental disability was reported missing;
- local law enforcement at the time of the report verified that the person had an intellectual developmental disability and that his or her location was unknown;
- an investigation determined that the disappearance posed a credible threat to the person's health and safety; and

- sufficient information was available to give to the public that could assist in locating the person.

An intellectual developmental disability would be defined as significantly subaverage general intellectual functioning that was concurrent with deficits in adaptive behavior and originated during the developmental period. The term would include a pervasive developmental disorder, such as autism, that met the criteria in the most recent Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association.

The bill would incorporate the termination process for the new alert system into the AMBER Alert termination process now covering only abducted children.

The DPS director by rule could assign a name other than AMBER to the alert system when it was activated for missing persons with intellectual developmental disabilities.

The bill would take effect on September 1, 2011, and the DPS director would have to adopt rules and issue directives necessary to implement it by December 1, 2011.

**SUPPORTERS
SAY:**

An alert system for missing persons with intellectual disabilities would help locate these individuals quickly and before they became endangered. The program would build upon the success of the AMBER Alert system for abducted children, which has made the public aware that an AMBER alert means a vulnerable person is missing and needs to be found immediately.

Since it is more widely known, the AMBER Alert system would be a better vehicle for this purpose than the Silver Alert system. Using the AMBER Alert system for this population also makes sense because children and those with intellectual developmental disabilities often are vulnerable in the same ways, such as in not recognizing dangerous situations.

This bill is needed to stop another tragedy like the 2010 death of a 31-year-old Mansfield woman with intellectual developmental disabilities, who wandered away from home and was discovered five days later drowned in a creek four miles from her home. Although her family

reported her missing, she did not meet the criteria for an AMBER alert. It was later revealed that a member of the community saw her walking barefoot and was concerned, but did not report the sighting because she was unaware that the woman was missing.

Since the AMBER Alert system already is in place and so few people with intellectual developmental disabilities are likely to be the subject of an alert, the cost of adding this vulnerable population should be minimal. According to the fiscal note, it is unknown how many reported missing people would qualify as having intellectual developmental disabilities, but the number is expected to be relatively small. Six other states have alert systems that protect those with intellectual disabilities.

Finding a missing person with intellectual developmental disabilities is different from finding a missing 10-year-old, but the general need for prompt public awareness remains the same. The alerts could be made on a strictly local basis if the person wandered away on foot, causing no more alarm than necessary. The DPS director could change the name of the alert to prevent any confusion.

OPPONENTS
SAY:

Overuse of alerts could reduce their effectiveness. Activating alerts too often in nonemergencies, such as when a person just wanders away down the street, could make the public less responsive in more serious criminal child abduction cases. Too many appeals could cause the public to stop heeding them and could dilute the effectiveness and credibility of all alert programs.

AMBER Alerts are for children who have been criminally abducted, and people might assume that an AMBER Alert for an intellectually developmentally disabled person meant that the person was abducted when they had just wandered away. Law enforcement should not create more alarm than necessary. The Silver Alert system might be a better fit for this proposal because that program is also designed to locate missing, vulnerable people who need to be found but who are not victims of crime.

Although DPS could call the alert something other than AMBER, the bill would require it to change the name for an alert for a person with intellectual developmental disabilities, so public and media confusion could result.

OTHER
OPPONENTS
SAY:

CSHB 1075 might not protect all whom it intends to protect. A mother who calls law enforcement to report her missing autistic child would be asked whether her child is intellectually developmentally disabled according to the Health and Safety Code. Although autistic, the child may not fit the description under that statute. This would contradict the bill's perceived intention to include persons with pervasive developmental disorders, which include autism.

NOTES:

The original version of the bill would have implemented an AMBER Alert system for missing incapacitated persons rather than for missing persons with intellectual developmental disabilities.

The substitute would allow the DPS director by rule to assign a name other than AMBER when the system was activated for a missing person with an intellectual developmental disability. The original bill would have repealed a law regarding a local law enforcement agency's duty to verify that activation criteria were met before contacting DPS to request activation; the substitute would not repeal that law. The original bill would have required local law enforcement that located a missing person to notify DPS as soon as possible; the substitute did not include that requirement.

HB 2099 by Truitt, which would create an alert for a missing person with an intellectual disability through the Silver Alert program, was considered in a public hearing by the Homeland Security and Public Safety Committee on March 22 and was left pending.