

## **BILL ANALYSIS**

Senate Research Center  
81R11145 HLT-D

H.B. 3385  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

Currently, Amber Alerts are issued at the request of local law enforcement by the Department of Public Safety (DPS) if DPS determines that the request meets certain criteria. However, the criteria for issuance is too narrow in some instances to allow an alert to be issued for a child who is in peril. A child who is willingly taken from the care and custody of the child's legal guardian may be in danger regardless of whether the child meets the legal definition of an abductee. State law must tread a delicate balance between overusing the Amber Alert system, which could undermine its effectiveness, and not effectively using the system to recover a child who is in danger. Currently, an alert will be issued if an abducted child is in immediate danger of serious bodily injury or death, but not if the child is in danger of becoming the victim of sexual assault.

This bill adds the alleged abduction of a child that is in immediate danger of becoming a victim of sexual assault, along with additional criteria, to the list of circumstances under which DPS is required to issue an Amber Alert. The additional criteria relates to situations in which a child under the age of 14 is taken willingly or unwillingly from the custody of the child's guardian without permission by a person who is more than 3 years older and is not a relative of the child. The bill clarifies that a preliminary investigation be conducted before an alert is issued.

H.B. 3385 relates to the activation of the statewide alert system for abducted children.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 411.355(a), Government Code, as follows:

(a) Requires the Department of Public Safety of the State of Texas (DPS), on the request of a local law enforcement agency, to activate the alert system and notify appropriate participants in the alert system, as established by rule, if the local law enforcement agency believes that a child has been abducted, including a child who is younger than 14 years of age, and regardless of whether the child departed willingly with the other person, has been taken from the care and custody of the child's parent or legal guardian without the permission of the parent or legal guardian by another person who is more than three years older than the child, and not related to the child by any degree of consanguinity or affinity as defined under Subchapter B (Relationships by Consanguinity or by Affinity), Chapter 573 (Degrees of Relationship; Nepotism Prohibitions), Government Code; the local law enforcement agency believes that the abducted child is in immediate danger of serious bodily injury or death or of becoming the victim of a sexual assault; and the local law enforcement agency confirms that a preliminary investigation has taken place that verifies the abduction and eliminates alternative explanations for the child's disappearance. Makes a nonsubstantive change.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: upon passage or September 1, 2009.