

H. B. 2453

(By Delegates Marshall, Guthrie, Sumner, Barill,
D. Poling, Fragale, Hamilton and Boggs)

[Introduced February 14, 2013; referred to the Committee on the Judiciary then Finance.]

10 A BILL to amend and reenact §15-3A-2, §15-3A-3, §15-3A-4 and §15-
11 3A-5 of the Code of West Virginia, 1931, as amended, all
12 relating to expanding the Amber Alert Plan to include a child
13 reported missing regardless of circumstance.

14 *Be it enacted by the Legislature of West Virginia:*

15 That §15-3A-2, §15-3A-3, §15-3A-4 and §15-3A-5 of the Code of
16 West Virginia, 1931, as amended, be amended and reenacted, all to
17 read as follows:

18 **ARTICLE 3A. AMBER ALERT PLAN.**

19 §15-3A-2. Findings and determinations relative to "Amber's Plan".

20 (a) The Legislature finds and determines that:

(1) Public alerts can be one of the most effective tools in combating child abductions and facilitating the safe return of children missing regardless of reason;

24 (2) Law-enforcement officers and other professionals
25 specializing in the field of abducted and missing children agree

1 that the most critical moments in the search for an abducted or
2 otherwise missing child are the first few hours immediately
3 following the abduction or discovery that a child is missing,
4 asserting that if a child is not found within two to four hours, it
5 is unlikely that the abducted child will be found alive or that a
6 child missing but not abducted will return safely;

7 (3) The rapid dissemination of information, including a
8 description of the abducted or missing child, details of the
9 abduction, abductor and vehicle involved, or other circumstances
10 surrounding a child gone missing, to the citizens of the affected
11 community and region is, therefore, critical;

12 (4) Alerted to an abduction or the report of a child missing,
13 the citizenry become an extensive network of eyes and ears serving
14 to assist law enforcement in quickly locating and safely recovering
15 the child;

16 (5) The most effective method of immediately notifying the
17 public of a child abduction or report of a missing child is through
18 the broadcast media; and

19 (6) That in addition to public alerts, other tools allowing
20 rapid response and identification of the movements of persons
21 suspected in a child abduction or in connection with a child being
22 missing require the use of all forms of developing technologies to
23 assist law enforcement in rapid response to these alerts and is an
24 additional tool for assuring the well being and safety of our

1 children. Thus, the use of traffic video recording and monitoring
2 devices for the purpose of surveillance of a suspect vehicle adds
3 yet another set of eyes to assist law enforcement and aid in the
4 safe recovery of the child.

5 (b) The Legislature declares that given the successes other
6 states and regions have experienced in using broadcast media alerts
7 to quickly locate and safely recover abducted children and children
8 reported missing regardless of reason, and, with the recent
9 development of highway video recording and monitoring systems, it
10 is altogether fitting and proper, and within the public interest,
11 to establish these programs for West Virginia.

12 **§15-3A-3. Establishment of "Amber's Plan".**

13 (a) The secretary of the Department of Military Affairs and
14 Public Safety shall establish "Amber's Plan", a program authorizing
15 the broadcast media, upon notice from the State Police, to transmit
16 an emergency alert to inform the public of a child abduction or
17 that a child is reported missing. The program shall be a
18 voluntary, cooperative effort between state and local law-
19 enforcement agencies and the broadcast media.

20 (b) The secretary shall notify the broadcast media serving the
21 State of West Virginia of the establishment of "Amber's Plan" and
22 invite their voluntary participation.

23 **§15-3A-4. Activation of Amber Alert.**

24 The following criteria shall be met before the State Police

1 activate the Amber Alert:

2 (1) The child is

3 (A) Believed to be abducted; or

4 (B) Has been reported to the State Police or other
5 appropriate law-enforcement agency as believed to be missing,
6 regardless of circumstance, and the missing child is or is believed
7 to be at a location that cannot be determined by an individual
8 familiar with the missing child; and

9 (2) The child is seventeen years of age or younger;

10 (3) The child may be in danger of death or serious bodily
11 injury; and

12 (4) There is sufficient information available to indicate that
13 an Amber Alert would assist in locating the child.

14 **§15-3A-5. Notice to participating media; broadcast of alert.**

15 (a) The participating media shall voluntarily agree, upon
16 notice from the State Police, to transmit emergency alerts to
17 inform the public of a child abduction or report of a missing child
18 that has occurred within their broadcast service regions.

19 (b) The alerts shall be read after a distinctive sound tone
20 and a statement notifying that the broadcast is an abducted or
21 missing child alert. The alerts shall be broadcast as often as
22 possible, pursuant to guidelines established by the West Virginia
23 Broadcasters' Association, for the first three hours. After the
24 initial three hours, the alert shall be rebroadcast at such

1 intervals as the investigating authority, the State Police and the
2 participating media deem appropriate.

3 (c) The alerts shall include a description of the child, such
4 details of the abduction and abductor or circumstances surrounding
5 the disappearance as may be known, and such other information as
6 the State Police may deem pertinent and appropriate. The State
7 Police shall in a timely manner update the broadcast media with new
8 information when appropriate concerning the abduction or the
9 disappearance of a missing child.

10 (d) The alerts also shall provide information concerning how
11 those members of the public who have information relating to the
12 abduction or disappearance of a missing child may contact the State
13 Police or other appropriate law-enforcement agency.

14 (e) Concurrent with the notice provided to the broadcast
15 media, the State Police shall also notify the Department of
16 Transportation, the Division of Highways and the West Virginia
17 ~~turnpike commission~~ Parkways, Economic Development and Tourism
18 Authority of the "Amber Alert" so that the department and the
19 affected authorities may, if possible, through the use of their
20 variable message signs, inform the motoring public that an "Amber
21 Alert" is in progress and may provide information relating to the
22 abduction and how motorists may report any information they have to
23 the State Police or other appropriate law-enforcement agency.

24 (f) The alerts shall terminate upon notice from the State

1 Police.

2 (g) The secretary, with the assistance of the participating
3 broadcast media, shall develop and undertake a campaign to inform
4 law-enforcement agencies about "Amber's Plan" and the emergency
5 alert program established under this article.

NOTE: The purpose of this bill is to expand coverage under the
Amber Alert Plan which currently applies only to children believed
to have been abducted. The bill would include children reported to
law-enforcement authorities as missing, regardless of circumstance.

Strike-throughs indicate language that would be stricken from
the present law, and underscoring indicates new language that would
be added.