

# **WEST VIRGINIA LEGISLATURE**

**2017 REGULAR SESSION**

**ENROLLED**

**Committee Substitute**

**for**

**House Bill 2167**

BY DELEGATE STORCH AND ELDRIDGE

[Passed March 15, 2017; in effect ninety days from passage.]



1 AN ACT to amend and reenact §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5 and §15-3B-6 of the  
2 Code of West Virginia, 1931, as amended, all relating to the Silver Alert Plan; providing  
3 for the Silver Alert program to be available for missing senior citizens; defining “senior  
4 citizen”; requiring the Silver Alert plan address missing senior citizens; and applying Silver  
5 Alert program procedures to missing senior citizens.

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

1 That §15-3B-2, §15-3B-3, §15-3B-4, §15-3B-5 and §15-3B-6 of the Code of West Virginia,  
2 1931, as amended, be amended and reenacted, all to read as follows:

**ARTICLE 3B. SILVER ALERT PLAN.**

**§15-3B-2. Findings and declarations relative to “Silver Alert Plan”.**

1 (a) The Legislature finds that:

2 (1) Public alerts can be one of the most effective tools in locating missing cognitively  
3 impaired persons or senior citizens;

4 (2) Law-enforcement officers and other professionals specializing in the field of missing  
5 persons agree that the most critical moments in the search for a missing person are the first few  
6 hours immediately following the discovery that the individual is missing, asserting that if he or she  
7 is not found within twenty-four hours, it is unlikely that he or she will be found alive or without  
8 serious injury. The rapid dissemination of information, including a description of the missing  
9 cognitively impaired person or senior citizen, details of how he or she became missing, and of  
10 any vehicle involved, to the citizens of the affected community and region is, therefore, critical;

11 (3) Alerted to the situation, the citizenry become an extensive network of eyes and ears  
12 serving to assist law enforcement in quickly locating and safely recovering a missing cognitively  
13 impaired person or senior citizen;

14 (4) The most effective method of immediately notifying the public of a missing cognitively  
15 impaired person or senior citizen is through the broadcast media; and

16 (5) All forms of developing technologies are required to assist law enforcement in rapidly  
17 responding to these alerts and are an additional tool for assuring the well being and safety of our  
18 cognitively impaired citizenry. Thus, the use of traffic video recording and monitoring devices for  
19 the purpose of surveillance of a suspect vehicle adds yet another set of eyes to assist law  
20 enforcement and aid in the safe recovery of the cognitively impaired person or senior citizen.

21 (b) The Legislature declares that given the successes other states and regions have  
22 experienced in using broadcast media alerts to quickly locate and safely recover missing persons,  
23 and, with the recent development of highway video recording and monitoring systems, it is  
24 altogether fitting and proper, and within the public interest, to establish these programs for West  
25 Virginia.

**§15-3B-3. Establishment of “Silver Alert” program.**

1 (a) The Secretary of the Department of Military Affairs and Public Safety shall establish a  
2 “Silver Alert” program authorizing the broadcast media, upon notice from the State Police, to  
3 broadcast an alert to inform the public of a missing cognitively impaired person or a missing senior  
4 citizen, subject to the criteria established in section four of this article. The program shall be a  
5 voluntary, cooperative effort between state law-enforcement and the broadcast media.

6 (b) As used in this article:

7 (1) “Cognitively impaired” means a person having a deficiency in his or her short-term or  
8 long-term memory, orientation as to person, place, and time, deductive or abstract reasoning, or  
9 judgment as it relates to safety: *Provided*, That the cognitive impairment is not caused by the use  
10 of alcohol or drugs not legally prescribed by a physician; and

11 (2) “Senior citizen” means a person over sixty-five years of age.

12 (c) The secretary shall notify the broadcast media serving the State of West Virginia of the  
13 establishment of “Silver Alert” program and invite their voluntary participation.

14 (d) The secretary shall submit a plan to the Joint Committee on Government and Finance  
15 no later than December 1, 2009. The plan shall include “Silver Alert” activation protocols,

16 evaluation of first responder training requirements and needs as related to cognitively impaired  
17 persons and senior citizens, coordination and utilization of established programs and analysis of  
18 any costs. The secretary shall also make recommendations for any additional legislation or  
19 actions necessary to further facilitate the implementation of the "Silver Alert" program.

**§15-3B-4. Activation of Silver Alert.**

1 The following criteria shall be met before the State Police activate the Silver Alert:

2 (1) The person is believed to be cognitively impaired or is a senior citizen;

3 (2) The person is believed to be missing, regardless of circumstance;

4 (3) A person who has knowledge that the person is missing has submitted a missing  
5 person's report to the State Police or other appropriate law-enforcement agency;

6 (4) The missing person may be in danger of death or serious bodily injury;

7 (5) The missing person is domiciled or believed to be located in the State of West Virginia;

8 (6) The missing person is, or is believed to be, at a location that cannot be determined by  
9 an individual familiar with the missing person, and the missing person is incapable of returning to  
10 the missing person's residence without assistance; and

11 (7) There is sufficient information available to indicate that a Silver Alert would assist in  
12 locating the missing person.

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

1 (a) To participate, the media may agree, upon notice from the State Police via email or  
2 facsimile, to transmit information to the public about a missing cognitively impaired person or  
3 senior citizen that has occurred within their broadcast service region.

4 (b) The alerts shall include a description of the missing cognitively impaired person or  
5 senior citizen, such details of the circumstance surrounding him or her becoming missing, as may  
6 be known, and such other information as the State Police may deem pertinent and appropriate.  
7 The State Police shall in a timely manner update the broadcast media with new information when  
8 appropriate concerning the missing cognitively impaired person or senior citizen.

9           (c) The alerts also shall provide information concerning how those members of the public  
10 who have information relating to the missing cognitively impaired person or senior citizen may  
11 contact the State Police or other appropriate law-enforcement agency.

12           (d) Concurrent with the notice provided to the broadcast media, the State Police shall also  
13 notify the Department of Transportation, the Division of Highways and the West Virginia Turnpike  
14 Commission of the “Silver Alert” so that the department and the affected authorities may, if  
15 possible, through the use of their variable message signs, inform the motoring public that a “Silver  
16 Alert” is in progress and may provide information relating to the missing cognitively impaired  
17 person or senior citizen and how motorists may report any information they have to the State  
18 Police or other appropriate law-enforcement agency.

19           (e) The alerts shall terminate upon notice from the State Police.

20           (f) The secretary shall develop and undertake a campaign to inform law-enforcement  
21 agencies about the “Silver Alert” program established under this article.

**§15-3B-6. Aid to missing cognitively impaired adult or senior citizen; immunity from civil  
or criminal liability.**

1           No person or entity who in good faith follows and abides by the provisions of this article is  
2 liable for any civil or criminal penalty as the result of any act or omission in the furtherance thereof  
3 unless it is alleged and proven that the information disclosed was false and disclosed with the  
4 knowledge that the information was false.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

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*Chairman, House Committee*

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*Chairman, Senate Committee*

Originating in the House.

In effect ninety days from passage.

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*Clerk of the House of Delegates*

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*Clerk of the Senate*

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*Speaker of the House of Delegates*

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*President of the Senate*

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The within ..... this the.....  
day of ....., 2017.

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*Governor*