
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Loni Hancock, Chair

2015 - 2016 Regular

Bill No: AB 8 **Hearing Date:** July 14, 2015
Author: Gatto
Version: July 6, 2015
Urgency: No **Fiscal:** Yes
Consultant: JM

Subject: *Emergency Services: Hit-and-Run Incidents*

HISTORY

Source: Author

Prior Legislation: SB 1047 (Alquist) – Ch. 651, Stats. 2012
SB 839 (Runner) – Ch. 311, Stats 2010
SB 38 (Alquist) – died in Assembly Appropriations, 2009
SB 415 (Runner) – Ch. 517, Stats. 2002
SB 6 (Rainey) – Ch. 507, Stats 1999

Support: Transportation Authority of Marin; California Police Chiefs Association; San Francisco Bicycle Coalition; Association of Orange County Deputy Sheriffs; California State Firefighter’s Association; Los Angeles County Bicycle Coalition; California Walks; Emergency Nurses Association; Matco, Inc. Construction & Restoration; Sacramento Area Bicycle Advocates; AFSCME, AFL-CIO; San Luis Obispo County Bicycle Coalition; California Council of the Blind; American Motorcyclist Association; California Bicycle Coalition; ABATE of California; San Diego County Bicycle Coalition; People Power of Santa Cruz County; Safe Routes to School National Partnership; Inland Empire Biking Alliance; Los Angeles Walks; Shasta Living Streets; Nick’s Computer Works; Silicon Valley Bicycle Coalition; Walk & Bike Mendocino; AOCDS; Puma Construction & Restoration; several individuals

Opposition: California Highway Patrol

Assembly Floor Vote: 79 - 0

PURPOSE

The purpose of this bill is to create a “Yellow Alert” system to notify the public when a hit and run incident has occurred to aid in the apprehension of the suspect, as specified.

Existing law provides that if a law enforcement agency determines that a child, 17 years of age or younger, or an individual with a proven mental or physical disability has been abducted and is in imminent danger of serious bodily injury or death and there is information available that, if disseminated to the general public, could assist in the safe recovery of the victim, the agency

shall request the activation of the Emergency Alert System (EAS) within the appropriate local area, commonly known as the “Amber Alert.” (Government Code § 8594(a).)

Existing law provides that the California Highway Patrol (CHP) in consultation with the Department of Justice (DOJ) as well as a representative from the California State Sheriffs’ Association, the California Police Chiefs Association and the California Peace Officers Association shall develop policies and procedures providing instruction specifying how law enforcement agencies, broadcasters participating in the EAS, and where appropriate, other supplemental warning systems, shall proceed after a qualifying abduction has been reported to a law enforcement agency. (Government Code § 8594(b).)

Existing law defines “Blue Alert” to mean a quick response system designed to issue and coordinate alerts following an attack upon a law enforcement officer. (Government Code § 8594.5(a).)

Existing law provides that upon the request of an authorized person at a law enforcement agency that is investigating an offense where a law enforcement officers has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon; the suspect has fled the scene of the offense and is determined an imminent threat to the public or others; a detailed description of the suspect’s vehicle or license plate is available; and public dissemination of available information may help avert further harm or accelerate apprehension of the suspect, then CHP shall activate the EAS and issue a Blue Alert, as specified. (Government Code § 8594.5(b).)

Existing law provides that the Blue Alert incorporate a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying attacking. The Blue Alert system must utilize the state-controlled Emergency Digital Information System, local digital signs, focused text, or other technologies, as appropriate. (Government Code § 8594.5(c).)

Existing law defines “Silver Alert” to mean a notification system designed to issue and coordinate alerts with respect to a person reported missing who is 65 years of age or older. (Government Code § 8594.10(a).)

Existing law provides that when a person 65 years of age or older is reported missing under unexplained or suspicious circumstances and the investigating law enforcement agency determines that person is in potential danger, as specified, the law enforcement agency must request that CHP activate a Silver Alert if disseminating information to the public could assist in the safe recovery of the missing person. (Government Code § 8594.10(c).)

This bill would define “serious bodily injury” to mean, “an injury that involves, either at the time of the actual injury or at a later time, a substantial risk of serious and permanent disfigurement, a substantial risk of protracted loss or impairment of the function of any part of the body, or a break, fracture, or burn of the second or third degree.”

This bill would define “Yellow Alert” to mean “a notification system...designed to issue and coordinate alerts with respect to a hit-and-run incident resulting in the death or injury of a person...”

This bill would authorize a law enforcement agency to request that CHP activate a Yellow Alert if the law enforcement agency determines that the following conditions are met:

- A person has been killed or has suffered serious bodily injury due to a hit-and-run incident;
- There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system; or
- The investigating law enforcement agency has additional information concerning the suspect or the suspect's vehicle, including, but not limited to any of the following:
 - The complete license plate number of the suspect's vehicle;
 - A partial license plate number and additional unique identifying characteristics such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of the suspect; or,
 - The identity of the suspect.

This bill would authorize CHP to activate a Yellow Alert within the geographic area requested by the investigating law enforcement agency if the law enforcement agency and CHP concur that the aforementioned conditions are met. Upon activating a Yellow Alert, CHP shall assist the investigating law enforcement agency by issuing the Yellow Alert via a changeable message sign.

This bill would encourage radio, television, and cable and satellite systems to cooperate with disseminating the information contained in a Yellow Alert.

This bill would authorize CHP to prioritize the activation of alerts, if there are multiple alerts requested, based on any factor including, but not limited to, the severity of the injury, the time elapsed between a hit-and-run incident and the request, or the likelihood that an activation would reasonably lead to the apprehension of a suspect.

This bill states, "public dissemination of available information could either help avert further harm or accelerate apprehension of the suspect based on any factor including, but not limited to, the severity of the injury, the time elapsed between a hit-and-run incident and the request, or the likelihood, that an activation would reasonably lead to the apprehension of the suspect based on any factor including, but not limited to, the severity of the injury, the time elapsed between a hit-and-run incident and the request, or the likelihood that an activation would reasonably lead to the apprehension of a suspect."

This bill states that "this section shall remain in effect only until January 1, 2019, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2019 deletes or extends that date."

RECEIVERSHIP/OVERCROWDING CRISIS AGGRAVATION

For the past eight years, this Committee has scrutinized legislation referred to its jurisdiction for any potential impact on prison overcrowding. Mindful of the United States Supreme Court ruling and federal court orders relating to the state's ability to provide a constitutional level of health care to its inmate population and the related issue of prison overcrowding, this Committee has applied its "ROCA" policy as a content-neutral, provisional measure necessary to ensure that the Legislature does not erode progress in reducing prison overcrowding.

On February 10, 2014, the federal court ordered California to reduce its in-state adult institution population to 137.5% of design capacity by February 28, 2016, as follows:

- 143% of design bed capacity by June 30, 2014;
- 141.5% of design bed capacity by February 28, 2015; and,
- 137.5% of design bed capacity by February 28, 2016.

In February of this year the administration reported that as “of February 11, 2015, 112,993 inmates were housed in the State’s 34 adult institutions, which amounts to 136.6% of design bed capacity, and 8,828 inmates were housed in out-of-state facilities. This current population is now below the court-ordered reduction to 137.5% of design bed capacity.”(Defendants’ February 2015 Status Report In Response To February 10, 2014 Order, 2:90-cv-00520 KJM DAD PC, 3-Judge Court, Coleman v. Brown, Plata v. Brown (fn. omitted).

While significant gains have been made in reducing the prison population, the state now must stabilize these advances and demonstrate to the federal court that California has in place the “durable solution” to prison overcrowding “consistently demanded” by the court. (Opinion Re: Order Granting in Part and Denying in Part Defendants’ Request For Extension of December 31, 2013 Deadline, NO. 2:90-cv-0520 LKK DAD (PC), 3-Judge Court, Coleman v. Brown, Plata v. Brown (2-10-14). The Committee’s consideration of bills that may impact the prison population therefore will be informed by the following questions:

- Whether a proposal erodes a measure which has contributed to reducing the prison population;
- Whether a proposal addresses a major area of public safety or criminal activity for which there is no other reasonable, appropriate remedy;
- Whether a proposal addresses a crime which is directly dangerous to the physical safety of others for which there is no other reasonably appropriate sanction;
- Whether a proposal corrects a constitutional problem or legislative drafting error; and
- Whether a proposal proposes penalties which are proportionate, and cannot be achieved through any other reasonably appropriate remedy.

COMMENTS

1. Need for This Legislation

According to the author:

Hit-and-run accidents are epidemic throughout California, with law enforcement as well as biking and walking advocates looking for ways to hold the cowards who commit these crimes accountable for their actions. These accidents are especially difficult to solve because they leave little or no evidence and drivers involved in the accidents often cover their tracks by repairing their vehicles. In the Los Angeles area, only 20% of the hit-and-runs recorded by the LAPD are solved. This bill would give law enforcement officials another tool that would provide them with more information they need to solve hit-and-runs. The measure would create a “Yellow Alert” that would allow local law enforcement to ask the California Highway Patrol to access the

existing network of the state's changeable message signs, on a regional level, when there is a hit-and-run accident...

This measure is based on legislation that was recently enacted in the state of Colorado, where a rise in hit-and-runs, as well as the tragic hit-and-run death of Denver valet Jose Medina just days before his wedding, prompted the creation of the Medina Alert for hit-and-run accidents. In the period of time these alerts were used in the city of Denver, before statewide enactment, 13 of 17 hit-and-runs that triggered these alerts were solved—a nearly 76% success rate.

2. Background: Hit and Run Incidents are on the Rise

According to the author, hit-and-run accidents have drastically increased over the past several years with a significant number of these accidents involving pedestrians and bicyclists.

A number of agencies and organizations collect data on hit and run accidents. For example, the National Highway Traffic Safety Administration (NHTSA) statistics indicate that, at the national level, hit and run accidents have increased over the years from 1,274 in 2009 to 1,449 in 2011 (the last year recorded). The AAA Foundation for Traffic Safety also found that one in five of all pedestrian fatalities are hit and runs and that 60 percent of hit and run fatalities have pedestrians as victims. According to a 2013 article in USA Today, an estimated 20,000 hit and run incidents occur in the city of Los Angeles each year with 4,000 resulting in injuries or death.

3. Effect of This Legislation

AB 8 would establish a “Yellow Alert” system of public notification relating to hit-and-run incidences modeled after the Silver Alert and a similar piece of legislation passed in Colorado. If a hit-and-run incident is reported to a law enforcement agency, the investigating law enforcement agency may request that CHP issue a Yellow Alert within a certain geographic area if:

- A person has been killed or has suffered serious bodily injury due to a hit-and-run incident;
- There is an indication that a suspect has fled the scene utilizing the state highway system or is likely to be observed by the public on the state highway system; or,
- The investigating law enforcement agency has additional information concerning the suspect or the suspect's vehicle, including, but not limited to, any of the following:
 - The complete license plate number of the suspect's vehicle;
 - A partial license plate number and additional unique identifying characteristics, such as the make, model, and color of the suspect's vehicle, which could reasonably lead to the apprehension of the suspect; or,
 - The identity of the suspect.

To assist the investigating law enforcement agency, CHP may issue a Yellow Alert via a changeable message sign within the geographic area requested by the investigating law enforcement agency if CHP concurs that the above conditions are met.

4. Comparing Yellow Alerts with Existing Emergency Alert Systems

Under existing law, CHP is authorized to initiate an emergency alert response under the following circumstances:

Amber Alerts:

May be issued when a law enforcement agency determines that a child, 17 years of age or younger, or an individual with a proven mental or physical disability has been abducted and is in imminent danger, as specified.

Silver Alerts:

May be issued if a law enforcement agency determines that a person 65 years or older, reported missing under unexplained or suspicious circumstances, may be in potential danger, as specified.

Blue Alerts:

May be issued when a law enforcement officer is a victim of a violent crime and the suspect, who has fled the scene of the offense, is determined by a law enforcement agency to be an imminent threat to the public or other law enforcement personnel, as specified.

For cases in which current law authorizes an emergency alert, the primary imperative is to prevent imminent danger. For an Amber Alert to be issued, a law enforcement agency must first assess if the victim is “in imminent danger of serious bodily injury or death” and whether the widespread dissemination of pertinent information to the public would assist in the safe recovery of the victim. Similarly, a Silver Alert can only be issued when a person 65 years of age or older is reported missing and determined by the law enforcement agency to be in potential danger due to age or a variety of other factors. Additionally, an offending suspect needs to be considered an imminent threat to the public or other law enforcement personnel before a Blue Alert can be initiated after a violent attack on a law enforcement officer. The Committee may wish to discuss the extent to which the Yellow Alert system would be consistent with the established purposes and uses of emergency alerts.

Given the inherent nature of hit-and-run incidents, information about the suspect or the suspect’s vehicle may be unavailable or unverifiable. In a missing person’s case, once a law enforcement agency decides to request an Amber or Silver Alert, the agency often has access to an accurate description of the missing person, if not a photograph or digital image, that confers a high degree of certainty in the information being disseminated to the public about the missing person. In essence, it is easier to identify and verify the person for whom the public should be on alert. For hit-and-run incidents, the investigating law enforcement agency may have limited information available that cannot be verified. The Committee may wish to discuss if the safeguards provided in this bill would adequately prevent the misidentification of a suspect.

WOULD THE USE OF YELLOW ALERTS BE ALIGNED WITH THE PURPOSE OF EMERGENCY ALERT SYSTEMS?

WHAT POSSIBLE SAFEGUARDS PREVENT THE MISIDENTIFICATION OF A SUSPECT?

5. Colorado: The Medina Alert

On March 25, 2014, Colorado passed legislation, HB 14-1191, authorizing an emergency alert system for hit and run incidents similar to AB 47, called the Medina Alert. According to an article from the Denver Post:

Jose Medina was killed in a hit-and-run crash two years ago when he was struck by an SUV on Lincoln Street on the first day of his job as a valet at a Denver nightclub.

Two years ago, the 21-year-old Medina was on the first day of his job as a valet, parking cars outside a Denver nightclub, when he was struck and killed by a sport utility vehicle that sped away.

That night, a taxi driver who saw the incident followed the fleeing vehicle, wrote down the license-plate number and helped provide authorities with enough information that everyone involved was eventually arrested.

A year later, the Medina Alert was created. The notification goes to all patrol cars, cabdrivers, news outlets, truck drivers and pedicab operators. A message is displayed on traffic reader boards and on Crime Stoppers' Twitter and Facebook accounts.

“When we have a collision and we need to get the information out to the public who act as our eyes and ears ... the Medina Alert is one of the many tools,” said Denver police Sgt. Michael Farr, who works in the traffic-investigations unit. “Unlike using Crime Stoppers and the media, the advantage is that it is tied to the Colorado Department of Transportation's overhead message boards.”

In 2012, Denver created and implemented the protocol for the Medina Alert. Since then, 17 cases have prompted a Medina Alert, and 13 have been solved. However, it remains unclear how instrumental the Medina Alert was in solving the 13 cases. For example, in the incident that inspired the creation of the Medina Alert, described above, a witness was able to provide law enforcement with a license plate number, which aided in the apprehension of suspects. It is questionable how helpful a Medina Alert would have been given that accurate and full information was captured in the critical moments immediately following the hit and run incident. The same concern exists when the identity of a suspect is known. Although hit and run incidents are tragic and unjust, the capacity of the Yellow Alert to truly assist in solving these cases may be limited by the frequent lack of accurate and available information about the suspect during such momentary, but potentially fatal, crimes.

6. Argument in Opposition

The California Highway Patrol states in part:

The alerts proposed...would significantly increase the total number of alerts displayed on highway Changeable Message Signs (CMS). We believe this will decrease the effectiveness of California's AMBER alert system...These alerts are rare and reserved for the most serious child abduction cases. An increase in the total number of alerts displayed on CMS will likely desensitize the public and law enforcement agencies.

Furthermore, with the implementation of AB 60 (Alejo, Chapter 524, Statutes of 2013), it is anticipated that hit-and-run collisions will significantly decrease because many previously unlicensed drivers are now able to obtain a valid driver license after demonstrating proficiency behind the wheel and a basic knowledge of California traffic laws. It seems prudent to consider the effects of AB 60 before a hit-and-run alert system is implemented.

Finally, although the Department coordinates the activation of AMBER Alerts, Blue Alerts, and Silver Alerts, there is nothing in statute that determines which alert takes priority if multiple alerts are activated at the same time.

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