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# SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair

2023 - 2024 Regular

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**Bill No:** AB 1863                      **Hearing Date:** June 25, 2024  
**Author:** Ramos  
**Version:** May 20, 2024  
**Urgency:** No                                      **Fiscal:** Yes  
**Consultant:** JD

**Subject:** *California Emergency Services Act: notification systems: Feather Alert*

## HISTORY

**Source:** Yurok Tribe, Pechanga Band of Mission Indians, and Bear River of the Rohnerville Rancheria

**Prior Legislation:** AB 1314 (Ramos), Statutes of 2022, Chapter 476.

**Support:** Cahuilla Band of Indians; California State PTA; California Tribal Business Alliance; CNIGA - California Nations Indian Gaming Association; San Manuel Band of Mission Indians; Smart Justice California, a Project of Tides Advocacy; Sycuan Band of The Kumeyaay Nation; Tule River Tribe

**Opposition:** None known

**Assembly Floor Vote:** 70 - 0

## PURPOSE

*The purpose of this bill is to revise the existing “Feather Alert” statute by changing the conditions required to request an activation and what is expected of the Department of the California Highway Patrol (CHP) during the request and activation process. This bill also requires specified law enforcement agencies and tribal nations to develop, in collaboration, specified policies and procedures regarding the Feather Alert and missing person process.*

*Existing law* authorizes the CHP to activate a “Feather Alert” upon request by a law enforcement agency and the following requirements are met:

- The missing person is an indigenous woman or an indigenous person;
- The investigating law enforcement agency has utilized available and tribal resources;
- The law enforcement agency determines that the person has gone missing under unexplained or suspicious circumstances;
- The law enforcement agency determines that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of potentially dangerous person, or there are other factors that indicate that the person might be in peril; and,

- There is information available that, if disseminated to the public could assist in the safe recovery of the missing person. (Gov. Code § 8594.13 (c).)

*Existing law* provides that if the CHP determines that the conditions for the activation of a “Feather Alert” are met, it shall activate the alert in the appropriate geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594.13 (b) (1).)

*Existing law* that the CHP may use a changeable message system if the law enforcement determines that a vehicle was used in the incident and there is specific identifying information about the vehicle. (Gov. Code § 8594.13 (b) (4).)

*Existing law* defines “Feather Alert” as an activation system designed to issue and coordinate alerts with endangered or indigenous people, specifically indigenous women, who are reported missing under unexplained or suspicious circumstances. (Gov. Code § 8594.13 (a).)

*Existing law* provides that the CHP shall create and submit a report to the Governor’s office and the Legislature that includes an evaluation of the Feather Alert, including the efficacy, the advantages, and the impact of other alert programs. The CHP shall submit the report to the Governor’s office and the Legislature no later than January 1, 2027. (Gov. Code § 8594.13 (d).)

*Existing law* states that if an abduction has been reported to a law enforcement agency and the 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, through a person authorized to activate the Emergency Alert System (EAS), shall request the activation of the EAS within the appropriate local area. (Gov. Code, § 8594 (a).)

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

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

*Existing law* provides that in addition to the circumstances described under existing law relating to "Amber Alerts", upon the request of an authorized person at a law enforcement agency that is investigating an offense, the CHP shall activate the EAS and issue a blue alert if all of the following conditions are met:

- A law enforcement officer has been killed, suffers serious bodily injury, or is assaulted with a deadly weapon, and the suspect has fled the scene of the offense;

- A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel;
- A detailed description of the suspect's vehicle or license plate is available for broadcast;
- Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect; and,
- The CHP has been designated to use the federally authorized EAS for the issuance of blue alerts. (Gov. Code, § 8594.5 (b).)

*Existing law* provides that the "Blue Alert" system incorporates a variety of notification resources and developing technologies that may be tailored to the circumstances and geography of the underlying attack. The blue alert system shall utilize the state-controlled Emergency Digital Information System, (EDIS) local digital signs, focused text, or other technologies, as appropriate, in addition to the federal EAS, if authorized and under conditions permitted by the federal government. (Gov. Code, § 8594.5 (c).)

*Existing law* defines a "Silver Alert" as a notification system, that can be activated as specified, and is designed to issue and coordinate alerts with respect to a person 65 years of age or older who is reported missing. (Gov. Code, § 8594.10 (a)).

*Existing law* provides that if a person is reported missing to a law enforcement agency, and that agency determines that specified requirements are met, the agency may request the CHP to activate a "Silver Alert". If the CHP concurs that the specified requirements are met, it shall activate a "Silver Alert" within the geographical area requested by the investigating law enforcement agency. (Gov. Code § 8594.10. (c).)

*Existing law* states that a law enforcement agency may request a "Silver Alert" be activated if that agency determines that all of the following conditions are met in regard to the investigation of the missing person:

- The missing person is 65 years of age or older;
- The investigating law enforcement agency has utilized all available local resources;
- The law enforcement agency determines that that the person has gone missing under unexplained or suspicious circumstances;
- The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, environment or weather conditions, that the person is in the company of a potentially dangerous person, or there are other factors indicating that the person may be in peril; and,
- There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person. (Gov. Code § 8594.10 (c).)

*Existing law* requires the CHP to create and submit a report to the Governor's office and the Legislature by January 1, 2027 that includes an evaluation of the Feather Alert, including the efficacy, the advantages, and the impact to other alert programs. (Gov. Code § 8594.13 (d).)

*Existing law* defines sexual battery as the touching of an intimate part of another person, if the touching is against the will of the person touched, and is for the specific purpose of sexual arousal, sexual gratification, or sexual abuse and punishes the act by imprisonment in the county jail not exceeding 6 months and a fine of up to \$1,000. (Pen. Code, § 243.4, subd. (d).)

*Existing law* provides that any person who willfully inflicts corporal injury resulting in a traumatic condition upon a victim, as described, is guilty of a felony. Provides that the punishment is imprisonment in the state prison for two, three, or four years, or in a county jail for not more than one year, or by a fine of up to \$6,000, or by both that fine and imprisonment. (Pen. Code, § 273.5, subd. (a).)

*Existing law* provides that the above penalty applies if the victim is or was one or more of the following:

- The offender's spouse or former spouse.
- The offender's cohabitant or former cohabitant.
- The offender's fiancé or fiancée, or someone with whom the offender has, or previously had, an engagement or dating relationship, as defined.
- The mother or father of the offender's child. (Pen. Code, § 273.5, subd. (b).)

*This bill* requires the CHP in consultation with tribal nations, the Department of Justice (DOJ), a representative from the CSSA, the California Police Chiefs Association, and the California Peace Officers' Association to develop policies and procedures providing instruction specifying how a law enforcement agency, a broadcaster participating in the Emergency Alert System (EAS) that may activate a Feather Alert, shall proceed after a missing person has been reported to a law enforcement agency and specified conditions are met. These policies shall include, but not be limited to:

- Procedures for the transfer of information regarding the missing person and the circumstances surrounding the missing persons disappearance from the law enforcement agency and the broadcasters;
- Specifications of the event code or codes that should be used if the Feather Alert System is activated to report a missing person;
- Recommended language if a Feather Alert is activated;
- Specification of information that shall be included by the reporting law enforcement agency, including which agency a person with information relating to the missing person should contact and how the person should contact the agency; and,
- Recommendations on the extent of the geographical area to be notified if a Feather Alert is issued.

*This bill* allows a law enforcement or a Tribe of California to directly request the CHP activate a Feather Alert.

*This bill* requires the CHP to respond to a law enforcement agency or tribe's request to activate a Feather Alert within 48 hours of receiving the request.

*This bill* require the CHP to take reasonable steps to confirm that a report from a missing person's family members is not an attempt to locate to locate an indigenous woman or indigenous person is intentionally avoiding or evading abuse, as specified.

*This bill* requires the CHP to provide written notice to the requesting law enforcement agency or tribe if it declines to activate a Feather Alert, this notice must include the reasons for declining the request and be provided within 48 hours of issuing its decision.

*This bill* allows a law enforcement agency to request a Feather Alert if the law enforcement agency determines a Feather Alert would be an effective tool in the investigation of missing and murdered indigenous persons, including young women or girls and requires the law enforcement agency to consider specified factors.

*This bill* clarifies that a law enforcement agency or tribe may believe that a person is in danger a missing under circumstances that indicate any of the following:

- The missing person's physical safety may be endangered.
- The missing person may be subject to trafficking.
- The missing person suffers from a mental or physical disability, or a substance use disorder.

*This bill* further clarifies data points that must be included by the CHP in an already existing reporting requirement regarding the efficacy, advantages, and impacts of the Feather Alert system.

*This bill* requires the CHP report be submitted to the Legislature by January 1, 2027, and sunsets the reporting requirement on January 1, 2031.

## COMMENTS

### 1. Need for This Bill

According to the Author:

Missing and Murdered Indigenous Persons is at an all-time high in the State of California. This crisis has been plaguing California tribes for generations, and progress has been slow to solve this. In 2022, I introduced AB 1314, the Feather Alert, the first of its kind law in the nation which was ultimately signed into law. However, since the passing of the bill, tribes and advocates have experienced difficulty in utilizing this law, citing roadblocks from law enforcement and from the State. AB 1863 would make fixes to established law, in the hopes of finding our loved ones and bring them home.

## 2. Murdered or Missing Indigenous Persons (MMIP) in California and the U.S.

The problem of MMIP reaches across state lines. In 2018, the Urban Indian Health Institute (UIHI) published a study addressing MMIP titled *Missing and Murdered Indigenous Women & Girls, A snapshot of data from 71 urban cities in the United States*. (Available at: <https://www.uihi.org/wp-content/uploads/2018/11/Missing-and-Murdered-Indigenous-Women-and-Girls-Report.pdf> [as of Mar. 26, 2024].) They state in part, “the National Crime Information Center reports that, in 2016, there were 5,712 reports of missing American Indian and Alaska Native women and girls, though the US Department of Justice’s federal missing persons database, NamUs, only logged 116 cases.” (*Missing and Murdered Indigenous Women & Girls, supra, at p. 2.*) The lack of information, underreporting, and misinformation on MMIPs leads to various discrepancies as to how local, state, and federal agencies responds to this ongoing crisis.

The UIHI tried, repeatedly, to gather information from various sources including, but not limited to, law enforcement agencies, state and national databases, and media coverage regarding MMIP. Some sources either did not respond or found it to laborious to produce or provide information for MMIP.

In their report, the UIHI states, “As demonstrated by the findings of this study, reasons for the lack of quality data include underreporting, racial misclassification, poor relationships between law enforcement and American Indian and Alaska Native communities, poor record-keeping protocols, institutional racism in the media, and a lack of substantive relationships between journalists and American Indian and Alaska Native communities. In an effort to collect as much case data as possible and to be able to compare the five data sources used, UIHI collected data from Freedom of Information Act (FOIA) requests to law enforcement agencies, state and national missing persons databases, searches of local and regional news media online archives, public social media posts, and direct contact with family and community members who volunteered information on missing or murdered loved ones.” (*Missing and Murdered Indigenous Women & Girls, supra, at p. 4.*)

According to a memo produced by the Yurok Tribe in Partnership with Strong Hearted Native Women’s Coalition, provided to this committee by the author, *Recommendations for Federal and State Leaders Addressing the Crisis of Missing and Murdered Indigenous People*, “California has over 109 federally recognized native tribes, and has the largest population of Native Americans of any state in the United States and the fifth largest caseload of Missing and Murdered Indigenous People (MMIP).” The report gives direct insight into the needs of indigenous groups who live and reside in California. The memo makes recommendations specifically for California, including the creation of a Red Ribbon Panel to address MMIP.

This bill seeks to refine the existing system in California that is responsible for locating missing indigenous persons by better specifying the conditions required to activate a Feather Alert and providing more transparency when activation requests are denied. By creating standardized policies among various levels of law enforcement agencies and tribal nations, this bill would increase understanding of the system and allow improved collaboration among the agencies responsible for locating missing persons. This bill would also produce more data regarding missing indigenous persons and the impact that the Feather Alert on finding missing indigenous persons. When considering that there is a clear lack of data in this space, this bill could potentially provide much needed information.

### 3. Argument in Support

According to the Yurok Tribe:

California has the largest population of Native Americans out of any state in the United States and the fifth largest caseload of MMIP. Indigenous people are disproportionately affected by domestic violence, human trafficking, and murder, and become missing at much higher rates than people of other races. In a report published by the Sovereign Bodies Institute in 202, California was among the top 5 states in the nation with the highest number of cases.

The Feather Alert, previously created by AB 1314 in 2022, is an emergency alert issued by the California Highway Patrol when a California law enforcement agency determines that an Indigenous person is missing under unexplained or suspicious circumstances. Unfortunately, early implementation of the Feather Alert has exposed gaps in how the system works and AB 1863 is intended to bridge those gaps.

Since the inception of the Feather Alert, there have been 5 requests with 3 of them denied. As the law is currently drafted, there is some ambiguity around activation criteria and reporting the incident to the appropriate entities. It is critical that we get the Feather Alert right, and make it work for California tribes. This will improve communication between law enforcement agencies and local jurisdiction, and will also serve to increase awareness about the crisis of Missing and Murdered Indigenous People.

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