
SENATE COMMITTEE ON PUBLIC SAFETY

Senator Aisha Wahab, Chair
2023 - 2024 Regular

Bill No: AB 946 **Hearing Date:** June 13, 2023
Author: Stephanie Nguyen
Version: February 14, 2023
Urgency: No **Fiscal:** Yes
Consultant: MK

Subject: *Emergency services: endangered missing advisory*

HISTORY

Source: Author

Prior Legislation: AB 1314 (Ramos) Chapter 476, Stats. 2022
AB 8 (Gatto) Chapter 326, Stats. 2015
AB 47 (Gatto) Vetoed 2014
SB 1127 (Torres) Chapter 440, Stats. 2014
SB 1047 (Alquist) Chapter 651, Stats. 2012
SB 839 (Runner) Chapter 311, Stats. 2010
SB 38 (Alquist) failed Assembly Appropriations, 2009
SB 415 (Runner) Chapter 517, Stats. 2002
SB 6 (Rainey) Chapter 507, Stats. 1999

Support: California Association of Highway Patrolmen; California State Council on
Developmental Disabilities

Opposition: None known

Assembly Floor Vote: 66 - 0

PURPOSE

The purpose of this bill is to codify the California Highway Patrol's (CHP) existing Endangered Missing Advisory (EMA) Alert Program.

Existing law requires the driver of a vehicle involved in an accident resulting in injury to another person to stop at the scene of the accident and to fulfill specified requirements, including providing identifying information and rendering assistance. (Veh. Code, § 20001 (a).)

Existing law provides that, except as specified, fleeing the scene of an accident resulting in injury to another, is punishable by 16 months, two, or three years in state prison or, by imprisonment in a county jail not to exceed one year, or by a fine of not less than \$1,000 nor more than \$10,000, or by both a fine and imprisonment. (Veh. Code, § 20001 (b)(1).)

Existing law provides that fleeing the scene of an accident which results in permanent, serious injury or death to another, is punishable by imprisonment in the state prison for two, three, or four years, or in a county jail for not less than 90 days nor more than one year, or by a fine ranging between \$1,000 and \$10,000, or by both a fine and imprisonment. (Veh. Code, § 20001 (b).)

Existing law allows the court, in the interests of justice, to reduce or eliminate the minimum term of imprisonment required for a conviction of fleeing the scene of an accident causing death or permanent, serious injury. (Veh. Code, § 20001 (b).)

Existing law states that a person who flees the scene of an accident after committing gross vehicular manslaughter or gross vehicular manslaughter while intoxicated, upon conviction for that offense, shall be punished by an additional term of five years in the state prison. This additional term runs consecutive to the punishment for the vehicular manslaughter. (Veh. Code, § 20001 (c).)

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 California Highway Patrol (CHP) in consultation with the Department of Justice, as well as a representative from the California State Sheriffs' Association, 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) 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;
- b) A law enforcement agency investigating the offense has determined that the suspect poses an imminent threat to the public or other law enforcement personnel;

- c) A detailed description of the suspect's vehicle or license plate is available for broadcast;
- d) Public dissemination of available information may help avert further harm or accelerate apprehension of the suspect; and,
- e) 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:

- a) The missing person is 65 years of age or older;
- b) The investigating law enforcement agency has utilized all available local resources;
- c) The law enforcement agency determines that that the person has gone missing under unexplained or suspicious circumstances;
- d) 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,
- e) 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 provides that the "feather alert" authorizes the Department of the California Highway Patrol (CHP) to activate an Endangered Missing Advisory upon request by a law enforcement agency when the following requirements are met.

- a) The missing Indigenous person has been involuntarily abducted or kidnapped.
- b) The investing law enforcement agency has utilized local and tribal resources.
- c) The law enforcement agency determines that the person has gone missing under unexplainable or suspicious circumstances.
- d) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

Existing law provides that CHP may use a changeable message sign if the law enforcement agency determines a vehicle was used in the incident and there is specific identifying information about the vehicle.

Existing law defines “Endangered Missing Advisory” as a notification system, activated to issue and coordinate alerts with respect to an Indigenous person who has been involuntary abducted or kidnapped.

Existing law requires CHP to evaluate this section, including the efficacy, the advantages, and the impact to other alert programs and submit it to the Governor and Legislature no later than January 1, 2027.

This bill codifies the California Highway Patrol’s (CHP) existing Endangered Missing Advisory (EMA) Alert Program.

This bill establishes the EMA and defines it as a notification system designed to issue and coordinate alerts with respect to a person who is at risk, developmentally disabled, or cognitively impaired, or who has been abducted.

This bill authorizes law enforcement agencies to request CHP to activate an Endangered Missing Advisory and authorizes CHP to activate an EMA within the appropriate geographical area, as specified.

This bill authorizes CHP to assist the investigating law enforcement agency by disseminating an electronic flyer or activating changeable message signs if an EMA is activated, as specified.

This bill authorizes law enforcement agencies to request an EMA activation if the following conditions are met regarding the investigation of the missing person:

- a) The missing person is developmentally disabled, cognitively impaired, has been abducted, or is unable to otherwise care for themselves, placing their physical safety at risk.
- b) The investigating law enforcement agency has utilized all available local resources.
- c) The law enforcement agency determines that the person has gone missing under unexplainable or suspicious circumstances.
- d) The law enforcement agency believes that the person is in danger because of age, health, mental or physical disability, or environment or weather conditions, that the person is in the company of a potentially dangerous person, or that there are other factors indicating that the person may be in peril.

- e) There is information available that, if disseminated to the public, could assist in the safe recovery of the missing person.

This bill defines “cognitively impaired” and “developmentally disabled” for the purposes of this statute, as specified.

COMMENTS

1. Need for This Bill

Existing law requires the California Highway Patrol (CHP) to activate the California’s AMBER or Silver Alert Programs if a missing individual is below the age of 18 and above the age of 65. Similar to the Federal Ashanti Alert Act which encompasses those missing or endangered persons aged 18 through 64 years, CHP currently utilizes the Endangered Missing Advisory (EMA) Alert Program that was established through the regulation process. AB 946 simply codifies the CHP’s existing EMA in statute to help facilitate local search efforts for missing individuals within the appropriate geographical area, who fall outside the scope of America’s Missing: Broadcast Emergency Response (AMBER) and Silver Alerts

2. Emergency Alert System

The Emergency Alert System (EAS) is part of the broader Integrated Public Alert & Warning System (IPAWS) within FEMA’s national system for local alerting that provides authenticated emergency and life-saving information to the public through mobile phones using Wireless Emergency Alerts to radio and television via the EAS, and on the National Oceanic and Atmospheric Administration’s Weather Radio. For California, FEMA and Cal OES designate entities with authority to alert and warn the public when there is a disaster, threat, or dangerous or missing person. Over 1,500 federal, state, local, tribal and territorial entities use IPAWS to send alerts and warnings.

The California Public Alert and Warning System (CalPAWS) Plan was developed by Cal OES for the purposes of formalizing effective processes and recommending standardized policies for alerting and warning California residents during local or state disasters. The plan outlines new and existing public alerts, warnings, and notification systems to offer state and local authorities various capabilities and dissemination channels for emergency alerts¹. Currently, California utilizes IPAWS to disseminate emergency information via satellite Emergency Alert System providers, Wireless Emergency Alert system providers, Weather Service Systems, unique systems, and potential future systems.

California also has several alert systems for the purposes of aiding in the location of specific individuals or alerting of particular emergencies. The first system developed in California was “Amber Alert,” which authorized law enforcement agencies to use digital messaging on overhead roadway signs to assist in recovery efforts for child abduction cases. After a successful

¹ “California State Warning Plan,” accessed March 30, 2023, <https://calalerts.org/documents/calpaws/01California-State-Warning-Plan.pdf>

implementation, the "Blue Alert" and the "Silver Alert" notification systems were developed. The "Blue Alert" system provides for public notification when a law enforcement officer has been attacked, and the "Silver Alert" notification system provides for public notification when either (1) a person age 65 years or older or (2) a person who is developmentally disabled or cognitively impaired is missing. The "Feather Alert" is the most recent addition that notifies the public in cases of endangered indigenous people who are reported missing under unexplained or suspicious circumstances.² (See <https://www.caloes.ca.gov/wp-content/uploads/Warning-Center/Documents/StateofCaliforniaEAS-Plan.pdf> for more information relating to California's operation of existing emergency alerts.)

3. Endangered person advisory

This bill codifies CHP's ability to put out an alert for a missing person, in addition to the specific types of alerts, if law enforcement determines the person is at risk, developmentally disabled, or cognitively impaired.

As with the other types of alerts, upon activation of the "Endangered Missing Advisory" CHP may send alerts in the appropriate geographical area and also activate changeable highway signs if a known vehicle is involved.

This bill also allows a law enforcement agency to request that an Endangered Missing Advisory be activated by CHP if they have utilized all their local resources, a determination is made that the person is at risk for one of a number of listed reasons, and, information disseminated to the public would help in the recovery of the missing person.

4. Similar legislation

SB 673 (Bradford) which creates an "ebony alert" passed this Committee 5-0 on April 18 and is currently in the Assembly Emergency Management Committee.

5. Argument in Support

According to State Council on Developmental Disabilities:

On behalf of the California State Council on Developmental Disabilities (SCDD) we support AB 946 (Nguyen). Currently persons with intellectual and developmental disabilities (I/DD) are not included in the Endangered Missing Advisory (EMA) that sends alerts when persons below the age of 18 and over the age of 65 go missing. AB 946 will protect the I/DD community by including them in EMA's.

The California Highway Patrol (CHP) is mandated by law to activate AMBER alerts or Silver Alerts, but authority does not exist for activating and EMA, though CHP has established an EMA program. AB 946 will add EMA text to law to enable regional and local search efforts for missing individuals who fall outside AMBER and Silver Alerts. Important to note is that the EMA program was originally created

² "News & Alerts," accessed March 30, 2023, <https://www.chp.ca.gov/news-alerts>

as a needed resource by CHP to include other persons who would otherwise not be captured with AMBER or Silver Alerts.

SCDD's mission to represent and advocate for people with I/DD in California through systems-change advocacy, including 1) policy initiatives, 2) outreach, training, and technical assistance, and 3) monitoring of important supports and services that ensure independence and inclusive access to public services. AB 946 aligns with SCDD's mission to advocate and ensure inclusive access to public services for persons with intellectual and developmental disabilities.

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