

# **KENTUCKY MISSING PERSON AND SEARCH & RESCUE LAW**

**(current through July 1, 2019)**

## **INTRODUCTION**

Missing persons cases can be the most frustrating type of response an officer might be required to handle. A missing person call might be a simple situation involving a missing toddler who has decided to take a nap under the bed, an angry teenager who just wants to scare their parents, a miscommunication or a case that involves a kidnapping or homicide. It might involve a victim that is very, very young or very, very old. Many cases start out as a missing person's case, and only later are discovered to be a kidnapping, homicide or sexual assault. For example, the story of three young women in Cleveland, abducted between 2002 and 2004 and held captive until 2013, began as three separate missing persons cases. The law of missing persons, and by extension, search and rescue, falls in two separate and discrete chapters of the Kentucky Revised Statutes. The full text of all statutes and regulations referenced shall be found in the appendix of this document.

## **JUVENILES**

In KRS 17.450-.470, Kentucky established the Kentucky Missing Child Information Center (KMCIC), operated under the Justice and Public Safety Cabinet, through the Kentucky State Police. This statute is expanded upon by 502 KAR 35.010 -.050, which lays out the procedure for agencies to follow when responding to a report of a missing juvenile.

Officers are required to immediately complete a Kentucky Missing Persons Report on a missing juvenile (under 18). It must be transmitted to the KMCIC no later than 24 hours after the report is taken, although of course, nothing prevents it from being forwarded immediately. However, the reporting agency must enter the report into the Law Information Network of Kentucky (LINK) and the National Crime Information Center (NCIC) immediately, either through their own direct terminal access, through another agency with which they have an agreement to do so, or through the applicable KSP post. Authority over any investigation, however, lies with the original reporting agency unless it is formally transferred to another agency, such as KSP. As soon as practicable, but no longer than 24 hours from the entry, such information shall be shared with all law enforcement agencies having concurrent jurisdiction, either through electronic or other means. It is the duty of the receiving agency to communicate that information to all internal agency personnel.

If requested, the KMCIC shall produce and issue flyers about the missing child and distribute said flyers to all appropriate law enforcement agencies. (On a practical note,

however, nothing prevents local entities from creating flyers and distributing them, as there are several templates available.) When the child is located, it is the responsibility of the agency that located the child to ensure that appropriate information is appended to the LINK/NCIC entry. The KMCIC may require additional information concerning the case to provide better statistical information on missing children.

Schools also have a part to play in missing children cases. Once a report is made, that information is relayed to the Department of Education, which shares the information with the relevant school, public or private, as indicated on the report. (It is critical that law enforcement officers spell out the name of the school completely, and not abbreviate, for example, Jessamine County High School and not JCHS; abbreviations may delay the reporting process.) It is the responsibility of the school to report if, in fact, the child appears at the school, as it is not unusual for a child to be missing from home and yet still attend school. Schools are also to flag the records of missing children, should someone attempt to enroll the child in another school and the records are requested. In addition, the child's birth certificate will be flagged by the Kentucky Registrar of Vital Statistics and appropriate action taken if the birth certificate is requested.

Determining the reason why a juvenile is missing is often, very much, a conundrum. Children (and adults) are reported missing for any number of underlying reasons. A missing child might be an intentional runaway, but the child may also be considered "missing" simply due to miscommunication, with the child believing the parent knows where they are. In most cases, children are not lost in the conventional sense, they know where they are and know how to get home, although they may not choose to do so. Such situations might blend both investigation and search response.

It is often assumed by the general public that a missing child is automatically to be considered abducted and that an Amber Alert will be issued. In fact, stranger abduction is extremely rare in the United States and many non-stranger abductions (such as a non-custodial parent or other family member taking the child) will still not necessarily indicate that the child is in immediate danger. Further, in apparent stranger abductions, there is often no suspect information, and without that, no Amber Alert can be issued, although certainly an Endangered Missing Alert (the generic name for such alerts) might be issued by the reporting agency.

Amber Alerts originated in 1996 and spread informally throughout the United States. Some states used a term specific to a high profile missing child in their state, originally. For example, in Georgia, an Amber Alert may also be called Levi's Call, named after Levi Frady, age 11, who was abducted and murdered. Amber Alerts have become the common name throughout the country now, with all states having an Amber protocol consistent with the national guidelines. Amber Alerts are now issued through a state coordinator, following USDOJ guidance provided under P.L. 108-21 §301 et seq. although states are allowed to modify the standards. However, such modification by individual states may cause confusion in states where the DOJ guidance is strictly followed, as a state may, for example, issue an alert without any indication that the child is actually at risk. That may result in known parental custody disputes being issued as Amber Alerts – although the general public, and law enforcement in other states, assume that the child is actually at risk pursuant to their own state protocols for such alerts. Further, although Alerts are

issued by a state, due to the nature of news coverage and social media now, an Amber Alert in a single state can rapidly expand across the U.S. and be assumed to be a national alert.

In Kentucky, the responsibility to issue an Amber Alert falls exclusively with the Kentucky State Police. KSP follows the DOJ guidance and the following criteria must be met:

1. Law enforcement confirms a child has been abducted;
2. Law enforcement believes and confirms the circumstances surrounding the abduction;
3. There are indications the child is in danger of serious bodily harm or death;
4. There is sufficient descriptive information about the child, the abductor, and/or the suspect's vehicle.

If all four of these criteria are not met, the KSP will not issue an Amber Alert.

If a child is believed to be a runaway, particularly if the child is a teenager, the reporting agency may elect to follow a "wait-and-see" process, depending upon the specific facts of a case and the prior history of the missing child. Younger missing children might, and should, however, trigger a more immediate response, although in most cases, the child is not lost in the usual sense, but instead is missing due to miscommunication between parents/guardians, playing at a friend's house, hiding/sleeping in the house or other innocuous reasons. (The age for that "trigger" is not set by state law, but by the individual agency.) True runaways are usually resolved by investigation rather than by a search effort or simply by the child returning to their home. Very young children who have wandered away are usually located by an immediate law enforcement/family search or by concerned passers-by before any further effort is required, but every case carries the potential to become a major case and should be treated as the emergency that they are.

Federal resources and laws may also become involved when a child is reported missing. The Adam Walsh Child Protection and Safety Act (P.L. 109-248) created the sex offender registry and is often cross-referenced as the Sex Offender Registration and Notification Act (SORNA). An offshoot of this is Code Adam, a safety program that originated with Wal-Mart but has been spread throughout the U.S., into shopping malls, museums, amusement parks and related businesses where children might be found. Under Code Adam, the businesses are trained under the protocols developed by the NCMEC to alert employees to the existence of a missing child in the location. (Such businesses will display a blue "Code Adam" sign at the entrance.)

Other resources that might be useful, specifically in the case of a missing child, are the FBI Child Abduction Rapid Deployment (CARD) Team and the National Center for Missing & Exploited Children. The latter, in particular, has a number of resources available online to assist local and state law enforcement with investigating missing children cases. Although it is often assumed that the FBI will take the lead in every missing child case, particularly if kidnapping is suspected, in fact, normally the case will

remain with the responding agency unless it is clear that a state line may have been crossed.

## **ADULTS**

With adults, the law, and the presumptions, are a bit different. The usual working assumption in the case of most missing adults is that they are “missing” voluntarily and there is no need to actually look for them. (Legally, of course, any competent adult may simply choose to disappear.) However, every missing person’s case carries the potential for the possibility of something more sinister, and as such, even a seemingly simple missing adult report should be treated as having the possibility of leading to a more serious investigation. Like other cases, a missing person’s case may go cold, but they are always remembered by the family and friends of the loved one. Even years later, some cold missing persons cases have been resolved by the unexpected locating of a wrecked car in a lake or river, with the missing subject still inside, for example. Other missing persons are actually the victims of homicide and any delay in investigating the report is also a delay in the homicide investigation. Care must be taken not to decide too quickly that a missing person, even an adult, is a voluntary walkway.

A specific type of adult missing person situation involves an adult (although certainly older juveniles may also fall into this situation and are now specifically covered by the definition of an “impaired person” in KRS 39F.010(3)) who is reported to have a physical, cognitive or developmental disability or dementia (Alzheimer’s) and thus would be considered more endangered than someone of their chronological age would normally be expected to be.

Under KRS 39F.180, Kentucky law provides that all agencies responding to a missing subject who has been reported missing report such calls to the local EM director and the local SAR Coordinator, if they have not been located within two hours. ( Searches that have gone for more than four hours must be reported to the KyEM Duty Officer; this is usually by the EM Director/SAR Coordinator. However, this statute presumes that all individuals reported missing are actually “lost,” and that an active search is ongoing, which may not be the case with respect to runaways, for example.

If a subject (adult or juvenile) who falls under the definition of an “impaired person” is reported missing, additional steps are required. Once determining the status of the missing subject and a decision is made by the responding law enforcement agency that they do fit within the definition of an impaired person, the initial responding agency (usually law enforcement) is required to immediately notify the EM director/SAR coordinator of the situation, as well as to immediately publicize the missing subject on local media outlets, as a Golden Alert. (KRS 39F.180 differentiates between a Golden Alert and a Golden Alert-D, but in practice, the news media generally does not make that distinction and often simply puts out the alert without the “Golden” designation at all.) The investigation may be more complicated than it initially appears, since it may prove difficult for a responding officer to obtain the information necessary to accurately determine the endangered status of that individual. Family members may be reluctant to share information that might suggest that they have not been taking adequate care of their loved one or they may fear legal action. Careful and sensitive interviewing is critical to accurately

establishing the status of the missing person; an officer or other interviewer must, for example, understand the significance of the medications a particular individual is prescribed. Further, certain situations may make it inadvisable to make a public announcement that a particular person is missing, since that might encourage the general public to approach someone who might be unpredictable. It is particularly difficult to ascertain the situation when the subject is an adult, reported to be intellectually or developmentally challenged, yet not have a formal legal guardian. The burden to make the decision is often left to an agency without the training to ask the right questions so as to best understand the situation and other agencies might be enlisted, such as emergency management, rescue squads or local health or medical authorities to help in the decision making process. (Further, as noted, local emergency management and KyEM must be notified. Note that a single individual may have both titles, that is up to the county. of any active searches and about a Golden Alert, so that the KyEM Duty Officer and PIO is able to make statewide notifications, as needed.)

Effective in 2019, Kentucky has also adopted the Green Alert, which would apply to a "veteran at risk," as defined in the statute. This alert will be an appropriate alternative to a Golden Alert, depending upon the circumstances.

A Golden or Green Alert notification is the responsibility of the responding agency, but it is important to plan for making such notifications in advance. Where there are multiple law enforcement agencies in a county, it is advisable that each follow essentially the same protocol for notification, to ensure that such notifications are consistent, complete and issued to all necessary parties in a timely manner. Although the statute presumes such notifications will be through a broadcast or print media outlet, thought might be given to using social networking as well. (Once a Golden Alert is posted by conventional media, it will almost certainly be picked up and disseminated through social networking anyway.) Of course, sharing such information with other public safety agencies is critical as well, particularly when the subject is driving. Agencies should also be prepared for questions and possibly, unsolicited help, once a notification is made. This may occur, of course, in any publicized missing persons case – agencies may not be aware, for example, that including a juvenile on the NCMEC site may trigger unsolicited assistance from entities that watch such sites for entries in their area. It is not uncommon for such organizations to make direct contact with family members and offer their assistance in finding the missing person, without the local law enforcement agency even being aware of it, and to take on an investigation, post flyers or question others in search of the missing subject.

Every county is required, under KRS 39F.190, to have a search and rescue plan as part of the overall local emergency operations plan. This plan would cover missing persons as well as plans for other types of rescue, such as water, cave, etc. Law enforcement agencies should be familiar with and be involved in the development of such plans for their counties.

There are several federal laws that relate specifically to missing adults, as well. Suzanne's Law, (P.L. 108-21, §204) eliminates any state waiting periods before a missing person report on an adult between age 18 and 21 may be taken and requires that such reports be immediately be entered into NCIC, as is required for missing juveniles.

However, Kentucky does not have any such required waiting period and most agencies input reports into NCIC as soon as possible, already. Kristen's Law (P.L. 106-466) created the Center for Missing Adults, as a companion organization to the NCMEC for juveniles. (Many of these laws have names because they were enacted following a specific high-profile missing person's case.)

Kentucky law does, already, specifically note that there is no required waiting period before a missing person report may be made, and in fact, prohibits any agency from delaying taking the report. (KRS 39F.180(7))

See Appendix for information on Ashanti Alerts, which are not yet in use in Kentucky, pending development under federal law.

## **SEARCH**

In missing persons cases where an actual search is required, there are resources available to assist with planning and execution. Under Kentucky law, rescue squads may be established under local emergency management agencies and may provide trained volunteers for ground search as well as canine specialized teams. A rescue squad that focuses on search and rescue will have specific training in planning searches and often have access to more resources, such as topological maps, than a law enforcement agency might not have in its possession. Such squad must have training specified under Kentucky law (KRS 39F and accompanying regulations) and are often far better prepared with respect to knowledge of search strategies, lost person behavior and use of rescue equipment than law enforcement or fire departments. SAR teams will include personnel who are trained in search management and who are accustomed to operating under the Incident Command System (ICS). (They will expect that any agency with which they collaborate will also be using ICS, as is required under Kentucky law for all emergency situations.) As such, law enforcement agencies would be expected to coordinate with the rescue squad. Further, these rescue squads, which must be affiliated with a local EM agency, can be requested through KyEM to assist in other counties, and if properly called up by KyEM, under a state mission number, will have their own workers' compensation and related legal protections. Using non-authorized (and potentially unqualified) search assets puts both the individual/team, as well as the law enforcement agency, at legal risk, although it is possible to integrate volunteers into search teams with trained team leaders. (In an emergency situation, such individuals can be placed under state workers' compensation protections by the EM personnel at the scene.) Extreme care should be taken when using SAR personnel with which the agency is not familiar, a law enforcement agency should first ensure that any SAR team or dog handler who arrives at a scene has been properly requested and is, in fact, qualified to do the task. (It is far too easy for an unqualified team or dog handler to masquerade, as there are not, at this time, any specific physical credentials provided. The local emergency manager / SAR coordinator has the ability to verify the affiliation of an unfamiliar team with the Duty Officer.)

Finally, failure of any agency to abide by the all of the mandates of KRS 39F is a Class A misdemeanor (KRS 39F.990).

## **CONCLUSION**

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Missing person cases are one of the most complex types of investigation any law enforcement agency might encounter. It is made more complicated by the legal requirement that the law enforcement agency contact and cooperate with a separate public safety agency (a search and rescue squad) of which they may have had little interaction in the past, without a clear understanding as to what resources that agency might bring to the response. Not every area has a local SAR team but every community may access such resources through their local EM agency. (Since these agencies are for the most part staffed by volunteers, consideration needs to be given to the time necessary for the team to respond.) Each SAR team brings with it different expertise and it is important to understand what a particular squad will need from local responders when they arrive. (For example, one rescue squad may be self-contained and bring everything it needs, such as maps and communications capabilities, other SAR responders, such as solo dog handlers, may require communications and other support from local responders.) Local law enforcement agencies should be familiar with the resources available in their own community and how to request assistance if local resources prove insufficient.

## **ACRONYMS**

EM	Emergency Management (as a discipline, or a county agency)
KCMIC	Kentucky Missing Child Information Center
KSP	Kentucky State Police
KyEM	Kentucky Division of Emergency Management
LINK	Law Enforcement Information Network (Kentucky)
NCIC	National Crime Information Center
NCMEC	National Center for Missing & Exploited Children
SAR	Search & Rescue (as a discipline)

# APPENDIXES

## APPENDIX I

### KENTUCKY MISSING PERSON & SAR LAW 2019

#### Statutes and regulations current through July 1, 2019

**This summary of Kentucky law includes statutes concerning missing persons and emergency management rescue squads, along with related law of specific interest to the protections accorded to EM and Rescue Squad personnel.**

**Please refer to the KRS for additional, related statutes of interest.**

#### **INCIDENT COMMAND**

##### **39A.230 Procedures for one multirisk, multiagency, unified incident command or management system.**

(1) The Kentucky Emergency Operations Plan shall include procedures for one multirisk, multiagency, unified incident command or management system to be used by all state agencies responding to the scene of an emergency, declared emergency, disaster, or catastrophe, as contemplated by KRS 39A.010, 39A.020, or 39A.030.

(2) Local emergency operations plans shall include procedures for:

(a) An incident command or management system to be used by individual local agencies or departments when responding to the scene of day-to-day, routine emergency incidents; and

(b) One unified incident command or management system to be used by all local agencies or departments when responding to the scene of a multiagency or multijurisdictional emergency, declared emergency, disaster, or catastrophe, as contemplated by KRS 39A.010, 39A.020, or 39A.030.

(3) All incident command or management system procedures required pursuant to subsections (1) or (2) of this section shall be based upon or utilize the five (5) functions of: command, operations, planning, logistics, and finance.

#### **MUTUAL AID**

##### **KRS 39B.045 Mutual aid agreements between Kentucky or its agencies or political subdivisions and units of government from another state.**

(1) As used in this section, "emergency" means an occurrence or condition in a jurisdiction within or outside of the Commonwealth that results in a situation:

(a) That poses an immediate risk to health, life, property, or the environment;

(b) That is not initially at the level of a disaster or emergency that requires a local or state declaration of disaster or emergency, even if such a local or state declaration is made after the initial request for mutual aid; and

(c) For which the governing jurisdiction determines:

1. The situation exceeds its ability to render appropriate aid; and

2. That it is in the public's best interest to request mutual aid from a governmental jurisdiction or private entity in another state with which the governing jurisdiction has entered into a mutual aid agreement under this section.

(2)(a) As used in this section,

"emergency responder" means a person:

1. Who is required to possess a license, certificate, permit, or other official recognition for the person's expertise in a particular field or area of knowledge; and

2. Whose assistance is desirable during an emergency.

(b) The term includes, but is not limited to, the following:

1. Firefighters, hazardous materials personnel, specialized rescue personnel, extrication

personnel, water rescue personnel, and other specialized personnel;

2. Emergency medical services personnel;

3. Physicians;

4. Nurses;

5. Mental health practitioners, veterinary practitioners, and other public health practitioners;

6. Emergency management personnel; and

7. Public works personnel.

(3) As used in this section, "political subdivision" has the same meaning as in KRS 39D.040.

(4)(a) In order to more adequately address emergencies that extend or exceed a jurisdiction's emergency response capabilities, either without rising to the level of a state or local declaration of a state disaster or emergency, or in the initial stages of an event that may later become a declared state of disaster or emergency, the state and any of its departments or agencies, or any political subdivision, may enter into written mutual aid agreements with units of government from another state that provide coordination of communications for, training for, response to, and standby for planned events and emergency responses within the Commonwealth of Kentucky or in another state.

(b) When an emergency responder from outside Kentucky is engaged in training, standby, and emergency response in accordance with a mutual aid agreement under this section, the emergency responder from outside Kentucky is permitted to provide services within Kentucky in accordance with this section and the terms of the mutual aid agreement under this section.

(c) This section shall not be construed to prohibit a private entity or its employees from participating in the provision of mutual aid if:

1. The participating political subdivision approves the participation of the private entity; and

2. A contract between the political subdivision and the participating private entity permits the participation.

(5) If an emergency responder from a jurisdiction outside Kentucky holds a license, certification, or other permit recognized or issued by another state, that emergency responder is considered to be licensed, certified, and permitted in Kentucky to render aid involving such skill to meet the request for assistance under a mutual aid agreement signed pursuant to this section, so long as the emergency responder acts within the scope of:

(a) The emergency responder's license, certificate, or permit; and

(b) What would be authorized by an equivalent license, certificate, or permit from or recognized by the Commonwealth of Kentucky.

(6) All immunities from liability available to Kentucky political subdivisions, other units of local government in Kentucky, and their officers, agents, and employees within Kentucky are extended to political subdivisions and other units of local government from another state, and their officers, agents, and employees, who under a mutual aid agreement authorized by this section are:

(a) Providing mutual aid; or

(b) Engaged in training and exercises.

(7)(a) Emergency responders rendering mutual aid under a mutual aid agreement authorized by this section remain employees and agents of their respective employers and jurisdictions.

(b) A mutual aid agreement entered into under this section does not create an employment relationship between the jurisdiction requesting aid and the employees and agents of the jurisdiction rendering aid.

(c) All pension, relief, disability, death, worker's compensation, and all other benefits enjoyed by emergency responders rendering mutual aid under a mutual aid agreement authorized by this section extend to the services the emergency responders perform outside their respective jurisdictions, as if those services had been rendered in their own jurisdiction.

(8) A mutual aid agreement under this section shall be approved by each political subdivision entering into the mutual aid agreement. A copy of the mutual aid agreement, including any amendments, shall be delivered to the fiscal court or legislative body having countywide jurisdiction and the county emergency management agency of that jurisdiction.

(9) This section shall not be construed to limit, modify, or abridge:

(a) Kentucky's emergency management agency statutes; or

(b) The emergency management assistance compact under KRS 39A.950.

## MISSING PERSONS

### 17.450 Kentucky Missing Child Information Center.

(1) The Justice and Public Safety Cabinet shall establish within the cabinet a "Kentucky Missing Child Information Center," which shall serve as a central repository of and clearinghouse for information about Kentucky children believed to be missing and children from other states believed to be missing in Kentucky.

(2) The cabinet shall provide the Missing Child Information Center with computer equipment and a computer program which shall list and be capable of immediately retrieving the name and complete description of any missing Kentucky child referred to in subsection (1) of this section.

(3) The cabinet shall design the computer program so as to accept and generate complete information on a missing child, which information shall be retrievable by the child's name and date of birth, Social Security number, fingerprint classification, any number of physical descriptions, including hair and eye color and body marks, and known associates and locations.

(4) Only law enforcement agencies shall be authorized to order missing child information entered into or retrieved from the missing child information center computer, except that a parent or guardian may order from the Department of Kentucky State Police information on his or her child to be entered or retrieved when another law enforcement agency has refused to enter or retrieve such missing child information.

(5) The cabinet, through the Kentucky Missing Child Information Center, shall regularly issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the cabinet.

(6) For purposes of this section, child shall mean any person under eighteen (18) years of age or any person certified or known to be mentally incompetent or disabled.

(7) A complete written report shall be issued annually by the cabinet, which report shall include statistical information on the numbers of missing children entered on the computer and located and recommendations for more accurate and timely reports and better usage of the computer.

(8) The cabinet may promulgate administrative regulations in conformance with this section which provide for the orderly receipt of missing child information and requests for retrieval of missing child information.

(9) The Department of Kentucky State Police and each city, county, and urban-county police department and each sheriff's office shall fingerprint children without charge on forms provided by the cabinet. The completed fingerprint forms shall be delivered to the child's parent or guardian and no copy of the fingerprint form shall be retained by the police department or sheriff's office.

**17.460 Procedure by law enforcement agency upon receipt of report of missing child --**

**Transportation and return of child once located.**

(1) Upon notification by a parent, guardian, person exercising custodial control or supervision, or the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services if the child is a ward of the state, that a child is missing, the law enforcement agency receiving notification shall immediately complete a missing person's report in a form prescribed by the Justice and Public Safety Cabinet which shall include information the Justice and Public Safety Cabinet deems necessary for the identification of the missing child, including the child's physical description, last known location, and known associates.

(2) Within twenty-four (24) hours after completion of the missing person's report form, the law enforcement agency shall transmit the report for inclusion within the Kentucky Missing Child Information Center computer and shall cause the report to be entered into the National Crime Information Center computer.

(3) Within twenty-four (24) hours thereafter, the law enforcement agency shall investigate the report, shall inform all appropriate law enforcement officers of the existence of the missing child report, and shall communicate the report to every other law enforcement agency having jurisdiction in the area.

(4)(a) Upon location of the missing child and verification of the National Crime Information Center entry, the law enforcement agency shall transport the child to the parent, guardian, or person exercising custodial control or supervision.

(b) If the child is a ward of the state, the law enforcement agency shall transport the child to the authorized representative of the Department for Community Based Services of the Cabinet for Health and Family Services in the jurisdiction of the law enforcement agency.

(c) If the law enforcement agency is unable to return the child to the appropriate caretaker pursuant to paragraph (a) of this subsection, the law enforcement agency shall contact the court-designated worker with jurisdiction for placement determination.

(d) If the child is in custody on a charge of committing an offense pursuant to KRS Chapters 600 to 645, the law enforcement agency shall proceed according to the provisions therein.

(5) Within twenty-four (24) hours after a missing child is located and returned to the appropriate caretaker pursuant to subsection (4) of this section, the law enforcement agency which

transported, found, or returned the missing child shall notify both the Missing Child Information Center and the National Crime Information Center of that fact.

**17.470 Notification by Department of Kentucky State Police of missing and recovered children.**

(1) Upon receipt of a report of a missing child who was born in the Commonwealth, the Department of Kentucky State Police shall notify within forty-eight (48) hours the state registrar of vital statistics for the Commonwealth of the disappearance of such child and shall provide to the state registrar identifying information about the missing child. Upon learning of the recovery of a missing child, the Department of Kentucky State Police shall notify the state registrar.

(2) The Department of Kentucky State Police shall provide the commissioner of education with a list of the names of all missing children and children who have been recovered along with, if available, the last known school of enrollment. The commissioner of education shall provide the information to schools as required in KRS 156.495.

**502 KAR 35:010. Definitions.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.160, 17.080, 17.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 15A.160 and 17.080 provide that the Secretary of Justice may adopt such administrative regulations that are necessary to properly administer the cabinet. KRS 17.450 establishes the Kentucky Missing Child Information Center. This administrative regulation establishes the definitions to be used in the administration of the Kentucky Missing Child Information Center.

Section 1. As employed in 502 KAR 35:010 through 502 KAR 35:050, unless the context requires otherwise:

(1) "Kentucky Missing Child Information Center" means a system including equipment, facilities, procedures, agreements and organizations thereof, for the collection, processing, and subsequent dissemination of information related to missing children.

(2) "Missing child information," hereafter referred to as MCI, is reported to and preserved in the Kentucky Missing Child Information Center. MCI shall be inclusive of, but not limited to all information as listed on the Kentucky Missing Persons Report Form.

(3) "Kentucky Missing Persons Report Form" means the form furnished to all requesters by the

Kentucky State Police for the purpose of obtaining personal identifiers, characteristics, habits and actions for use in the entry of information in the Kentucky Missing Child Information Center.

(4) "Law enforcement agency" means a full-time governmental agency or any subunit thereof which is charged with the responsibility of the detection and prevention of crime, apprehension of criminals, the maintaining of law and order throughout the respective jurisdiction, to collect, classify and maintain information useful for the detection of crime and the identification, apprehension and conviction of criminals and to enforce laws within that respective governmental jurisdiction.

(5) "Child" means any person under eighteen (18) years of age or any persons certified or known to be mentally incompetent or disabled. (12 Ky.R. 91; eff. 8-13-85.)

**502 KAR 35:020. Capabilities of the Missing Child Information Center computer system.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.060 17.080, 17.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.080 authorizes the Secretary of Justice to institute rules and administrative regulations and direct proceedings and actions for administration of laws and functions that are vested in the Justice Cabinet. KRS 17.450 establishes, in the Justice Cabinet, a Kentucky Missing Child Information Center. As defined in 502 KAR 35:010(1), the Kentucky Missing Child Information Center shall act as a central repository of and a clearing house for information with regard to those Kentucky related children believed to be missing. This administrative regulation sets specific computer program standards and information submission guidelines for the Kentucky Missing Child Information Center.

Section 1. The Kentucky Missing Child Information Center shall maintain a system capable of accepting and initiating the capture, retention, and subsequent dissemination of information relating to missing children from Kentucky and missing children believed to be located in Kentucky.

Section 2. The Kentucky Missing Child Information Center shall be located within the Kentucky State Police for administrative purposes.

Section 3. The system shall be developed that will at a minimum be capable of the retrieval of missing child information by name, description, date of birth, Social Security number, fingerprint class, body marks, known associates and the associate's locations. The system shall also be developed to insure the ability to provide statistical data associated with the Kentucky Missing Child Information Center. (12 Ky.R. 92; eff. 8-13-85.)

**502 KAR 35:030. Quality of information reported to the Kentucky Missing Child Information Center.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.060, 17.080, 17.450

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.450(8) provides that the Secretary of Justice may issue administrative regulations in order to provide for the orderly receipt and/or retrieval of missing child information. This administrative regulation establishes entry and retrieval of missing child information procedures. Section 1. Only law enforcement agencies as defined in 502 KAR 35:010(4) shall be allowed to enter, change existing information or retrieve information from the files of the Missing Child Information Center. Initial entry or modification of existing missing child information shall only be accomplished by the submission of the Kentucky Missing Persons Report Form to the Missing Child Information Center. Each submitted Kentucky Missing Persons Report Form shall be as complete as possible and list the submitting law enforcement officer's name as well as the authorizing law enforcement agency.

Section 2. A parent or guardian may enter or retrieve missing child information directly to or from the Missing Child Information Center on his child when the law enforcement agency of jurisdiction has refused to enter or retrieve such missing child information. The parent or guardian of the missing child that has been denied service by a law enforcement agency may directly contact the Kentucky Missing Child Information Center for assistance in the initial entry, modification thereof, or retrieval of information relating to his or her missing child. The Missing Child Information Center shall immediately notify the State Police Post, which serves the area, to initiate an investigation on the missing child. Section 3. Affidavit Certifying Noncompliance with KRS 17.450 by a Law Enforcement Agency. The parent or guardian attesting that a law enforcement agency has not rendered the appropriate service as outlined in KRS 17.450 or 17.460 shall be required to file a formal affidavit outlining the circumstances surrounding the failure of the law enforcement agency to provide service. Copies of said affidavit shall be forwarded to the chief administrative officer of the agency denying service in addition to the State Police Post which will conduct the investigation on the missing child.

**SEE REGULATION FOR FORM OF AFFIDAVIT**

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**502 KAR 35:040. Reporting of missing children by law enforcement agencies.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.160 17.080, 17.450, 17.460

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.450 mandates that the Justice Cabinet shall establish a Kentucky Missing Child Information Center which shall serve as the Central Repository of and clearing house for information about Kentucky related missing children. KRS 17.460 mandates that the law enforcement agencies receiving notification of a missing child shall report information relating to that missing person to the Missing Child Information Center in a timely nature. This administrative regulation establishes procedures and time frames associated with the reporting of a missing child.

Section 1. As defined in 502 KAR 35:010(3), a Kentucky Missing Persons Report Form shall be initiated and completed immediately by a law enforcement agency upon receiving notification from a parent or guardian that a child is missing. If possible, a current photograph and a Child-I- Dent Form will be obtained from the parent, guardian, or, if approved by the parent or guardian, from the school of the missing child. The Kentucky Missing Persons Report Form shall either be completed by the responsible law enforcement agency or completed to the fullest extent possible with the information available and in all cases will be forwarded to the Missing Child Information Center no later than twenty-four (24) hours after notification by parent or guardian. In the event that the missing child is located prior to forwarding the report form, it is not necessary to forward that report form to the Missing Child Information Center.

Section 2. The law enforcement agency receiving the initial report of a missing child shall immediately enter into the Law Information Network of Kentucky and the National Crime Information Center computer criterion information related to the missing child.

Section 3. In the event that the reporting agency does not have direct terminal access to NCIC or is not participating in the regional LINK/NCIC Network, it shall be the responsibility of the reporting agency to enter criterion information through the nearest Kentucky State Police Post. It shall not be the responsibility of said post to assure the ongoing investigation of the missing child incident, that responsibility shall remain with the submitting agency.

Section 4. As soon as possible, but no later than twenty-four (24) hours after the entry of missing

child information, the investigating law enforcement agency shall notify law enforcement agencies having concurrent jurisdiction via electronic or telecommunicative means. Receiving agencies shall promptly notify agency duty personnel of all information relating to a missing child incident.

Section 5. The Kentucky Missing Child Information Center shall issue flyers containing physical and situational descriptions of missing children when requested by a law enforcement agency or when determined by the Kentucky Missing Child Information Center. Minimum information required before a flyer may be issued from the Kentucky Missing Child Information Center, shall be: agency, ~~case number, ORI, date~~ missing, name, address, sex, race, date of birth, height, weight, hair color, the most recent photograph providing an adequate likeness, signature of parent or guardian, officer submitting report and agency authorization. It shall be the responsibility of the investigating agency to request that a flyer be issued and to submit to the Kentucky Missing Child Information Center all information needed. Flyers will be provided to all Kentucky law enforcement agencies as defined in 502 KAR 35:010(4) in addition to law enforcement agencies in geographical areas where there is reason to believe the missing child is proceeding to or in the process of being taken to.

Section 6. Cancellation of Missing Child Report. It shall be the responsibility of the law enforcement agency that found or returned the missing child to append the existing LINK/NCIC message by placing a locator message on the entry. It shall be the responsibility of the reporting agency upon notification and verification that the child has been found, to cancel missing child entries in LINK/NCIC. The Kentucky Missing Child Information Center may require information related to the finding or recovery of the missing child to better provide statistical information on missing children. (12 Ky.R. 94; eff. 8-13-85.)

#### **502 KAR 35:050. Statistical analysis of information related to missing children.**

RELATES TO: KRS 17.450, 17.460

STATUTORY AUTHORITY: KRS 15A.160, 17.080, 17.450, 17.460

NECESSITY, FUNCTION, AND CONFORMITY: KRS 17.080 provides that the Secretary of Justice may adopt such rules and administrative regulations as are necessary to properly administer the cabinet. KRS 17.450 provides that the Secretary of Justice further issue administrative regulations which will provide for the functioning of the Kentucky Missing Child Information Center. KRS 17.450 requires that the Kentucky Missing Child Information Center annually report statistical information with regard

to the numbers of children missing from or believed missing in the Commonwealth of Kentucky. This administrative regulation establishes rules and administrative regulations with regard to the furnishing of said statistical data.

Section 1. Annual Report Required. On or before July 1 of each year, a written report shall be provided to the Secretary of Justice that will include statistical information with regard to missing children in the Commonwealth of Kentucky.

Section 2. Law Enforcement Agency Assistance Required. The Kentucky Missing Child Information Center may require additional assistance from all law enforcement agencies with regard to the development of the statistical data report as outlined in Section 1 of this administrative regulation. Said assistance shall be inclusive of but not limited to in-depth case analysis with regard to a specific missing child incident, overall trends within a given geographical or jurisdictional area, and an in-depth missing child recovery trend analysis as well as the agency's methodology for finding and returning missing children. (12 Ky.R. 95; eff. 8-13-85.)

#### **KRS 156.495 Program to identify and locate missing children enrolled in Kentucky schools.**

(1) The Department of Education shall weekly distribute the names, provided by the Department of Kentucky State Police, of all missing children and children who have been recovered to all public and private schools admitting children in preschool through grade twelve (12).

(2) Every public and private school in this state shall notify local law enforcement or the Department of Kentucky State Police at its earliest known contact with any child whose name appears on the list of missing Kentucky children.

(3) The department shall encourage each public and private school to engage in a program whereby the parents of children who are absent from school are notified in person or by telephone to verify if they know that the child is not attending school.

#### **KRS 158.032 Flagging record of missing child - Procedure upon recovery -- Documents required upon enrollment or transfer.**

(1) Upon notification by the commissioner of education of a child's disappearance, any school in which the child is currently or was previously enrolled shall flag the record of the child so that when a copy of or information regarding the child's record is requested, the school shall be alerted that the record is that of a missing child. The school shall immediately report to local law

enforcement or the Department of Kentucky State Police any request concerning flagged records or any knowledge as to the whereabouts of any missing child.

(2) Upon notification by the commissioner of education of any missing child who has been recovered, the school shall remove the flag from the child's record.

(3) Upon enrollment of a student for the first time in any elementary or secondary school, the school shall notify in writing the person enrolling the student that within thirty (30) days the person shall provide either:

(a) A certified copy of the student's birth certificate; or

(b) Other reliable proof of the student's identity and age, and an affidavit of the inability to produce a copy of the birth certificate.

(4) Upon the failure of a person enrolling the student to comply with this section, the school shall notify the person in writing that unless he complies within ten (10) days the case shall be referred to the Department of Kentucky State Police or local law enforcement officials for investigation. If compliance is not obtained within the ten (10) day period, the school shall so refer the case.

(5) Within fourteen (14) days after enrolling a transfer student, each elementary or secondary school shall request directly from the student's previous school a certified copy of the student's record. Any school receiving a request of a student's record which has been flagged as the record of a missing child shall not forward the student's record but shall instead notify local law enforcement or the Department of Kentucky State Police.

#### **213.061 Flagged birth certificate of child reported missing.**

(1) Upon notification by the Justice and Public Safety Cabinet that a child born in the Commonwealth is missing, the state registrar of vital statistics shall flag the birth certificate record of the child in such a manner that whenever a copy of the birth certificate or information regarding the birth record is requested, the state registrar shall be alerted to the fact that the certificate is that of a missing child.

(2) Upon notification by the Justice and Public Safety Cabinet that a missing child has been recovered, the state registrar shall remove the flag from the child's birth certificate record.

(3) In response to any inquiry for a copy of a flagged birth certificate of a missing child, the state registrar shall not provide a copy of the

birth certificate except as approved by the Justice and Public Safety Cabinet.

(4) When a copy of a flagged birth certificate is requested in person, the state registrar or the designee accepting the request shall inform the person making the request that a copy of a certificate will be mailed to the requester. The state registrar shall, upon the departure of the requesting person, immediately notify the Justice and Public Safety Cabinet as to the request and the information obtained pursuant to this subsection.

(5) When a copy of a flagged birth certificate is requested in writing, the state registrar shall immediately notify the Justice and Public Safety Cabinet as to the request and shall provide a copy of the written request.

## **RESCUE**

### **39F.010 Definitions for chapter.**

The following definitions apply in this chapter unless the context otherwise requires:

(1) "Developmental disability" has the same meaning as in KRS 387.510.

(2) "General rescue squad" means a rescue squad which performs one (1) or more of the following functions as a stated mission of the organization:

(a) Light duty rescue;

(b) Extrication of persons from vehicles;

(c) Water rescue and recovery operations not utilizing divers;

(d) Search for lost, trapped, or missing persons not utilizing dogs;

(e) Low angle rescue and recovery operations; and

(f) High angle rescue and recovery operations.

(3) "Impaired person" means a person who has a known or reported:

(a) Developmental disability, including but not limited to autism, or traumatic brain **injury** and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency; or

(b) Physical, mental, or cognitive impairment or organic brain disorder, including but not limited to Alzheimer's disease, and whose disappearance poses a credible threat to the health or safety of the person, as determined by the Department of Kentucky State Police or a local law enforcement agency.

(4) "Reports and notification" means the reporting and notification of any search and rescue mission to the appropriate agency or person in the manner as specified by this chapter.

(5) "Rescue" means gaining access, rendering appropriate care, and transporting of a person or persons by whatever means, to a safe environment for appropriate care.

(6) "Rescue squad" means any organization which engages in the search for lost persons, rescue of persons, rescue of persons who are trapped or who are in need of rescue services, search for and recovery of drowned persons, or any other rescue related activity. "Rescue squad" shall not include the rescue of persons from a fire by a fire department, the extrication of persons from a vehicle or other activities which an emergency medical technician, emergency medical technician first responder, or paramedic is authorized to perform pursuant to applicable statutes and administrative regulations, if the activities are performed by a person for an ambulance service or in the role of a first responder. If these activities are performed other than as a first responder or in the role of an ambulance service and are involved in rescue operations, they come within the purview of activities of a rescue squad.

(7) "Search" means the process of looking for a person or persons whose location is not precisely known, and who may be in distress.

(8) "Search and rescue" ("SAR") means the process of looking for a lost, missing, or overdue person or persons who may be in distress, and rendering care with the use of appropriately trained and adequately equipped personnel.

(9) "Search and rescue mission" includes, but is not limited to, searching for a missing or lost person or persons, cave rescue, high angle or rough terrain rescue, urban search and rescue, dive rescue and recovery of drowning victims, inland water search, rescue, and recovery. "Search and rescue" may also include any mission permitted pursuant to this chapter. A "search and rescue mission" does not include mine rescue missions under the jurisdiction of the Department for Natural Resources pursuant to KRS Chapter 351.

(10) "Specialized rescue squad" means a rescue squad which performs one (1) or more of the following functions as the primary or sole mission of the organization:

- (a) Cave rescue;
- (b) Search utilizing dogs for lost, trapped or missing persons;
- (c) Search for lost, trapped or missing persons, aircraft, or vehicles, utilizing aircraft, but does not apply to licensed air ambulances, active or reserve military organizations, the National Guard, or the Civil Air Patrol; and

(d) Water rescue and recovery operations utilizing divers.

(11) "Traumatic brain injury" has the same meaning as in KRS 211.470.<sup>1</sup>

(12) "Veteran at risk" means a veteran or an active-duty member of the Armed Forces, the National Guard, or a military reserve component of the United States who is known to have a physical or mental health condition, to include post traumatic stress disorder (PTSD), that is related to his or her service; and

(12) "Victim recovery" means the search for and the removal to the jurisdiction of the coroner of the remains of a person known or believed to be dead. If the person is found alive, it includes rescue of the person.

### **39F.020 Rescue squads -- Formation -- Authorization to operate within a jurisdiction -- Functions.**

(1) Rescue squads may be formed and duly authorized to perform in the public interest. Authorization to operate within a jurisdiction may be granted by the chief elected official of each urban-county government, charter county government, county, or city which the squad proposes to serve. Rescue squads shall have a formal affiliation with the local disaster and emergency services organization. The statement of affiliation shall be renewed annually.

(2) Except as provided in KRS 39F.040, a rescue squad shall be composed of at least twelve (12) active members and shall maintain at least one (1) vehicle dedicated to rescue service. Squads may operate in conjunction with a fire division, or may operate as a separate unit.

(3) Each rescue squad shall develop and maintain bylaws and written procedures to specify, at a minimum, election or appointment, succession, and term of officers; financial accounting; property accountability; and rules of notification and response to emergencies.

(4) Rescue squads shall contribute to public safety and welfare by performing functions which may include but not be limited to: removal of victims trapped in vehicles or structures; search for lost or missing persons or missing impaired **persons**, except those sought for criminal acts; first aid; emergency evacuation; recovery of drowning victims; recovery of any corpse if not accessible by ambulance or hearse and if so authorized by the coroner; and traffic control at an accident scene when requested by law enforcement authorities. Rescue squads

organized for the purpose of searching for lost or missing persons which are searching for an impaired person shall work in cooperation with local media outlets to notify the public that an impaired person is lost or missing. Rescue squads shall not engage in law enforcement activities other than traffic control.

(5) The division shall administer funds appropriated for rescue equipment and training and the division shall promulgate administrative regulations to be applied to all rescue squads that apply for financial assistance.

#### **39F.040 Specialized squad using search dogs--Requirements--Organization of general rescue squad.**

(1) One or more persons with search dogs and handlers may constitute a specialized rescue squad using search dogs, under the terms and conditions as specified in writing by the director;

(2) Each handler of a dog shall have a vehicle available for the transportation of the dog and handler to the scene of a search;

(3) Each handler shall meet the training requirements of the statutes and administrative regulations relating to searching with dogs;

(4) The primary dog utilized in responding to the search shall be certified in accordance with the statutes and administrative regulations;

(5) Each handler shall have the equipment required by statute or administrative regulation for searching with dogs; and

(6) No single search dog handler shall engage in general rescue squad activity or specialized rescue squad activity unless he or she is a member of such an organization.

#### **39F.070 Specialized rescue squad -- Activities permitted.**

(1) A specialized rescue squad shall engage in one or more of the activities listed in the definition of a specialized rescue squad. A specialized rescue squad may engage in any other activity, other than the ones prohibited by law or administrative regulation, if the activity is specified in its mission statement.

(2) A specialized rescue squad shall not engage in a general rescue squad activity as a primary mission unless it meets the requirements of subsection (3) of this section. A specialized rescue squad may engage in a general rescue squad activity as an initial responding unit within its service area, however, upon responding to that activity, the highest officer in command of the response shall cause the immediate notification of the appropriate general rescue squad for

assistance, the local director, and the duty officer of the Division of Emergency Management.

(3) A specialized rescue squad may engage in a general rescue squad activity if:

(a) That activity is specified in its mission statement;

(b) The rescue squad has twelve (12) persons including a commanding officer from within the membership of the specialized rescue squad whose mission statement is to engage in the general rescue squad activity;

(c) The persons assigned to the general rescue squad activity meet the training requirements specified by statute and administrative regulation;

(d) The rescue squad has the equipment required by administrative regulation to engage in general rescue squad activity as listed in its mission statement; and

(e) The rescue squad has a vehicle for transporting the required equipment to the scene.

#### **39F.080 State coordinator for search and rescue -- Appointment and duties.**

The director of the Division of Emergency Management shall appoint a state coordinator of search and rescue, who shall:

(1) Identify, inventory, and coordinate resources available for searches and rescues;

(2) Investigate and apply for grants and other financial assistance for searches and rescues;

(3) Maintain statistics regarding searches and rescues;

(4) Coordinate assistance during searches and rescues;

(5) Act as liaison with other states' operations involving searches and rescues;

(6) Provide assistance, upon request, during searches and rescues;

(7) Prepare a plan for searches and rescues;

(8) Prepare and distribute publications relating to searches and rescues;

(9) Establish, by administrative regulation, recommendations for organizations specializing in search and rescue, and certify organizations which meet those recommendations at the appropriate level;

(10) Maintain a list of all certified organizations and resources;

(11) Coordinate training in techniques of search and rescue; and

(12) Coordinate requests for federal assistance with the Air Force Rescue Coordination Center.

#### **39F.180 Reports of search and rescue missions – Golden Alert D – Golden Alert - Immediate search for lost, missing, or overdue person permitted.**

(1) All 911 centers and dispatch centers, law enforcement agencies, law enforcement dispatchers, fire departments, rescue squads, emergency medical service agencies, and emergency management agencies shall report the information required to be reported by administrative regulation, for all reports of persons missing, lost, or overdue, if a search for the lost person has lasted for more than two (2) hours to:

(a) The local emergency management director; and

(b) The local search and rescue coordinator for the jurisdiction in which the person is reported missing.

(2) (a) Any search for a missing minor, as that term is defined in KRS 2.015, shall be immediately reported to the Department of Kentucky State Police by the person or organization to whom the missing minor is reported.

(b) A search for an impaired person as defined in KRS 39F.010(3)(a) shall immediately be reported as a Golden Alert D to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search.

(c) A search for an impaired person as defined in KRS 39F.010(3)(b) shall immediately be reported as a Golden Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or organization specified in subsection (1) of this section.

(d) A search for a veteran at risk shall immediately be reported as a Green Alert to the local emergency management director, local search and rescue coordinator if different from the local emergency management manager, local media outlets, and the duty officer of the Division of Emergency Management by the person managing the search or by the organization conducting the search. The provisions of this section do not apply to any licensed long-term health care provider conducting a search for a missing resident until the provider requests a search by a person or

organization specified in subsection (1) of this section.

(e) The making of this report does not relieve the person or organization from the duty to make other notifications and reports required in this section.

(3) Any search and rescue mission which has lasted four (4) hours without the subject being located shall be immediately reported to the duty officer of the Division of Emergency Management by telephone or radio.

(4) The results of each lost, missing, or overdue person report or search mission required to be reported under subsections (1) to (3) of this section shall be reported to the division and the local director on forms provided by the division and containing the information required by administrative regulation. The report shall be filed within twenty (20) days after:

(a) The search and rescue mission is discontinued; or

(b) The victim has not been found and a decision is made to keep the case open or continue searching on a limited basis, whichever occurs earlier.

(5) Each agency required to notify a local emergency management director or the division of a report of a missing person, or a search mission pursuant to this section shall develop a written standard operating procedure for handling and reporting requests to search for missing, lost, or overdue persons. This standard operating procedure shall be a public record.

(6) The contents of reports, information to be conveyed upon notification, and other matters relating to the administration of this section and the securing of information required hereby shall be specified by the division by administrative regulations.

(7) There is no requirement in Kentucky to delay the search for or rescue of any lost, missing, or overdue person. Any person who is reported lost, missing, or overdue, adult or child, may be searched for immediately by any emergency management, fire, law enforcement, emergency medical services, search and rescue, rescue squad, or other similar organization to which a missing or overdue person is reported. No public safety answering point, emergency dispatch center, or 911 center shall delay any call reporting a person lost, overdue, or missing to the organization specified in the county search and rescue annex of the county emergency management plan as responsible for searching for lost, missing, or overdue persons.

### **39F.190 Development of comprehensive written search and rescue plan.**

- (1) Each local search and rescue coordinator shall assist local rescue squads in developing a comprehensive written search and rescue plan which shall address as a minimum:
- (a) Direction and control responsibilities or incident command system procedures;
  - (b) Notification and reporting procedures and requirements;
  - (c) Call-out procedures;
  - (d) Resource identification;
  - (e) Coordination of resources;
  - (f) Mutual aid agreements;
  - (g) Training requirements for search and rescue responders and managers;
  - (h) Coordination of all on-scene operations with other local, state, and federal agencies; and
  - (i) The provision of copies of topographical maps for search team members.
- (2) The local search and rescue plan shall be incorporated into the rescue services annex of the local emergency operations plan and submitted for review and adoption as part of the local emergency operations plan.
- (3) The local search and rescue plan shall be a public record and shall be updated not less than annually. A copy of the plan shall be filed with the division not less than ten (10) days after each update or amendment.

**39F.200 Local search and rescue coordinator.**

Each local emergency management director shall assume the duties of, or appoint with the concurrence of the fiscal court, city governing body, urban-county council, consolidated local government, or governing body of other local government, a local search and rescue coordinator who shall be responsible for the coordination of all search and rescue resources and operations during all search and rescue missions within the city or county. The position of local search and rescue coordinator may be a volunteer position. The local search and rescue coordinator, if appointed by the local emergency management director, shall serve a similar term not to exceed four (4) years, but may be reappointed for a similar term upon the expiration of a previous term. The local search and rescue coordinator may be removed for cause at any time by the local director, with the concurrence of the fiscal court, city governing body, urban-county council, or governing body

of other local government. The local search and rescue coordinator shall successfully complete training in search management, search techniques, and incident command required by the division by administrative regulation.

**39F.220 Training courses to contain instruction on behavioral characteristics and proper care of lost persons with traumatic brain injury or developmental disability.**

(1) Each basic search and rescue course offered by or under the authority of the Division of Emergency Management shall contain not less than thirty (30) minutes of instruction in the behavioral characteristics of lost persons with a traumatic brain injury or developmental disability and the proper care of lost persons with a traumatic brain injury or developmental disability, including but not limited to autism.

(2) Each search and rescue management course offered by or under the authority of the Division of Emergency Management shall contain not less than one (1) hour of instruction in the behavioral characteristics of lost persons with a traumatic brain injury or developmental disability and the proper care of lost persons with a traumatic brain injury or developmental disability, including but not limited to autism.

(3) The Division of Emergency Management shall seek recommendations regarding the curricula for basic search and rescue training and search and rescue management training sessions from organizations with a history of and demonstrable experience serving or advocating on behalf of individuals with autism, intellectual and developmental disabilities, or traumatic brain injuries.

(4) The time allotted for the subjects required by this section for each course and the content for each course shall be specified by administrative regulations promulgated by the Division of Emergency Management.

**FOR OTHER REGULATIONS, PLEASE GO TO TITLE 106 of the Kentucky Administrative Regulations at <https://apps.legislature.ky.gov/law/kar/titles.htm>**

## APPENDIX II

### ASHANTI ALERT

In September, 2017. Ashanti Billie, age 19, was kidnapped in Virginia Beach, Virginia. Her body was ultimately found in North Carolina and criminal proceedings against a suspect are ongoing. There was no witness to her actual abduction but the evidence soon indicated that she was likely the victim of a criminal act. Although she was promptly reported missing, local police only reached out to the local media some 30 hours later. At 19, she was too old for an Amber Alert and it is questionable that one could have been issued anyway, as there was no indication as to who might have committed the abduction, a requirement under the criteria for an Amber Alert. Billie did not specifically qualify for any other type of named alert in Virginia, the state in which she went missing. (Virginia uses a Silver Alert, which is limited to seniors over the age of 60 who have a cognitive impairment.)

As a result, in early 2018, Rep. Scott Taylor, the Representative for Virginia's 2<sup>nd</sup> Congressional District, filed H.R. 5075, the Ashanti Alert Act of 2018, which establishes an alerting process to close the critical gap identified in this case. Although law enforcement agencies are, of course, permitted to issue a generic Endangered Missing Person alert, the structure for disseminating such an alert is dependent to a great extent upon the local media. The Act passed quickly through Congress, with little debate, and was signed by President Donald Trump on December 31, 2018, becoming Public Law 115- ---.

***Of specific importance, the standards and any related guidances or programs shall be adopted on a voluntary basis by each state, as was the case with Amber Alerts, so it will not apply in Kentucky until the General Assembly takes action to create an applicable statute.***

The public law makes certain changes in existing law, primarily by amending the Amber Alert Communications Network to allow that network to be used for situations classified as "Ashanti Alerts."

It defines a "Missing Adult" as an individual who:

(A) is older than the age for which an alert may be issued through the AMBER Alert communications network in the State or territory of an Indian Tribe in which the individual is identified as a missing individual;

"(B) is identified by a law enforcement agency as a missing individual; and

"(C) meets the requirements to be designated as a missing adult, as determined by the State in which, or the Indian Tribe in the territory of which, the individual is identified as a missing individual.

Of specific interest, the National Coordinator, to be appointed by the Department of Justice, shall establish standards for "the dissemination of appropriate information relating to the special needs of a missing adult (including health care needs) to the appropriate law  
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enforcement, public health, and other public officials.” There will also be standards to establish the geographic area to be covered by the alert and that area:

... “shall be limited to the geographic areas that the missing adult could reasonably reach, considering—

“(A) the circumstances and physical and mental condition of the missing adult;

“(B) the modes of transportation available to the missing adult; and

“(C) the circumstances of the disappearance.

Of primary importance, these alerts are not limited to criminal situations but instead, when the missing adult:

“(A) suffers from a proven mental or physical disability, as documented by a source determined credible by an appropriate law enforcement agency; or

“(B) be missing under circumstances that indicate, as determined by an appropriate law enforcement agency—

“(i) that the physical safety of the missing adult may be endangered; or

“(ii) that the disappearance of the missing adult may not have been voluntary, including an abduction or kidnapping.

The law requires that the minimum standards shall be crafted to make every effort to ensure that all applicable privacy laws are considered and that the civil liberties and sensitive medical information of the missing adult. In addition, the Coordinator shall oversee the development of state and tribal operational and training plans, involving, but not limited to, broadcasters, first responders, dispatchers, public safety communications personnel, and radio station personnel.

So, what does this mean for Kentucky? Kentucky has, of course, Amber Alerts, codified in KRS 16.175 and established under the Kentucky State Police, and Golden Alerts, codified in KRS 39F.180 and established under the Kentucky Division of Emergency Management. Should Kentucky adopt the Ashanti Alerts, at that time, it may prove necessary to reconcile and coordinate existing law with any new statutory language that may prove necessary. However, until that time, Kentucky should continue with issuing Alerts as needed under the existing laws, and remain aware of any changes in state laws, especially in nearby states, that might notify Kentucky authorities to a situation that may lead to the Commonwealth becoming involved. An Ashanti Alert may close a critical gap that has been recognized as an issue in Kentucky’s, in fact, as Golden Alerts, in particular, are issued by a local jurisdiction and disseminated in a piecemeal fashion to the public by the use of public media resources. With an Ashanti Alert, it may prove possible to more readily disseminate information about a critically endangered adult who is driving, for example, and may be beyond the reach of the local news media outlets. However, full implementation must wait

until the U.S. Department of Justice develops national protocols for adoption, much in the same way as was done with Amber Alerts, which only became law in Kentucky a few years after it was established in federal law, in the early 2000s.

As this process moves forward in Kentucky, the Department of Criminal Justice Training will continue to share information concerning what local agencies should be prepared to do to utilize Ashanti Alerts. Until that time, however, local agencies should continue to issue Golden Alerts, and request Amber Alerts through the Kentucky State Police, as dictated by the circumstances.

Full Text of H.R. 5075 (enrolled):

<https://www.congress.gov/115/bills/hr5075/BILLS-115hr5075enr.pdf>

# ALERTING PROCESS FOR KENTUCKY

