

The Senate Public Safety and Homeland Security Committee offered the following substitute to HB 76:

A BILL TO BE ENTITLED  
AN ACT

To amend Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, so as to require permission for use of the Georgia Emergency Management Agency's nomenclature and symbols; to provide a short title; to provide for liabilities and penalties; to provide that a willful violation shall be a misdemeanor; to provide for definitions; to revise and redesignate Article 7, relating to state-wide alert systems for missing disabled adults and for unapprehended murder or rape suspects, as new articles in Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation; to provide for editorial revisions; to provide for related matters; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

**SECTION 1.**

Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency management, is amended by inserting a new article immediately following Article 7 to read as follows:

"ARTICLE 8

38-3-130.

This article shall be known and may be cited as the 'Georgia Emergency Management Agency Nomenclature Act of 2007.'

38-3-131.

As used in this article, the term:

(1) 'Badge' means any official badge, identification card, or security pass used by members of the Georgia Emergency Management Agency, either in the past or currently.

(2) 'Director' means the director of the Georgia Emergency Management Agency.

(3) 'Emblem' means any official patch or other emblem worn currently or formerly or used by the Georgia Emergency Management Agency to identify the agency, a division of the agency, or employees of the agency.

(4) 'Person' means any person, corporation, organization, or political subdivision of the State of Georgia.

(5) 'Seal' means any official symbol, mark, or abbreviation which represents and is used, currently or in the past, by the Georgia Emergency Management Agency or the Georgia Information Sharing and Analysis Center or any other division or operation under the command of the Georgia Emergency Management Agency to identify the agency, a division of the agency, or employees of the agency.

(6) 'Willful violator' means any person who knowingly violates the provisions of this article. Any person who violates this article after being advised in writing by the director that such person's activity is in violation of this article shall be considered a willful violator and shall be considered in willful violation of this article. Any person whose agent or representative is a willful violator and who has knowledge of the violation by the agent or representative shall also be considered a willful violator and in willful violation of this article unless, upon learning of the violation, he or she immediately terminates the agency or other relationship with such violator.

38-3-132.

Whoever, except with the written permission of the director, knowingly uses the words 'Georgia Emergency Management Agency,' 'Emergency Management Agency,' or 'GEMA' in referring to Georgia's Emergency Management Agency or 'Georgia Information Sharing and Analysis Center' or 'GISAC' in referring to Georgia's Information Sharing and Analysis Center in connection with any advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production in a manner reasonably calculated to convey the impression that such advertisement, circular, book, pamphlet, or other publication, play, motion picture, broadcast, telecast, or other production is approved, endorsed, or authorized by or associated with the Georgia Emergency Management Agency shall be in violation of this article.

35-3-133.

Any person who uses or displays any symbol, including any emblem, seal, or badge, current or historical, used by the Georgia Emergency Management Agency without written permission from the director shall be in violation of this article.

1 38-3-134.

2 Any person seeking permission to use or display the nomenclature or symbols of the  
3 Georgia Emergency Management Agency may request such permission in writing to the  
4 director. The director shall serve notice on the requesting party within 15 calendar days  
5 after receipt of the request of his or her decision on whether the person may use the  
6 nomenclature or the symbol. If the director does not respond within the 15 day time  
7 period, then the request is presumed to have been denied. The grant of permission under  
8 this article shall be at the discretion of the director and under such conditions as the director  
9 may impose.

10 38-3-135.

11 Whenever there shall be an actual or threatened violation of this article, the director shall  
12 have the right to apply to the Superior Court of Fulton County or to the superior court of  
13 the county of residence of the violator for an injunction to restrain the violation.

14 38-3-136.

15 In addition to any other relief or sanction for a violation of this article, the director shall be  
16 entitled to collect a civil penalty in the amount of \$1,000.00 for each violation from a  
17 willful violator. Further, the director shall be entitled to recover reasonable attorney's fees  
18 for bringing any action against a willful violator.

19 38-3-137.

20 Any person who has given money or any other item of value to another person due in part  
21 to such person's use of agency nomenclature or symbols in violation of this article may  
22 maintain a suit for damages against the violator. Where it is proven that the violation was  
23 willful, the victim shall be entitled to recover treble damages, punitive damages, and  
24 reasonable attorney's fees.

25 38-3-138.

26 Any willful violator shall be guilty of a misdemeanor and upon conviction thereof shall be  
27 subject to a fine of not more than \$5,000.00 or to imprisonment for not more than 12  
28 months, or both. Each violation shall constitute a separate offense."

## 29 **SECTION 2.**

30 Chapter 3 of Title 38 of the Official Code of Georgia Annotated, relating to emergency  
31 management, is amended by revising and redesignating Article 7, relating to state-wide alert  
32 systems for missing disabled adults and for unapprehended murder or rape suspects, as new

articles in Chapter 3 of Title 35 of the Official Code of Georgia Annotated, relating to the Georgia Bureau of Investigation, as follows:

"ARTICLE 7

~~38-3-110.~~ 35-3-170.

This article shall be known and may be cited as the 'Mattie's Call Act.'

~~38-3-111.~~ 35-3-171.

As used in this article, the term:

(1) 'Alert system' means the state-wide 'Mattie's Call' alert system for missing disabled adults.

(2) 'Disabled adult' means an adult who is developmentally impaired or who suffers from dementia or some other cognitive impairment.

(3) 'Local law enforcement agency' means a local law enforcement agency with jurisdiction over the investigation of a missing disabled adult.

~~38-3-112.~~ 35-3-172.

With the cooperation of the office of the Governor, the Georgia Lottery Corporation, and other appropriate law enforcement agencies in this state, the ~~department~~ bureau shall develop and implement a state-wide alert system to be activated on behalf of missing disabled adults.

~~38-3-113.~~ 35-3-173.

(a) The director is the state-wide coordinator of the alert system.

(b) The director shall adopt rules and issue directives as necessary to ensure proper implementation of the alert system. The rules and directives ~~must~~ shall include instructions on the procedures for activating and deactivating the alert system.

(c) The director shall prescribe forms for use by local law enforcement agencies in requesting activation of the alert system.

~~38-3-113.1.~~ 35-3-174.

The staff of personal care homes shall call the local police department to report the elopement of any disabled person from the home within 30 minutes of the ~~staff~~ staff's receiving actual knowledge that such person is missing from the home.

1 ~~38-3-114.~~ 35-3-175.

2 (a) The ~~agency~~ bureau shall recruit public and commercial television, radio, cable, print,  
3 and other media, private commercial entities, state or local governmental entities, the  
4 public, and other appropriate persons to assist in developing and implementing the alert  
5 system.

6 (b) The ~~agency~~ bureau may enter into agreements with participants in the alert system to  
7 provide necessary support for the alert system.

8 ~~38-3-115.~~ 35-3-176.

9 (a) On notification by a local law enforcement agency that a disabled adult is missing, the  
10 director shall activate the alert system and notify appropriate participants in the alert  
11 system, as established by rule, if:

12 (1) A local law enforcement agency believes that a disabled adult is missing;

13 (2) A local law enforcement agency believes that the disabled adult is in immediate  
14 danger of serious bodily injury or death;

15 (3) A local law enforcement agency confirms that an investigation has taken place that  
16 verifies the disappearance and eliminates alternative explanations for the disabled adult's  
17 disappearance; and

18 (4) Sufficient information is available to disseminate to the public that could assist in  
19 locating the disabled adult.

20 (b) The area of the alert may be less than state wide if the director determines that the  
21 nature of the event makes it probable that the disabled adult did not leave a certain  
22 geographic location.

23 (c) The ~~agency~~ bureau may modify the criteria described by subsection (a) of this Code  
24 section as necessary for the proper implementation of the alert system.

25 ~~38-3-116.~~ 35-3-177.

26 Before requesting activation of the alert system, a local law enforcement agency ~~must~~ shall  
27 verify that the criteria described by subsection (a) of Code Section ~~38-3-115~~ 35-3-176 have  
28 been satisfied. The local law enforcement agency shall assess the appropriate boundaries  
29 of the alert, based on the nature of the disabled adult and the circumstances surrounding the  
30 disappearance. On verification of the criteria, the local law enforcement agency shall  
31 immediately contact the ~~agency~~ bureau to request activation and shall supply the necessary  
32 information on the forms prescribed by the director.

33 ~~38-3-117.~~ 35-3-178.

34 (a) A state agency participating in the alert system shall:

(1) Cooperate with the ~~department~~ bureau and assist in developing and implementing the alert system;

(2) Establish a plan for providing relevant information to its officers, investigators, or employees, as appropriate, once the alert system has been activated; and

(3) Utilize a rapid response telephone system that alerts residents in a targeted area.

(b) The Georgia Lottery Corporation is directed to develop a method of notifying its vendors within an alert area of an alert in a manner designed to disseminate alert information to customers at its retail locations.

~~38-3-118:~~ 35-3-179.

The director shall terminate any activation of the alert system with respect to a particular disabled adult if:

(1) The adult is located or the disappearance is otherwise resolved; or

(2) The director determines that the alert system is no longer an effective tool for locating and recovering the disabled adult.

~~38-3-119:~~ 35-3-180.

(a) Any entity or individual participating in the 'Mattie's call' alert system pursuant to this article shall not be liable for any civil damages arising from the dissemination of any alert generated pursuant to the 'Mattie's call' alert system.

(b) Nothing in this article shall be construed to limit or restrict in any way any legal protection an individual or entity may have under any other law for disseminating any information.

## ARTICLE 8

~~38-3-120:~~ 35-3-190.

~~(a) In addition to the state-wide alert system known as 'Mattie's Call,' there~~ There is established a state-wide alert system known as 'Kimberly's Call.'

(b) As used in this article, the term 'local law enforcement agency' means a local law enforcement agency with jurisdiction over the search for a suspect in a case of murder or rape.

~~(b)(c)~~ The director shall develop and implement a state-wide alert system to be activated when a suspect for the crime of murder as defined in Code Section 16-5-1 or rape as defined in Code Section 16-6-1 has not been apprehended and law enforcement personnel have determined that the suspect may be a serious threat to the public.

~~(c)~~(d) The provisions of Code Sections ~~38-3-113, 38-3-114, and 38-3-117~~ 35-3-173, 35-3-175, and 35-3-178 shall also apply to 'Kimberly's Call' as set forth in this Code section.

~~(d)~~(e) On notification by a local law enforcement agency that a suspect in a case of murder or rape has not been apprehended and may be a serious threat to the public, the director shall activate the alert system and notify appropriate participants in the alert system, as established by rule, if:

(1) A local law enforcement agency believes that a suspect has not been apprehended;

(2) A local law enforcement agency believes that the suspect may be a serious threat to the public; and

(3) Sufficient information is available to disseminate to the public that could assist in locating the suspect.

~~(e)~~(f) The area of the alert may be less than state wide if the director determines that the nature of the event makes it probable that the suspect did not leave a certain geographic location.

~~(f)~~(g) Before requesting activation of the alert system, a local law enforcement agency must verify that the criteria described by subsection ~~(d)~~(e) of this Code section have been satisfied. The local law enforcement agency shall assess the appropriate boundaries of the alert based on the nature of the suspect and the circumstances surrounding the crime.

~~(g)~~(h) The director shall terminate any activation of the alert system with respect to a particular suspect if:

(1) The suspect is located or the incident is otherwise resolved; or

(2) The director determines that the alert system is no longer an effective tool for locating the suspect.

~~(h)~~(i) Any entity or individual participating in the 'Kimberly's Call' alert system pursuant to this Code section shall not be liable for any civil damages arising from the dissemination of any alert generated pursuant to the 'Kimberly's Call' alert system."

### SECTION 3.

This Act shall become effective upon its approval by the Governor or upon its becoming law without such approval.

### SECTION 4.

All laws and parts of laws in conflict with this Act are repealed.