

Golden ALERT

Search Still on for Missing Local Woman in Henderson County

Missing Alzheimer's Patient in Lincoln County

Florence Police Search for Critically Missing Woman with Alzheimer's

Missing Person Killed in Crash (Pike County)

Police Searching for Missing Woman (Shelbyville)

/Shawn M. Herron, Staff Attorney, Legal Training Section

Headlines like those above are becoming a staple in local news stories. The common elements are that all of these incidents occurred in the past few years and they all occurred in Kentucky.

On April 1, Gov. Steve Beshear signed Senate Bill 125, the "golden alert" bill, into law. Although the actual changes to the involved statutes (KRS 39F.010, KRS 39F.020, KRS 39F.180) are minimal, it is critical that law enforcement agencies be prepared to properly implement a golden alert. Even more important, however, is the understanding that proper compliance with this law may prove essential in expediting the safe return of an endangered missing person.

Individuals with Alzheimer's disease or related conditions with dementia as a primary sign often are physically able to walk and drive, and many still have the desire to do so. Critical wandering, both in a vehicle and on foot, is a reality for many individuals with diminished mental ability. They are at great

risk both to themselves and to others, as their mental ability to operate a vehicle and navigate does not match their physical ability.

Those afflicted are easily confused, unable to handle obstacles (such as running out of gas or having to detour from the normal route), become lost even in familiar territory and are often disoriented as to time and place. Some will try to go to a location at an inappropriate time. For example, they may drive to church in the middle of the night. Others may become fixated on an inappropriate task (such as picking up children from school, when the "children" are now adults). They will pursue that task diligently, becoming lost or injured in the process, not realizing that a task that should have taken five minutes has taken them five hours and many miles away from home.

Unlike a traumatic brain injury, Alzheimer's comes upon individuals slowly and insidiously, and often these symptoms occur, unfortunately, long before there is even recognition by family members that there is a problem, let alone a formal diagnosis. In many cases, the first instance of critical wandering is the

first solid indication that a loved one is developing Alzheimer's disease.

The Kentucky golden alert is modeled after similar statutes in other states, although most of those statutes are referred to as silver alerts. Georgia, Illinois, Virginia, North Carolina, Texas, Michigan and Colorado have such statutes, and other states, such as Florida, Louisiana and New York, have bills pending before their respective state legislatures. Although these statutes have minor differences in content, they are all designed to achieve essentially the same goal – to promptly publicize the disappearance of an endangered adult, using appropriate broadcast and print media outlets. (In addition, the U.S. Congress has a bill pending, House Resolution 6064, that would encourage, enhance and integrate silver alert plans throughout the U. S.) The original silver alerts focused exclusively on elderly victims of Alzheimer's disease or related dementia impairments as a result of advanced age. Kentucky's golden alert statute is broader, however, and extends beyond the parameters of the other silver alert laws across the nation.

Elderly Man Reported Missing Since Saturday (Bowling Green)

Remains Found of Two Missing Ohio Women (Carrollton)

Missing Women Die in Crash After Going Wrong Way on I-24 (Grand Rivers)

Even prior to the passage of the golden alert bill, the disappearance of an Alzheimer's subject, or a similarly-impaired individual, was required by Kentucky law to be reported immediately to the local emergency management director and the search and rescue coordinator. In some states, silver alerts served to change any existing express or implied waiting period before a report can be taken on an adult, but Kentucky law has never required or explicitly suggested a waiting period for any missing persons. In cases of Alzheimer's or related situations, waiting periods were already specifically prohibited.

Kentucky's golden alert adds a definition to KRS 39F.010 for impaired adults that includes all adults who have verified mental or cognitive impairment and whose disappearance would be logically expected to pose a threat to their health of safety. Whether an individual qualifies is specifically left to the local law enforcement agency that receives the initial call. This places a tremendous responsibility on that reporting officer or deputy to make a sufficient inquiry to determine if an individual reported missing does qualify as an impaired adult.

In some instances, the family, or other reporting parties, may not be forthcoming concerning the actual mental status of their loved one, either because they have not yet recognized the family member has Alzheimer's or dementia or because they are concerned that they will be blamed in some way for an endangered adult who becomes missing. It is vital that the responding officer ask detailed questions, and document the responses, in order to properly classify the missing subject as endangered, if appropriate, and to trigger the appropriate resources.

The primary change to existing Kentucky law under the golden alert bill requires that searches for endangered adults be promptly reported to not only emergency management officials, but also to local media outlets. The specific responsibility for the notification falls upon the agency managing the search, which in many instances will be a local law enforcement agency. (In some cases, another public safety agency, such as a rescue squad, may actually lead the search, but as a rule, the missing persons report will come to law enforcement initially.) Most Kentucky counties have multiple law enforcement agencies to whom such a report might be made, from local city police departments or sheriffs' offices to the Kentucky State Police. All law enforcement agencies within a county should develop a plan, coordinated with local emergency management, as to the media outlets that will be notified and specifically how they will be notified. Notification options, for example, may include telephone, fax and e-mail, and agencies should agree as to how much detail should be shared with the media, balancing the need for privacy and safety.

Although the actual changes in Kentucky law created by the golden alert bill involve only the addition of a few words, the goal behind these changes is critical. Agencies and individuals that fail to comply with the requirements of this new law may be subject to civil and even criminal liability, as failure to follow any provision of KRS 39F that does not specify another penalty, is a class A misdemeanor. It is crucial that a search for an Alzheimer's or similarly-impaired subject be immediate and use all available resources, including the media. Research indicates that a high percentage of such subjects not found within 24 hours will be found deceased. In addition, many

Alzheimer's subjects, particularly those who are not yet formally recognized or diagnosed as having the disease, are driving or are otherwise mobile by using mass transportation. Disseminating information via media outlets concerning the disappearance beyond the immediate area may be the only way to bring such disappearances to a successful resolution.

The golden alert may help avoid the potential tragedies of endangered missing persons, particularly those with cognitive disabilities. Law enforcement agencies are encouraged to discuss how the golden alert law will be put into effect with local emergency management and other law enforcement agencies, to ensure consistency. As the front-line responders in implementing this new law, Kentucky law enforcement officers will play a critical role in its success. J

Kentucky law permits a law enforcement officer (or anyone) to refer any individual for a medical evaluation, should that officer have "reason to believe" or have "observed an individual driving or behaving in an erratic or dangerous manner which indicates a possibility of a physical or mental disability which may impair his driving ability." 601 KAR 13.090, KRS 186.570.

Transportation Cabinet form TC 94-86 is to be used for this purpose. You may find this form at <http://transportation.ky.gov/DrLic/mrb/mrb-affidavit.pdf>. ■