

# LEGAL SERVICES FOR THE ELDERLY, INC.

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February 8, 2021

Testimony of Leo J. Delicata, Esq., Legal Services for the Elderly, in support of L.D. 28 An Act To Create an Alert System To Notify the Public When a Person with an Intellectual or Developmental Disability Is Missing before the Joint Standing Committee on Criminal Justice and Public Safety.

Senator Deschambault, Representative Warren and members of the Criminal Justice and Public Safety Committee.

Legal Services for the Elderly is a non-profit legal services organization that was established in Maine following the passage of the Older American's Act in 1974. Since then we have provided free legal assistance to our disadvantaged older adults when their basic human needs are at stake. Some of the things we help with relate to housing, food, income, safety, public benefits, health care, self-determination challenges and the harms caused by abuse or financial exploitation. Our clients are all aged sixty or older and most have very low incomes.

Ten years ago we appeared before this Committee and testified in favor of a similar bill that proposed to create the Silver Alert System. That was an initiative resulting from increased awareness about the effects of Alzheimer's disease and the need to have help in locating its victims when they wandered. The Silver Alert promised to provide that help through several means of public notification when requested by law enforcement. Although older adults with dementia were the focus of the bill, the final version also attempted to include a restricted class of younger individual with cognitive challenges. The bill ultimately became law and is found in Title 25 Section 2201 and 2202. Unfortunately, some of the language in that bill pertaining to younger people has proven to be inadequate and it is unclear whether many of them have benefited from this law. We believe that the bill before you offers an opportunity that will reasonably assure that younger individuals and their families will get the help that they need if they go missing.

We would like to further explain our understanding of the problem and the offered solution for your consideration when you work this bill. The Silver Alert system contains specific criteria that describes the people it was designed to assist. Here's the pertinent language contained in Section 2201. It has not changed since it was passed. I have added bold to bring attention to some of the terms in question.

2. Missing senior citizen. "Missing senior citizen" means a person:

A. Who at the time the person is first reported missing is 60 years of age or older **or, under extraordinary circumstances**, a person 18 to 59 years of age who also meets the criteria in paragraphs B and C;

B. With respect to whom there is a clear indication that the person has an **irreversible deterioration of intellectual faculties** such as dementia, as determined by a local law enforcement agency; and

C. Whose disappearance poses a credible threat to the safety and health of the person as determined by a local law enforcement agency.

The Silver Alert law does not define what "extraordinary circumstances" means. This virtually guarantees multiple interpretations of this term by different law enforcement agencies. It also requires that intellectual or developmental disabilities must undergo "irreversible deterioration" until they equal the same level of cognitive decline found in people with dementia to satisfy this criteria. In fact, no such "progression" exists for many whose level of intellectual function has always been stable, yet they still become lost and need help. Finally, expecting a law enforcement officer to read the statue literally and to make this determination without more guidance seem like an unfair assignment.

We support LD 28 because it helps to resolve those undefined and unanticipated issues. First, it creates a new Chapter of law thus disconnecting it from the Silver Alert Chapter and avoiding the "extraordinary circumstances" problem. Second, it defines the beneficiaries of the law as "missing persons with intellectual or developmental disabilities". So a determination of "irreversible deterioration" or age are not required categories. As a result more people will be eligible for an alert. Third, unlike the Silver Alert law it tasks the Department of Public Safety to

design this alert system with “...standards of procedure for local law enforcement agencies to determine that a missing person is a person with an intellectual or developmental disability”. We believe that this language intends to require a rulemaking process leading to uniform standards and a more uniform application of this Alert system. Overall, people with intellectual or developmental disabilities will be better served by this more exactly tailored Alert system and we hope that you will vote to pass it.

Thank you for giving us the opportunity to share our thoughts with you today and we look forward to providing any additional information or answering any questions that the Committee may have.