

A REPORT TO THE WASHINGTON STATE LEGISLATURE

In accordance with
Engrossed Substitute House Bill 1258
(The 2017 Travis Alert Bill)

Washington State Military
Department Emergency
Management Division
November 2018



This summary report to the Legislature is submitted by the Director of the Washington Military Department, Director of the Emergency Management Division and the State Enhanced 9-1-1 Coordinator in accordance with Section 3 of Substitute House Bill 1258, (Chapter 295, Laws of 2017, 65th Legislature, 2017 Regular Session).

INTRODUCTION

The Washington State Legislature passed, and Gov. Jay Inslee subsequently signed into law, Substitute House Bill 1258 (Chapter 295, Law of 2017, 65th Legislature, 2017 Regular Session), commonly known as the Travis Alert Act (“Act”). Among other things, the bill adds a new section to RCW 38.52 requiring the Adjutant General, through the State Enhanced 9-1-1 (E-911) Coordinator and in collaboration with other entities, to assess the resources necessary to immediately display to first responders, as part of the E911 service, that a person with a disability may be present at the scene of an emergency. A task group was established to conduct the assessment and the following report outlines the group’s findings and recommendations.

Process

The State E-911 Coordinator served as project manager for the assessment under the sponsorship of the Washington State Emergency Management Division. The task group had representation from the Departments of Health and Social and Health Services, Washington State Patrol, WaTech, the Washington Association of Public Safety Communications Officials and National Emergency Number Association (WA APCO/NENA). It also included representatives from Public Safety Answering Points (PSAPs), also known as Emergency Communications Centers (ECC), and other key stakeholders.

The purpose of the *Travis Alert Act* project was to provide a report to the Legislature no later than Dec. 1, 2018, and assess the following:

1. The resources necessary to immediately display, via the E911 system, that a person with a disability may be present at the scene of an emergency, the caller's identification, location, phone number, address and additional information if made available;
2. How to best acquire, implement and safeguard a secure website and the information provided regarding a person with a disability;
3. The information that must remain confidential under law, and how to best ensure this; and
4. The need to provide immunity to various agencies, first responders and emergency personnel.

The task group followed a systematic process which began with understanding the intent of the Act. For this purpose, we were fortunate to have Travis and his family attend one of our early meetings. The discussion provided the group a personal perspective and reiterated the importance of our mission. Travis’s family specified that beyond the text of the bill, it was important for any system purchased or developed to include the capability to identify and link an individual’s identification to their vehicle in the event of an accident. This would ensure first responders can properly provide emergency assistance in a timely manner. We concluded that the full intent of the Act is the need to immediately display, via the 9-1-1 system, that a person with a disability may be present at the scene of an emergency, which might often involve a person in a vehicle. Further, the information needs to address not only the medical needs of the person, but possibly behavioral information as well.

Once the intent was fully understood, the group set out to develop requirements and a general design of a software solution. The group also determined what tools are currently available that would meet the objective. The group spent considerable time discussing technical and operational needs for a solution that would meet the intent and provide the necessary process for public safety dispatchers. Further, the group discussed different methods to collect the medical and behavioral information and relay it to emergency responders. The group considered the legal requirements for confidentiality of health information and who could provide the disability information.

The group released a detailed Request for Information (RFI), which included a request for pricing information, to garner feedback from the technical community and potential vendors. Only one company submitted a response. The group concluded the lack of responses was likely due to it not being a Request for Proposal or Quote (RFP/RFQ) with identified funding. However, it's possible there are not many vendors who offer a product that meets the requirements. The group gathered a lot of information through the RFI process, but also believes that vendors will be more likely to respond if there is an actual project with identified funding. Given the information from the response and through additional research the group reached the following conclusions:

Findings

Finding #1 - Identify the resources, capabilities, techniques, protocols and procedures available or required in order to include as part of the enhanced 9-1-1 emergency service the ability to allow an immediate display on the screen indicating that a person with a disability may be present at the scene of an emergency, the caller's identification, location, phone number, address, and if made available, additional information on the person with a disability that would assist the first responder in the emergency response;

The most critical resource identified was funding; either to purchase a system or to develop, maintain and operate a system capable of accomplishing the full intent of the act. Technology currently exists and is in use in the market now that can accomplish the task of collecting, disseminating and displaying different types of data within the 9-1-1 system if linked to a telephone number. The vendors that have the technology solutions would not provide an estimate of cost in response to the task force RFI. Cost data requires an eventual Request for Proposal to solicit this information. The group did obtain cost data for some local jurisdictions currently using a commercial solution. Although the comparison was not exact because there were added features beyond 9-1-1, we extrapolated that a statewide solution could potentially cost \$1 million for initial set up and \$800 thousand for annual maintenance and licensing.

The group concluded that a solution is achievable and identified two potential options:

- Currently there are some commercial “off the shelf” solutions that could be implemented at either the state or local level that can meet the stated goal of delivering some of the information to the local Emergency Call Center (ECC) in some emergency situations and are tied to an associated phone number.
- Another option is to let the technology and services develop organically over time and be deployed on a county by county basis. Since each county ECC has different resources and technology platforms in place for their call handling process, this would occur at different times and at varying levels of complexity.

The group also considered a third possibility of developing a state-wide system and registry through Washington Technology Solutions (WaTech), rather than through a private vendor. This would require that WaTech be tasked with the development of the applications, software and technology necessary to complete the

notification and alert components of the Act. Upon further discussion with WaTech, it would not have the capacity to build this type of system, and the group ruled out this option.

Both options have challenges with associating information with a vehicle, a person by name or an address. Current market applications with the ability to gather and distribute disability information are linked to telephone numbers that a 9-1-1 call is placed from. The information is made available to the ECC via the 9-1-1 system. The telephone number placing the call would need to be the number the disability information is linked to. If the call is made by a different phone number, then the disability information would not be accessible to the first responder.

As stated previously, 9-1-1 systems identify and link information based on a phone number. In a vehicle collision, calls for aid are often placed by others and not necessarily by the phone number the disability information is linked to. The vehicle the disabled person is riding in has a license plate identification, not a phone number linked to disability information, so there is no certainty that in a vehicle collision the information would be available to the first responder by registering that information within a 9-1-1 application. The disability information would also have to be associated with a vehicle or a driver using the license plate or driver's license. This information would not be available within the 9-1-1 system at the ECC unless a caller passed on the license plate information or the first responder passed the information through their radio or Computer Aided Dispatch (CAD) system. And it would only be useful if the license plate or telephone number is definitively linked to the disability information. Currently the 9-1-1 system does not have access to license plate or driver's license information.

Using a commercial option would open possibilities in the public market arena and allow vendors with partially compliant applications to develop add-on technology and methodology to meet the full requirements. However, there is currently no single solution that will meet all the goals of the Act. A solicitation for a commercially available product could include a phased implementation with an off-the-shelf product implemented immediately and follow-on development and implementation of the other components at future dates to meet the Act's requirements.

Allowing development and implementation at the county level is equally inefficient as the products and services deployed by each county would inevitably not be standardized and therefore would not offer the same level of care throughout the state. Different systems might be used in each county leading to confusion for the community and the 9-1-1 system provider. Additionally, implementation may not be consistent as each county would need to determine its own implementation timelines.

While the solutions above focus on how to get the required information to the local ECC, the group also identified the need for capabilities and procedures to get the information to the first responders in the field. This ability varies county by county and is dependent on the dispatch and communications equipment that is being used locally. While there are statewide enterprise options that may be available to get the information to each ECC, the dispatching and sharing of information with first responders is within the local area of responsibility in the 9-1-1 system. The state authority extends only to delivering the call to the ECC. How the call is handled and what information is provided to first responders is entirely separate from the 9-1-1 system and statute. Local jurisdictions execute the dispatching of first responders through separate and unique ECCs. Depending on the size of the jurisdiction, that may mean one or many ECCs and smaller, less populous areas can have multiple counties supported by one regional ECC. Often this information is shared through the Computer Aided Dispatch (CAD) system and there are also commercial options that allow information to be shared with first responders through a website link that is not associated with the 9-1-1 system.

Vendors with potentially available product solutions chose not to provide cost information for resources. As mentioned above, the group was able to research current solutions being used in some individual ECCs within Washington State and extrapolate the data to estimate that a statewide solution could cost up to \$1 million for initial implementation and \$800 thousand for annual licenses and maintenance of the system. The actual cost would have to be identified through a detailed RFQ if the system becomes a program of record that is funded by the Legislature. Our research found that the Commercially Off the Shelf (COTS) solution is fully maintained by the vendor to include ensuring data availability and accuracy for the ECCs and first responders for a six-month period. This level of maintenance is expensive, but the alternative is to place the database accuracy obligation with the users and customers of the product (Washington residents, ECCs and first responders) which is problematic and often leads to expired and inaccurate data.

Finding #2. - How best to acquire, implement and safeguard a secure web site and the information in the system provided by a person with a disability, or a parent, guardian or caretaker of a person with a disability in order to make such information directly available to first responders at the scene of an emergency or on the way to the scene of an emergency.

The group identified several concerns about privacy, confidentiality and data security regarding the information received. For instance, if parents provide information for children, can the child have the information removed upon reaching maturity? If information about behavior is included will it be exempt from disclosure under the RCW 42.56, the Public Records Act (PRA)? If the entire dataset is not deemed confidential and exempt from disclosure, how much will it cost to retrieve data, redact it and provide to a requestor, especially if the entire dataset is requested.

- In the ‘off the shelf’ vendor model, while the vendor would own and be required to protect its website, as well as the information that is contained on its servers, once the data is used by a public agency it becomes a public record per RCW 42.56, The Public Records Act (PRA). Further, while vendors have mechanisms and processes that encourage and prompts the user to keep information current and refreshed, the legislation will need to make it clear that once a person turns 18 years old, the information must be removed if requested by the person to whom the information pertains. For instance, a mental health condition like depression might not remain static or the person may no longer wish to have the condition displayed.
- The commercial product that the group was able to review has identified a solution that is fully encrypted and able to collect, protect and display the information only when needed by authorized personnel. All information can be entered by either the person with a disability or caretaker. The voluntary nature of the collection and retention of the information should be included in any statutory language and the vendor should be prohibited from using the information for a commercial purpose, like selling products to the person providing the information.

Finding #3. - What information provided by a person must remain confidential under state or federal law, or otherwise should remain confidential, without written permission to release it for purposes of this act or the information is otherwise releasable or available under other provisions of law.

The person with a disability or caregiver must be able to decide what information will be included in the database. Unless the statute makes the information provided to the database clearly confidential, it will be subject to the PRA and the information in the database must be searched and provided, with appropriate redactions applied based upon available exemptions. While RCW 38.52.577 provides an exemption for “information from automatic number identification, automatic location identification database, or voluntarily

submitted for inclusion in emergency notification system,” it is unclear whether the disability information will be placed in those databases, stored in a vendor’s database or gathered from other sources, like the Washington Crime Information Center (WACIC) database or a website.

The group recommends that any statutory revision make clear that the dataset is confidential and that no part of the disability information is disclosable.

Finding #4. - *The need to provide various agencies and employees that are first responders and emergency personnel immunity from civil liability for acts or omissions in the performance of their duties, and what standard should apply, such as if the act or omission is the result of simple negligence, gross negligence or willful misconduct.*

While the Public Duty Doctrine provides some immunity to dispatchers and first responders, it was narrowed by the decision in *Munich v. Skagit Emergency Comm'n Ctr.*, 175 Wn.2d 871, 874, 288 P.3d 328, 330 (2012). Therefore, the group recommends that RCW 38.52.550 be amended to add additional immunity for provision and use of this information by adding the following language:

- (2) An emergency responder, including dispatchers, fire personnel, law enforcement, health care providers and other professionals responding to an emergency or disaster, receiving emergency communication or services, including database information to enhanced 9-1-1 emergency communications, dispatching providing emergency response to the public pursuant to emergency communications or services, is not liable for civil damages caused by an act or omission that involves:
 - (a) Good faith effort to provide emergency response services other than an act or omission constituting gross negligence or wanton or willful misconduct; or
 - (b) The utilization of information regarding a disability provided in the enhanced 9-1-1 emergency communications, database systems or services.

Conclusion

It is the group’s assessment that collecting and displaying disability information for display as part of the 9-1-1 system may be feasible but will require additional clear legislative language that will determine which solution should be pursued, whether state or local government should pursue the solution and should contain the necessary safeguards to protect the confidential information about a person with a disability. 9-1-1 systems identify and link based on a phone number, which may or may not have the disability information registered to it. A system that registers disability information may be helpful in many cases but reliable communications with first responders needs to not just rely on registering the information in a 9-1-1 system. Human communications to assist with communicating the disability information is still required to ensure responders have all the information they need. Furthermore, a solution to display disability information via the 9-1-1 system requires the Legislature to provide statutory authority and requirements and clear expectations on product performance, data security and timing for both the state and local level. Each local jurisdiction ECC is independently operated. Statutory language is necessary if the Legislature intends that an ECC be required to use and maintain any 9-1-1 system. Currently, oversight and authority for 9-1-1 at the state level includes only up to call delivery on the network to each ECC who independently handle the call based on a variety of different systems.

