

(H. B. 339)

(No. 1-2021)

(Approved May 12, 2021)

AN ACT

To enact the “Ashanti Alert Plan Implementation Act” in Puerto Rico in order to establish a mechanism to aid in the search and recovery of missing persons over eighteen (18) years of age; establish the powers and duties of government entities; add a subsection (i) to Section 2.03 and amend subsection (i) of Section 2.04 of Act No. 20-2017, as amended, known as the “Puerto Rico Department of Public Safety Act,” in order to conform it to the provisions of this Act; and for other purposes.

STATEMENT OF MOTIVES

On December 31, 2018, the President of the United States signed Public Law 115-401, better known as the “Ashanti Alert Act.” Said Act was named after Ashanti Billie, a woman from Maryland who went missing in Hampton Roads, Virginia in September 2017. Ashanti was believed to have been kidnapped but, at nineteen (19) years of age, Ashanti was an adult; therefore, the Amber Alert warning or notice could not be issued and a Silver Alert could not be activated either because she was too young.

There was no legal framework that would allow for accelerating the search for Ashanti and her lifeless body was found in North Carolina two weeks after her disappearance. The main purpose of this and other alerts is to save lives. Puerto Rico has failed to join this initiative and, on September 17, 2020, we witnessed how 20-year old Rosimar Rodríguez-Gómez was kidnapped in front of her home in the Sabana Seca ward of Toa Baja and subsequently murdered. Rodríguez-Gómez’s case was investigated as a disappearance; despite being reported as a

kidnapping in view of the fact that she was forced into a white vehicle. If this alert had been available at the time, Rosimar might have been still alive.

Act No. 70-2008, known as the “Enabling Act for the Development of the AMBER Plan,” enabled the implementation within our jurisdiction of an alert system for when a minor under the age of eighteen (18) has been abducted or unlawfully deprived of his liberty. Through this alert, the citizens are encouraged to voluntarily participate in the search or provide information to find the minor immediately after the abduction takes place, in order to avoid greater misfortunes or prevent the minor from being taken outside of our jurisdiction. These efforts are further supported through the use of radio, television, digital billboards on highways, and the emergency alert system to disseminate information about the suspects and victims immediately after the crime is committed.

Moreover, Act No. 132-2009, known as the “Enabling Act for the Implementation of the SILVER Alert Plan,” established an alert system for missing adults over the age of 60 years with Alzheimer’s disease or other form of dementia in order to help protect cognitively impaired persons and quickly locate them.

At present, Puerto Rico’s alert issuance procedure has become bureaucratic and inoperative. This Legislative Assembly believes that the activation of alerts has a commendable purpose; therefore, their issuance should not be subject to a committee’s review and approval. Upon an exhaustive analysis of preexisting alert regulations, we have concluded that the obstacles that must be overcome in order to issue an alert make the activation thereof almost impossible. Therefore, this measure seeks to expedite an alert activation provided that the requirements established in Section 3 are met.

It is of vital importance for this Legislative Assembly to implement the Ashanti Alert in Puerto Rico in order to provide the appropriate agencies with the

necessary tools so that the loss of young individuals such as Ashanti and Rosimar are not in vain.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- This Act may be cited as the “Ashanti Alert Plan Implementation Act.”

Section 2.- The Police Bureau of the Department of Public Safety of Puerto Rico shall establish an “Ashanti Alert Plan” in order to activate the protocol to be followed by security agencies and public entities upon the disappearance of a person over eighteen (18) years of age who suffers from a proven mental or physical disability; or is missing under circumstances that indicate that the physical safety of the missing adult may be endangered; or that the disappearance of the missing adult may not have been voluntary, including a kidnapping. The Puerto Rico Police Bureau within the Department of Public Safety shall be the primary agency charged with the enforcement of the Plan. Said protocol shall include the Municipal Police Corps, the Department of Transportation and Public Works, the Emergency Management and Disaster Administration Bureau, as well as any other state, federal, or municipal public entity, private business, and any communication media so that these may voluntarily participate and join these collaboration efforts.

The Police Bureau shall activate the protocol and issue an alert when any of the requirements established in Section 3 of this Act is met.

Section 3.- Requirements for Issuance of Alerts of Activation of the Ashanti Alert Plan:

(1) The person shall be an adult over eighteen (18) years of age, who according to the facts provided to the Puerto Rico Police Bureau and the circumstances of his disappearance, may be deemed missing or kidnapped;

(2) the citizen who alerts the Puerto Rico Police Bureau to the person’s disappearance shall attest to the conditions and circumstances that indicate that the

person is missing or has been kidnapped, that suffers from a mental or physical disability or that the physical safety of the missing adult may be endangered; and

(3) the Puerto Rico Police Bureau has determined that, according to the statement provided, the aforementioned requirements to deem the person missing or kidnapped have been met; and

(4) the reporting individual shall provide the following information: name, age, physical description, photo, the clothing the missing person was last seen wearing, the time the missing person was last seen, and any other information that may be useful to identify and locate the missing or kidnapped person. The foregoing includes notifying if the missing or kidnapped person has any social media accounts.

Moreover, the Puerto Rico Police Bureau shall evaluate whether the circumstances surrounding the alleged kidnapping or disappearance indicate that the person is in imminent danger of serious bodily harm or death, and shall determine whether activating the Alert further endangers the victim. The Puerto Rico Police Bureau shall issue a public alert in cases that so warrant.

Section 4.- Immediately after the Puerto Rico Police Bureau delivers the information, broadcast media and participating entities shall agree to voluntarily broadcast an emergency alert to the public with regards to cases involving missing or kidnapped persons that meet the requirements of this Act.

After a warning tone, the alert message shall read: “This is an Ashanti Alert for a missing or kidnapped person.” Alerts shall be transmitted as quickly as possible and be frequently repeated, following the Emergency Alert System (EAS) protocols.

The Department of Transportation and Public Works shall make the digital billboards on highways available for the issuance of alerts, immediately after the Puerto Rico Police Bureau activates an alert.

Alerts shall include descriptive information about the person as well as his last known location. After the Alert has been issued, it shall be the duty of the Puerto Rico Police Bureau to supplement and update information made available to broadcast media and telecommunications entities, as well as participating entities.

Alerts shall also provide the public with specific information on how to contact the law enforcement authorities in order to share information that provides insight into the case.

The Alert may be deactivated at any time upon the request of the Puerto Rico Police Bureau regardless of whether the case has been solved.

Section 5.- The Puerto Rico Police Bureau shall create a special division to address this and all other alerts. Similarly, it shall create an Ashanti Alert Plan which shall include standards, rules, or regulations as are necessary to faithfully comply with this Act. Such regulation shall comply with the provisions of Act No. 38 of June 30, 2017, as amended, better known as the “Government of Puerto Rico Uniform Administrative Procedure Act.” The Puerto Rico Police Bureau shall have a period of ninety (90) days as of the approval of this Act to adopt the Regulation. Upon its approval, said Regulation shall be submitted to the Legislative Assembly through the Office of the Clerk of the House and the Office of the Secretary of the Senate.

Section 6.- The Commissioner of the Puerto Rico Police Bureau shall be the government official responsible for disclosing the standards, rules, or regulations established for the implementation of the Ashanti Alert.

Section 7.- A new subsection (i) is hereby added to Section 2.03 of Act No. 20-2017, as amended, better known as the “Puerto Rico Department of Public Safety Act,” to read as follows:

“Section 2.03.- Definitions.

For the purposes of this Chapter, the following terms shall have the meaning expressed below, unless the context clearly indicates otherwise:

(a) ...

...

(i) Ashanti Alert Plan.- Means the alert to address cases of a missing person over eighteen (18) years of age who suffers from a proven mental or physical disability; or is missing under circumstances that indicate that the physical safety of the missing adult may be endangered; or that the disappearance of the missing adult may not have been voluntary, including a kidnapping.

Section 8.- Subsection (i) of Section 2.04 of Act No. 20-2017 is hereby amended to read as follows:

“Section 2.04.- Commissioner of the Bureau; Powers and Duties.

The Commissioner of the Puerto Rico Police Bureau shall have the following powers and duties:

(a) ...

(i) To develop the implementation of the AMBER Plan, the SILVER Plan, the Mayra Elías Plan, the ROSA Plan, and the Ashanti Alert Plan in coordination with the Commissioner of the Federal Communications Commission in Puerto Rico or the Commissioner of the Emergency Management and Disaster Administration Bureau. Moreover, he shall promote the adoption thereof through the different cable networks, social networks, the cellphone emergency alert system, and local radio and television stations, until the Federal Communications Commission (FCC) makes it mandatory upon the approval of the pertinent regulations.”

Section 9.- Fines and Penalties.

Any person who knowingly, through a complaint or request, makes any false statement or claim that a person has been kidnapped or is missing thus activating an alert and the State resources shall be guilty of a misdemeanor and punished by a fixed fine of one thousand dollars (\$1,000).

Section 10.- For the purpose of broadening the scope of authority to issue alerts, the Department of Transportation and Public Works is hereby authorized to receive, request, accept, draft, and submit proposals for gifts and contributions from public or private sources; match any available funds with municipal, state, and federal funds or private contributions; as well as enter into collaboration agreements with any public or private entities interested in participating in or collaborating with funding, collocation, and maintenance of new and existing digital billboards.

Section 11.- Severability Clause.

If any clause, paragraph, article, section, or part of this Act were held to be null or unconstitutional by a competent court, the holding to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, article, section, or part of this Act thus held to be unconstitutional.

Section 12.- This Act shall take effect immediately after its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 1-2021 (H. B. 339)** of the **1st Regular Session** of the **19th Legislative Assembly of Puerto Rico**:

AN ACT enact the “Ashanti Alert Plan Implementation Act” in Puerto Rico in order to establish a mechanism to aid in the search and recovery of missing persons over eighteen (18) years of age; establish the powers and duties of government entities; add a subsection (i) to Section 2.03 and amend subsection (i) of Section 2.04 of Act No. 20-2017, as amended, known as the “Puerto Rico Department of Public Safety Act,” in order to conform it to the provisions of this Act; and for other purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 22nd day of October, 2021.

Mónica Freire-Florit, Esq.
Director