

TRAVIS BATEMAN

1/16/25

SB 2098

IN FAVOR



TO: NORTH DAKOTA LEGISLATURE-69<sup>TH</sup> LEGISLATIVE SESSION

RE: TESTIMONY IN FAVOR OF SENATE BILL 2098

1/16/2025

Senator Roers and committee members,

Good morning, my name is Travis Bateman and I am here representing the Badlands Search & Rescue Service along with the Search and Rescue Volunteer Association of North Dakota. I am here before you today in favor of Senate Bill 2098 but have several recommendations for this bill as we are of the belief that it can and should go further.

Regarding Silver Alerts, I wish to share with you two North Dakota stories of very similar circumstances but with two very different outcomes.

The first and most recent occurred at the end of 2024 and start of the new year in and near Minot. An elderly woman with diagnosed dementia named Faye Schaefer, 84 and her vehicle went missing. Weather conditions were typical for winter of that time of year. Her cellular phone was left at her home. Faye had become lost once before this instance but was located within the city of Minot and returned safely home.

This time around was different and the Minot Police through the state's response plan through BQ and the Highway Patrol issued a Silver Alert as her case fit the current criteria. Faye was known to not be dressed or prepared for the winter elements so time to locate her unharmed was ever so critical amidst falling temperatures, especially at night. January 1<sup>st</sup>, 2025, two young men were out snowmobiling when they had the extra wit about them to check out a vehicle that appeared to be stuck on a trail, in the snow. From what I gathered as they approached they observed the driver door open and soon found Faye, cold, suffering from exposure to the elements, her vehicle out of fuel and therefore without heat. These two young men didn't know it then, but they had just saved someone's life. Faye Schaefer was rescued and reunited with her family. In speaking with the family, given Faye's condition, she will no longer be allowed or able to drive and they are afforded the ability to take further steps in safeguarding her.

Now, let's go back to November 16<sup>th</sup>, 2023 to Bismarck. A very similar case, minus a physician diagnosis, a current requirement of the Silver Alert criteria at the time. Lloyd Liken, 81 years old and by all accounts, a hero medic of the US Army and the Vietnam War left for home after a dinner that night in northeast Bismarck. Lloyd had become lost in the city twice before but was located by law enforcement and safely returned home. Like most folks in this state, Lloyd enjoyed his independence and but for these

two instances of becoming lost while driving in the city, he functioned and did fine by all accounts from those that knew him. But, this third time, Lloyd got turned around and at some point traveled north on US83 to as far as Wilton so far as we are able to know. The reason we know that is because at about 1AM that night (now November 17<sup>th</sup>) a vigilant and proactive McLean County deputy sheriff out on patrol came upon what at the time was Lloyd in his gold SUV, traveling southbound near Wilton. Lloyd was traveling 55 mph in a 65 mph zone. Which, at 1AM on a weekend night, certainly should draw the additional scrutiny from a cop on patrol. And it did, enough for the deputy to do a rolling license plate check on his computer. The vehicle came back clear and the deputy, eyeing what he was likely thinking may be an impaired driver, chose to take one last look by driving up alongside the vehicle in the passing lane where he observed it to be an elderly adult male. At that point, as can and usually is a typical response, it was shrugged off as "just an old guy" and the deputy, with no reasons to stop Lloyd as there was no violation and for this, no alert out for the vehicle yet, turned off and continued his patrol. Lloyd was reported missing at about 5PM on November 18<sup>th</sup> when his daughter and son-in-law went by his apartment to pick him up and discovered both him and his vehicle gone. Lloyd's cell phone was left at home and his vehicle contained no factory or aftermarket technology for GPS or other location detection or tracking.

That was the one and only confirmed sighting of Lloyd Liken throughout the entire search for him. In the weeks to follow, Badlands SAR aided the family and his church in coordinating public search efforts where an immense number of citizens scoured roads, trails, waterways, cities, and towns from the South Dakota/North Dakota line to as far north as Kenmare and the Minot AFB. To the tune of 17,670.12 miles. Lloyd was nowhere to be found when winter came in and forced us to suspend search efforts.

On April 14, 2024, a landowner in Wells County located Lloyd's gold SUV on his property, stuck in the mud and water in a shallow slough. He contacted authorities and when the license plate was given, it was confirmed to be Lloyd's vehicle. Upon arrival, authorities searched the area of rolling hills, grazed or cut for hay, with no cover, otherwise open prairie, and they soon located Lloyd Liken, east of his vehicle about 500 yards, still wearing the clothing as described, at rest on his left side, with his right hand upon his face as though to try and shield from the cold winter wind. Lloyd went through everything he did in his life, in addition to combat in service to our nation, only to die alone on a cold and barren knoll in north central North Dakota.

That current system failed Lloyd Liken and we owe it to him to see that it be changed for the better, codified in state law for the next case, because there will be a next case.

Currently, the Silver Alert criteria has four qualifiers. And if even one is not checked off, the request is denied. Compared to other states reviewed, North Dakota has some of the most stringent criteria. We also are one of the states with the highest populations of seniors.

Criteria:

As of September 2023, they have criteria for North Dakota as:

A Silver Alert is activated if there is enough descriptive information about the missing person and/or vehicle to assist with the safe recovery of that person and EITHER of the following are met:

-Substantial functional impairment-substantial incapability, because of physical limitations, of living independently or providing self-care as determined through observation, diagnosis, evaluation, or assessment.

-Substantial mental impairment-a substantial disorder of thought, mood, perception, orientation, or memory that grossly impairs judgement, behavior, or ability to live independently or provide self-care as revealed by observation, diagnosis, evaluation, or assessment.



Now, I am aware that as of late 2024 that the NDDDES has changed the criteria per notes from the North Dakota 911 Association and NDDDES documents obtained. This does not negate the fact that the state law needs to be changed to reflect that. The current verbage and practice failed Lloyd Liken, when under the circumstances presented for that case, it should not have. A Silver Alert should have been issued for him, period and that request was denied as it was told that he had not been diagnosed by a physician to have dementia or Alzheimer's. That was it. Lloyd not having a diagnosis from a physician was the determining factor as to why the public and law enforcement beyond Bismarck Police was not alerted to aid in looking out for him and his vehicle. All other criteria was there. Photos of him, his vehicle, even the tire tread was available. Would it still have been helpful given the time delay in him driving from dinner to his family going by and realizing he was missing, we will never know. However, an alert put out can be so beneficial, whether it be a person actively observing the missing in real time or an alert being issued and jogging the memory of an observant citizen or public safety member.

We owe it to our fellow citizens, our elderly, our seniors, our elders. We owe it to those within the Autism spectrum and other developmental disabilities, to do everything we can to adequately alert anyone and everyone to be on the lookout for them within reason and within a determined geographical area based on data and applicable information at hand (such as on foot or by vehicle with a full tank of fuel) to bring about the absolute best efforts in locating them safely and alive.

The clock is ticking and often times when notified we are already racing against it with little to no chance of closing the gap. Our state has harsh weather extremes, unforgiving terrain, vast areas with no human activity or frequency, and endless challenges when there is a search without a defined and contained search area. A Silver Alert that is not restricted or so selective as to have something of a requirement like a physician's diagnosis does nothing but work against the outcome of these cases. Every case is unique for a variety of circumstances but with an alert that has acceptable qualifiers to fit the human profiles, that is what is needed.

The Silver Alert, Amber Alert, Blue Alert of North Dakota and others still as established in other states save lives and give each person missing a far greater chance of being located and returned alive than located and dead.

Some input for wording in the current bill draft:

Lines 11-12, along with individual's vehicle description, there needs to be added: the individual's physical appearance, clothing, or other identification factors to the extent known.

Lines 18-21. The definition of a vulnerable adult still does NOT work should the same situation as that of Lloyd Liken occur again for someone else. The state's definition of a vulnerable adult is "an adult who has a substantial mental or functional impairment." Add "suspected of" and that would help. The current definition alone would still require diagnosis by a physician in our interpretation and as was the case for denying a Silver Alert in Lloyd's case.

Recommended wording for criteria to amend and include in the NDOC, not just in policy, but in the NDOC:

- He or she went missing while in North Dakota;
- The missing person is 60 years of age or older;
- Confirmation law enforcement has received a signed statement from a family member, close friend, caregiver, doctor or person at a medical facility that verifies the endangered person has an impaired mental condition;