

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

H

3

HOUSE BILL 149
Committee Substitute Favorable 3/6/13
Senate Judiciary II Committee Substitute Adopted 4/29/13

Short Title: Caylee's Law/Report Missing Children.

(Public)

Sponsors:

Referred to:

February 27, 2013

A BILL TO BE ENTITLED

AN ACT TO MAKE IT A CRIMINAL OFFENSE TO FAIL TO REPORT THE
DISAPPEARANCE OF A CHILD TO LAW ENFORCEMENT, TO INCREASE THE
CRIMINAL PENALTY FOR CONCEALING THE DEATH OF A CHILD, TO
INCREASE THE CRIMINAL PENALTY FOR MAKING A FALSE, MISLEADING, OR
UNFOUNDED REPORT TO A LAW ENFORCEMENT AGENCY OR OFFICER FOR
THE PURPOSE OF INTERFERING OR OBSTRUCTING AN INVESTIGATION
INVOLVING A MISSING CHILD OR CHILD VICTIM OF A CLASS A, B1, B2, OR C
FELONY, AND TO MAKE IT A CLASS 1 MISDEMEANOR FOR A PERSON TO FAIL
TO REPORT THE ABUSE, NEGLECT, DEPENDENCY, OR DEATH DUE TO
MALTREATMENT OF A JUVENILE OR TO PREVENT ANOTHER PERSON FROM
MAKING SUCH REPORT.

The General Assembly of North Carolina enacts:

SECTION 1. This act may be cited as "Caylee's Law."

SECTION 2. Article 39 of Chapter 14 of the General Statutes is amended by
adding a new section to read:

**§ 14-318.5. Failure to report the disappearance of a child to law enforcement; immunity
of person reporting in good faith.**

(a) The following definitions apply in this section:

(1) Child. – Any person who is less than 16 years of age.

(2) Disappearance of a child. – When the parent or other person providing
supervision of a child does not know the location of the child and has not
had contact with the child for a 24-hour period.

(b) A parent or any other person providing care to or supervision of a child who
knowingly or wantonly fails to report the disappearance of a child to law enforcement is in
violation of this subsection. Unless the conduct is covered under some other provision of law
providing greater punishment, a violation of this subsection is punishable as a Class I felony.

(c) Any person who reasonably suspects the disappearance of a child and who
reasonably suspects that the child may be in danger shall report those suspicions to law
enforcement within a reasonable time. Unless the conduct is covered under some other
provision of law providing greater punishment, a violation of this subsection is punishable as a
Class 1 misdemeanor.

(d) This section does not apply if G.S. 110-102.1 is applicable.

(e) Notwithstanding subsection (b) or (c) of this section, if a child is absent from
school, a teacher is not required to report the child's absence to law enforcement officers under



* H 1 4 9 - V - 3 *

1 this section, provided the teacher reports the child's absence from school pursuant to Article 26
2 of Chapter 115C of the General Statutes.

3 (f) The felony of failure to report the disappearance of a child as required by subsection
4 (b) of this section is an offense additional to other civil and criminal provisions and is not
5 intended to repeal or preclude any other sanctions or remedies.

6 (g) Any person who reports the disappearance of a child as required by this section is
7 immune from any civil or criminal liability that might otherwise be incurred or imposed for that
8 action, provided that the person was acting in good faith. In any proceeding involving liability,
9 good faith is presumed."

10 **SECTION 3.** G.S. 14-318.4 reads as rewritten:

11 **"§ 14-318.4. Child abuse a felony.**

12 (a) A parent or any other person providing care to or supervision of a child less than 16
13 years of age who intentionally inflicts any serious physical injury upon or to the child or who
14 intentionally commits an assault upon the child which results in any serious physical injury to
15 the child is guilty of a Class E felony, except as otherwise provided in subsection (a3) of this
16 section.

17 (a1) Any parent of a child less than 16 years of age, or any other person providing care to
18 or supervision of the child, who commits, permits, or encourages any act of prostitution with or
19 by the child is guilty of child abuse and shall be punished as a Class E felon.

20 (a2) Any parent or legal guardian of a child less than 16 years of age who commits or
21 allows the commission of any sexual act upon the child is guilty of a Class E felony.

22 (a3) A parent or any other person providing care to or supervision of a child less than 16
23 years of age who intentionally inflicts any serious bodily injury to the child or who
24 intentionally commits an assault upon the child which results in any serious bodily injury to the
25 child, or which results in permanent or protracted loss or impairment of any mental or
26 emotional function of the child, is guilty of a Class C felony.

27 (a4) A parent or any other person providing care to or supervision of a child less than 16
28 years of age whose willful act or grossly negligent omission in the care of the child shows a
29 reckless disregard for human life is guilty of a Class E felony if the act or omission results in
30 serious bodily injury to the child.

31 (a5) A parent or any other person providing care to or supervision of a child less than 16
32 years of age whose willful act or grossly negligent omission in the care of the child shows a
33 reckless disregard for human life is guilty of a Class H felony if the act or omission results in
34 serious physical injury to the child.

35 (a6) For purposes of this section, a "grossly negligent omission" in providing care to or
36 supervision of a child includes the failure to report a child as missing to law enforcement as
37 provided in G.S. 14-318.5(b).

38 (b) The felony of child abuse is an offense additional to other civil and criminal
39 provisions and is not intended to repeal or preclude any other sanctions or remedies.

40 (c) Abandonment of an infant less than seven days of age pursuant to G.S. 14-322.3
41 may be treated as a mitigating factor in sentencing for a conviction under this section involving
42 that infant.

43 (d) The following definitions apply in this section:

44 (1) Serious bodily injury. – Bodily injury that creates a substantial risk of death
45 or that causes serious permanent disfigurement, coma, a permanent or
46 protracted condition that causes extreme pain, or permanent or protracted
47 loss or impairment of the function of any bodily member or organ, or that
48 results in prolonged hospitalization.

49 (2) Serious physical injury. – Physical injury that causes great pain and
50 suffering. The term includes serious mental injury."

51 **SECTION 4.** G.S. 110-102.1(a) reads as rewritten:

1 "~~(a) Operators~~ Notwithstanding G.S. 14-318.5, operators and staff, as defined in
2 G.S. 110-86(7), and G.S. 110-91(8), or any adult present with the approval of the care provider
3 in a child care facility as defined in G.S. 110-86(3) and G.S. 110-106, upon learning that a child
4 which has been placed in their care or presence is missing, shall immediately report the missing
5 child to law enforcement. For purposes of this Article, a child is anyone under the age of
6 ~~18-16.~~"

7 **SECTION 5.** G.S. 14-401.22 reads as rewritten:

8 "**§ 14-401.22. Concealment of death; disturbing human remains; dismembering human**
9 **remains.**

10 (a) ~~Any~~ Except as provided in subsection (a1) of this section, any person who, with the
11 intent to conceal the death of a person, fails to notify a law enforcement authority of the death
12 or secretly buries or otherwise secretly disposes of a dead human body is guilty of a Class I
13 felony.

14 (a1) Any person who, with the intent to conceal the death of a child, fails to notify a law
15 enforcement authority of the death or secretly buries or otherwise secretly disposes of a dead
16 child's body is guilty of a Class H felony. For purposes of this subsection, a child is any person
17 who is less than 16 years of age.

18 (b) Any person who aids, counsels, or abets any other person in concealing the death of
19 a person is guilty of a Class A1 misdemeanor.

20 (c) Any person who willfully (i) disturbs, vandalizes, or desecrates human remains, by
21 any means, including any physical alteration or manipulation of the human remains, or (ii)
22 commits or attempts to commit upon any human remains any act of sexual penetration is guilty
23 of a Class I felony. This subsection does not apply to:

24 (1) Acts by a first responder or others providing medical care.

25 (2) Acts committed as part of scientific or medical research, treatment, or
26 diagnosis.

27 (3) Acts performed by a licensed funeral director or embalmer consistent with
28 standard practice.

29 (4) Acts committed for the purpose of extracting body parts in accordance with
30 usual and customary standards of medical practice.

31 (5) Acts by a professional archaeologist as defined in G.S. 70-28(4) acting
32 pursuant to the provisions of Article 3 of Chapter 70 of the General Statutes.

33 (6) Acts committed for any other lawful purpose.

34 (d) Any person who attempts to conceal evidence of the death of another by knowingly
35 and willfully dismembering or destroying human remains, by any means, including removing
36 body parts or otherwise obliterating any portion thereof, shall be guilty of a Class H felony.

37 (e) Any person who violates ~~subsection~~ subsection (a), (a1), or (d) of this section,
38 knowing or having reason to know the body or human remains are of a person that did not die
39 of natural causes, shall be guilty of a Class D felony.

40 (f) As used in this section, "human remains" means any dead human body in any
41 condition of decay or any significant part of a dead human body, including any limb, organ, or
42 bone."

43 **SECTION 6.** G.S. 14-225 reads as rewritten:

44 "**§ 14-225. False reports to law enforcement agencies or officers.**

45 (a) ~~Any~~ Except as provided in subsection (b) of this section, any person who shall
46 willfully make or cause to be made to a law enforcement agency or officer any false,
47 deliberately misleading or unfounded report, for the purpose of interfering with the operation of
48 a law enforcement agency, or to hinder or obstruct any law enforcement officer in the
49 performance of his duty, shall be guilty of a Class 2 misdemeanor.

50 (b) A violation of subsection (a) of this section is punishable as a Class H felony if the
51 false, deliberately misleading, or unfounded report relates to a law enforcement investigation

1 involving the disappearance of a child as that term is defined in G.S. 14-318.5 or child victim
2 of a Class A, B1, B2, or C felony offense. For purposes of this subsection, a child is any person
3 who is less than 16 years of age."

4 **SECTION 7.** G.S. 7B-301 reads as rewritten:

5 **"§ 7B-301. Duty to report abuse, neglect, dependency, or death due to maltreatment.**

6 (a) Any person or institution who has cause to suspect that any juvenile is abused,
7 neglected, or dependent, as defined by G.S. 7B-101, or has died as the result of maltreatment,
8 shall report the case of that juvenile to the director of the department of social services in the
9 county where the juvenile resides or is found. The report may be made orally, by telephone, or
10 in writing. The report shall include information as is known to the person making it including
11 the name and address of the juvenile; the name and address of the juvenile's parent, guardian, or
12 caretaker; the age of the juvenile; the names and ages of other juveniles in the home; the
13 present whereabouts of the juvenile if not at the home address; the nature and extent of any
14 injury or condition resulting from abuse, neglect, or dependency; and any other information
15 which the person making the report believes might be helpful in establishing the need for
16 protective services or court intervention. If the report is made orally or by telephone, the person
17 making the report shall give the person's name, address, and telephone number. Refusal of the
18 person making the report to give a name shall not preclude the department's assessment of the
19 alleged abuse, neglect, dependency, or death as a result of maltreatment.

20 Upon receipt of any report of sexual abuse of the juvenile in a child care facility, the
21 director shall notify the State Bureau of Investigation within 24 hours or on the next workday.
22 If sexual abuse in a child care facility is not alleged in the initial report, but during the course of
23 the assessment there is reason to suspect that sexual abuse has occurred, the director shall
24 immediately notify the State Bureau of Investigation. Upon notification that sexual abuse may
25 have occurred in a child care facility, the State Bureau of Investigation may form a task force to
26 investigate the report.

27 (b) Any person or institution who knowingly or wantonly fails to report the case of a
28 juvenile as required by subsection (a) of this section, or who knowingly or wantonly prevents
29 another person from making a report as required by subsection (a) of this section, is guilty of a
30 Class 1 misdemeanor.

31 (c) A director of social services who receives a report of sexual abuse of a juvenile in a
32 child care facility and who knowingly fails to notify the State Bureau of Investigation of the
33 report pursuant to subsection (a) of this section is guilty of a Class 1 misdemeanor."

34 **SECTION 8.** This act becomes effective December 1, 2013, and applies to
35 offenses committed on or after that date.