

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

SELECT COMMITTEE ON PROTECTING FLORIDA'S CHILDREN

Senator Negron, Chair
Senator Joyner, Vice Chair

MEETING DATE: Monday, September 19, 2011
TIME: 1:00 —2:15 p.m.
PLACE: *Mallory Horne Committee Room, 37 Senate Office Building*

MEMBERS: Senator Negron, Chair; Senator Joyner, Vice Chair; Senators Evers, Flores, and Smith

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	Chairman's opening comments and member introductions		Discussed
2	Review and discussion of President's charge for the committee and general scope of committee's work		Discussed
3	Review of statutes regarding the protection and welfare of children		Discussed
4	Review of pertinent 2012 legislation filed in Florida and in other states		Discussed
5	Public Testimony		Discussed

THE FLORIDA SENATE
SENATOR MIKE HARIDOPOLOS
President

August 11, 2011

Debbie Brown
Secretary of the Senate
405 The Capitol
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Secretary Brown:

On August 10, 2011, pursuant to Senate Rule 1.5, I created the Senate Select Committee on Protecting Florida's Children, with Senator Negrón serving as chair. This committee will serve as a stand-alone select committee and will be staffed by the Senate Committee on Criminal Justice. The full membership is as follows:

Joe Negrón, Chair
Arthenia Joyner, Vice Chair
Anitere Flores
Greg Evers
Chris Smith

Please let me know if you need any further information.

Sincerely,

A handwritten signature in black ink that reads "Mike H." followed by a stylized flourish.

Mike Haridopoulos
President

From: CRULEY.LYNDSEY@flsenate.gov
Date: Fri, 12 Aug 2011 13:08:55 -0400
Subject: Select Committee on Protecting Florida's Children

To: All Interested Media
From: Office of the Senate President
Re: Select Committee on Protecting Florida's Children

In the wake of the verdict in the Casey Anthony trial, members of the Florida Senate, as well as concerned Floridians requested the issue of child protection be further examined by the Florida Senate.

In response to these requests, the Senate President today announced the creation of a Senate Select Committee on Protecting Florida's Children. This select committee will be charged with examining the various policy options that are available to further advance the protection of Florida's children. The Florida Senate will discuss these options as a legislative body, and then determine whether changes need to be made to current Florida law.

Please see the below and attached memo for additional details.

**Florida Statutes Relating to:
Duty to Report, Abuse of Children, and False Information
(with Staff Summaries)**

Duty to Report:

406.12 Duty to report; prohibited acts.—It is the duty of any person in the district where a death occurs, including all municipalities and unincorporated and federal areas, who becomes aware of the death of any person occurring under the circumstances described in s. 406.11 to report such death and circumstances forthwith to the district medical examiner. Any person who knowingly fails or refuses to report such death and circumstances, who refuses to make available prior medical or other information pertinent to the death investigation, or who, without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body, with the intent to alter the evidence or circumstances surrounding the death, shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 7, ch. 70-232; s. 353, ch. 71-136.

Summary:

- Provides that it is the duty of any person, if aware of a death occurring under the circumstances described in s. 406.11, F.S. (including, but not limited to, death by accident or criminal violence), to report the death to the district medical examiner.
- Provides that it is a first degree misdemeanor to knowingly fail or refuse to report such death and circumstances, refuse to make available prior medical or other information pertinent to the death investigation, or, without an order from the office of the district medical examiner, willfully touch, remove, or disturb the body, clothing, or any article upon or near the body, with the intent to alter the evidence or circumstances surrounding the death.

Abuse of Children:

Chapter 827, Abuse of Children

827.01 Definitions.—As used in this chapter:

- (1) “Caregiver” means a parent, adult household member, or other person responsible for a child’s welfare.
- (2) “Child” means any person under the age of 18 years.
- (3) “Placement” means the giving or transferring of possession or custody of a child by any person to another person for adoption or with the intent or purpose of surrendering the control of the child.

History.—s. 48, ch. 74-383; s. 1, ch. 77-174; s. 7, ch. 96-322.

Summary:

- Provides definitions for “caregiver” (parent or other person responsible for child’s welfare), “child” (person under 18 years), and “placement” (giving up custody of child by adoption or surrendering control of child).

827.03 Abuse, aggravated abuse, and neglect of a child; penalties.—

(1) “Child abuse” means:

- (a) Intentional infliction of physical or mental injury upon a child;
- (b) An intentional act that could reasonably be expected to result in physical or mental injury to a child; or
- (c) Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child.

A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) “Aggravated child abuse” occurs when a person:

- (a) Commits aggravated battery on a child;
- (b) Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or
- (c) Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.

A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3)(a) “Neglect of a child” means:

- 1. A caregiver’s failure or omission to provide a child with the care, supervision, and services necessary to maintain the child’s physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or
- 2. A caregiver’s failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

(b) A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) A person who willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) For purposes of this section, “maliciously” means wrongfully, intentionally, and without legal justification or excuse. Maliciousness may be established by circumstances from which one could conclude that a reasonable parent would not have engaged in the damaging acts toward the child for any valid reason and that the primary purpose of the acts was to cause the victim unjustifiable pain or injury.

History.—s. 1, ch. 4721, 1899; s. 1, ch. 4971, 1901; GS 3236, 3238; RGS 5069, 5071; s. 1, ch. 9331, 1923; CGL 7171, 7173; s. 1, ch. 65-113; s. 1, ch. 70-8; s. 940, ch. 71-136; s. 49, ch. 74-383; s. 30, ch. 75-298; s. 1, ch. 84-238; s. 8, ch. 96-322; s. 16, ch. 99-168; s. 1, ch. 2003-130.

Note.—Former s. 828.04.

Summary:

Child Abuse [See (1)]:

- Defines “child abuse” as intentionally inflicting physical or mental injury on a child; committing an intentional act reasonably expected to result in physical or mental injury to a child; or actively encouraging the commission of an act resulting in physical or mental injury to a child.
- Provides that it is a third degree felony offense to knowingly or willfully abuse a child without causing great bodily harm, permanent disability, or permanent disfigurement.

Aggravated Child Abuse [See (2)]:

- Defines “aggravated child abuse” as committing aggravated battery on a child; willfully torturing, maliciously punishing, or willfully and unlawfully caging a child; or knowingly or willfully abusing a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement.
- Defines “maliciously” as wrongfully, intentionally, and without legal justification or excuse. May be established by circumstances suggesting that a reasonable parent would not engage in such acts for any valid reason and that the acts purposefully caused the child unjustified pain or injury.
- Provides that it is a first degree felony offense to commit aggravated child abuse.

Neglect [See (3)]:

- Defines “neglect” as a caregiver’s failure or omission to provide a child with care and supervision necessary to maintain the child’s physical and mental health (such as food, shelter, clothing, and medical services) that a prudent person would consider essential for the well-being of the child; or a caregiver’s failure to make reasonable efforts to protect a child from abuse, neglect, or exploitation by another person.
- Provides that neglect may be based on a single incident or repeated conduct resulting in or reasonably expected to result in serious physical or mental injury, or substantial risk of death to a child.
- Provides that it is a second degree felony offense to willfully or by culpable negligence neglect a child, thereby causing great bodily harm, permanent disability, or permanent disfigurement.
- Provides that it is a third degree felony offense to willfully or by culpable negligence neglect a child without causing any great bodily harm, permanent disability, or permanent disfigurement.

827.035 Newborn infants.—It shall not constitute neglect of a child pursuant to s. 827.03 or contributing to the dependency of a child pursuant to s. 827.04, if a parent leaves a newborn infant at a hospital, emergency medical services station, or fire station or brings a newborn infant to an emergency room and expresses an intent to leave the infant and not return, in compliance with s. 383.50.

History.—s. 8, ch. 2000-188; s. 24, ch. 2001-53.

Summary:

- Provides that it is not neglect if a parent drops off a newborn at certain authorized places with the intent to permanently leave it there pursuant to s. 383.50, F.S.

827.04 Contributing to the delinquency or dependency of a child; penalty.—

(1) Any person who:

(a) Commits any act which causes, tends to cause, encourages, or contributes to a child becoming a delinquent or dependent child or a child in need of services; or

(b) Induces or endeavors to induce, by act, threat, command, or persuasion, a child to commit or perform any act, follow any course of conduct, or live in a manner that causes or tends to cause such child to become or to remain a dependent or delinquent child or a child in need of services,

commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(2) It is not necessary for any court exercising juvenile jurisdiction to make an adjudication that any child is delinquent or dependent or a child in need of services in order to prosecute a violation of this section. An adjudication that a child is delinquent or dependent or a child in need of services shall not preclude a subsequent prosecution of a violation of this section.

(3) A person 21 years of age or older who impregnates a child under 16 years of age commits an act of child abuse which constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person who impregnates a child in violation of this subsection commits an offense under this subsection regardless of whether the person is found to have committed, or has been charged with or prosecuted for, any other offense committed during the course of the same criminal transaction or episode, including, but not limited to, an offense proscribed under s. 800.04, relating to lewd, lascivious, or indecent assault or act upon any person under 16 years of age. Neither the victim's lack of chastity nor the victim's consent is a defense to the crime proscribed under this subsection.

History.—s. 50, ch. 74-383; s. 30, ch. 75-298; s. 1, ch. 77-73; s. 1, ch. 77-429; s. 4, ch. 88-151; s. 8, ch. 90-53; s. 2, ch. 96-215; s. 10, ch. 96-322.

Summary:

- Provides that it is a first degree misdemeanor offense to commit (or induce a child to commit) any act causing or contributing to a child becoming a delinquent, a dependant, or a child in need of services.
- Provides that it is third degree felony child abuse for a person at least 21 years of age to impregnate a child under 16 years of age.

827.06 Nonsupport of dependents.—

(1) The Legislature finds that most parents want to support their children and remain connected to their families. The Legislature also finds that while many parents lack the financial resources and other skills necessary to provide that support, some parents willfully fail to provide support to their children even when they are aware of the obligation and have the ability to do so. The Legislature further finds that existing statutory provisions for civil enforcement of support have not proven sufficiently effective or efficient in gaining adequate support for all children.

Recognizing that it is the public policy of this state that children shall be maintained primarily from the resources of their parents, thereby relieving, at least in part, the burden presently borne by the general citizenry through public assistance programs, it is the intent of the Legislature that the criminal penalties provided for in this section are to be pursued in all appropriate cases where civil enforcement has not resulted in payment.

(2) Any person who willfully fails to provide support which he or she has the ability to provide to a child or a spouse whom the person knows he or she is legally obligated to support commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who is convicted of a fourth or subsequent violation of subsection (2) or who violates subsection (2) and who has owed to that child or spouse for more than 1 year support in an amount equal to or greater than \$5,000 commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Upon a conviction under this section, the court shall order restitution in an amount equal to the total unpaid support obligation as it exists at the time of sentencing.

(5)(a) Evidence that the defendant willfully failed to make sufficient good faith efforts to legally acquire the resources to pay legally ordered support may be sufficient to prove that he or she had the ability to provide support but willfully failed to do so, in violation of this section.

[1](b) The element of knowledge may be proven by evidence that a court or tribunal as defined by s. 88.1011(22) has entered an order that obligates the defendant to provide the support.

(6) It is the intent of the Legislature for the state attorneys, the Florida Prosecuting Attorneys Association, and the Department of Revenue to work collaboratively to identify strategies that allow the criminal penalties provided for in this section to be pursued in all appropriate cases, including, but not limited to, strategies that would assist the state attorneys in obtaining additional resources from available federal Title IV-D funds to initiate prosecution pursuant to this section.

History.—s. 52, ch. 74-383; s. 31, ch. 75-298; s. 200, ch. 91-224; s. 1282, ch. 97-102; s. 1, ch. 2001-51; s. 14, ch. 2002-173; s. 41, ch. 2005-39; s. 153, ch. 2007-5; s. 38, ch. 2008-61; s. 77, ch. 2011-92.

[1]Note.—Section 81, ch. 2011-92, provides that “[e]xcept as otherwise expressly provided in this act, this act shall take effect upon the earlier of 90 days following Congress amending 42 U.S.C. s. 666(f) to allow or require states to adopt the 2008 version of the Uniform Interstate Family Support Act, or 90 days following the state obtaining a waiver of its state plan requirement under Title IV-D of the Social Security Act.” Section 77, ch. 2011-92, amended paragraph (5)(b), to read:

(b) The element of knowledge may be proven by evidence that a court or tribunal as defined by s. 88.1011 has entered an order that obligates the defendant to provide the support.

Summary:

- Provides that it is a first degree misdemeanor offense to willfully fail to provide support to a child or spouse when the person has the ability to pay and knows of his or her legal obligation to do so.
- Provides that a fourth or subsequent conviction, or the first conviction if the amount of support owed is at least \$5,000 and has been owed for at least one year, is a third degree felony.

827.071 Sexual performance by a child; penalties.—

(1) As used in this section, the following definitions shall apply:

(a) “Deviate sexual intercourse” means sexual conduct between persons not married to each other consisting of contact between the penis and the anus, the mouth and the penis, or the mouth and the vulva.

(b) “Intentionally view” means to deliberately, purposefully, and voluntarily view. Proof of intentional viewing requires establishing more than a single image, motion picture, exhibition, show, image, data, computer depiction, representation, or other presentation over any period of time.

(c) “Performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

(d) “Promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer or agree to do the same.

(e) “Sadomasochistic abuse” means flagellation or torture by or upon a person, or the condition of being fettered, bound, or otherwise physically restrained, for the purpose of deriving sexual satisfaction from inflicting harm on another or receiving such harm oneself.

(f) “Sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, “sexual battery” does not include an act done for a bona fide medical purpose.

(g) “Sexual bestiality” means any sexual act between a person and an animal involving the sex organ of the one and the mouth, anus, or vagina of the other.

(h) “Sexual conduct” means actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or, if such person is a female, breast, with the intent to arouse or gratify the sexual desire of either party; or any act or conduct which constitutes sexual battery or simulates that sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

(i) “Sexual performance” means any performance or part thereof which includes sexual conduct by a child of less than 18 years of age.

(j) “Simulated” means the explicit depiction of conduct set forth in paragraph (h) which creates the appearance of such conduct and which exhibits any uncovered portion of the breasts, genitals, or buttocks.

(2) A person is guilty of the use of a child in a sexual performance if, knowing the character and content thereof, he or she employs, authorizes, or induces a child less than 18 years of age to engage in a sexual performance or, being a parent, legal guardian, or custodian of such child, consents to the participation by such child in a sexual performance. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) A person is guilty of promoting a sexual performance by a child when, knowing the character and content thereof, he or she produces, directs, or promotes any performance which includes sexual conduct by a child less than 18 years of age. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) It is unlawful for any person to possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child. The possession of three or more copies of such photograph, motion picture, representation, or presentation is prima facie evidence of an intent to promote. Whoever violates this subsection is guilty of a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5)(a) It is unlawful for any person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child. The possession, control, or intentional viewing of each such photograph, motion picture, exhibition, show, image, data, computer depiction, representation, or presentation is a separate offense. A person who violates this subsection commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) This subsection does not apply to material possessed, controlled, or intentionally viewed as part of a law enforcement investigation.

(6) Prosecution of any person for an offense under this section shall not prohibit prosecution of that person in this state for a violation of any law of this state, including a law providing for greater penalties than prescribed in this section or any other crime punishing the sexual performance or the sexual exploitation of children.

History.—s. 4, ch. 83-75; s. 1, ch. 85-273; s. 1, ch. 86-38; s. 1, ch. 91-33; s. 1, ch. 92-83; s. 1283, ch. 97-102; s. 1, ch. 2001-54; s. 4, ch. 2007-143; s. 15, ch. 2011-220.

Summary:

- Provides three separate second degree felony offenses for knowingly using a child in a sexual performance [see (2)], knowingly promoting a sexual performance by a child [see (3)], or for possessing with intent to promote a picture or other representation that includes sexual conduct by a child [see (4)].
- Provides that it is a third degree felony offense to knowingly possess or view a picture or other representation which includes sexual conduct by a child [see (5)].

827.08 Misuse of child support money.—Any person who willfully misapplies funds paid by another or by any governmental agency for the purpose of support of a child shall, for the first offense, be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, and for a second or subsequent conviction under this section, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. A person shall be deemed to have misapplied child support funds when such funds are spent for any purpose other than for necessary and proper home, food, clothing, and the necessities of life, which expenditure results in depriving the child of the above named necessities. All public welfare agencies shall give notice of the provisions of this section at least once to each payee of any public grant made for the benefit of any child and shall report violations of this section to the proper prosecuting officer.

History.—s. 1, ch. 61-216; s. 956, ch. 71-136; s. 65, ch. 74-383.

Note.—Former s. 828.201.

Summary:

- Provides that it is a first degree misdemeanor to commit willful misapplication of child support funds paid by another or any governmental agency.
- Provides that a second or subsequent conviction is a third degree felony.

False Information:

837.055 False information to law enforcement during investigation.—Whoever knowingly and willfully gives false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

History.—s. 1, ch. 2006-142

Summary:

- Provides that it is a first degree misdemeanor to knowingly and willfully give false information to a law enforcement officer who is conducting a missing person investigation or a felony criminal investigation with the intent to mislead the officer or impede the investigation.

**Side by Side Comparison of Relevant Senate Bills Filed
(as of September 8, 2011)
Prepared by Committee Staff**

	SB 84 (Fasano)	SB 86 (Sobel)	SB 128 (Altman)	SB 130 (Altman)	SB 146 (Flores)
“Caylee’s Law”	Yes	Yes	No	No	Yes
Creates duty to report missing child and provides penalty	Yes. Creates s. 827.10. Duty on caregiver. Child 12 years or younger. Must be willful failure or failure by culpable negligence. Must report to law enforcement within 48 hours of caregiver’s failure to make contact or verify. Second degree felony if child is harmed. Otherwise, third degree felony.	Yes. Somewhat similar to SB 84. Bill refers to 48 hour period and 24 hour period.	Yes. Applies to parent, legal guardian, caretaker. Applies to minor. Requires reasonable effort to notify law enforcement within 12 hours after discovery that minor has disappeared. Third degree felony.	No	Yes. Same as SB 84.
Creates duty to report death of child and provides penalty	Yes. Caregiver must report child’s death to law enforcement within 2 hrs. after learning about death or report location of child’s corpse within 2 hrs. after learning location. Second degree felony.	Yes. Similar to SB 84, but requires reporting location within 1 hr. after learning location.	No	Yes. Applies to parent, legal guardian, caretaker. Must make reasonable efforts to notify law enforcement within 1 hr. after discovery of death. Third degree felony.	Yes. Same as SB 84.
Enhances penalty for false information to law enforcement during investigation	Yes. Provides it is a second degree felony for caregiver to knowingly and willfully give false information to law enforcement officer who is conducting missing person investigation or felony criminal investigation involving minor in caregiver’s care with intent to mislead law enforcement officer or impede investigation.	Same as SB 84.	No	No	Yes. Same as SB 84.
Effective date	July 1, 2012	July 1, 2012	October 1, 2012	October 1, 2012	July 1, 2012

By Senator Fasano

11-00115-12

201284__

1 A bill to be entitled
2 An act relating to offenses by caregivers of minor
3 children; providing a short title; creating s. 827.10,
4 F.S.; penalizing a caregiver who willfully or by
5 culpable negligence fails to make contact with a child
6 under a specified age in his or her care for a certain
7 period and to immediately report the child as missing
8 to a law enforcement agency after that period expires
9 without contact in certain circumstances; providing
10 criminal penalties; providing enhanced criminal
11 penalties in certain circumstances; creating s.
12 827.11, F.S.; requiring the caregiver of a minor child
13 to report the child's death to a law enforcement
14 agency within a specified period in certain
15 circumstances; requiring the caregiver of a minor
16 child to report the location of a child's corpse to a
17 law enforcement agency within a specified period in
18 certain circumstances; providing criminal penalties;
19 amending s. 837.055, F.S.; providing enhanced criminal
20 penalties for a caregiver of a minor child who
21 knowingly and willfully gives false information, with
22 specified intent, to a law enforcement officer
23 conducting a missing person investigation or a felony
24 criminal investigation involving the child; providing
25 an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. This act may be cited as "Caylee's Law."

11-00115-12

201284__

30 Section 2. Section 827.10, Florida Statutes, is created to
31 read:

32 827.10 Missing child; duty to report.—A caregiver who
33 willfully or by culpable negligence fails to make contact with
34 or otherwise verify the whereabouts and safety of a child in his
35 or her care who is 12 years of age or younger for a period of 48
36 hours and to immediately report the child as missing to a law
37 enforcement agency after this 48-hour period expires without
38 contact commits:

39 (1) A felony of the second degree if the child suffers
40 great bodily harm, permanent disability, or permanent
41 disfigurement while missing; or

42 (2) A felony of the third degree in any other circumstance,
43
44 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

45 Section 3. Section 827.11, Florida Statutes, is created to
46 read:

47 827.11 Death of a child or location of a child's corpse;
48 reporting requirements.—

49 (1) A caregiver of a minor child must:

50 (a) Report the child's death to a law enforcement agency
51 within 2 hours after learning about the child's death; or

52 (b) Report the location of the child's corpse to a law
53 enforcement agency within 2 hours after learning the location of
54 the corpse,

55
56 if the child's death appears to have been one described in s.
57 406.11(1)(a) other than a death described in s. 406.11(1)(a)6.,
58 7., or 9.

11-00115-12

201284__

59 (2) A person who violates this section commits a felony of
60 the second degree, punishable as provided in s. 775.082, s.
61 775.083, or s. 775.084.

62 Section 4. Section 837.055, Florida Statutes, is amended to
63 read:

64 837.055 False information to law enforcement during
65 investigation.—

66 (1) Except as provided in subsection (2), a person who
67 ~~whoever~~ knowingly and willfully gives false information to a law
68 enforcement officer who is conducting a missing person
69 investigation or a felony criminal investigation with the intent
70 to mislead the officer or impede the investigation commits a
71 misdemeanor of the first degree, punishable as provided in s.
72 775.082 or s. 775.083.

73 (2) A caregiver, as defined in s. 827.01, who knowingly and
74 willfully gives false information to a law enforcement officer
75 who is conducting a missing person investigation or a felony
76 criminal investigation involving a minor child in his or her
77 care with the intent to mislead the officer or impede the
78 investigation commits a felony of the second degree, punishable
79 as provided in s. 775.082, s. 775.083, or s. 775.084.

80 Section 5. This act shall take effect July 1, 2012.

By Senator Sobel

31-00119A-12

201286__

1 A bill to be entitled
2 An act relating to offenses by caregivers of minor
3 children; providing a short title; creating s. 827.10,
4 F.S.; penalizing a caregiver who willfully or by
5 culpable negligence fails to make contact with a child
6 under a specified age in his or her care for a certain
7 period and to immediately report the child as missing
8 to a law enforcement agency after that period expires
9 without contact in certain circumstances; providing
10 criminal penalties; providing enhanced criminal
11 penalties in certain circumstances; creating s.
12 827.11, F.S.; requiring the caregiver of a minor child
13 to report the child's death to a law enforcement
14 agency within a specified period in certain
15 circumstances; requiring the caregiver of a minor
16 child to report the location of a child's corpse to a
17 law enforcement agency within a specified period in
18 certain circumstances; providing criminal penalties;
19 amending s. 837.055, F.S.; providing enhanced criminal
20 penalties for a caregiver of a minor child who
21 knowingly and willfully gives false information, with
22 specified intent, to a law enforcement officer
23 conducting a missing person investigation or a felony
24 criminal investigation involving the child; providing
25 an effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. This act may be cited as "Caylee's Law."

31-00119A-12

201286__

30 Section 2. Section 827.10, Florida Statutes, is created to
31 read:

32 827.10 Missing child; duty to report.—A caregiver who
33 willfully or by culpable negligence fails to make contact with
34 or otherwise verify the whereabouts and safety of a child in his
35 or her care who is 12 years of age or younger for a period of 48
36 hours and to immediately report the child as missing to a law
37 enforcement agency after this 24-hour period expires without
38 contact commits:

39 (1) A felony of the second degree if the child suffers
40 great bodily harm, permanent disability, or permanent
41 disfigurement while missing; or

42 (2) A felony of the third degree in any other circumstance,
43
44 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

45 Section 3. Section 827.11, Florida Statutes, is created to
46 read:

47 827.11 Death of a child or location of a child's corpse;
48 reporting requirements.—

49 (1) A caregiver of a minor child must:

50 (a) Report the child's death to a law enforcement agency
51 within 2 hours after learning about the child's death; or

52 (b) Report the location of the child's corpse to a law
53 enforcement agency within 1 hour after learning the location of
54 the corpse,

55
56 if the child's death appears to have been one described in s.
57 406.11(1)(a) other than a death described in s. 406.11(1)(a)6.,
58 7., or 9.

31-00119A-12

201286__

59 (2) A person who violates this section commits a felony of
60 the second degree, punishable as provided in s. 775.082, s.
61 775.083, or s. 775.084.

62 Section 4. Section 837.055, Florida Statutes, is amended to
63 read:

64 837.055 False information to law enforcement during
65 investigation.—

66 (1) Except as provided in subsection (2), a person who
67 ~~whoever~~ knowingly and willfully gives false information to a law
68 enforcement officer who is conducting a missing person
69 investigation or a felony criminal investigation with the intent
70 to mislead the officer or impede the investigation commits a
71 misdemeanor of the first degree, punishable as provided in s.
72 775.082 or s. 775.083.

73 (2) A caregiver, as defined in s. 827.01, who knowingly and
74 willfully gives false information to a law enforcement officer
75 who is conducting a missing person investigation or a felony
76 criminal investigation involving a minor child in his or her
77 care with the intent to mislead the officer or impede the
78 investigation commits a felony of the second degree, punishable
79 as provided in s. 775.082, s. 775.083, or s. 775.084.

80 Section 5. This act shall take effect July 1, 2012.

By Senator Altman

24-00112-12

2012128__

1 A bill to be entitled

2 An act relating to minors; requiring a parent, legal
3 guardian, or caretaker of a minor to make reasonable
4 efforts to notify a law enforcement agency of the
5 disappearance of the minor within a specified period
6 of time after the discovery that the minor has
7 disappeared; providing criminal penalties for failing
8 to make reasonable efforts to notify a law enforcement
9 agency of the disappearance of the minor; providing an
10 effective date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Disappearance of a minor; notification
15 requirement.—A parent, legal guardian, or caretaker of a minor
16 must make reasonable efforts to notify a law enforcement agency
17 of the disappearance of the minor within 12 hours after the
18 discovery that the minor has disappeared. A person who violates
19 this section commits a felony of the third degree, punishable as
20 provided in s. 775.082, s. 775.083, or s. 775.084, Florida
21 Statutes.

22 Section 2. This act shall take effect October 1, 2012.

By Senator Altman

24-00111-12

2012130__

1 A bill to be entitled

2 An act relating to minors; requiring a parent, legal
3 guardian, or caretaker of a minor to make reasonable
4 efforts to notify a law enforcement agency of the
5 death of the minor within a specified period of time
6 after the discovery of the death of the minor;
7 providing criminal penalties for failing to make
8 reasonable efforts to notify a law enforcement agency
9 of the death of the minor; providing an effective
10 date.

11
12 Be It Enacted by the Legislature of the State of Florida:

13
14 Section 1. Death of a minor; notification requirement.—A
15 parent, legal guardian, or caretaker of a minor must make
16 reasonable efforts to notify a law enforcement agency of the
17 death of the minor within 1 hour after the discovery of the
18 death. A person who violates this section commits a felony of
19 the third degree, punishable as provided in s. 775.082, s.
20 775.083, or s. 775.084, Florida Statutes.

21 Section 2. This act shall take effect October 1, 2012.

By Senator Flores

38-00130-12

2012146__

1 A bill to be entitled

2 An act relating to offenses by caregivers of minor
3 children; providing a short title; creating s. 827.10,
4 F.S.; penalizing the failure of a caregiver, willfully
5 or by culpable negligence, to make contact with a
6 child under a specified age in his or her care for a
7 certain period and to immediately report the child as
8 missing to a law enforcement agency after that period
9 expires without contact in certain circumstances;
10 providing criminal penalties; providing enhanced
11 criminal penalties in certain circumstances; creating
12 s. 827.11, F.S.; requiring the caregiver of a minor
13 child to report the child's death to a law enforcement
14 agency within a specified period in certain
15 circumstances; requiring the caregiver of a minor
16 child to report the location of a child's corpse to a
17 law enforcement agency within a specified period in
18 certain circumstances; providing criminal penalties;
19 amending s. 837.055, F.S.; providing enhanced criminal
20 penalties for a caregiver of a minor child who
21 knowingly and willfully gives false information with
22 specified intent to a law enforcement officer
23 conducting a missing person investigation or a felony
24 criminal investigation involving a child; providing an
25 effective date.

26
27 Be It Enacted by the Legislature of the State of Florida:

28
29 Section 1. This act may be cited as "Caylee's Law."

38-00130-12

2012146__

30 Section 2. Section 827.10, Florida Statutes, is created to
31 read:

32 827.10 Missing child; duty to report.—A caregiver who
33 willfully or by culpable negligence fails to make contact with
34 or otherwise verify the whereabouts and safety of a child in his
35 or her care who is 12 years of age or younger for a period of 48
36 hours and to immediately report the child as missing to a law
37 enforcement agency after this 48-hour period expires without
38 contact commits:

39 (1) A felony of the second degree if the child suffers
40 great bodily harm, permanent disability, or permanent
41 disfigurement while missing; or

42 (2) A felony of the third degree in any other circumstance,
43
44 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

45 Section 3. Section 827.11, Florida Statutes, is created to
46 read:

47 827.11 Death of a child or location of a child's corpse;
48 reporting requirements.—

49 (1) A caregiver of a minor child must:

50 (a) Report the child's death to a law enforcement agency
51 within 2 hours after learning about the child's death; or

52 (b) Report the location of the child's corpse to a law
53 enforcement agency within 2 hours after learning the location of
54 the corpse,

55
56 if the child's death appears to have been one described in s.
57 406.11(1)(a) other than a death described in s. 406.11(1)(a)6.,
58 7., or 9.

38-00130-12

2012146__

59 (2) A person who violates this section commits a felony of
60 the second degree, punishable as provided in s. 775.082, s.
61 775.083, or s. 775.084.

62 Section 4. Section 837.055, Florida Statutes, is amended to
63 read:

64 837.055 False information to law enforcement during
65 investigation.—

66 (1) Except as provided in subsection (2), a person who
67 ~~whoever~~ knowingly and willfully gives false information to a law
68 enforcement officer who is conducting a missing person
69 investigation or a felony criminal investigation with the intent
70 to mislead the officer or impede the investigation commits a
71 misdemeanor of the first degree, punishable as provided in s.
72 775.082 or s. 775.083.

73 (2) A caregiver, as defined in s. 827.01, who knowingly and
74 willfully gives false information to a law enforcement officer
75 who is conducting a missing person investigation or a felony
76 criminal investigation involving a minor child in his or her
77 care with the intent to mislead the officer or impede the
78 investigation commits a felony of the second degree, punishable
79 as provided in s. 775.082, s. 775.083, or s. 775.084.

80 Section 5. This act shall take effect July 1, 2012.



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"Caylee's Law"

(Posted July 22, 2011)

Concerns stemming from the death of Caylee Anthony and the trial and acquittal of her mother Casey by a Florida court have prompted state lawmakers to consider introducing legislation, dubbed "Caylee's law," criminalizing the failure to report a missing or dead child. Although many other lawmakers are considering legislation, as of July 22, nine states have filed bills: Alabama (1), California (1), Florida (2), Kentucky (2) Massachusetts (3), New Jersey (2), New York (1), Ohio (1) and Tennessee (1). Key legislative points in the bills include the qualifying age of a missing or dead child, how long the legal guardian has to report the incident to law enforcement and how the crime is classified.

[Link to filed Caylee's Law Legislation.](#)

Profit Concerns From the Casey Anthony Trial

In addition to criminal concerns, some legislators are considering measures to prohibit participants in a criminal trial from profiting from their experience. *Florida HB 51 (2012)*, for example, to be considered in 2012, would prohibit a juror from requesting or accepting any benefit or compensation related jury service until 270 days after the end of the trial. Similar laws already exist in California, Delaware, Louisiana, New York and New Jersey.

Additionally, concerns have been raised over the potential for defendants to profit from their experiences. "Son of Sam Laws," named for Sam Berkowitz, prevent only those found guilty—not those acquitted—from profiting from their crimes.

Current State Statutes

In addition to considering new laws, lawmakers and their constituents are interested in understanding what current statutes may apply to those who fail to report a missing or dead child.

Failure to Report a Missing Child

Currently, there are no statutes that criminalize the failure to report a missing child. Laws do exist, however, that impose criminal penalties for filing a false missing child report and for failing to report abuse or neglect of a child.

Also, in some states there are reckless endangerment statutes that may apply to this situation. For example, New York's Penal Law §120.25, makes it a felony if a person exhibits depraved indifference to human life and recklessly engages in conduct that creates a grave risk of death to another person. Other states with reckless endangerment laws include Alabama, Connecticut and Utah.

Failure to Report a Death

Some state statutes criminalize the failure to report a death. Some of these laws place the duty on anyone with knowledge of the death. For example, Arizona's A.R.S. § 11-593 directs "any person having knowledge of the death of a human being ... shall promptly notify the nearest peace officer of all information in the person's possession regarding the death and the circumstances surrounding it ." It goes on to list under which circumstances the law applies, including death by violence and death of a seemingly healthy person. Failure to report under this statute is a class 2 misdemeanor.

Other states have similar statutes that create a duty to report a death. These laws vary on whether they apply to a person without a professional duty to report. Examples of similar laws include:

Indiana: IN ST 35-45-19-3
 Massachusetts: M.G.L.A. 38 § 3
 North Carolina: N.C.G.S.A. § 7B-301
 Puerto Rico: 34 L.P.R.A. § 3016
 Rhode Island: RI ST § 40-11-3.1
 West Virginia: W. Va. Code § 61-12-8

Additional Resources

[National Center for the Prosecution of Child Abuse, Criminal Statutes](#)

[Penalties for failure to report child abuse and neglect](#)

[Mandatory reporting of child abuse and neglect](#)

NCSL's Criminal Justice Program, Denver, Colorado
Contact us by phone (303) 364-7700, or email cj-info@ncsl.org.

Statutes and bills may be edited or summarized; full text can be retrieved through:
[State Legislatures Internet Links](#)

This information is provided for representative purposes only and may not be a complete list or analysis.

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NATIONAL CONFERENCE *of* STATE LEGISLATURES

The Forum for America's Ideas

Filed "Caylee's Law" Legislation (September 12, 2011)

Alabama

A bill number has not yet been assigned to the filed bill.

California (AB 1226) 2011

California (AB 1432) 2011

Makes a parent or guardian guilty of a felony if they knowingly fail to report to law enforcement within 24 hours that their child under 14 years of age has died under circumstances that would cause a reasonable person to believe the death was a result of a crime, or that the child has disappeared under circumstances that would lead a reasonable person to believe the child is in danger of physical harm.

Florida (HB 37) 2012

Penalizes the failure of legal caregiver to contact a law enforcement agency after discovering a child is missing or dead. Enhances the criminal penalties if a caregiver of minor child knowingly and willfully gives false information to law enforcement officers conducting a missing persons investigation or a felony criminal investigation involving a child.

Florida (HB 49) 2012

Requires the legal caretaker of a child to notify a law enforcement agency in a timely manner after a child's disappearance in certain circumstances. Creates a duty to report the death of a child to a medical examiner and prohibits providing intentionally false or misleading information to authorities during the investigation and prosecution.

Florida (SB 146) 2012

Florida (SB 84) 2012

Florida (SB 86) 2012

Illinois (HB 3799) 2011-2012

Requires that a parent, guardian, or other person having physical custody of a child under 13 years old must try to make contact with his or her missing child within 24 hours of the child's disappearance. If the child is still missing after 24 hours, then the missing child must be reported to law enforcement. Failure to do so is a Class 4 felony.

Illinois (HB 3800) 2011-2012

Requires that a parent, guardian, or other person having physical custody of a child under 13 years old must try to make contact with his or her missing child within 24 hours of the child's disappearance. If the child is still missing after 24 hours, then the missing child must be reported to law enforcement.

A parent, guardian, or other person having physical custody of a child under 18 years old, must report the death of the child within one hour of forming reasonable belief that the child is dead. If the one hour time frame is not practical under the circumstances, then the death must be reported as soon as reasonably practicable. Must either notify law enforcement or seek medical attention for the child. Failure to do so is a Class 4 felony.

Illinois (HB 3801) 2011-2012

Requires that a parent, guardian, or other person having physical custody of a child under 13 years old must try to make contact with his or her missing child within 24 hours of the child's disappearance. If the child is still missing after 24 hours, then the missing child must be reported to law enforcement. Failure to report is a Class 4 felony. If failure to report is due to "an act of God, act of war, or inability of a law enforcement agency to receive a report of the disappearance of a child," then failure to report is not an offense under this provision.

A parent, guardian, or other person having physical custody of a child under 18 years old, must report the death of the child within one hour of forming reasonable belief that the child is dead. If the one hour time frame is not practical under the circumstances, then the death must be reported as soon as reasonably practicable. Must either notify law enforcement or seek medical attention for the child. Failure to do so is a Class 4 felony. If failure to report is due to "an act of God, act of war, or inability of a law enforcement agency to receive a report of a child's death or the location of a child's corpse," then failure to report is not an offense under this provision.

Kentucky BR 111 (2012) (HB 27)

Requires a parent, guardian, or person with custody and control of a child 12 years old or younger to report to law enforcement or call 911 within 12 hours after discovering the child is missing. Makes the failure to report a missing child within the specified time period a Class D felony.

Kentucky BR 119 (2012) (SB 12)

Requires a parent, guardian, or person with custody and control of a child 12 years old or younger to report to law enforcement or call 911 within 12 hours after discovering the child is missing. Makes the failure to report a missing child within the specified time period a Class D felony.

Massachusetts

Bill numbers have not yet been assigned to the three filed bills.

Michigan HB 4872 (2011)

New Jersey (S 3010) 2011

Creates a fourth degree crime for any person in legal custody of a child, who knows the child is missing, to fail to report the disappearance to the appropriate law enforcement agency within 24 hours. Defines a "missing child" as a person 13 years of age or younger whose whereabouts are not currently known.

New Jersey (S 3014) 2011

Creates a second degree crime for a person with legal care of a child to knowingly conceal the death or disappearance of that child by providing false information to a law enforcement officer with the purpose of obstructing, delaying, preventing or impeding an investigation into the child's death or disappearance. Defines the term "child" as any person under 16 years of age.

Creates a third degree crime for anyone to fail to notify the appropriate law enforcement agency of the death or disappearance of a child within 24 hours from when the person knew of the disappearance. Sets the term of imprisonment at a mandatory minimum of three years, with no eligibility for parole.

New York (A 8540) 2011

Establishes that a legal guardian is guilty of failure to report the disappearance of a child when they have reason to believe that a child under 18 years of age is missing and they fail to notify a law enforcement agency within 24 hours. Failure to report the disappearance of a child is a class E felony.

A person is guilty of failure to report the death of a child when they have reason to believe that a child under 18 years of age is dead and they are not in the care of a health professional. Such person fails to provide notice if it is not done as soon as reasonably possible to a police officer or a law enforcement agency. Failure to report the death of a child is a class D felony.

Ohio HB 299 (2011-2012)

Requires a parent, legal guardian, or custodian of a child under the age of 16 to report to a law enforcement agency within 24 hours after discovering the child is missing or within one hour after discovering the child is dead. Increases the penalty for falsification that misleads a public official.

Ohio SB 203 (2011-2012)

Requires a parent, legal guardian, custodian, or caretaker of a child under the age of 13 years old to report the child as missing within 24 hours of knowing that the child is missing to law enforcement. For children between 13 years old and 18 years old, the parent, legal guardian, custodian, or caretaker must report the missing child within 48 hours of knowing that the child is missing to law enforcement. If a parent, legal guardian, custodian, or caretaker of a child of any age discovers that the child is deceased, then the death must be reported within one hour to law enforcement.

Additionally, this bill would increase the penalty for “falsification to mislead a public official.”

Pennsylvania HB 1799 (2011)

Tennessee (HB 2162)

Creates an offense for a parent, who is physically able to do so, to fail to make or knowingly refuse to make all reasonable efforts to report a missing child to the appropriate authorities within 24 hours of the time the parent knew, learned or believed that the child was missing. Classifies the offense as a Class E felony.

Other states interested in “Caylee’s law” legislation:

Legislators in Colorado, Georgia, Kansas, Kentucky, Maryland, Michigan, Missouri, North Carolina, Oklahoma, Oregon, Pennsylvania, Rhode Island, Virginia, West Virginia, and Wisconsin also have pledged to file a “Caylee’s law” .

The FDLE Missing Endangered Persons Information Clearinghouse Advisory Board (MEPICAB) was created in 1996 to address issues dealing with Florida's missing persons. The MEPICAB is a diverse mix of law enforcement officials, victims' parents, government agencies, non-profit missing children organizations and members of the business community with interest in missing persons issues.

The FDLE MEPICAB supports efforts that:

- Focus on the responsibility of a parent or guardian to report a child missing to the appropriate authorities as soon as it is determined that they are missing. Based on the MEPICAB's research and experience, the timely reporting of a missing child is critical.
- Deter a parent, guardian or other person from the false reporting of a missing child. A false report can have a devastating effect on current and future missing children cases. The precious resources of first responders, both government and private, can be improperly diverted from legitimate law enforcement issues. In addition, as a few of our victim parents have experienced firsthand, future cases can be negatively impacted as the public may question legitimate claims of missing children due to prior false claims.
- Provide civil penalties for false reports similar to the statutory precedent for civil penalties in false reports to the child abuse hotline.

The mission of the Missing Endangered Persons Information Clearinghouse Advisory Board is to support awareness, education, and training for the prevention, response and recovery of missing and endangered persons.

Spoke

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

9/19/11

Date

Bill Number

Barcode

Name DONNA M. UZZELL

Phone 850-410-7100

Address 2331 Phylford St.

E-mail donna.uzzell@fdle.state.fl.us

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City

Tall.

FL

State

32317

Zip

Job Title Director of CSIS FDLE

Speaking: For Against Information

Appearing at request of Chair

Subject Missing Children Advisory Board

Representing FDLE

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from .m. to .m.

S-001 (04/14/10)

Spoke

THE FLORIDA SENATE

Brian Pitts

APPEARANCE RECORD

(Deliver to Senator or Senate Professional Staff conducting the meeting)

9/19/2011

Meeting Date

Tab 5

Bill Number (if applicable)

Topic children & family rights

Amendment Barcode (if applicable)

Name BRIAN PITTS

Job Title TRUSTEE

Address 1119 NEWTON AVE SOUTH

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33705

City

State

Zip

E-mail justice2jesus@yahoo.com

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

For officially noticed committee meetings, pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee:

Time: from to