

SUMMARY OF STATES' "CAYLEE'S LAW" LEGISLATION

This memorandum summarizes some of the legislation that has been introduced in states as a result of concerns about the disappearance and death of Caylee Marie Anthony. Caylee Anthony was a two-year-old girl who was reported missing in July 2008 in Orlando, Florida. The girl's skeletal remains were found in a wooded area near her home in December 2008. Her 22-year-old mother was tried for the first degree murder of Caylee Anthony but was acquitted. *State of Florida v. Casey Marie Anthony*, 48-2008-CF-015606-O. Casey Anthony was convicted, however, of misdemeanor counts of providing false information to police officers.

BACKGROUND

Caylee Anthony lived with her mother and her maternal grandparents, George and Cindy Anthony. On July 15, 2008, Caylee was reported missing to 911 by Cindy Anthony, who said she had not seen Caylee for 31 days and that Casey Anthony's car smelled like a dead body had been inside it. Cindy Anthony said Casey Anthony had given varied explanations as to Caylee's whereabouts and finally admitted that day that she had not seen her daughter for weeks. With the child still missing, Casey Anthony was charged with first degree murder in October and pled not guilty. On December 11, Caylee Anthony's skeletal remains were found with a blanket inside a trash bag in a wooded area near the family home.

The trial lasted six weeks--from May to July 2011. The prosecution sought the death penalty and alleged Casey Anthony murdered her daughter by administering chloroform and then applied duct tape. The prosecution alleged that Casey Anthony committed the murder because she wanted to free herself from parental responsibilities. The defense team countered that the child had drowned accidentally in the family's swimming pool on June 16, 2008. The defense claimed that Casey Anthony lied about this and other issues because of a dysfunctional upbringing, which the defense said included sexual abuse by her father.

On July 5, 2011, the jury found Casey Anthony not guilty of first degree murder, aggravated child abuse, and aggravated manslaughter of a child, but guilty of four misdemeanor counts of providing false information to a law enforcement officer. With credit for time served, Casey Anthony was released on July 17, 2011. The verdict was greeted with public outrage and was both attacked and defended by media and legal commentators.

"CAYLEE'S LAW" LEGISLATION

Anthony has prompted state lawmakers to consider legislation that would criminalize the failure to report a missing or dead child. According to the National Conference of State Legislatures, as of

June 11, 2012, at least 6 states have enacted, and an additional 32 states have filed bills as a result of *Anthony*--Arizona (2), Alabama (3), California (2), Delaware (1), Florida (9), Georgia (1), Hawaii (7), Illinois (5), Iowa (2), Kansas (2), Kentucky (5), Louisiana (4), Maine (2), Maryland (3), Massachusetts (2), Michigan (5), Mississippi (1), Missouri (2), Nebraska (1), New Hampshire (2), New Jersey (6), New Mexico (3), New York (10), Ohio (3), Oklahoma (3), Oregon (1), Pennsylvania (3), South Carolina (2), South Dakota (1), Tennessee (12), Virginia (2), Vermont (2), Washington (2), West Virginia (2), and Wisconsin (2). Key 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.

Enacted Legislation

On January 9, 2012, New Jersey became the first state to enact a "Caylee's Law" when Governor Chris Christie signed 2011 Senate Bill 3500. The new law creates a fourth degree felony for a person with legal custody of a child to fail to report the disappearance of the child to police more than 24 hours after becoming aware of the disappearance. A "child" means a person 13 years of age or younger in the New Jersey law.

On April 6, 2012, Florida became the second state to enact a law that was prompted by *Anthony*. In 2012, House Bill 37, which was introduced by Representative Jose Felix Diaz, creates a criminal penalty, a first degree misdemeanor, for knowingly and willfully giving false information to mislead a police officer's investigation of a missing child. If the child who is the subject of the investigation suffers great bodily harm, permanent disability, permanent disfigurement, or death, then the crime becomes a third degree felony.

The Kansas Legislature passed House Bill No. 2534 on May 16, 2012, which has been signed by the Governor. The new law criminalizes failing to report a missing or dead child and giving false information to a police officer.

On May 23, 2012, Connecticut House Bill No. 5512 became law. This new law creates a crime for failing to report a missing child who is under the age of 12 years old.

On May 31, 2012, the Illinois General Assembly passed Senate Bill 2537 which creates a felony punishable by up to three years in prison and a \$25,000 fine for failing to report a missing child. The bill requires legal guardians of any missing child 13 years old or younger to notify police within 24 hours. Children two years old and younger must be reported missing within one hour of their disappearance. The bill also criminalizes the failure to report the death of any child within 12 hours. The bill

was sent to the Governor on June 29, 2012, for final approval.

Louisiana Act No. 454 creates the crimes of failure to report the death of a child and the failure to report a missing child. The bill was signed into law on June 1, 2012.

RELATED STATE LAWS

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

Reckless Endangerment

In some states, including North Dakota, there are reckless endangerment statutes that may apply to this situation. For example, North Dakota Century Code Section 12.1-17-03 provides that "[a] person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized."

New York's Penal Law Section 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. Section 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." The statute lists the circumstances under which 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.

North Dakota Century Code Section 11-19.1-07 makes the failure to report a death a Class B misdemeanor. This section provides:

11-19.1-07. Reports of death - Death of minor.

1. Any person who discovers the deceased human body or acquires the first knowledge of the death of any individual, and any physician with knowledge that an individual died as a result of criminal or violent means, died

suddenly when in apparent good health in a suspicious or unusual manner, or died as the result of any other reportable circumstance, shall notify immediately the office of coroner or any law enforcement officer of the known facts concerning the time, place, manner, and circumstances of that death, and any other information that may be required pursuant to this chapter. Any person who violates this section is guilty of a class B misdemeanor.

2. Any person who discovers the deceased human body or acquires the first knowledge of the death of any minor who has received or is eligible to receive a birth record, when the minor died suddenly when in apparent good health, shall notify immediately law enforcement or the office of coroner of the known facts concerning the time, place, manner, and circumstances of the death. The death of a minor must be reported to the department of human services as provided under chapter 50-25.1. The coroner shall take custody of the body and immediately consult with a law enforcement agency. The law enforcement agency shall investigate the death and notify the state's attorney of the findings. The coroner shall notify the state forensic examiner of each such death, and shall provide the state forensic examiner the information concerning the death as the state forensic examiner requires. The coroner or the assistant or deputy coroner shall notify the parent or guardian of a child under the age of one year of the right to the performance of an autopsy, at state expense, as provided by this chapter.

STATES' CONCERNS ABOUT "CAYLEE'S LAW" LEGISLATION

As discussed previously, at least 32 states have introduced "Caylee's Law" legislation; however, the legislation has been passed in only 6 states. Many of the efforts to pass such legislation have failed or stalled over concerns that proposed changes were too broad, and in some cases, not necessary.

Legislation in Iowa was rejected in January 2012 after some questioned whether it was too vague. According to a February 23, 2012, Associated Press article, testimony in opposition to the legislation speculated that it would require parents to check in daily with children sent to summer camp. The article also indicated that states have become stuck on determining the age in which the proposals should apply.

Generally, policymakers are divided in their support of such legislation. Proponents argue that the law is needed to make parents act more responsibly by holding them accountable for failing to report their child missing or dead. Some prosecutors have indicated that such laws would give them another tool to protect vulnerable children.

Opponents contend that such legislation is unnecessary because a parent's failure to act to protect the health and safety of his or her child and to notify the authorities about a death or the location of a dead body are already crimes in most states. Moreover, some members of law enforcement have warned that ill-considered laws on reporting missing children risk punishing the innocent and tying the police up with investigations of missing child cases where no foul play was suspected.