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THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1799 Session of 2011

INTRODUCED BY PRESTON, B. BOYLE, K. BOYLE, BRIGGS, R. BROWN, V. BROWN, BURNS, CONKLIN, P. COSTA, CRUZ, DALEY, DAVIDSON, DEASY, DONATUCCI, FLECK, FREEMAN, GALLOWAY, GIBBONS, GOODMAN, HANNA, HARHAI, HORNAMAN, W. KELLER, KORTZ, KULA, MAHONEY, MANN, MATZIE, MIRABITO, MULLERY, PARKER, QUINN, RAVENSTAHL, READSHAW, SANTARSIERO, SANTONI, M. SMITH, STABACK, VULAKOVICH AND YOUNGBLOOD, JULY 26, 2011

REFERRED TO COMMITTEE ON JUDICIARY, JULY 26, 2011

AN ACT

Amending Title 18 (Crimes and Offenses) of the Pennsylvania Consolidated Statutes, in kidnapping, providing for the offense of failure to report missing child; in offenses against the family, further providing for the offense of concealing death of child; and providing for the offense of failure to report the death of child.

The General Assembly hereby declares its intention to enact Caylee's Law in this Commonwealth.

The General Assembly of the Commonwealth of Pennsylvania hereby enacts as follows:

Section 1. Title 18 of the Pennsylvania Consolidated Statutes is amended by adding a section to read:

<u>§ 2908.1. Failure to report missing child.</u>

<u>(a) Offense defined.--A parent or guardian is guilty of a misdemeanor of the first degree if:</u>

<u>(1) The parent or guardian knew or should have known that his or her child was a missing child.</u>

(2) The parent or guardian failed to report his or her child to a law enforcement agency as a missing child within 24 hours from when the parent or guardian knew or should have known that the child was a missing child.

(b) Affirmative defense.--It shall be an affirmative defense to a charge under this section that the person charged had a reasonable belief that a missing person report involving the missing child was made to a law enforcement agency.

(c) Definitions.--As used in this section the following words and phrases shall have the meanings given to them in this subsection:

"Child." A person under 18 years of age.

"Missing child." A child whose whereabouts has not been known to the child's parent or guardian for 24 hours or more.

Section 2. Section 4303 of Title 18 is amended to read:

§ 4303. Concealing death of child.

(a) Offense defined.--A person is guilty of a [misdemeanor of the first] felony of the third degree if he or she endeavors [privately], either alone or by the procurement of others, to conceal the death of [his or her] a child, so that it may not come to light, including whether it was born dead or alive or whether it was murdered or not.

(b) Procedure.--If the same indictment or information charges any person with the murder of [his or her] a child or any other offenses resulting in the death of a child, as well as with the offense of the concealment of the death, the jury may acquit or convict him or her of [both] all offenses, or find him or her guilty of one and acquit him or her of the [other] others.

(c) Definition.--As used in this section, the term "child"

means a person under 18 years of age.

Section 3. Title 18 is amended by adding a section to read:

§ 4303.1. Failure to report death of child.

(a) Offense defined.--A parent or guardian of a child or other person supervising the welfare of a child is guilty of a misdemeanor of the first degree if:

(1) The parent, guardian or other person supervising the welfare of a child discovers the death of the child.

(2) The parent, guardian or other person supervising the welfare of a child reasonably believes or should have reasonably believed that the death of the child occurred as a result of violence or trauma, whether apparently homicidal, suicidal or accidental, including death due to mechanical, thermal, chemical, electrical or radiational injury, drowning, cave-in or subsidence.

(3) The parent, guardian or other person supervising the welfare of a child fails to report the death of the child to a law enforcement agency within 12 hours of such discovery.

(b) Affirmative defense.--It shall be an affirmative defense to a charge under this section that:

(1) the person charged had a reasonable belief that the child's death was reported to a law enforcement agency; or

(2) a physician certified the child's death.

(c) Procedure.--If the same indictment or information charges any person with the murder of a child or with any other offense resulting in the death of the child, as well as with the offense of the failure to report the death of the child, the jury may acquit or convict him or her of all offenses or find him or her guilty of one offense and acquit him or her of the others.

(d) Definitions.--As used in this section, the following words and phrases shall have the meanings given to them in this subsection:

"Child." A person under 18 years of age.

"Person supervising the welfare of a child." A person other than a parent or guardian that provides care, education, training or control of a child.

Section 4. This act shall take effect immediately.