



# Ohio Legislative Service Commission

## Bill Analysis

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### **S.B. 203**

129th General Assembly  
(As Introduced)

**Sens.** Cafaro and LaRose, Smith, Turner, Jones

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## **BILL SUMMARY**

- Prohibits a parent, legal guardian, custodian, or caretaker of a child who acquires knowledge that the child is missing from knowingly failing to report that the child is missing to law enforcement authorities: (1) within 24 hours after acquiring knowledge that the child is missing, if the missing child is under 13, or (2) within 48 hours after acquiring knowledge that the child is missing, if the missing child is 13 or older but less than 18.
- Prohibits a parent, legal guardian, custodian, or caretaker of a child under the age of 18 who acquires knowledge of the child's death from knowingly failing to report the child's death to law enforcement authorities within one hour after acquiring knowledge of the child's death.
- Under an existing provision that applies to the provision described in the preceding dot point, prohibits any person, including a person who makes a report under that provision, from failing to provide upon request of the person to whom the report was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death.
- Increases to a fifth degree felony the penalty for falsification when it is committed with purpose to mislead a public official in performing the public official's duties and renames that offense as "falsification to mislead a public official."
- Specifies that the provisions described in the first, third, and fourth preceding dot points are to be known as "Caylee's Law."

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## CONTENT AND OPERATION

### Report of a missing child

The bill enacts two prohibitions that pertain to the failure of a parent, legal guardian, custodian, or caretaker of a child to report that the child is missing. Under the prohibitions, a parent, legal guardian, custodian, or "caretaker" (see **COMMENT**) of a child who acquires knowledge that the child is missing is prohibited from knowingly failing to report that the child is missing to law enforcement authorities: (1) within 24 hours after acquiring knowledge that the child is missing, if the missing child is under 13, or (2) within 48 hours after acquiring knowledge that the child is missing, if the missing child is 13 or older but less than 18.

A violation of either prohibition described in the preceding paragraph is the offense of "failure to report knowledge of a missing child." If the child who is the subject of the offense suffered physical harm or was killed during the period of time the child was missing, the offense is a second degree felony. If the child who is the subject of the offense did not suffer any physical harm during the period of time the child was missing, the offense is a third degree felony.

An existing provision, unchanged by the bill, that applies to the prohibitions described in the second preceding paragraph states that no disclosure of information pursuant to R.C. 2921.22 gives rise to any liability or recrimination for a breach of privilege or confidence.<sup>1</sup>

### Report of the death of a child

#### Enactment of a new prohibition

The bill prohibits a parent, legal guardian, custodian, or "caretaker" (see **COMMENT**) of a child under the age of 18 who acquires knowledge of the child's death from knowingly failing to report the child's death to law enforcement authorities within one hour after acquiring knowledge of the child's death. A violation of this prohibition is the offense of "failure to report knowledge of a child's death," a third degree felony.

An existing provision, unchanged by the bill, that applies to the prohibitions described in the preceding paragraph states that no disclosure of information pursuant

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<sup>1</sup> R.C. 2921.22(I).

to R.C. 2921.22 gives rise to any liability or recrimination for a breach of privilege or confidence.<sup>2</sup>

The bill specifies that the prohibition it enacts, as described in the second preceding paragraph, is an exception to an existing provision that prohibits a person who discovers the body or acquires the first knowledge of the death of a person from failing to report the death immediately to a physician whom the person knows to be treating the deceased for a condition from which death at such time would not be unexpected, or to a law enforcement officer, an ambulance service, an emergency squad, or the coroner in a political subdivision in which the body is discovered, the death is believed to have occurred, or knowledge concerning the death is obtained. A violation of the existing prohibition is the offense of "failure to report knowledge of a death," a fourth degree misdemeanor.<sup>3</sup>

### **Application of an existing prohibition, in relation to enacted prohibition**

An existing prohibition, unchanged by the bill, applies to a report made under R.C. 2921.22(C). Because the prohibitions the bill enacts, as described above in "**Enactment of a new prohibition**," are located in R.C. 2921.22(C)(2), the existing prohibition will apply to those provisions of the bill. Under the existing prohibition, as applied in relation to the prohibitions the bill enacts, a person is prohibited from failing to provide upon request of the person to whom a report required by the bill's provisions was made, or to any law enforcement officer who has reasonable cause to assert the authority to investigate the circumstances surrounding the death, any facts within the person's knowledge that may have a bearing on the investigation of the death. A violation of this existing prohibition is the offense of "failure to report knowledge of a death," a fourth degree misdemeanor.<sup>4</sup> Existing exceptions, unchanged by the bill, provide that the existing prohibition does not require disclosure of information when any of the following applies:<sup>5</sup>

(1) The information is privileged by reason of the relationship between attorney and client; doctor and patient; licensed psychologist or licensed school psychologist and client; member of the clergy, rabbi, minister, or priest and any person communicating information confidentially to the member of the clergy, rabbi, minister, or priest for a religious counseling purpose of a professional character; husband and wife; or a

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<sup>2</sup> R.C. 2921.22(I).

<sup>3</sup> R.C. 2921.22(C)(1) and (K)(1).

<sup>4</sup> R.C. 2921.22(D) and (K)(1).

<sup>5</sup> R.C. 2921.22(H).

communications assistant and those who are a party to a telecommunications relay service call.

(2) The information would tend to incriminate a member of the actor's immediate family.

(3) Disclosure of the information would amount to any of the following:

(a) Revealing a news source privileged under R.C. 2739.04 or 2739.12;

(b) Disclosure by a member of the ordained clergy of an organized religious body of a confidential communication made to that member in that member's capacity as a clergy member by a person seeking the aid or counsel of that member; revealing information acquired by the actor in the course of duties in connection with a *bona fide* program of treatment or services for drug dependent persons or persons in danger of drug dependence;

(c) Revealing information acquired by the actor in the course of duties in connection with a *bona fide* program for providing counseling services to victims of specified sex crimes.

### **Falsification – statement made to mislead a public official**

Existing law prohibits a person from knowingly making a false statement, or knowingly swearing or affirming the truth of a false statement previously made, when any of 15 specified factors applies regarding the statement.<sup>6</sup> One of the factors is that the statement is made with purpose to mislead a public official in performing the public official's official duties. Currently, a violation of the prohibition when this factor applies regarding the statement is the offense of "falsification," a first degree misdemeanor.<sup>7</sup>

The bill retains the prohibition and the "misleading a public official" factor described in the preceding paragraph without change, but it modifies the penalty for a violation of the prohibition when that factor applies and changes the name of the crime when committed in those circumstances. Under the bill, a person who knowingly makes a false statement, or knowingly swears or affirms the truth of a false statement previously made, when the statement is made with purpose to mislead a public official

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<sup>6</sup> R.C. 2921.13.

<sup>7</sup> R.C. 2921.13(A)(3) and (F).

in performing the public official's official duties, is guilty of the offense of "falsification to mislead a public official," a fifth degree felony.<sup>8</sup>

An existing provision, unchanged by the bill, that applies to any violation of R.C. 2921.13 specifies that: (1) a person who violates the section is liable in a civil action to any person harmed by the violation for injury, death, or loss to person or property incurred as a result of the commission of the offense and for reasonable attorney's fees, court costs, and other expenses incurred as a result of prosecuting the civil action commenced under this division, and (2) a civil action under this provision is not the exclusive remedy of a person who incurs injury, death, or loss to person or property as a result of a violation of this section.<sup>9</sup>

### **Designation of bill's provisions as "Caylee's Law"**

The bill states that the provisions described above in "**Report of a missing child**," "**Report of the death of a child**," and "**Falsification – statement made to mislead a public official**" are to be known as "Caylee's Law."<sup>10</sup>

### **Background**

#### **Reporting a crime, gunshot, stab wound, burn injury, or death**

Existing law contains prohibitions that, in certain circumstances, could apply to conduct addressed by the prohibitions enacted by the bill. The existing prohibitions relate to: (1) a failure of a person to report a felony that the person knows has been or is being committed, (2) a failure of a specified medical practitioner or other person to report a gunshot or stab wound treated or observed by the person, or any serious physical harm that the person knows or has reasonable cause to believe resulted from an offense of violence, (3) a failure of a specified medical practitioner or other person to report in specified circumstances a burn injury, and (4) a failure of a person who discovers a body or acquires first knowledge of the death of a person to report the death and to the failure of a person who makes such a report of a death to provide known facts of the death.<sup>11</sup> The bill does not change any of these provisions.

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<sup>8</sup> R.C. 2921.13(A)(3) and (F)(2).

<sup>9</sup> R.C. 2921.13(G).

<sup>10</sup> R.C. 2921.22(N).

<sup>11</sup> R.C. 2921.22(A), (C), (D), (E), and (H).

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## COMMENT

The bill defines the term "caregiver" for purposes of the provisions described in "**Report of a missing child**" and "**Report of the death of a child**" as a person who is responsible for a child's welfare at any given time – however, those provisions do not use the term.<sup>12</sup> The bill instead uses the term "caretaker."

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## HISTORY

ACTION	DATE
Introduced	08-04-11

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<sup>12</sup> R.C. 2921.22(G), (M), (N), and (O).

