

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2013

S

1

SENATE BILL 70*

Short Title: Kilah's Law/Increase Child Abuse Penalties. (Public)

Sponsors: Senators Tarte, Tucker, Curtis (Primary Sponsors); Apodaca, Brock, Harrington, Hise, and Rabin.

Referred to: Judiciary II.

February 11, 2013

A BILL TO BE ENTITLED

AN ACT TO INCREASE THE PENALTY FOR VARIOUS CRIMINAL OFFENSES OF FELONY CHILD ABUSE AND TO REQUIRE THAT THE OFFICIAL RECORD OF A DEFENDANT CONVICTED OF CHILD ABUSE OR OTHER ASSAULTS AGAINST A MINOR INDICATES THAT THE OFFENSE INVOLVED CHILD ABUSE.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 14-318.4 reads as rewritten:

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

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

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

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

(a3) A parent or any other person providing care to or supervision of a child less than 16 years of age who intentionally inflicts any serious bodily injury to the child or who intentionally commits an assault upon the child which results in any serious bodily injury to the child, or which results in permanent or protracted loss or impairment of any mental or emotional function of the child, is guilty of a ~~Class C~~ Class B2 felony.

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

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

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



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

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

5 (1) Serious bodily injury. – Bodily injury that creates a substantial risk of death
6 or that causes serious permanent disfigurement, coma, a permanent or
7 protracted condition that causes extreme pain, or permanent or protracted
8 loss or impairment of the function of any bodily member or organ, or that
9 results in prolonged hospitalization.

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

12 **SECTION 2.** G.S. 15A-1382.1 reads as rewritten:

13 **"§ 15A-1382.1. Reports of disposition; domestic violence; child abuse; sentencing.**

14 (a) When a defendant is found guilty of an offense involving assault, communicating a
15 threat, or any of the acts as defined in G.S. 50B-1(a), the presiding judge shall determine
16 whether the defendant and victim had a personal relationship. If the judge determines that there
17 was a personal relationship between the defendant and the victim, then the judge shall indicate
18 on the form reflecting the judgment that the case involved domestic violence. The clerk of court
19 shall insure that the official record of the defendant's conviction includes the court's
20 determination, so that any inquiry into the defendant's criminal record will reflect that the
21 offense involved domestic violence.

22 (a1) When a defendant is found guilty of an offense involving child abuse or is found
23 guilty of an offense involving assault or any of the acts as defined in G.S. 50B-1(a) and the
24 offense was committed against a minor, then the judge shall indicate on the form reflecting the
25 judgment that the case involved child abuse. The clerk of court shall ensure that the official
26 record of the defendant's conviction includes the court's determination, so that any inquiry into
27 the defendant's criminal record will reflect that the offense involved child abuse.

28 (b) Repealed by Session Laws 2012-39, s. 2, effective December 1, 2012, and
29 applicable to defendants placed on probation on or after that date.

30 (c) The following definitions apply to this section:

31 (1) "An offense involving assault" includes any offense where an assault
32 occurred, whether or not the conviction is for an offense under Article 8 of
33 Chapter 14 of the General Statutes.

34 (2) "Inquiry" shall include any lawful review of the criminal records of persons
35 convicted of an offense in this State, whether by law enforcement personnel
36 or by private individuals.

37 (3) "Personal relationship" is as defined in G.S. 50B-1(b)."

38 **SECTION 3.** This act becomes effective December 1, 2013. Section 1 of this act
39 applies to offenses committed on or after that date. Section 2 of this act applies to judgments
40 entered on or after that date.