

239.37 FAILURE TO REPORT CRIMES AGAINST JUVENILES. MISDEMEANOR.

*NOTE WELL:* The identity of a person making a report pursuant to this section must be protected and only revealed as provided in N.C.G.S. § 132-1.4(c)(4).

*NOTE WELL:* N.C.G.S. § 14-318.6(f) provides a good faith immunity clause. A person who makes a report in good faith, cooperates with law enforcement in an investigation, or testifies in any judicial proceeding resulting from a law enforcement report or investigation is immune from any civil or criminal liability that might otherwise be incurred or imposed for that action, provided that person was acting in good faith.

*NOTE WELL:* N.C.G.S. § 14-318.6(h) provides that nothing in this section shall be construed as to require a person with a privilege under G.S. 8-53.3, 8-53.7, 8-53.8, or 8-53.12 or with attorney-client privilege to report pursuant to this section if that privilege would prevent that person from doing so.

The defendant has been charged with failure to report (a) crime(s) against a juvenile.

For you to find the defendant guilty of this offense, the State must prove three things beyond a reasonable doubt.

First, that (*name juvenile*) was a juvenile.<sup>1</sup> A juvenile is an individual under the age of eighteen.

Second, that the defendant was 18 years of age or older.

Third, that the defendant knew or should have known that (*name juvenile*) was the victim of [a violent offense] [a sexual offense] [misdemeanor child abuse].

And Fourth, that the defendant [knowingly] [willfully] [[failed to report]<sup>2</sup> [prevented another person from making a report of]] such [violent offense]<sup>3</sup>

[sexual offense] [misdemeanor child abuse]<sup>4</sup> to the appropriate law enforcement agency in (name county where the juvenile resides or is found).

If you find from the evidence beyond a reasonable doubt that on or about the alleged date (name juvenile) was a juvenile, that the defendant was 18 years of age or older, that the defendant knew or should have known that (name juvenile) was the victim of [a violent offense] [a sexual offense] [misdemeanor child abuse], and that the defendant [knowingly] [willfully] [[failed to report] [prevented another person from making a report of]] such [violent offense] [sexual offense] [misdemeanor child abuse] to the appropriate law enforcement agency in (name county where the juvenile resides or is found), it would be your duty to return a verdict of guilty. If you do not so find or if you have a reasonable doubt as to one or more of these things, it would be your duty to return a verdict of not guilty.

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1. A **juvenile** is a person who has not yet reached the person's eighteenth birthday and is not married, emancipated, or a member of the Armed Forces of the United States. N.C. Gen. Stat. § 7B-101. If there is evidence that the juvenile was emancipated or was a member of the Armed Forces, then adjust the instruction accordingly. A "child" is defined to be under the age of sixteen. N.C. Gen. Stat. 7B-101.

2. The report may be made orally or by telephone. The report shall include information as is known to the person making it, including the name, address, and age of the juvenile; the name and address of the juvenile's parent, guardian, custodian, or caretaker; the name, address, and age of the person who committed the offense against the juvenile; the location where the offense was committed; the names and ages of other juveniles present or in danger; the present whereabouts of the juvenile, if not at the home address; the nature and extent of any injury or condition resulting from the offense or abuse; and another other information which the person making the report believes might be helpful in establishing the need for law enforcement involvement. The person making the report shall give his or her name, address, and telephone number.

3. N.C.G.S. § 14-318.6(a)(5) defines "**violent offense**" as any offense that inflicts upon the juvenile serious bodily injury or serious physical injury by other than accidental means. This term also includes: an attempt, solicitation, or conspiracy to commit any of these offenses; aiding and abetting any of these offenses.

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**“Serious Bodily Injury”** is defined in N.C.G.S. § 14-318.4(d) as bodily injury that creates a substantial risk of death or that causes serious permanent disfigurement, coma, a permanent or protracted condition that causes extreme pain, or permanent or protracted loss or impairment of the function of any bodily member or organ, or that results in prolonged hospitalization.

**“Serious Physical Injury”** is defined in N.C.G.S. § 14-318.4(d) as physical injury that causes great pain and suffering. This term includes serious mental injury.

4. See N.C.P.I.—Crim. 239.60 for an instruction on misdemeanor child abuse.

