

GENERAL ASSEMBLY OF NORTH CAROLINA

EXTRA SESSION 1994

H

1

HOUSE BILL 128

Short Title: Aid Endangered Minor Victims.

(Public)

Sponsors: Representatives Flaherty; Nichols and J. Preston.

Referred to: Rules, Calendar, and Operations of the House.

February 14, 1994

A BILL TO BE ENTITLED

AN ACT TO REQUIRE WITNESSES WHO KNOW OF CRIMES, INTENTIONAL ACTS, OR ACCIDENTS THAT PLACE MINOR VICTIMS AT RISK OF BODILY INJURY TO NOTIFY LAW ENFORCEMENT AUTHORITIES, TO ACT TO PREVENT THE INJURY, AND TO AID THE VICTIMS.

The General Assembly of North Carolina enacts:

Section 1. Chapter 1 of the General Statutes is amended by adding a new Article to read:

"ARTICLE 43E.

"DUTY TO AID ENDANGERED MINOR VICTIM.

"§ 1-539.25. Duty to aid endangered victim; definition; duty; evidence; liability; immunity.

(a) As used in this Article, the term 'witnesses' used as a verb means to observe or know that an intentional act, an accident, or a crime is about to occur, is occurring, or has occurred. The term 'witness' used as a noun means a person who witnesses, as defined in the first sentence of this subsection.

As used in the Article, the term 'victim' means a victim who is 17 years of age or younger at the time of the intentional act, accident, or crime.

(b) A person who witnesses an intentional act, an accident, or a crime and who perceives that a victim of the intentional act, accident, or crime may suffer or has suffered bodily injury as a result of the intentional act, accident, or crime shall:

(1) Immediately notify law enforcement authorities unless this witness knows or reasonably believes that those authorities have already been notified;

1 (2) Attempt to prevent the injury unless doing so would place this witness
2 in danger or would increase the danger to the victim; and

3 (3) Aid the victim unless doing so would place this witness in danger or
4 would increase the danger to the victim. When the danger to this
5 witness or the victim no longer exists, this witness shall then aid the
6 victim.

7 (c) The imposition of liability pursuant to this section shall be based solely on
8 clear, cogent, and convincing evidence.

9 (d) A person who fails to comply with subsection (b) of this section is liable to
10 the victim for damages proximately caused by the failure to comply. This liability is
11 qualified as follows:

12 (1) The total amount of liability pursuant to this section is limited to a
13 maximum of two thousand dollars (\$2,000) per occurrence per
14 witness; and

15 (2) This liability is secondary to the liability of any person who is
16 originally at fault for the intentional act, the accident, or the crime.

17 Liability imposed pursuant to this section shall not be covered by any insurance
18 policy.

19 (e) A person who attempts to prevent injury in compliance with subdivision (2)
20 of subsection (b) of this section or who provides assistance in compliance with
21 subdivision (3) of subsection (b) of this section is immune from civil and criminal
22 liability unless:

23 (1) The person's actions constitute willful or wanton misconduct as
24 determined by the trier of fact; or

25 (2) The person has received or expects to receive remuneration for these
26 actions."

27 Sec. 2. This act becomes effective October 1, 1994, and applies to intentional
28 acts, accidents, and crimes occurring on or after that date.