

FAILURE TO REPORT THE DISAPPEARANCE OF A CHILD
N.J.S.A. 2C:12-1.3—CAYLEE’S LAW
(Effective January 5, 2012)

Count (INSERT) of the Indictment charges the defendant with the offense of failing to report the disappearance of a child within 24 hours of becoming aware of that child’s disappearance. **(Read the Indictment)**. The statute on which this count of the Indictment is based reads in pertinent part:

A parent, guardian, or other person with legal custody of the child who knew or should have known of the disappearance of a child for which that parent, guardian, or other person is responsible who fails to report the missing child to the appropriate law enforcement agency within 24 hours shall be guilty of a crime.

To find the defendant guilty of this offense, the State must prove beyond a reasonable doubt:

1. That (insert child’s name) was a child who disappeared;
2. That the defendant was a (parent) (guardian) (or person who had legal custody) of _____ (insert child’s name);
3. That the defendant knew or should have known of the disappearance of (insert child’s name);
4. That the defendant knowingly failed to report the disappearance of (insert child’s name) to an appropriate law enforcement agency within 24 hours of becoming aware of his/her disappearance.

The first element that the State must prove beyond a reasonable doubt is that (insert child’s name) was a child who disappeared. A “missing child” or child who disappeared means any person who was 13 years of age or younger whose whereabouts were unknown.

The second element the State must prove beyond a reasonable doubt is that the defendant was a (parent) (guardian) (or person who had legal custody) of _____ (insert child’s name). A parent or guardian means **(choose appropriate)** [natural parent] [adoptive parent] [resource family parent] [stepparent] [paramour of any parent] [any

**FAILURE TO REPORT THE
DISAPPEARANCE OF A CHILD**
N.J.S.A. 2C:12-1.3

person upon whom there is a legal duty for the care, custody or control of a child] [a staff person or employee of an institution that had legal custody).¹

The third element that the State must prove beyond a reasonable doubt is that defendant knew or should have known of the disappearance of (insert child's name).

The fourth element that the State must prove beyond a reasonable doubt is that defendant knowingly failed to report the disappearance of (insert child's name) within 24 hours of becoming aware of his/her disappearance to an appropriate law enforcement agency.

A person acts knowingly with respect to the nature of his/her conduct or the attendant circumstances if he/she is aware that his/her conduct is of that nature, or that such circumstances exist, or he/she is aware of a high probability of their existence. A person acts knowingly with respect to a result of his/her conduct if he/she is aware that it is practically certain that his/her conduct will cause such a result.

Knowledge is a condition of the mind. It cannot be seen. It can only be determined by inferences from defendant's conduct, words or acts. A state of mind is rarely susceptible of direct proof but must ordinarily be inferred from the facts. Therefore, it is not necessary that the State produce witnesses to testify that an accused said that he/she had a certain state of mind when he/she engaged in a particular act. It is within your power to find that such proof has been furnished beyond a reasonable doubt by inference, which may arise from the nature of his/her acts and conduct, and from all he/she said and did at the particular time and place, and from all surrounding circumstances established by the evidence.

If you find that the State has proved each element of the offense beyond a reasonable doubt, then you must find the defendant guilty.

If you find that the State has failed to prove any element of the offense beyond a reasonable doubt, then you must find the defendant not guilty.

¹ State v. McInerney, 428 N.J. Super. 432 (App. Div. 2012), petition for certification filed regarding the definition of guardian and/or person upon whom there is a legal duty for the care, custody, or control of a child.