

Hyperthermia Statutes: Children Unattended In Vehicles

August 2014



Summary of Content

From 1998-2014, 627 children died from hyperthermia (heatstroke) after caregivers left them unattended in vehicles.¹ Even when temperatures are in the 60s outside of the car, the temperature inside the car can rise quickly to be over 110 F inside the confinement of the car.² When the body core temperature reaches 104 F, cellular damage which can eventually lead to delirium, seizures, coma, and death occurs.³ Cooling systems within children's bodies are less developed than those belonging to an adult.⁴ Thus, children are very susceptible to heat stroke and when trapped in the confinement of a vehicle.

Traditional laws such as child endangerment, manslaughter, neglect, maltreatment, and homicide can be used to prosecute these cases.⁵ However, 20 state legislatures, and 1 territorial legislature have crafted laws to address this specific issue.⁶ The structure and penalties vary greatly in range. For example, Florida has a non-criminal strict liability traffic law infraction for leaving a child under the age of 6 unattended in a car for more than 15 minutes.⁷ Whereas, Kentucky's unattended child in vehicle law provides for manslaughter in the second degree if a child under the age of eight is left in a motor vehicle

¹ Jan Hull, *Hyperthermia Deaths of Children Unattended in Vehicles*, San Francisco State University (last modified Aug. 4, 2014); <http://www.gweather.com/heat>.

² Nat'l Highway Traffic Safety Admin., *Unattended Children and Cars*; <http://www.nhtsa.gov/people/injury/enforce/childrenandcars/pages/unattend-hotcars.htm> (accessed Aug 2014).

³ Alexander G. von Fricken, et al., *Vehicular Heat Stroke Fatalities –Tragic Accident or Murder*, 45-Dec Proc 14 (2011).

⁴ Stephanie Armagost, *An Innocent Mistake or Criminal Conduct: Children Dying of Hyperthermia in Hot Vehicles*. 23 Hamline J. Pub. L. & Pol'y 109, 114 (2001).

⁵ *Id.* 116.

⁶ See Alabama, California, Connecticut, Florida, Hawaii, Illinois, Kentucky, Louisiana, Maryland, Michigan, Nebraska, Nevada, Oklahoma, Pennsylvania, Rhode Island, Tennessee, Texas, Utah, Washington, Wisconsin, and Guam

⁷ FLA. STAT. § 316.6135 (2014).

under circumstances...causing death to the child.⁸ This document is a comprehensive compilation of hyperthermia statutes from U.S. state, territorial, and the federal jurisdictions. NDAA updated the compilation in August of 2014. Please note that we recommend checking both case law and current legislation for later modifications to the statutes listed below.

For further assistance, consult the National District Attorneys Association’s National Center for Prosecution of Child Abuse at 703.549.9222, or via the free online prosecution assistance service http://www.ndaa.org/ta_form.php

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⁸ Ky. REV. STAT. ANN. § 507.040 (2014).

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ALABAMA

Ala. Code § 13A-11-290 (2014) - Leaving child or incapacitated person unattended in motor vehicle prohibited

- (a) This section shall be known and cited as the Amiyah White Act.
- (b) For the purposes of this section, the term motor vehicle shall mean any motor vehicle as defined in Section 32-1-1.1, and the term incapacitated person shall mean any incapacitated person as defined in Section 26-2A-20.
- (c)(1) A licensed day care center, a licensed child care facility, a program providing day care service to incapacitated persons, or any other child care service that is exempt from licensing pursuant to Section 38-7-3, or an employee thereof, or a person for hire responsible for a child under the age of 7 or an incapacitated person, shall not leave a child or an incapacitated person in a motor vehicle unattended in a manner that creates an unreasonable risk of injury or harm.
- (2) A person violating this section shall be punished by a fine of not less than two thousand dollars (\$2,000). If a person has a prior conviction or adjudication under this section, the offense is a Class C misdemeanor.
- (3) For purposes of determining prior conviction or adjudication pursuant to subdivision (2), conviction in municipal court shall be included.
- (4) If the child or incapacitated person receives physical injury as a result of a violation of this section, the person violating this section is guilty of a Class A misdemeanor.
- (5) If the child or incapacitated person receives serious physical injury as a result of a violation of this section, the person violating this section is guilty of a Class C felony.
- (6) If the child or incapacitated person is fatally injured as a result of a violation of this section, the person violating this section is guilty of a Class B felony.

(d) Notwithstanding the foregoing, nothing in this section shall limit any existing cause of action or right to bring a cause of action. A violation of this section shall not be considered evidence of contributory negligence and the liability of an insurer shall not be limited or mitigated.

CREDIT(S)

The act which added this section is effective August 1, 2013. Includes Amendments Received Through May 1, 2014.

ALASKA

ARIZONA

ARKANSAS

CALIFORNIA

CAL. VEH. CODE §15620 (2014). Leaving a child unsupervised inside a motor vehicle; violations and punishment

(a) A parent, legal guardian, or other person responsible for a child who is 6 years of age or younger may not leave that child inside a motor vehicle without being subject to the supervision of a person who is 12 years of age or older, under either of the following circumstances:

(1) Where there are conditions that present a significant risk to the child's health or safety.

(2) When the vehicle's engine is running or the vehicle's keys are in the ignition, or both.

(b) A violation of subdivision (a) is an infraction punishable by a fine of one hundred dollars (\$100), except that the court may reduce or waive the fine if the defendant establishes to the satisfaction of the court that he or she is economically disadvantaged and the court, instead, refers the defendant to a community education program that includes education on the dangers

of leaving young children unattended in motor vehicles, and provides certification of completion of that program. Upon completion of that program, the defendant shall provide that certification to the court. The court may, at its discretion, require any defendant described in this section to attend an education program on the dangers of leaving young children unattended in motor vehicles.

(c) Nothing in this section shall preclude prosecution under both this section and Section 192 of the Penal Code, or Section 273a of that code, or any other provision of law.

(d)(1) Subdivision (b) and Section 40000.1 do not apply if an unattended child is injured or medical services are rendered on that child because of a violation described in subdivision (a).

(2) Nothing in this subdivision precludes prosecution under any other provision of law.

CREDIT(S)

(Added by Stats.2001, c. 855 (S.B.255), § 2. Amended by Stats.2002, c. 664 (A.B.3034), § 222.)

Current with urgency legislation through Ch. 185 of 2014 Reg.Sess., Res. Ch. 1 of 2013-2014 2nd Ex.Sess., and all propositions on the 6/3/2014 ballot

COLORADO

CONNECTICUT

CONN. GEN. STAT. § 53-21a (2014). Leaving child unsupervised in place of public accommodation or motor vehicle

(a) Any parent, guardian or person having custody or control, or providing supervision, of any child under the age of twelve years who knowingly leaves such child unsupervised in a place of public accommodation or a motor vehicle for a period of time that presents a substantial risk to the child's health or safety, shall be guilty of a class A misdemeanor.

(b) Any parent, guardian or person having custody or control, or providing supervision, of any child under the age of twelve years who knowingly leaves such child unsupervised in a place of public accommodation, which holds a permit issued under chapter 545 [FN1] for the sale of alcoholic liquor for consumption on the premises, for a period of time that presents a substantial risk to the child's health or safety, shall be guilty of a class D felony.

(c) Any parent, guardian or person having custody or control, or providing supervision, of any child under the age of twelve years who knowingly leaves such child unsupervised in a place of public accommodation or a motor vehicle between the hours of eight o'clock p.m. and six o'clock a.m. for a period of time that presents a substantial risk to the child's health or safety, shall be guilty of a class C felony.

(d) Any parent, guardian or person having custody or control, or providing supervision, of any child under the age of twelve years who knowingly fails to report the disappearance of such child to an appropriate law enforcement agency shall be guilty of a class A misdemeanor. For the purposes of this subsection, "disappearance of such child" means that the parent, guardian or person does not know the location of the child and has not had contact with the child for a twenty-four-hour period.

CREDIT(S)

(1997, P.A. 97-298; 2012, P.A. 12-112, § 1.)

Current with enactments of Public Acts of the 2014 February Regular Session of the Connecticut General Assembly effective on or before July 1, 2014.

DELAWARE

DISTRICT OF COLUMBIA

FLORIDA

FLA. STAT. § 316.6135 (2014). Leaving children unattended or unsupervised in motor vehicles; penalty; authority of law enforcement officer

(1) A parent, legal guardian, or other person responsible for a child younger than 6 years of age may not leave the child unattended or unsupervised in a motor vehicle:

(a) For a period in excess of 15 minutes;

(b) For any period of time if the motor of the vehicle is running, the health of the child is in danger, or the child appears to be in distress.

(2) Any person who violates the provisions of paragraph (1)(a) commits a misdemeanor of the second degree punishable as provided in s. 775.082 or s. 775.083.

(3) Any person who violates the provisions of paragraph (1)(b) is guilty of a noncriminal traffic infraction, punishable by a fine not less than \$50 and not more than \$500.

(4) Any person who violates subsection (1) and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to a child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(5) Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle in violation of subsection (1) may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle.

(6) If the child is removed from the immediate area, notification should be placed on the vehicle.

(7) The child shall be remanded to the custody of the Department of Children and Families pursuant to chapter 39, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

CREDIT(S)

Laws 1985, c. 85-229, § 1; Laws 1987, c. 87-225, § 4. Amended by Laws 1995, c. 95-148, § 330, eff. July 10, 1995; Laws 1999, c. 99-8, § 57, eff. June 29, 1999; Laws 1999, c. 99-248, § 241, eff. June 8, 1999; Laws 2007, c. 2007-205, § 1, eff. July 1, 2007; Laws 2012, c. 2012-181, § 14, eff. Jan. 1, 2013; Laws 2014, c. 2014-19, § 56, eff. July 1, 2014.

Current through Ch. 254 (End) of the 2014 2nd Reg. Sess. of the 2014 2nd Reg. Sess. of the Twenty-Third Legislature

GEORGIA

HAWAII

HAW. REV. STAT. ANN. § 291C-121.5(2014). Leaving a child unattended in a motor vehicle

(a) Notwithstanding chapter 571 or any other law to the contrary, a person violates this section if the person, being the operator or an adult passenger of a motor vehicle, leaves the motor vehicle for five minutes or longer when an unattended child is inside the vehicle, regardless of whether the operator or adult passenger is charged with the care or custody of the child.

(b) Any law enforcement officer, firefighter, or rescue team personnel who observes a child left unattended in a motor vehicle and determines that the unattended child is in physical danger, or poses a danger to others, may use whatever means are reasonably necessary to protect the child or others and remove the child from the motor vehicle. If the person who left the motor vehicle with an unattended child inside cannot be located within a reasonable time, the law enforcement officer, firefighter, or rescue team personnel, upon removing the child from the motor vehicle, shall immediately report the matter to a police officer, as defined under section [587A-4], who may assume protective custody of the child without a court order and without the consent of the child's family.

(c) Law enforcement officers, firefighters, and rescue team personnel shall not be liable in any civil action to any party for any act performed in good faith under this section.

(d) As used in this section:

“Child” means a person under the age of nine.

“Rescue team personnel” means physicians, basic life support personnel, advanced life support personnel, surgeons, nurses, volunteers, or employees of the owners or operators of a hospital or authorized emergency vehicle who have been trained in basic or advanced life support and have been charged by the owners or operators of the hospital or authorized emergency vehicle with providing life support and resuscitation to persons who are in immediate danger of loss of life in cases of emergency.

“Unattended” means leaving a child:

(1) Alone in a motor vehicle; or

(2) In a motor vehicle with a minor under the age of twelve.

CREDIT(S)

Laws 2008, ch. 170, § 2, eff. June 13, 2008.

Current through Act 200 of the 2014 Regular Session of the Hawaii Legislature.

IDAHO

ILLINOIS

720 ILL. 5/12C-5 (2014). Endangering the life or health of a child

(a) A person commits endangering the life or health of a child when he or she knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes or permits a child to be placed in circumstances that endanger the child's life or health. It is not a violation of this Section for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act. [FN1]

(b) A trier of fact may infer that a child 6 years of age or younger is unattended if that child is left in a motor vehicle for more than 10 minutes.

(c) "Unattended" means either: (i) not accompanied by a person 14 years of age or older; or (ii) if accompanied by a person 14 years of age or older, out of sight of that person.

(d) Sentence. A violation of this Section is a Class A misdemeanor. A second or subsequent violation of this Section is a Class 3 felony. A violation of this Section that is a proximate cause of the death of the child is a Class 3 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years. A parent, who is found to be in violation of this Section with respect to his or her child, may be sentenced to probation for this offense pursuant to Section 12C-15.

CREDIT(S)

Laws 1961, p. 1983, § 12-21.6, added by P.A. 88-479, § 10, eff. Sept. 9, 1993. Amended by P.A. 90-687, § 5, eff. July 31, 1998; P.A. 92-408, § 96, eff. Aug. 17, 2001; P.A. 92-432, § 96, eff. Aug. 17, 2001; P.A. 92-515, § 5, eff. June 1, 2002; P.A. 92-651, § 81, eff. July 11, 2002. Amended and renumbered as § 12C-5 by P.A. 97-1109, § 1-5, eff. Jan. 1, 2013.

Current through P.A. 98-755, with the exception of P.A. 98-747 and P.A. 98-749, of the 2014 Reg. Sess.

**** Section (b) rebuttable presumption held unconstitutional by: *People v. Jordan*, 843 N.E.2d 870, 877(Ill. 2006).**

“ The statute at issue in this case provides: “ There is a rebuttable presumption that a person committed the offense [of child endangerment] if he or she left a child 6 years of age or younger unattended in a motor vehicle for more than 10 minutes.” (Emphasis added.) 720 ILCS 5/12–21.6(b) (West 2002). In *Watts*, this court stated that a “presumption's mandatory nature [was] clearly demonstrated by its mandate that ‘it shall be a rebuttable presumption.’ ” (Emphasis in original.) *Watts*, 181 Ill.2d at 148, 229 Ill.Dec. 542, 692 N.E.2d 315, quoting 815 ILCS 515/3(c) (West 1994). In this context, we see no significant difference in the phrases “there is” and “it shall be.” In each instance, the legislature's intent to mandate application of a rebuttable presumption is unmistakable. The State admits that the phraseology of the statutory presumption in this case is “almost identical” to that used in the statute struck down in *Watts*. Neither statute contains permissive language. We see no significant difference between the language of this statutory presumption and the one this court held unconstitutional in *Watts*. We hold that subsection (b) of section 12–21.6 of the Code creates an unconstitutional mandatory rebuttable presumption.

*267 We find, however, that subsection (b) is severable from the remainder of the statute. A statutory provision containing an unconstitutional presumption may be severed from the rest of the statute when what remains is complete in itself and is capable of being executed wholly independently of the severed portion. *Pomykala*, 203 Ill.2d at 209, 271 Ill.Dec. 230, 784 N.E.2d 784. Provisions are not severable if they are essentially and inseparably connected in substance, such that the legislature would not have passed the valid portions of the statute absent the invalid portion. *Watts*, 181 Ill.2d at 151, 229 Ill.Dec. 542, 692 N.E.2d 315.”

INDIANA

IOWA

KANSAS

KENTUCKY

KY. REV. STAT. ANN. § 507.040 (2014) Manslaughter in the second degree

(1) A person is guilty of manslaughter in the second degree when he wantonly causes the death of another person, including, but not limited to, situations where the death results from the person's:

(a) Operation of a motor vehicle; or

(b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which create a grave risk of death to the child, thereby causing the death of the child.

(2) Manslaughter in the second degree is a Class C felony.

CREDIT(S)

HISTORY: 2000 c 521, § 18, eff. 7-14-00; 1984 c 165, § 27, eff. 7-13-84; 1974 c 406, § 63

Current with emergency effective legislation through the 2014 Regular Session.

LOUISIANA

LA. REV. STAT. ANN. § 295.3 (2014). Leaving children unattended and unsupervised in motor vehicles; prohibition; penalties

A. It is unlawful for any driver or operator to leave a child or children under the age of six years unattended and unsupervised in a motor vehicle.

B. (1) The term “unattended” as used in this Section means a child who has been left in a motor vehicle when the driver or operator of the vehicle is more than ten feet from the vehicle and unable to continuously observe the child.

(2) The term “unsupervised” as used in this Section means an unattended child when a person ten years of age or older is not physically present in the motor vehicle.

C. (1) A law enforcement officer who observes a child left unattended and unsupervised for a period in excess of ten minutes in violation of the provisions of this Section shall use whatever means are reasonably necessary to protect the child and remove the child from the motor vehicle.

(2) If the child is removed from the immediate area by a law enforcement officer pursuant to the provisions of this Section, the law enforcement officer shall place notification on the motor vehicle. The law enforcement officer shall hold the child until the parent or guardian returns.

D. Whoever violates this Section shall be fined not more than five hundred dollars, or imprisoned for not more than six months, or both. For each second or subsequent offense, the defendant shall be subject to imprisonment, with or without hard labor, of not less than one year nor more than two years and a fine of not less than one thousand dollars nor more than two thousand dollars, or both.

E. Any law enforcement officer acting in good faith pursuant to the provisions of this Section shall have immunity from any civil liability that otherwise might be incurred or imposed.

CREDIT(S)

Added by Acts 2003, No. 1032, § 3. Amended by Acts 2005, No. 30, § 1.

Current through the 2014 Regular Session with Acts effective on or before December 31, 2014.

MAINE

MARYLAND

MD. CODE ANN., CRIM. LAW § 5-801 (2014). Child locked in building

In general

(a) A person who is charged with the care of a child under the age of 8 years may not allow the child to be locked or confined in a dwelling, building, enclosure, or motor vehicle while the person charged is absent and the dwelling, building, enclosure, or motor vehicle is out of the sight of the person charged unless the person charged provides a reliable person at least 13 years old to remain with the child to protect the child.

Violation

(b) A person who violates this section is guilty of a misdemeanor and on conviction is subject to a fine not exceeding \$500 or imprisonment not exceeding 30 days, or both.

CREDIT(S)

P.A.1931, No. 328, § 135a, added by P.A.2008, No. 519, Eff. April 1, 2009

MASSACHUSETTS

MICHIGAN

MICH. COMP. LAWS § 750.135a (2014). Leaving child unattended in vehicle under circumstances posing unreasonable risk of harm or injury to child

Sec. 135a. (1) A person who is responsible for the care or welfare of a child shall not leave that child unattended in a vehicle for a period of time that poses an unreasonable risk of harm or injury to the child or under circumstances that pose an unreasonable risk of harm or injury to the child.

(2) A person who violates this section is guilty of a crime as follows:

(a) Except as otherwise provided in subdivisions (b) to (d), the person is guilty of a misdemeanor punishable by imprisonment for not more than 93 days or a fine of not more than \$500.00, or both.

(b) If the violation results in physical harm other than serious physical harm to the child, the person is guilty of a misdemeanor punishable by imprisonment for not more than 1 year or a fine of not more than \$1,000.00, or both.

(c) If the violation results in serious physical harm to the child, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$5,000.00, or both.

(d) If the violation results in the death of the child, the person is guilty of a felony punishable by imprisonment for not more than 15 years or a fine of not more than \$10,000.00, or both.

(3) As used in this section:

(a) "Child" means an individual less than 6 years of age.

(b) "Physical harm" and "serious physical harm" mean those terms as defined in section 136b.

(c) "Unattended" means alone or without the supervision of an individual 13 years of age or older who is not legally incapacitated.

(d) "Vehicle" means that term as defined in section 79 of the Michigan vehicle code, 1949 PA 300, MCL 257.79.

CREDIT(S)

P.A.1931, No. 328, § 135a, added by P.A.2008, No. 519, Eff. April 1, 2009.

The statutes are current through P.A.2014, No. 249, 251-280, of the 2014 Regular Session, 97th Legislature.

MINNESOTA

MISSISSIPPI

MISSOURI

MONTANA

NEBRASKA

NEB. REV. STAT. ANN. § 28-710 (2014). Child Protection Act, how cited; terms, defined

1) Sections 28-710 to 28-727 shall be known and may be cited as the Child Protection and Family Safety Act.

(2) For purposes of the Child Protection and Family Safety Act:

(a) Alternative response means a comprehensive assessment of (i) child safety, (ii) the risk of future child abuse or neglect, (iii) family strengths and needs, and (iv) the provision of or referral for necessary services and support. Alternative response is an alternative to traditional response

and does not include an investigation or a formal determination as to whether child abuse or neglect has occurred, and the subject of the report shall not be entered into the central registry of child protection cases maintained pursuant to section 28-718;

(b) Child abuse or neglect means knowingly, intentionally, or negligently causing or permitting a minor child to be:

(i) Placed in a situation that endangers his or her life or physical or mental health;

(ii) Cruelly confined or cruelly punished;

(iii) Deprived of necessary food, clothing, shelter, or care;

(iv) Left unattended in a motor vehicle if such minor child is six years of age or younger;

(v) Sexually abused; or

(vi) Sexually exploited by allowing, encouraging, or forcing such person to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;

(c) Comprehensive assessment means an analysis of child safety, risk of future child abuse or neglect, and family strengths and needs on a report of child abuse or neglect. Comprehensive assessment does not include a determination as to whether the child abuse or neglect occurred but does determine the need for services and support to address the safety of children and the risk of future abuse or neglect;

(d) Department means the Department of Health and Human Services;

(e) Investigation means fact gathering related to the current safety of a child and the risk of future child abuse or neglect that determines whether child abuse or neglect has occurred and whether child protective services are needed;

(f) Law enforcement agency means the police department or town marshal in incorporated municipalities, the office of the sheriff in unincorporated areas, and the Nebraska State Patrol;

(g) Out-of-home child abuse or neglect means child abuse or neglect occurring in day care homes, foster homes, day care centers, residential child-caring agencies as defined in section 71-1926, and other child care facilities or institutions;

(h) Review, Evaluate, and Decide Team means an internal team of staff within the department and shall include no fewer than two supervisors or administrators and two staff members knowledgeable on the policies and practices of the department, including, but not limited to, the structured review process. County attorneys, child advocacy centers, or law enforcement agency personnel may attend team reviews upon request of a party;

(i) Traditional response means an investigation by a law enforcement agency or the department pursuant to section 28-713 which requires a formal determination of whether child abuse or neglect has occurred; and

(j) Subject of the report of child abuse or neglect means the person or persons identified in the report as responsible for the child abuse or neglect.

CREDIT(S)

Laws 1977, LB 38, § 149; Laws 1979, LB 505, § 1; Laws 1982, LB 522, § 3; Laws 1985, LB 447, § 10; Laws 1988, LB 463, § 42; Laws 1992, LB 1184, § 9; Laws 1994, LB 1035, § 2; Laws 1996, LB 1044, § 71; Laws 1997, LB 119, § 1; Laws 2005, LB 116, § 1; Laws 2013, LB 265, § 29, eff. May 26, 2013.

Current through : July 18, 2014

NEVADA

NEV. REV. STAT. ANN. § 202.575 (2014). Leaving child unattended in motor vehicle; penalty; exception

1. A parent, legal guardian or other person responsible for a child who is 7 years of age or younger shall not knowingly and intentionally leave that child in a motor vehicle if:

(a) The conditions present a significant risk to the health and safety of the child; or

(b) The engine of the motor vehicle is running or the keys to the vehicle are in the ignition,

unless the child is being supervised by and within the sight of a person who is at least 12 years of age.

2. A person who violates the provisions of subsection 1 is guilty of a misdemeanor. The court may suspend the proceedings against a person who is charged with violating subsection 1 and dismiss the proceedings against the person if the person presents proof to the court, within the time specified by the court, that the person has successfully completed an educational program satisfactory to the court. The educational program must include, without limitation, information concerning the dangers of leaving a child unattended or inadequately attended in a motor vehicle.

3. A law enforcement officer or other person rendering emergency services who reasonably believes that a violation of this section has occurred may, without incurring civil liability, use any reasonable means necessary to protect the child and to remove the child from the motor vehicle.

4. No person may be prosecuted under this section if the conduct would give rise to prosecution under any other provision of law.

5. The provisions of this section do not apply to a person who unintentionally locks a motor vehicle with a child in the vehicle.

6. As used in this section, "motor vehicle" means every vehicle which is self-propelled but not operated upon rails.

CREDIT(S)

Added by Laws 2005, c. 275, § 1.

2009 Legislation

Technical corrections were made to conform with Legislative Counsel Bureau revisions (2009).

NEW HAMPSHIRE

NEW JERSEY

NEW MEXICO

NEW YORK

National Center for Prosecution of Child Abuse

National District Attorneys Association

http://www.ndaa.org/ncpca_state_statutes.html

NORTH CAROLINA

NORTH DAKOTA

OHIO

OKLAHOMA

OKLA. STAT. ANN. TIT. 47, § 11-1119 (2014). Definitions--Unattended child or vulnerable adult in motor vehicle prohibited--Exception--Penalty

A. As used in the Forget-Me-Not Vehicle Safety Act:

1. "Person responsible for a child" means a custodial parent or legal guardian of a child, or a person who has been directed or authorized to supervise a child by that child's custodial parent or legal guardian;
2. "Unattended" means beyond a person's direct ability to care for or come to the aid of the unaccompanied person; and
3. "Motor vehicle" means the same as defined in Section 1-134 of Title 47 of the Oklahoma Statutes.

B. A person responsible for a child who is six (6) years of age or younger, or a caretaker of a vulnerable adult as defined by Section 10-103 of Title 43A of the Oklahoma Statutes, shall not leave that child or vulnerable adult unattended in a motor vehicle if the conditions, including, but not limited to, extreme weather, inadequate ventilation, or hazardous or malfunctioning components within the vehicle present a risk to the health or safety of the unattended child or vulnerable adult.

C. It shall not be considered a violation of this section if the child or vulnerable adult is accompanied in the motor vehicle by a person at least twelve (12) years of age who is not mentally incompetent as defined by Section 1-103 of Title 43A of the Oklahoma Statutes.

D. Any person convicted of violating the provisions of this section shall be guilty of a misdemeanor and shall be punished by:

1. A fine of not less than Fifty Dollars (\$50.00) upon a first conviction;
2. A fine of not less than One Hundred Dollars (\$100.00) and ordered to perform community service of not less than fifty (50) hours upon a second conviction; and
3. A fine of not less than Two Hundred Dollars (\$200.00) upon a third or subsequent conviction, and the full record of that person's convictions of the violations of this section shall be submitted to the Department of Human Services for evaluation.

E. Any person convicted of violating the provisions of this section who has left a child or vulnerable adult unattended in a motor vehicle on the premises of any establishment which holds any license for the sale of alcoholic beverages for consumption on the premises pursuant to Section 521 of Title 37 of the Oklahoma Statutes, and who has consumed any alcoholic beverage during the period of time the child or vulnerable adult has been unattended, shall be punished by a fine of not less than Five Hundred Dollars (\$500.00).

F. Nothing in this section precludes prosecution under any other provision of law.

CREDIT(S)

Laws 2008, c. 343, § 2.

Current with chapters of the Second Regular Session of the 54th Legislature (2014) effective July 1, 2014.

OREGON

PENNSYLVANIA

75 PA. CONS. STAT. ANN. § 3701.1 (2014). Leaving an unattended child in a motor vehicle

(a) General rule.--A person driving or in charge of a motor vehicle may not permit a child under six years of age to remain unattended in the vehicle when the motor vehicle is out of the person's sight and under circumstances which endanger the health, safety or welfare of the child.

(a.1) Applicability.--This section shall apply to the highways and trafficways of this Commonwealth and, for the purposes of this section only, the term "trafficways" shall include, but not be limited to, parking lots.

(b) Penalty.--A person who violates this section commits a summary offense. It is a separate offense for each child left unattended.

CREDIT(S)

1991, July 19, P.L. 88, No. 20, § 2, effective in 90 days. Amended 1993, July 2, P.L. 408, No. 58, § 6, effective in 60 days; 2006, July 10, P.L. 1086, No. 113, § 3, effective in 60 days [Sept. 8, 2006].

Current through 2014 Regular Session Acts 1 to 104, 107 to 113, 115, 116, 119 to 121, 123 to 129

RHODE ISLAND

**R.I. GEN. LAWS § 31-22-22.1 (2014). Child passenger protection--
Warnings of hazard and risk**

(a) All law enforcement officers in this state are authorized to provide a verbal warning to any person who shall be deemed to have left a child under the age of seven (7) unattended in a motor vehicle. The warning shall apprise the offending person of the dangers of this practice including, but not limited to, the risk of kidnapping and/or abduction, and the dangers which may result from the accumulation of excessive temperatures within the motor vehicle.

(b) No fine or sanction shall be imposed for a violation of this section, other than a verbal warning, and no record of any kind shall be maintained of the warning.

SOUTH CAROLINA

SOUTH DAKOTA

TENNESSEE

TENN. CODE ANN. § 55-10-801 (2014). Tennessee Unattended Children in Motor Vehicle Safety Act

This part shall be known and may be cited as the "Tennessee Unattended Children in Motor Vehicle Safety Act."

TENN. CODE ANN. § 55-10-802 (2014). Definitions

As used in this part, unless the context otherwise requires:

(1) "Motor vehicle" means any self-propelled vehicle, including a truck, truck tractor, motor bus, or other vehicle not operated exclusively or driven on fixed rails or tracks; and

(2) "Unattended child" means a child younger than seven (7) years of age who is not accompanied by another person who is at least thirteen (13) years of age.

CREDIT(S)

2007 Pub.Acts, c. 214, § 4, eff. July 1, 2007.

T. C. A. § 55-10-803, TN ST § 55-10-803

Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

TENN. CODE ANN. § 55-10-803 (2014). Unattended children in motor vehicles; penalty

(a) It is an offense for a person responsible for a child younger than seven (7) years of age to knowingly leave that child in a motor vehicle located on public property or while on the

premises of any shopping center, trailer park, or any apartment house complex, or any other premises that is generally frequented by the public at large without being supervised in the motor vehicle by a person who is at least thirteen (13) years of age, if:

(1) The conditions present a risk to the child's health or safety;

(2) The engine of the motor vehicle is running; or

(3) The keys to the motor vehicle are located anywhere inside the passenger compartment of the vehicle.

(b) A violation of this section is a Class B misdemeanor punishable only by a fine of two hundred dollars (\$200) for the first offense.

(c) A second or subsequent violation of this section is a Class B misdemeanor punishable only by a fine of five hundred dollars (\$500).

CREDIT(S)

2007 Pub.Acts, c. 214, § 4, eff. July 1, 2007.

T. C. A. § 55-10-803, TN ST § 55-10-803

Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

TENN. CODE ANN. § 55-10-804 (2014). Violators; community education; fees; records inspection

(a) Any person violating this part may be required, at the discretion of the court, to attend a community education course approved by the department of safety that includes education on the dangers of leaving young children unattended in motor vehicles in addition to or in lieu of any portion of other penalty imposed. If the course is approved by the department, it may be operated and conducted by a:

(1) County, municipality or other entity of local government;

(2) Nonprofit organization as defined by the Internal Revenue Code, 26 U.S.C. § 501(c)(3); or

(3) Private entity; provided, that the entity meets all of the requirements of § 40-35-302(g) for private entities providing misdemeanor probation supervision services.

(b) A reasonable fee between fifty dollars (\$50.00) and one hundred seventy-five dollars (\$175) may be assessed for the community education course. No fee shall be assessed upon proof of a person's inability to pay. The fee shall apply only to community education courses that may be required pursuant to this section, and shall not apply to any program offered pursuant to title 49, chapter 1, or to any other driving instruction school.

(c) By operating a community education course pursuant to subsection (a), the entity operating or conducting the course consents to the inspection of all records concerning the course by the department of safety; provided, that inspection made pursuant to this subsection (c) shall not preclude inspection of any records pursuant to any other applicable law.

(d) Each court clerk shall provide a list of approved entities in the county to any person ordered to attend a community education course.

(e) Nothing in this section shall be construed to prohibit prosecution under any other provision of law.

CREDIT(S)

2007 Pub.Acts, c. 214, § 4, eff. July 1, 2007.

T. C. A. § 55-10-803, TN ST § 55-10-803

Current with laws from the 2014 Second Reg. Sess., eff. through June 30, 2014

TEXAS

TEX. PENAL CODE ANN. § 22.10 (2014). Leaving a Child in a Vehicle

(a) A person commits an offense if he intentionally or knowingly leaves a child in a motor vehicle for longer than five minutes, knowing that the child is:

(1) younger than seven years of age; and

(2) not attended by an individual in the vehicle who is 14 years of age or older.

(b) An offense under this section is a Class C misdemeanor.

CREDIT(S)

Added by Acts 1984, 68th Leg., 2nd C.S., ch. 24, § 1, eff. Oct. 2, 1984. Amended by Acts 1993, 73rd Leg., ch. 900, § 1.01, eff. Sept. 1, 1994.

Current through the end of the 2013 Third Called Session of the 83rd Legislature

UTAH

UTAH CODE ANN. § 76-10-2202 (2014). Leaving a child unattended in a motor vehicle

(1) As used in this section:

(a) "Child" means a person who is younger than nine years old.

(b) "Enclosed compartment" means any enclosed area of a motor vehicle, including the passenger compartment, regardless of whether a door, window, or hatch is left open.

(c) "Motor vehicle" means an automobile, truck, truck tractor, bus, or any other self-propelled vehicle.

(2) A person who is responsible for a child is guilty of a class C misdemeanor if:

(a) the person intentionally, recklessly, knowingly, or with criminal negligence leaves the child in an enclosed compartment of a motor vehicle;

(b) the motor vehicle is on:

(i) public property; or

(ii) private property that is open to the general public;

(c) the child is not supervised by a person who is at least nine years old; and

(d) the conditions present a risk to the child of:

(i) hyperthermia;

(ii) hypothermia; or

(iii) dehydration.

(3) This section does not apply if the person's conduct that constitutes a violation of this section is subject to a greater penalty under another provision of state law.

(4) This section preempts enforcement of a local law or ordinance that makes it an infraction or a criminal offense to engage in the conduct that constitutes a misdemeanor under this section.

(5) Notwithstanding any provision of state law to the contrary, a conviction under this section may not be used by a state or local government entity as grounds for revoking, refusing to grant, or refusing to renew, a license or permit, including a license or permit relating to the provision of day care or child care.

CREDIT(S)

Laws 2011, c. 204, § 1, eff. May 10, 2011.

U.C.A. 1953 § 76-10-2202, UT ST § 76-10-2202
Current through 2014 General Session.

VERMONT

VIRGINIA

WASHINGTON

WASH. REV. CODE . § 46.61.685 (2014). Leaving children unattended in standing vehicle with motor running--Penalty

(1) It is unlawful for any person, while operating or in charge of a vehicle, to park or willfully allow such vehicle to stand upon a public highway or in a public place with its motor running, leaving a minor child or children under the age of sixteen years unattended in the vehicle.

(2) Any person violating this section is guilty of a misdemeanor. Upon a second or subsequent conviction for a violation of this section, the department shall revoke the operator's license of such person.

CREDIT(S)

[2003 c 53 § 246, eff. July 1, 2004; 1990 c 250 § 57; 1961 c 151 § 2. Formerly RCW 46.56.230.]

Current with 2014 Legislation effective on June 12, 2014, the General Effective Date for the 2014 Regular Session, and other 2014 Legislation effective through October 1, 2014

WEST VIRGINIA

WISCONSIN

WIS. STAT. ANN. § 948.53 (2014). Child unattended in child care vehicle

(1) Definitions. In this section:

(a) "Child care provider" means a child care center that is licensed under s. 48.65(1), a child care provider that is certified under s. 48.651, or a child care program that is established or contracted for under s. 120.13(14).

(b) "Child care vehicle" means a vehicle that is owned or leased by a child care provider or a contractor of a child care provider and that is used to transport children to and from the child care provider.

(2) No child left unattended. (a) No person responsible for a child's welfare while the child is being transported in a child care vehicle may leave the child unattended at any time from the time the child is placed in the care of that person to the time the child is placed in the care of another person responsible for the child's welfare.

(b) Any person who violates par. (a) is guilty of one of the following:

1. A Class A misdemeanor .
2. A Class I felony if bodily harm is a consequence.
3. A Class H felony if great bodily harm is a consequence.
4. A Class G felony if death is a consequence.

CREDIT(S)

2009 Legislation: 2009 Act 185 amended subsec. (1)(a).

2007 Legislation: 2007 Act 80 renumbered and amended subsec. (2)(b) as (2)(b)(intro.) and 1. and created subsec. (2)(b)2. to 4.

Current through 2013 Act 380, published 4/25/2014

WYOMING

FEDERAL LEGISLATION/ U.S. TERRITORIES

FEDERAL LEGISLATION

**Pub.L. 112-141, Div. C, Title I, § 31504, July 6, 2012, 126 Stat. 775,
provided that:**

“(a) Safety research initiative.--The Secretary [Secretary of Transportation] may initiate research into effective ways to minimize the risk of hyperthermia or hypothermia to children or other unattended passengers in rear seating positions.

“(b) Research areas.--In carrying out subsection (a), the Secretary [Secretary of Transportation] may conduct research into the potential viability of--

“(1) vehicle technology to provide an alert that a child or unattended passenger remains in a rear seating position after the vehicle motor is disengaged; or

“(2) public awareness campaigns to educate drivers on the risks of leaving a child or unattended passenger in a vehicle after the vehicle motor is disengaged; or

“(3) other ways to mitigate risk.

“(c) Coordination with other agencies.--The Secretary [Secretary of Transportation] may collaborate with other Federal agencies in conducting the research under this section.”

[Except as otherwise provided, Divisions A, B, C (other than amendments to 16 U.S.C.A. § 777c and 49 U.S.C.A. § 31104, and provisions set out as notes under 49 U.S.C.A. §§ 31100 and 31301), and E of Pub.L. 112-141, take effect on Oct. 1, 2012, see Pub.L. 112-141, § 3(a), set out as a note under 23 U.S.C.A. § 101.]

AMERICAN SAMOA

GUAM

GUAM CODE ANN. TIT. 9, § 70.44.2 (2014). Leaving Children Unattended or Unsupervised in Motor Vehicles; Penalty; Authority of Law Enforcement Officer.

(a) A parent, legal guardian, or other person, at least twelve (12) years of age, responsible for a child five (5) years of age or younger, may not leave such child unattended or unsupervised in a motor vehicle:

(1) For a period in excess of fifteen (15) minutes; or

(2) For any period of time if the motor of the vehicle is running or the health of the child is in danger.

(b) Any person who violates the provisions of Subsection (a)(1) commits a petty misdemeanor.

(c) Any person who violates the provisions of Subsection (a)(2) is guilty of a violation, punishable by a fine not less than Fifty Dollars (\$50) and not more than Five Hundred Dollars (\$500).

(d) Any person who violates Subsection (a) and in so doing causes serious bodily injury, permanent disability, or permanent disfigurement to a child commits a felony of the third degree.

(e) Any law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle in violation of Subsection (a) may use whatever means are reasonably necessary to protect the minor child and to remove the child from the vehicle.

(1) If the child is removed from the immediate area, notification should be placed on the vehicle.

(2) The child shall be remanded to the custody of the Child Protective Services Division pursuant to Title 19 GCA, Chapter 13, unless the law enforcement officer is able to locate the parents or legal guardian or other person responsible for the child.

SOURCE: Added as § 70.45 by P.L. 29-044:1 (Jan. 2, 2008), which was already occupied.
Renumbered by Compiler.
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PUERTO RICO

VIRGIN ISLANDS