

# SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/SB 1224

SPONSOR: Criminal Justice Committee and Senator Dawson

SUBJECT: Motor Vehicle/Unattended Children

DATE: April 3, 2003

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Dowds</u>	<u>Whiddon</u>	<u>CF</u>	<u>Favorable</u>
2.	<u>Erickson</u>	<u>Cannon</u>	<u>CJ</u>	<u>Favorable/CS</u>
3.	_____	_____	<u>JU</u>	_____
4.	_____	_____	<u>FT</u>	_____
5.	_____	_____	<u>AP</u>	_____
6.	_____	_____	_____	_____

## I. Summary:

Committee Substitute for Senate Bill 1224 amends s. 316.6135, F.S., to modify the infraction of leaving children unattended or unsupervised in a motor vehicle and to increase the penalties for this infraction. Specifically, the CS increases from 6 years to 8 years the age of the child who may not be left in an unattended or unsupervised motor vehicle. The person who can be considered responsible for the child, other than the parent or legal guardian, and, in turn, held responsible for leaving the child unattended or unsupervised, is more specifically defined to apply to a person over 12 years of age. The CS removes the stipulation that a violation has occurred at the point the child has been left in the motor vehicle in excess of 15 minutes, unless the motor vehicle was running or the health of the child was in danger.

The CS increases fines that can be imposed with a violation of this infraction. A first violation is punishable by a fine of not more than \$200 (current law imposes a \$100 fine for a violation, regardless of whether it is a first or subsequent violation) and a fine of not less than \$500 or more than \$1,000 for a second or subsequent violation if the motor vehicle was running or the health of the child was in danger.

This CS substantially amends section 316.6135 of the Florida Statutes.

## II. Present Situation:

Section 316.6135, F.S., provides for a noncriminal traffic infraction for leaving a child unattended or unsupervised in a motor vehicle. Specifically, a parent, legal guardian, or other person taking responsibility for the child is prohibited from leaving a child under the age of 6 years unattended or unsupervised in a motor vehicle for a period of time in excess of 15

minutes. If the motor vehicle is running or the health of the child is in danger, such persons are prohibited from leaving a child unattended or unsupervised for any period of time.

Violation of this provision is considered a noncriminal traffic infraction which is punishable by a fine in the following amounts:

- Up to \$100; or
- Between \$50 and \$500 if the motor vehicle was running or the health of the child was in danger.

Law enforcement officers are authorized to use any means necessary to protect the child or remove the child from the vehicle if a child is found unattended or unsupervised in violation of this provision. If a child who is removed from the vehicle is also removed from the immediate area, notification is to be placed on the vehicle. If law enforcement is unable to locate the parent or person responsible for the child, the child is to be placed in the custody of the Department of Children and Families, pursuant to ch. 39, F.S., which sets forth the provisions pertaining to child protection and dependency proceedings.

Based on the danger which the child who is left unattended or unsupervised is in, the parent, legal guardian, or person responsible for the child may be charged with a child abuse or neglect offense pursuant to ch. 827, F.S. It is reported that under these circumstances, the noncriminal traffic infraction may not be cited and, instead, the criminal charge is pursued.

For calendar year 2001, 607 citations were issued statewide for an infraction under this section. Some of the reasons why more citations may not be issued are that law enforcement officers do not normally patrol parking lots, which is where children are usually left unattended in a vehicle, and that a criminal charge was pursued rather than the issuance of a citation.

### **III. Effect of Proposed Changes:**

Committee Substitute for Senate Bill 1224 amends s. 316.6135, F.S., to modify the infraction of leaving children unattended or unsupervised in a motor vehicle and to increase the penalties for this infraction. Specifically, the CS increases from 6 years to 8 years the age of the child who may not be left in an unattended or unsupervised motor vehicle. The person who can be considered responsible for the child, other than the parent or legal guardian, and, in turn, held responsible for leaving the child unattended or unsupervised, is more specifically defined to apply to a person over 12 years of age. This revision provides clear direction as to the age of the child who can be left responsible for a young child in a motor vehicle for the purpose of this infraction. The CS removes the stipulation that a violation has occurred at the point the child has been left in the motor vehicle in excess of 15 minutes, unless the motor vehicle was running or the health of the child was in danger. Instead, the CS provides that a violation has occurred if the child is left unattended or unsupervised for any period of time.

The fines that can be imposed for a violation of this provision are increased by the CS as follows:

- The minimum fine that a person who violates this provision must pay is increased from \$100 to \$200; and

- A new fine of not less than \$500 or more than \$1,000 is added for a second or subsequent violation of this provision, if the vehicle was running or the health of the child was in danger.

The CS provides that the commission of this noncriminal traffic infraction and imposition of fines does not preclude the prosecution of the violator under any other provision of law.

The CS provides for an effective date of July 1, 2003.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

None.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

#### **V. Economic Impact and Fiscal Note:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

The issuing of citations and, in turn, imposition of fines may increase because law enforcement officers will no longer be required to wait 15 minutes before issuing a citation.

##### **C. Government Sector Impact:**

The Department of Highway Safety and Motor Vehicles reports that this CS will have no fiscal impact on the department.

#### **VI. Technical Deficiencies:**

None.

#### **VII. Related Issues:**

The Department of Highway Safety and Motor Vehicles reports that this CS will increase the enforceability of the statute because law enforcement officers will no longer be required to wait 15 minutes before taking enforcement action against a person who leaves a child unattended or

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unsupervised in a vehicle that is not running. Incidents in which a child's health is endangered will require an additional written report to be generated by an officer in order for the increased fines to be enforced.

**VIII. Amendments:**

None.

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This Senate staff analysis does not reflect the intent or official position of the bill's sponsor or the Florida Senate.

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