

# 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.)

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Prepared By: Children and Families Committee

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BILL: SB 910

INTRODUCER: Senator Dawson

SUBJECT: Unattended or Unsupervised Child in a Motor Vehicle

DATE: January 9, 2006

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sanford	Whiddon	CF	<b>Favorable</b>
2.	_____	_____	CJ	_____
3.	_____	_____	JA	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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## I. Summary:

Senate Bill 910 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. A violation of this section is increased from a traffic infraction to a second-degree misdemeanor. Additionally, if the violation results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is increased to a third degree felony.

This bill substantially amends section 316.6135 of the Florida Statutes.

## II. Present Situation:

Currently, s. 316.6135, F.S., provides for a non-criminal traffic infraction for leaving a child unattended or unsupervised in a motor vehicle. This section prohibits a parent, legal guardian, or other person responsible for a child from leaving a child under the age of six years unattended or unsupervised in a motor vehicle for a period 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 non-criminal 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 criminally for child abuse or neglect pursuant to ch. 827, F.S. It is reported that under these circumstances, the non-criminal traffic infraction may not be cited and, instead, the criminal charges are pursued.

According to the Department of Highway Safety and Motor Vehicles, 321 citations were issued statewide for this traffic infraction during FY 2004-05; 556 citations were issued in calendar year 2003.

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

Senate Bill 910 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. Violations of this section are increased from a traffic infraction to a second-degree misdemeanor. Additionally, if the violation results in great bodily harm, permanent disability, or permanent disfigurement to a child, the penalty is increased to third degree felony.

The bill provides for an effective date of July 1, 2006.

### **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:**

Persons who are convicted of violations of s. 316.6135, F.S., will be exposed to criminal penalties rather than the current penalties of fines ranging from \$50 to \$500. If convicted

of the new third-degree felony, the penalties include fines of up to \$5,000 and imprisonment for up to five years. If convicted of the new second-degree felony, the penalties include fines of up to \$10,000 and imprisonment for up to 15 years. Additionally, offenders who otherwise qualify for habitual offender sentencing may be exposed to habitual felony offender penalties of imprisonment for up to 30 years for the second degree felony.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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

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## **VIII. Summary of Amendments:**

None.

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