

**The Florida Senate**  
**PROFESSIONAL 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: Criminal Justice Committee

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BILL: SB 2

INTRODUCER: Senators Dawson, Lynn, and others

SUBJECT: Unattended Child in Motor Vehicle

DATE: March 19, 2007

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

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Toman</u>	<u>Jameson</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Dugger</u>	<u>Cannon</u>	<u>CJ</u>	<b>Favorable</b>
3.	_____	_____	_____	_____
4.	_____	_____	_____	_____
5.	_____	_____	_____	_____
6.	_____	_____	_____	_____

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**I. Summary:**

Senate Bill 2 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 violation is increased to a third degree felony.

This bill substantially amends section 316.6135 of the Florida Statutes.

**II. Present Situation:**

In 2006, as many as 742 children in the United States were injured or killed as the result of being left unattended in and around motor vehicles.<sup>1</sup> Between 2002 and 2006, of all the non-traffic fatalities of children under 15 years of age in the United States, approximately 19.6 percent resulted from hyperthermia and 2.1 percent resulted from power window strangulation after a child was left unattended in a vehicle.<sup>2</sup> Between 1995 and 2002 in the United States, at least 171 children died in a vehicle as the result of heat; of those fatalities, 82 percent of the children were in the vehicle for less than one hour.<sup>3</sup>

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<sup>1</sup> <http://kidsandcars.org> (last visited March 11, 2007). No federal or state agencies collect information related to deaths and injuries that occur as non-traffic incidents on private property, but Kids and Cars maintains its own national database tracking deaths and injuries to children left unattended in and around motor vehicles.

<sup>2</sup> Id.

<sup>3</sup> A. Guard and S.S. Gallagher, Heat Related Deaths to Young Children in Parked Cars: An Analysis of 171 Fatalities in the United States, 1995 – 2002, Injury Prevention (2005).

In Florida, from 1990 to the present, at least 102 children under the age of 15 died in non-traffic incidents.<sup>4</sup> In 2004 alone, ten children died due to hyperthermia after being left in cars or entering vehicles that were unlocked.<sup>5</sup>

Studies show that temperatures rise an average of 19 degrees in the first ten minutes after a car is closed up, and rise an average of 43 degrees within one hour, even in relatively mild temperatures (as low as 72 degrees). Heatstroke occurs when the core body temperature reaches 104 degrees, and children's bodies warm up at a rate three to five times faster than adult's bodies, making them even more susceptible to heat related injury.<sup>6</sup> In addition to heat related injuries, children left unattended in vehicles have been injured and died from strangulation by a power window, from accidentally setting the car in motion, from carbon monoxide poisoning, from falling out of the vehicle and being run over, from choking and from abduction.<sup>7</sup> Deaths and injuries caused by leaving children unattended in motor vehicles are predictable and preventable.

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.

According to the Department of Highway Safety and Motor Vehicles, 300 citations were issued statewide for this traffic infraction during FY 2004-05 and 318 citations were issued for this traffic infraction during FY 2005-06.

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<sup>4</sup> <http://kidsandcars.org> (last visited March 11, 2007).

<sup>5</sup> 2004 Florida Abuse Death Review Report found at [www.doh.state.fl.us/cms/CADR/CADRrpt.pdf](http://www.doh.state.fl.us/cms/CADR/CADRrpt.pdf) (last visited March 9, 2007).

<sup>6</sup> Jan Null, *Hyperthermia Deaths of Children in Vehicles* (updated February 7, 2007), available at <http://ggweather.com/heat> (last visited March 6, 2007) and published in *Pediatrics* (2005).

<sup>7</sup> <http://kidsandcars.org> (last visited March 11, 2007).

**III. Effect of Proposed Changes:**

Senate Bill 2 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, punishable by potential imprisonment up to 60 days and/or a fine not exceeding \$500.<sup>8</sup> 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, punishable by potential imprisonment up to 5 years and/or a fine not exceeding \$5,000.<sup>9</sup>

The bill provides for an effective date of July 1, 2007.

**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 a violation of s. 316.6135, F.S., will be subject to criminal penalties, including potential imprisonment up to 60 days and/or a fine not exceeding \$500 for a violation resulting in no injury, and potential imprisonment up to 5 years and/or a fine not exceeding \$5,000 if great bodily harm results.

**C. Government Sector Impact:**

According to the Criminal Justice Impact Conference (March 6, 2007), the fiscal impact on the Department of Corrections will be insignificant.

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<sup>8</sup> s. 775.082 or s. 775.083, F.S.

<sup>9</sup> s. 775.082, s. 775.083, or s. 775.084, F.S.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

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This Senate Professional 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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