

**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 667                      Offense of Leaving a Child Unattended or Unsupervised in a Motor Vehicle  
**SPONSOR(S):** Gibbons and others  
**TIED BILLS:**                              **IDEN./SIM. BILLS:** SB 2

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REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	_____	<u>Kramer</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	_____	_____	_____
3) <u>Policy &amp; Budget Council</u>	_____	_____	_____
4) _____	_____	_____	_____
5) _____	_____	_____	_____

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**SUMMARY ANALYSIS**

Currently, s. 316.6135, F.S., 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.

A violation of this section is a non-criminal traffic infraction which is punishable by a fine of up to \$100; or between \$50 and \$500 if the motor vehicle was running or the health of the child was in danger.

HB 667 makes this offense a second degree misdemeanor, punishable by up to 60 days in jail and a fine of up to \$500. The bill also provides that if any person commits this offense and in so doing causes great bodily harm, permanent disability or permanent disfigurement to a child, the offense is a third degree felony, punishable by up to five years in prison and a fine of up to \$5,000.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Personal responsibility -- This bill encourages responsible behavior by increasing the severity of the sanctions that can be imposed for the offense leaving a child unattended in a motor vehicle.

Provide limited government: The bill makes it a criminal offense rather than a non-criminal traffic infraction to leave a child unattended in a motor vehicle.

#### B. EFFECT OF PROPOSED CHANGES:

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.

A violation of this section is 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.

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.

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.

HB 667 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 a fine not exceeding \$500. 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 up to 5 years in prison and a fine not exceeding \$5,000.

#### C. SECTION DIRECTORY:

Section 1. Amends s. 316.6135, F.S. relating to leaving a child unattended or unsupervised in a motor vehicle.

Section 2. Provides effective date of July 1, 2007.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

There would be an indeterminate, but likely minimal, decrease to the following state trust funds due to reclassifying this offense from a non-criminal traffic infraction to a misdemeanor: Child Welfare Training Trust Fund, Brain and Spinal Cord Injury Rehabilitation Trust Fund, and Domestic Violence Trust Fund in the Department of Children and Family Services; the Emergency Medical Services Trust Fund in the Department of Health; Criminal Justice Standards and Training Trust Fund and Operating Trust Fund in the Department of Law Enforcement; and the endowment fund of the Florida Endowment Foundation for Vocational Rehabilitation. In addition, there would be an indeterminate, but likely minimal impact to state General Revenue collections although it is impossible to estimate whether collections would increase or decrease. (see ss. 316.660, 318.21, and 938.01, F.S. for current disbursement of non-criminal traffic fines). While fines resulting from non-criminal traffic infractions are disbursed to the funds indicated previously, fines collected pursuant to misdemeanor offenses are generally deposited into the Clerks of the Court Fine and Forfeiture Trust Fund for use by the Clerk of the Court. Excess revenue in the Clerks' Fine and Forfeiture Trust Fund is eventually deposited into the state General Revenue Fund (see 34.191, 28.37 and 142.01, F.S.).

#### 2. Expenditures:

On March 6, 2007, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

There would be an indeterminate, but likely minimal, decrease to revenue going to municipalities and an indeterminate, but likely minimal, increase going to the county Clerk of the Court. A portion of funds collected pursuant to non-criminal traffic infractions that occur within a municipality go to that municipality while fines assessed pursuant to a criminal misdemeanor charge are retained by the Clerk of the Court (see 34.191, 28.37, 142.01, 216.660 and 318.21, F.S.).

#### 2. Expenditures:

The bill makes it a second degree misdemeanor, rather than a non-criminal traffic infraction to leave a child unattended in a vehicle. This may have a county jail impact. The Department of Highway Safety and Motor Vehicles reports that between July 1, 2005 and June 30, 2006, 315 drivers were cited for leaving a child unattended in a vehicle.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

Revenue and expenditure impact of this bill is expected to be minimal based on data from the Department of Highway Safety and Motor Vehicles which reports that 315 drivers were cited for leaving a child unattended in a vehicle. If all 315 drivers were fined the maximum \$500 under current law, the total revenue amount affected would be \$157,500 statewide.

## III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

The bill sponsor submitted the following statement:

Last year, as many as 742 children in the United States were killed or injured as a result of being left alone in a motor vehicle. Two years ago, in my own city of Hallandale Beach, a nine-month-old baby girl named Veronica Balta died of hyperthermia after her father left her in a car while he watched horse races at Gulfstream Park. Her death, and the deaths of those 742 other children, were made all the more tragic by the fact that they were preventable.

The purpose of this bill is to make people stop and think before they leave a child alone in a car. Currently, it is only a traffic infraction to do so. This bill would make leaving a child under age 6 alone in a car for more than 15 minutes (or for any period of time if the engine is running or the child's health is in danger) a 2nd degree misdemeanor, punishable by up to a \$500 fine and/or up to 60 days in jail. If the violation results in great bodily harm, permanent disability or disfigurement, it becomes a 3rd degree felony, punishable by up to a \$5,000 fine and/or up to 5 years in jail.

It is my hope that by strengthening the penalties for leaving a child alone in a car, we make people realize how dangerous it is, and make sure that no more children needlessly die.

**IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**