

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1287 Child Care Facility Transportation

**SPONSOR(S):** Diamond & Others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 252

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Children, Families & Seniors Subcommittee	17 Y, 0 N	Rahming	Brazzell
2) Health Care Appropriations Subcommittee	15 Y, 0 N	Fontaine	Clark
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

Heatstroke is exposure to high temperatures for an extended period of time. Vehicular heatstroke involves being trapped in a vehicle under these conditions. Young children, pets, and the elderly are at a higher risk of vehicular heatstroke, usually because they are more likely to be left or become trapped in vehicles. The national average of child heatstroke deaths per year since 1998 is 38. Since 1998, Florida has had the second largest number of child heatstroke deaths in vehicles: 96; second only to Texas: 132. Child care facilities were responsible for seven of the 96 Florida deaths.

HB 1287 creates the "Child Safety Alarm Act" and requires that after January 1, 2022, vehicles used by child care facilities and large child care homes to transport children be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the Department of Children and Families to adopt rules to implement the bill.

The bill is expected to have a significant, negative fiscal impact on private entities and certain local governments and an insignificant, negative fiscal impact on state government. See Fiscal Comments.

The bill has an effective date of October 1, 2021.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

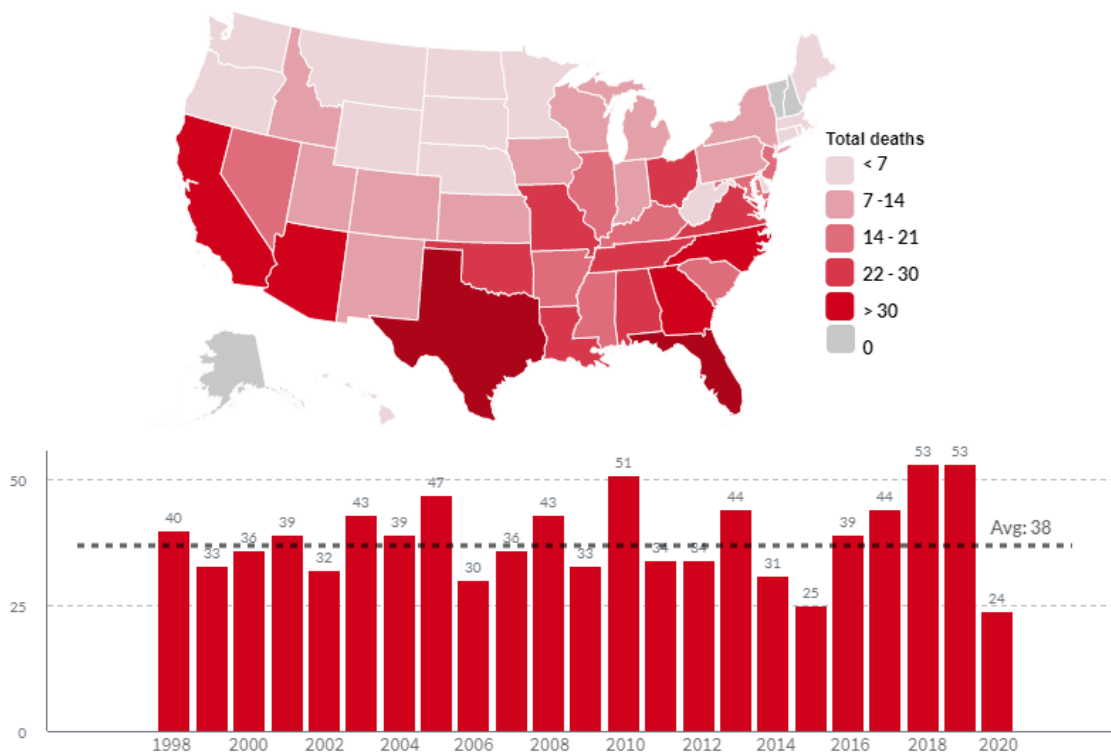
### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

Heatstroke is exposure to high temperatures for an extended period of time. Vehicular heatstroke involves being trapped in a vehicle under these conditions. Vehicular heatstroke can become fatal when the internal body core temperature reaches 107 degrees at which point the body is unable to cool itself down through normal processes such as perspiration.<sup>1</sup> Young children, pets, and the elderly are at a higher risk of vehicular heatstroke, usually because they are more likely to be left or become trapped in vehicles. Since 1998, 882 children have died nationwide due to vehicular heatstroke.<sup>2</sup> The national average of child heatstroke deaths per year since 1998 is 38. Fifty-five percent of these deaths involve children under the age of one.<sup>3</sup>

Since 1998, Florida has had the second largest number of child heatstroke deaths in vehicles, 96, second only to Texas, with 132:<sup>4</sup>

Child heatstroke deaths in vehicles, United States, 1998 - current



<sup>1</sup> Seattle Children's Hospital Research Foundation, Hot Cars and Kids- a Deadly Combination, available at <https://pulse.seattlechildrens.org/hot-cars-and-kids-a-deadly-combination/> (last visited Mar. 26, 2021).

<sup>2</sup> U.S. Department of Transportation (USDOT), Traffic Safety Marketing, *Child Safety: Heatstroke Prevention*, See Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, [https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?\\_ga=2.56158690.870054613.1615229487-1650636428.1615229487](https://www.trafficsafetymarketing.gov/get-materials/child-safety/heatstroke-prevention?_ga=2.56158690.870054613.1615229487-1650636428.1615229487) (last visited Mar. 26, 2021).

<sup>3</sup> Kids and Cars.org, Fact Sheet, <https://www.kidsandcars.org/wp-content/uploads/2020/01/Heatstroke-fact-sheet.pdf> (last visited Mar. 26, 2021).

<sup>4</sup> National Safety Council, Hot Car Deaths, <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited Mar. 26, 2021).

Forty-six of the 432 child vehicular heatstroke deaths from 2010-2020 in the U.S. occurred in Florida, with child care providers responsible for seven of the 46 deaths (15%):<sup>5</sup>

Florida Child Vehicular Heatstroke Deaths Profile: 2010-2020

Year	Total Deaths	Responsible Party			
		Parents	Child Care Providers	Others <sup>6</sup>	Unknown
2020	3	2		1	
2019	5	2	2		1
2018	5	5			
2017	6	1	2	3	
2016	5	2	1	1	1
2015	4	3		1	
2014	2	2			
2013	5	4		1	
2012	3	2	1		
2011	2	2			
2010	6	4	1	1	

## Technology Based Prevention

### *Automobile Manufacturers*

The auto industry has attempted to address child heatstroke deaths in vehicles for years. At the 2002 New York Auto Show, General Motors (GM) unveiled a system that would be able to detect the heartbeat of a child left in a car and then measure the vehicle's temperature. If it was becoming dangerously hot, it would sound the horn to alert a parent or passersby. GM later reported that the system was abandoned after it was found "not reliable enough to put into production."<sup>7</sup>

However, in 2020, Consumer Reports determined several reminder systems reliably worked, including:<sup>8</sup>

- GM's Rear Seat Reminder, which notes whether a rear door was opened up to 10 minutes before the vehicle is turned on or any time after the vehicle is turned on.
- Kia's Rear Occupant Alert, which incorporates motion detection and rear-door logic.
- Hyundai's Rear Occupant Alert, which incorporates motion detection and rear-door logic.
- Nissan's Rear Door Alert, which shows a warning in the instrument cluster and makes a single-tone chime if the rear door was opened before the trip, before the driver's door was opened; and
- Toyota's Rear Seat Reminder, which notes whether a rear door was opened within 10 minutes of the vehicle being turned on, or at any time after the vehicle has been turned on.

Currently, these systems are not widely available as standard equipment. However, the auto industry has committed to introducing rear-seat reminders that include a combination of auditory and visual alerts in essentially all cars and trucks by the 2025 model year.<sup>9</sup>

It is unclear how many of these systems, if any, currently are or will be available as standard equipment on the type of vehicles that child care facilities use.

<sup>5</sup> Email from Prof. Jan Null, Certified Consulting Meteorologist, Department of Meteorology & Climate Services, San Jose State University, RE: Updated spreadsheet on Child Vehicle Heat Stroke Deaths (Mar. 11, 2021). See also, Kids and Cars, 2018-2020 Child Hot Car Deaths, available at <https://www.kidsandcars.org/2018-u-s-child-hot-car-fatalities/>, <https://www.kidsandcars.org/2019-child-hot-car-deaths/>, and <https://www.kidsandcars.org/2020-child-hot-car-deaths/> (last visited Mar. 26, 2021).

<sup>6</sup> Others as used in this chart includes other relatives, such as cousins, a babysitter, and a girlfriend.

<sup>7</sup> Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger?* July 11, 2014, available at: <http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911> (last visited Mar. 26, 2021).

<sup>8</sup> Emily A. Thomas, Pd.D., Guide to Rear-Seat Reminder Systems: These built-in systems can help prevent heatstroke tragedies in cars and SUVs, Consumer Reports (July 29, 2020), <https://www.consumerreports.org/car-safety/guide-to-rear-seat-reminder-systems/> (last visited Mar. 12, 2021).

<sup>9</sup> *Id.*

Currently, the National Highway Traffic Safety Administration (NHTSA) does not require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.

### *Aftermarket Rear-Seat Reminder Systems*

There are numerous warning systems that alert a parent to a child left in a safety seat, shopping cart, or elsewhere, but federal regulators have questioned their efficacy.

According to a 2012 study by NHTSA and the Children's Hospital of Philadelphia, a preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that the devices were unreliable and limited in their effectiveness.<sup>10</sup>

The study also found several limitations in these products after conducting tests, including inconsistencies in arming sensitivity, variations in warning signal distance, potential interference from other electronic devices, children inadvertently disarming the device by slumping over or sleeping out of position, and limitations in the products' susceptibility to misuse or other common scenarios, such as a beverage spill. Many of the products tested require extensive setup work by caregivers and parents, potentially giving them a false sense of security. Moreover, since the devices are restraint-based, they wouldn't address the 20 to 40 percent of children who are killed in hot cars when they enter a vehicle without adult permission.<sup>11</sup>

Additional aftermarket products have been introduced since the 2012 NHTSA/Children's Hospital study, but the NHTSA has not studied them to determine their effectiveness.

### **Licensing Standards for Child Care Facilities and Large Family Child Care Homes**

The DCF licenses and regulates 62 of the 67 counties in Florida, establishing licensing standards that each licensed child care facility in the state must meet.<sup>12</sup> Five counties have local licensing authority and must meet or exceed the DCF standards:<sup>13</sup> Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

As of March 10, 2021, the DCF licenses:<sup>14</sup>

- 4,723 child care facilities. Child care facilities are child care centers or child care arrangements that:
  - Provide child care for more than five children unrelated to the operator; and
  - Receive payment, fee, or grant funds for the children receiving care, whether or not operated for profit;<sup>15</sup>
- 799 family day care homes. Family day care homes are occupied residences which:
  - Regularly provide children from at least two unrelated families child care; and
  - Receive payments, fees, or grants for the children receiving care, whether or not operated for profit;<sup>16</sup> and
- 250 large family child care homes. Large family child care homes are occupied residences that:

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<sup>10</sup> Consumer Reports, *Heatstroke Death a Risk to Children in Hot Cars* (July 24, 2019), available at <https://www.consumerreports.org/cro/news/2012/08/warning-systems-to-detect-children-left-in-hot-cars-found-unreliable-study-finds/index.htm>. (last visited Mar. 26, 2021).

<sup>11</sup> Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable*, CBS News, July 31, 2012, available at <https://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/> (last visited Mar. 26, 2021).

<sup>12</sup> S. 402.305, F.S.

<sup>13</sup> S. 402.306, F.S.

<sup>14</sup> Email from John Paul Fiore, Legislative Specialist, Florida Department of Children and Families, RE: HB 1287, regarding the number of facilities the DCF currently licenses (Mar. 11, 2021).

<sup>15</sup> S. 402.305(2), F.S.

<sup>16</sup> S. 402.305(8), F.S.

- Regularly provide children from at least two unrelated families child care;
- Receive payments, fees, or grants for the children receiving care, whether or not operated for profit; and
- Have at least two full-time child care personnel on the premises during the hours of operation.<sup>17</sup>

In addition, there are homes that are only registered by the agency and facilities that are exempt from licensure due to a religious affiliation.<sup>18</sup> As of December 2020, approximately 1,566 child care providers reported to the DCF that they transport children.<sup>19</sup>

Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including the requirement that minimum standards include accountability for children being transported.<sup>20</sup> The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes to follow in relation to vehicles that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.<sup>21</sup>

Providers are required to maintain a driver's log for all children being transported. This log must include:

- Each child's name;
- The date, time of departure;
- Time of arrival at the destination; and
- The signature of driver or in the case of travelling on foot, the signature of the child care personnel); and
- The signature of a second staff member to verify the driver's log and that all children have arrived safely and have left the vehicle.

Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver's log immediately to verify all children were accounted for and that the sweep was conducted. Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver's log to verify all children were accounted for and that the driver's log is complete.<sup>22</sup>

Current DCF licensing standards for child care facilities and large family child care homes do not address alarm systems in vehicles.

Currently, Palm Beach and Broward Counties have requirements similar to those proposed in the bill.<sup>23</sup> In 2019, however, a 2-year-old child died from vehicular heatstroke after a Broward County daycare van's driver disabled the required child safety alarm device and left the child in the van for approximately five hours.<sup>24</sup>

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<sup>17</sup> S. 402.302(11), F.S.

<sup>18</sup> S. 402.316, F.S.

<sup>19</sup> Florida Department of Children and Families, Agency Analysis of 2021 House Bill 1287, p. 6 (Dec. 14, 2020).

<sup>20</sup> S. 402.305, F.S.

<sup>21</sup> See rr. 65C-22.001(6) and 65C-20.13(8), F.A.C.

<sup>22</sup> *Id.*

<sup>23</sup> See Palm Beach County, Code of Ordinances ch. 1, art. XVII, § D (2011) and Broward County, Florida, Code of Ordinances ch. 7, art. 1, § 7-9 (2012).

<sup>24</sup> Lisa J. Huriash, *Driver turned off safety alarm on day care van where boy died, records show*, South Florida Sun Sentinel (Aug. 7, 2019), <https://www.sun-sentinel.com/local/broward/oakland-park/fl-ne-daycare-center-permanent-closing-noah-20190807-titbnfjhinct7dzvoxzwo53ya-story.html> (last visited Mar. 26, 2021).

Arkansas,<sup>25</sup> California,<sup>26</sup> Tennessee,<sup>27</sup> Texas,<sup>28</sup> and Wisconsin<sup>29</sup> also have alarm system requirements similar to those proposed in the bill.<sup>30</sup>

### **Effect of Proposed Changes**

HB 1287 creates the “Child Safety Alarm Act,” which amends s. 402.305, F.S., to require that on or after January 1, 2022, vehicles used by child care facilities and large family child care homes to transport children must have an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the DCF to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill also modifies existing minimum safety standards in statute pertaining to transportation for child care facilities. Under the bill, these standards must include:

- The required use of seat belts in all vehicles used by child care facilities and large family child care homes to transport children;
- Annual inspections for all such vehicles;
- Limitations on the number of children that may be transported within each vehicle;
- Procedures to ensure that children are not inadvertently left in vehicles when transported by the facility or home and that systems are in place to ensure accountability for children the facilities and homes transport.

HB 1287 specifies that child care facilities and large family child care homes are not responsible for the safe transport of children when they are being transported by a parent or guardian.

The bill provides an effective date of October 1, 2021.

#### **B. SECTION DIRECTORY:**

**Section 1:** Provides a short title.

**Section 2:** Amends s. 402.305, F.S., relating to licensing standards; child care facilities.

**Section 3:** Provides an effective date of October 1, 2021.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

#### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

##### **1. Revenues:**

None.

##### **2. Expenditures:**

The DCF’s workload will increase to establish and maintain a list of approved alarm manufacturers.<sup>31</sup> The DCF will also spend approximately \$6,500 for rule promulgation to adopt minimum safety standards for the alarm systems, however, this minimal fiscal impact can be absorbed through existing resources.<sup>32</sup> The costs associated with creating a new inspection

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<sup>25</sup> Ark. Code Ann. § 20-78-225.

<sup>26</sup> Cal. Vehicle Code § 28160.

<sup>27</sup> Tenn. Code Ann. § 71-3-502.

<sup>28</sup> Tex. Human Resources Code Ann. § 42.0424.

<sup>29</sup> Wis. Stat. § 48.658.

<sup>30</sup> Kids and Cars.org, State Laws Requiring Alarm Systems in Daycare Vehicle or School Buses, available at <https://www.kidsandcars.org/wp-content/uploads/2019/11/Daycare-Van-Alarm-State-Laws-11-8-19.pdf> (last visited Mar. 26, 2021).

<sup>31</sup> Florida Department of Children and Families, Agency Analysis of 2021 House Bill 1287, p. 6 (Dec. 14, 2020).

<sup>32</sup> *Id.*

template that includes new standards pertaining to this bill can also be absorbed by the DCF through normal business operations.<sup>33</sup>

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

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

The DCF reported approximately 1,566 child care providers currently offer a transportation service. These programs would be required to purchase, at a minimum, one of the alarm systems required by this bill.<sup>34</sup>

The fiscal impact on individual providers will vary based on unit cost, installation costs, and possible future warranty fees. The DCF anticipates the unit costs to vary from \$130 to \$156. Installation costs may range from \$100 to \$450 depending on the unit and installer.<sup>35</sup>

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill provides sufficient rulemaking authority to the DCF to implement the bill's provisions.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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<sup>33</sup> *Id.*

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*