

HOUSE OF REPRESENTATIVES STAFF FINAL BILL ANALYSIS

BILL #: CS/HB 591 Hot Car Death Prevention
SPONSOR(S): Children, Families & Seniors Subcommittee, Brannan and others
TIED BILLS: **IDEN./SIM. BILLS:** CS/SB 554

FINAL HOUSE FLOOR ACTION: 118 Y's 0 N's **GOVERNOR'S ACTION:** Pending

SUMMARY ANALYSIS

CS/HB 591 passed the House on February 15, 2024, and subsequently passed the Senate on February 21, 2024.

Heatstroke is a debilitating illness characterized by severe hyperthermia, profound central nervous system dysfunction, and additional organ and tissue damage. Vehicular heatstroke occurs when a person experiencing heatstroke cannot escape the vehicle in which the person is trapped.

Since 1998, Florida has lost 110 children to vehicular heatstroke. The Florida Uniform Traffic Control Law provides penalties if a child under the age of 6 is left unattended or unsupervised in a motor vehicle. Law enforcement cited 1,282 people statewide for leaving a child under the age of 6 unattended or unsupervised from 2012 to 2022.

A law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle may use whatever means are reasonably necessary to protect and remove the child from the vehicle. Current law advises a law enforcement officer to attach written notification to the vehicle when the officer removes a child from the immediate area. If the law enforcement officer cannot locate the child's parents or other person responsible for the child, the officer must deliver physical custody of the child to the Florida Department of Children and Families (DCF). In addition, current law authorizes the general public to rescue any vulnerable person by removing that person from a vehicle.

CS/HB 591 creates "Ariya's Act" in memoriam of Ariya Paige who died of a heatstroke after being left in a vehicle. The bill designates April as "Hot Car Death Prevention Month" to raise the public's awareness of the dangers of leaving children unattended in motor vehicles and to educate the public on how to prevent children from dying of vehicular heatstroke.

The bill encourages DCF, the Department of Health, the Department of Highway Safety and Motor Vehicles, local governments, and other agencies to sponsor events that promote awareness on the dangers of leaving a child unattended in a motor vehicle and methods to prevent hot car deaths of children. Specifically, these campaigns must address proper motor vehicle safety for children, the criminal penalties associated with leaving a child in a motor vehicle unattended or unsupervised, and the steps a bystander can take to rescue a vulnerable child in imminent danger.

The bill has no fiscal impact on the state or local governments.

Subject to the Governor's veto power, the effective date of this bill is July 1, 2024.

I. SUBSTANTIVE INFORMATION

A. EFFECT OF CHANGES:

Background

Vehicular Heatstroke and Child Mortality

Heat illness occurs when the elevation of the core body temperature surpasses the compensatory limits of thermoregulation. Heat illness is the result of environmental heat stress or exertion, or both, and represents a set of conditions that exist along a continuum from less severe (heat exhaustion) to potentially life threatening (heatstroke).¹

Heatstroke is a debilitating illness characterized clinically by the following conditions:

- Severe hyperthermia (i.e., a core body temperature of 104°F or greater),
- Profound central nervous system dysfunction (e.g., delirium, seizures, or coma), and
- Additional organ and tissue damage.

Even with medical intervention, heatstroke may have lasting effects. These effects include damage to the nervous system and other vital organs and decreased heat tolerance, making an individual more susceptible to subsequent episodes of heat illness. Furthermore, the continued manifestation of multiorgan system dysfunction after heatstroke increases patients' risk of mortality in the long-term. Multiorgan system failure is the ultimate cause of mortality from heatstroke.²

Vehicular heatstroke occurs when a person experiencing heatstroke cannot escape the vehicle in which the person is trapped. Vehicular heatstroke can become fatal when the internal body core temperature reaches 107°F – the point when the body cannot cool itself down. A child's body temperature rises three to five times faster than an adult's body temperature.³

Since 1998, 969 children have died nationwide due to vehicular heatstroke: 505 of these children (52.17%) were forgotten by a caregiver, and another 237 children were knowingly left behind by a caregiver (20.66%). More than half of these deaths were children under 2 years of age. Since 1998, Florida has lost 110 children to vehicular heatstroke,⁴ 7 of which occurred in 2023.⁵

Traffic Offenses and Criminal Penalties

Florida's Uniform Traffic Control Law (ch. 316, F.S.) addresses children left unattended or unsupervised in motor vehicles by prohibiting a parent, legal guardian, or other person responsible for a child under 6 years of age from leaving that child unattended or unsupervised in a motor vehicle. As the following infographic illustrates, the Florida Department of Highway Safety and Motor Vehicles (FLHSMV) reports that law enforcement cited 1,282 people statewide for leaving a child under the age of 6 unattended or unsupervised in Florida from 2012 to 2022.⁶

¹ Armed Forces Health Surveillance Division, *Heat Illness, Active Component, U.S. Armed Forces, 2021*, The Military Health System and Defense Health Agency (Apr. 1, 2022) <https://health.mil/News/Articles/2022/04/01/Update-Ht-MSMR> (last visited Jan. 29, 2024).

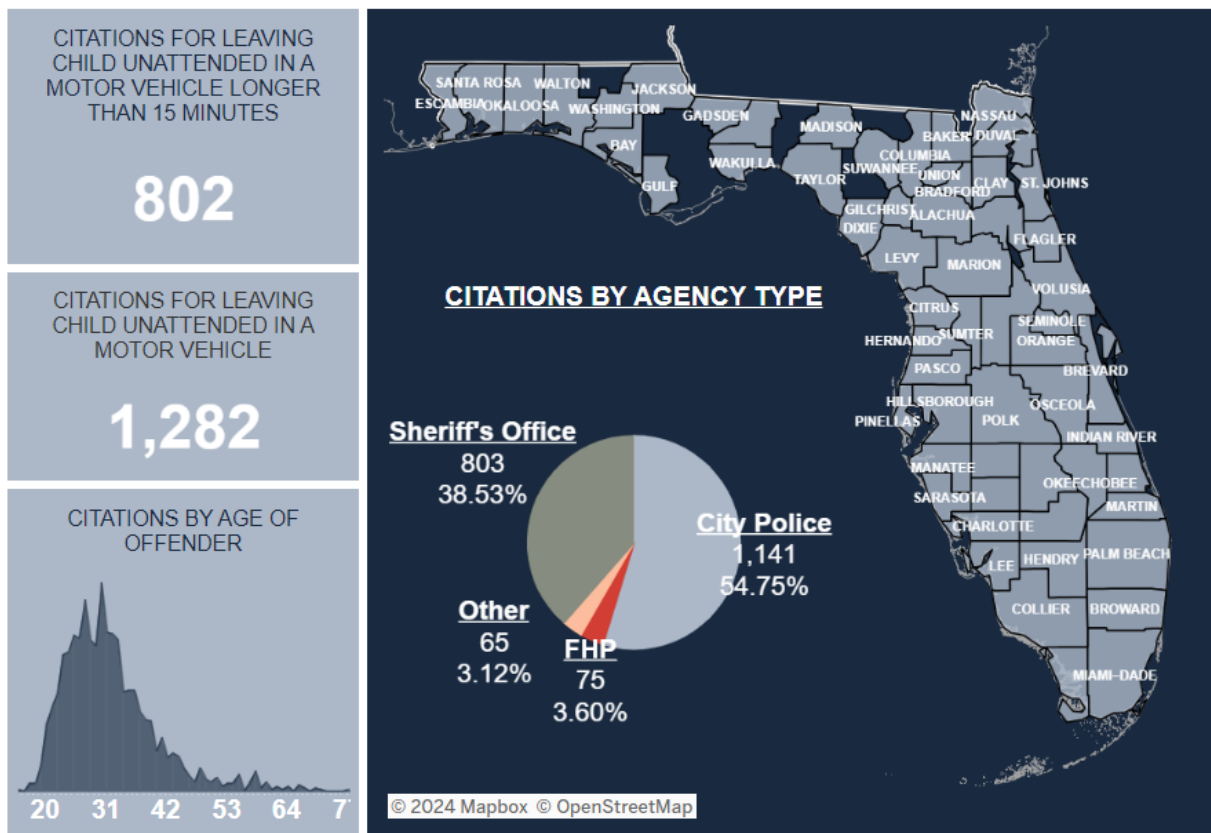
² *Id.*

³ National Highway Traffic Safety Administration, *Child Heatstroke Prevention: Prevent Hot Car Deaths*, U.S. Department of Transportation, <https://www.nhtsa.gov/campaign/heatstroke> (last visited Jan. 29, 2024).

⁴ National Safety Council, *Hot Car Deaths: Heatstroke deaths of children in vehicles*, <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited Jan. 29, 2024).

⁵ Jan Null, *Heatstroke Deaths of Children in Vehicles*, The San Jose State University Department of Meteorology & Climate Science (last updated Jan. 3, 2024) <https://www.noheatstroke.org/> (last visited Jan. 29, 2024). The National Weather Service of the National Oceanic and Atmospheric Administration sources its data from Jan Null's research.

⁶ Florida Department of Highway Safety and Motor Vehicles, *Child Safety: Car and Driveway Safety*, <https://www.flhsmv.gov/safety-center/child-safety/car-driveway-safety/> (last visited Jan. 29, 2024).



If someone leaves a child under the age of 6 unattended or unsupervised in a motor vehicle in one of the three following situations, current law imposes corresponding penalties.⁷

Situation	Penalty: No Serious Harm	Penalty: Great Bodily Harm, Permanent Disability, or Permanent Disfigurement
Child under age 6 left in vehicle over 15 minutes	Second degree misdemeanor ⁸	Third degree felony ⁹
Child under age 6 left in running vehicle	Noncriminal traffic infraction (\$500 maximum fine)	Third degree felony
Child under age 6 left in vehicle and health is in danger or appears in distress	Noncriminal traffic infraction (\$500 maximum fine)	Third degree felony

⁷ Ss. 316.6135(1)-(4), F.S.

⁸ A second-degree misdemeanor conviction generally carries a term of imprisonment not exceeding 60 days and, or a \$500 maximum fine. Ss. 775.082(4)(b), 775.083(1)(e), F.S.

⁹ A third-degree felony conviction generally carries a term of imprisonment not exceeding 5 years or a \$5,000 maximum fine. Ss. 775.082(3)(e), 775.083(1)(c), F.S. (However, ordinarily, a person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree. S. 827.03(2)(b), F.S.).

In the event of death, the prosecutor might choose to pursue criminal charges for, at the very least depending on the facts, aggravated manslaughter,¹⁰ and the family of the decedent minor child might seek legal advice on whether to sue in civil court for wrongful death.¹¹

In July 2023, 10-month-old Ariya Paige of Baker County died after her babysitter left her in a car for five hours during 95-degree weather. The Baker County Sheriff's Office subsequently arrested the babysitter and charged her with aggravated manslaughter of a child in violation of s. 782.07, F.S.¹²

Rescuer Actions

Current law authorizes a law enforcement officer who observes a child left unattended or unsupervised in a motor vehicle to use whatever means reasonably necessary to protect the minor child and to remove the child from the vehicle.¹³ Current law advises a law enforcement officer to attach written notification to the vehicle when the officer removes a child from the immediate area.¹⁴ If the law enforcement officer cannot locate the child's parents, legal guardian, or other person responsible for the child, the officer must deliver physical custody of the child to the Florida Department of Children and Families (DCF) for the purposes of a dependency court shelter hearing.¹⁵

In addition, current law authorizes the general public to rescue a vulnerable person¹⁶ by removing that person from a vehicle. The rescuer has immunity from civil liability for vehicle damage during the rescue effort if the rescuer:

- Determines the motor vehicle is locked or there is otherwise no reasonable method for the vulnerable person to exit the vehicle without assistance;
- Has a good faith and reasonable belief, based upon the known circumstances, that entry into a motor vehicle is necessary because the vulnerable person is in imminent danger of suffering harm;
- Ensures that law enforcement is notified or 911 called before entering the motor vehicle or immediately thereafter;
- Uses no more force than is necessary to enter the vehicle; and
- Remains with the vulnerable person in a safe location, in reasonable proximity to the motor vehicle, until law enforcement or other first responder arrives.¹⁷

¹⁰ A person who causes the death of any person under the age of 18 by culpable negligence commits aggravated manslaughter of a child, a felony of the first degree. s. 782.07(3), F.S.

¹¹ Ss. 768.16 – 768.26, F.S. The Florida Wrongful Death Act creates a civil cause of action when the death of a person is caused by the wrongful act or negligence (although the death was caused under circumstances constituting a felony) and the event would have entitled the person injured to maintain an action and recover damages if the death had not occurred.

¹² Baker County Sheriff's Office, Arrest Report Number BCSO23CR00421S, (Jul. 19, 2023) available at <https://s3.documentcloud.org/documents/23883703/23-1585-arrest-jewell.pdf> (last visited Jan. 29, 2024).

¹³ S. 316.6135(5), F.S.

¹⁴ S. 316.6135(6), F.S.

¹⁵ S. 316.6135(7), F.S.

¹⁶ A vulnerable person means any person who has not attained the age of 18, or a person 18 years of age or older whose ability to perform the normal activities of daily living or to provide for his or her own care or protection is impaired due to a mental, emotional, sensory, long-term physical, or developmental disability or dysfunction, or brain damage, or the infirmities of aging. Ss. 1.01(13), 415.102(28), 435.02(6), 768.139(1)(c), F.S.

¹⁷ S. 768.139(2), F.S.

State Public Awareness Campaigns

Department of Children and Families

The Florida Department of Children and Families (DCF) is responsible for providing services that support child and family well-being. DCF contracts with the Ounce of Prevention Fund of Florida, Inc. (Ounce)¹⁸ for various situational awareness campaigns throughout the year. The Ounce raises awareness in April for Child Abuse Prevention Month, in May for Water Safety Month, and October for Safe Sleep Month. The activities for these awareness months include public service announcements, radio and television advertisements, social media campaigns, media tool kits, and more.¹⁹

DCF pays for this contract using federal Community-Based Child Abuse Prevention grant dollars. On August 21, 2023, DCF, the Florida Department of Health (DOH), the Agency for Persons with Disabilities, and the Ounce held an event calling for a greater awareness of children left in hot cars.²⁰

Department of Health

The DOH Injury Prevention Section collaborates with Safe Kids Florida²¹ to implement evidence-based programs that help parents and caregivers prevent childhood injuries.²² As of June 2023, 15 local Safe Kids coalitions cover 42 counties throughout Florida. These coalitions promote prevention efforts by hosting educational events for parents and caregivers.²³

Department of Highway Safety and Motor Vehicles

Current law authorizes FLHSMV to purchase educational items as part of the public information and educational campaigns promoting highway safety, awareness, and community-based initiatives.²⁴ FLHSMV's 2023 Safe Summer Travel campaign recently raised awareness of, among other topics, vehicular heatstroke prevention.²⁵

Effect of the Bill

Public Awareness Campaign: “Hot Car Death Prevention Month”

The bill creates s. 683.336, F.S., designating April as “Hot Car Death Prevention Month” to raise public awareness of the dangers of leaving children unattended in motor vehicles and educate the public on how to prevent children dying from vehicular heatstroke.

The bill encourages DCF, DOH, FLHSMV, local governments, and other agencies to sponsor events that promote awareness of the dangers of leaving a child unattended in a motor vehicle and methods to prevent hot car deaths of children. These efforts must include education in:

- Proper motor vehicle safety for children,

¹⁸ The Ounce is a private, nonprofit corporation dedicated to shaping prevention policy and investing in innovative prevention programs that provide measurable benefits to Florida's children, families, and communities. The Ounce of Prevention of Florida, Home, <http://www.ounce.org> (last visited Jan. 29, 2024).

¹⁹ Florida Department of Children and Families, Agency Analysis of 2024 House Bill 591, p. 2 (Dec. 27, 2023).

²⁰ *Id.*

²¹ Safe Kids is a 501(c)(3) non-profit organization located in the Washington, D.C. area with a mission of preventing unintentional childhood injury. Safe Kids was founded by Children's National Hospital (Washington, D.C.) in 1988. Safe Kids Worldwide, *Who We Are*, <https://www.safekids.org/who-we-are> (last visited Jan. 29, 2024).

²² Safe Kids Worldwide, *Safe Kids Florida*, <https://www.safekids.org/coalition/safe-kids-florida> (last visited Jan. 29, 2024).

²³ Florida Department of Health, *Safe Kids Florida*, (last reviewed Jun. 24, 2023) <https://www.floridahealth.gov/programs-and-services/safe-kids-florida/index.html> (last visited Jan. 29, 2024).

²⁴ Ss. 316.003(19), 316.6131, F.S.

²⁵ Florida Department of Highway Safety and Motor Vehicles, *Safe Summer Travel*, <https://www.flhsmv.gov/safety-center/driving-safety/safe-summer-travel/> (last visited Jan. 29, 2024).

- The criminal penalties associated with leaving a child in a motor vehicle unattended or unsupervised, and
- The steps a bystander can take to rescue a vulnerable child in imminent danger, as set forth in s. 768.139, F.S.

Finally, the bill names the act “Ariya’s Act” in memoriam of Ariya Paige.

The bill provides an effective date of July 1, 2024.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.