

HB

381

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 1
 Bill Version: CSHB 381(HES)
 (H) Publish Date: 4/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: _____
 Title Child Endangerment Driving Offenses BRU Alaska Court System
 Component Trial Courts
 Sponsor Representative McGuire
 Requester _____ Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0
 Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*
 The court system does not anticipate any fiscal impact from the passage of HB 381.

Prepared by: Doug Wooliver Administrative Attorney Phone 463-4750
 Division Alaska Court System Date/Time 4/2/04 12:22 PM
 Approved by: Stephanie Cole Administrative Director by Doug Wooliver Date 4/2/2004
 Agency Alaska Court System

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 2
Bill Version: CSHB 381(HES)
(H) Publish Date: 4/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: Administration
Title An Act relating to child endangerment BRU Legal and Advocacy Services
Component Public Defender Agency
Sponsor Rep. McGuire
Requester (H) HESS Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services	*	*	*	*	*	*
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*	*	*	*	*	*
CAPITAL EXPENDITURES						
CHANGE IN REVENUES ()						

FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
1004 GF	*	*	*	*	*	*
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*	*	*	*	*	*

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill would likely have some fiscal impact on the operations of the Public Defender Agency, because it criminalizes, at the felony level, conduct that does not currently qualify for the crime of child endangerment under the current statutes. Making it a C felony for a driver to have a child in a car while the driver is "under the influence of an intoxicant" will certainly increase the caseload of the Agency. It will also increase the workload because felony offenses require more work from Agency attorneys. Adding the additional offense for transporting a child in a vehicle without proper seating restraint and making the offense either a B felony, C felony or A misdemeanor depending on the resulting injury to the child will have a similar fiscal impact on the Agency as the previous provision. The Agency does not currently handle a significant number of child endangerment offenses, but would expect to handle many more if this bill were enacted. Since it is impossible to predict the impact with any accuracy, an indeterminate fiscal note is submitted.

Prepared by: Linda K. Wilson, Deputy Director Phone (907)-334-4416
Division Public Defender Agency Date/Time 4/5/04 12:00 AM
Approved by: Kevin Jardell, Assistant Commissioner Date 4/5/2004
Agency Administration

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 3
Bill Version: CSHB 381(HES)
(H) Publish Date: 4/8/04

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
Title "An Act relating to child endangerment." RDU CRIMINAL
Component CDCO
Sponsor Representative McGuire
Requester House Health, Education and Social Services Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	*****	*****	*****	*****	*****	*****

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

FUND SOURCE	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
1002 Federal Receipts						
1003 GF Match						
1004 GF						
1005 GF/Program Receipts						
1037 GF/Mental Health						
Other (Specify Type--Do not abbreviate)						
TOTAL	*****	*****	*****	*****	*****	*****

Estimate of any current year (FY2004) cost: 0.0
Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

POSITIONS	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

This bill amends AS 11.51.100 by adding two additional felony charges to the crime of endangering the welfare of a child in the first degree. The first adds a separate felony charge to a misdemeanor of driving of under the influence, if there were children in the vehicle at the time; the second felony charge would arise if a person failed to require a child to use seatbelts, and a vehicle accident ensued resulting in injury or death to the child.

The number of new felonies that would result from passage of this legislation is difficult to quantify. We anticipate a fiscal impact, but it is indeterminate at this point in time.

Prepared by: Kathryn A. Daughhete, Director Phone 465-3673
Division Administrative Services Date/Time 4/5/04 9:14 AM
Approved by: Kathryn Daughhete for Gregg D. Renkes, Attorney General Date 4/5/2004
Agency Department of Law

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 4
 Bill Version: CSHB 381(RLS)
 (H) Publish Date: 4/30/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: LAW
 Title An Act relating to child endangerment BRU Criminal
 Component CDCO
 Sponsor Representative McGuire
 Requester House Rules Committee Component No. _____

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
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TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

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POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: *(Attach a separate page if necessary)*

Prepared by: Janet S. Seitz, Staff Phone 465-3764
 Division House Rules Committee Date/Time 4/29/04 8:56 PM
 Approved by: Representative Norman Rokeberg Date 4/29/2004
 Agency Chairman, House Rules Committee

FISCAL NOTE

STATE OF ALASKA
2004 LEGISLATIVE SESSION

Fiscal Note Number: 5
Bill Version: CSHB 381(RLS)
(H) Publish Date: 4/30/2004

Revision Date/Time (Note if correction): _____ Dept. Affected: Adm
Title An Act relating to child endangerment BRU Legal & Advocacy Services
Public Defender Agency
Sponsor Representative McGuire
Requester House Rules Committee Component No. 1631

Expenditures/Revenues (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

OPERATING EXPENDITURES	FY 2005	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
Personal Services						
Travel						
Contractual						
Supplies						
Equipment						
Land & Structures						
Grants & Claims						
Miscellaneous						
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0

CAPITAL EXPENDITURES						
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CHANGE IN REVENUES ()						
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FUND SOURCE (Thousands of Dollars)

1002 Federal Receipts						
1003 GF Match						
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1005 GF/Program Receipts						
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Other (Specify Type--Do not abbreviate)						
TOTAL	0.0	0.0	0.0	0.0	0.0	0.0

Estimate of any current year (FY2004) cost: 0.0

Mark this box (X) if funding for this bill is included in the Governor's FY 2005 budget proposal:

POSITIONS

Full-time						
Part-time						
Temporary						

ANALYSIS: (Attach a separate page if necessary)

Prepared by: Janet S. Seitz, Staff
Division House Rules Committee
Approved by: Representative Norman Rokeberg
Agency Chairman, House Rules Committee

Phone 465-3764
Date/Time 4/29/04 9.00 PM
Date 4/29/2004

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire
Chair, Judiciary Committee

FLOOR AMENDMENT

CSHB 381 (JUD)

DELETE (Page 2, Lines 14-15)

(3) knowingly transports a child in a motor vehicle in violation of AS 28.05.095(b) and the child suffers physical injury or dies.

DELETE Sec. 4 (Page 2, Line 27 – Page 3, Line 1)

Endangering the welfare of a child in the first degree under (a)(3) of this section is a

- (1) class C felony if the child dies;
- (2) class A misdemeanor if the child suffers serious physical injury; or
- (3) class B misdemeanor if the child suffers physical injury.

Preceding sections are appropriately renumbered

Note: This amendment will have the effect of removing all reference to the "failure to restrain" offense and all resulting criminal penalties.

Adopted in
H(RLS) +
IS IN
that version

Alaska State Legislature

Session:
State Capitol
Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



Interim:
716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire

Chair, Judiciary Committee

SECTIONAL ANALYSIS

HB 381

"An Act relating to child endangerment"

Section 1 – Amends AS 11.51.100(a) by adding two subsections to include transporting a child in a motor vehicle while under the influence of an intoxicant; and failure to use proper seat restraints while transporting a child in a motor vehicle and the failure to restrain leads to the injury of death of the child.

Section 2 – Amends AS 11.51.100(c) by making the crime of child endangerment by transporting a child while under the influence a class C felony.

Section 3 – Amends AS 11.51.100(d) by making the crime of child endangerment by failing to use proper seat restraints and that failure to restrain results in the death of a child a class B felony.

Section 4 – Specifies that "intoxicant" has the meaning given in AS 47.10.990.

Alaska State Legislature

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Juneau, AK 99801
Phone: (907) 465-2995
Fax: (907) 465-6592



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716 W 4th Avenue, Suite 430
Anchorage, AK 99501-2133
Phone: (907) 269-0250
Fax: (907) 269-0249

Representative Lesil McGuire
Chair, Judiciary Committee

SPONSOR STATEMENT

HB 381

"An Act relating to child endangerment"

HB 381 addresses loopholes in Alaska Statute regarding vehicular related child endangerment. This bill includes specific provisions to our existing child endangerment statutes pertaining to transporting a child in a motor vehicle while intoxicated or transporting a child in a motor vehicle and failing to use proper restraints.

Currently, 27 states or territories have similar laws in effect. This bill will demonstrate Alaska's commitment to protecting our children, and our commitment to making adults responsible for their actions while transporting children.

HB 381 amends AS 11.51.100 (a) by adding two specific elements to the crime of child endangerment. First it specifies that a person commits the crime of child endangerment if they transport a child in a motor vehicle while under the influence of an intoxicant. Second, it adds that a person commits the crime of child endangerment if they fail to properly restrain a child, while transporting a child in a motor vehicle, and their failure to restrain leads to the injury or death of a child.

HB 381 will further help protect children from vehicular related injury or death, and because of this I encourage your support for this bill.

THE
FOLLOWING
DOCUMENT(S)
ARE
POOR
ORIGINAL
COPIES

EVERY
CHILD
DESERVES
A DESIGNATED
DRIVER

Child
Endangerment
Report



Mothers
Against
Drunk
Driving



ON THE COVER

There are very real cases in which a child's life is placed in danger by a parent or other caregiver's choice to drink and drive. Yet, as dangerous as it is, driving impaired with children in the vehicle is not a commonly acknowledged form of child endangerment or child abuse.

Carlie McDonald, 5 years old, was killed on January 1, 1998 by her intoxicated mother who was driving with a blood alcohol content (BAC) of .22 percent, over twice the illegal limit. Carlie had been placed in the front seat of the car; her unused booster seat was found in the back. Carlie's mother had been specifically court-ordered not to consume alcohol in Carlie's presence. This was not enough to save Carlie's life.

Carlie's father, Lieutenant Carl McDonald of the Wyoming Highway Patrol, had primary custody of his daughter. He was helpless to protect and ensure that Carlie would be safe when visiting her mother. His life has been forever changed.

Carlie loved playing with her dog, Sadie, and reading bedtime stories. Her favorite movie was *The Lion King*. Because her mother made the choice to drive while impaired with Carlie in the car, Carlie will never be able to live her life and attain her dreams. Her father must learn to live without her and continue his journey of grief.

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This project was supported by grant No. 2002-DD-BX-0015 awarded by the Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice. The Bureau of Justice Assistance is a component of the Office of Justice Programs, which also includes the Bureau of Justice Statistics, National Institute of Justice, Office of Juvenile Justice and Delinquency Prevention, and the Office for Victims of Crime. Points of view or opinions in this document are those of the author and do not necessarily represent the views of the U.S. Department of Justice.

CHILD ENDANGERMENT AND CHILD ABUSE

Child abuse or neglect is defined in Black's Law Dictionary as:

"When a child's parent or custodian, by reason of cruelty, mental capacity, immorality or depravity, is unfit to properly care for him or her, neglects or refuses to provide necessary physical, affectional, medical, surgical or institutional care for him or her or is under such improper care or control as to endanger his or her morals or health."

Child endangerment as it pertains to impaired driving falls into the above legal definition of child abuse when a parent or caregiver knowingly puts a child in the car after drinking alcohol with the intention to drive. This choice falls under the "improper care...so as to endanger his or her morals or health." However, driving while impaired with a child in the vehicle is rarely, if ever, charged as child abuse.

CHILD ENDANGERMENT LAWS

Child endangerment is a term used to collectively identify laws that create a separate offense or enhance an existing penalty for an offender who endangers a minor. Endangerment is any action that might place a minor in jeopardy of physical, moral or mental well being.

While most states now have some kind of endangerment statute, 35 states currently have statutes that create special sanctions for cases of driving under the influence / driving while intoxicated (DUI/DWI) while the offender is transporting a child at the time of the offense. (See Appendix A.)

Child endangerment statutes fall into the following categories:

- **Enhanced penalties:** Penalties that are added to the penalties for a DUI/DWI law violation.
- **Separate offenses:** An offense for DUI/DWI with a minor in the vehicle that is separate from the DUI/DWI laws.
- **Aggravating circumstances:** Laws that allow the fact that a child was in the vehicle to be used by the judge/jury in sentencing as an aggravating factor, but not necessarily mandating a specific enhanced penalty.

Driving impaired is not an "accident" or a mistake. It is a choice, just as blatant physical child abuse is a choice. Rather than a fist, the weapon is a motor vehicle.

MADD is concerned about the increasing number of calls MADD victim advocates receive from distraught parents and other loved ones regarding allegations of an adult driving impaired with a child in the vehicle. In polling MADD chapters during the last year, MADD victim advocates across the nation received approximately 17,000 child endangerment calls. Many of these calls indicate that reports filed as child endangerment to state agencies are slipping through the cracks of the system, putting children at a greater risk of victimization.

These calls are not from victims of drunk driving crashes, but from potential victims of drunk driving. Often victim advocates feel helpless and frustrated with these calls for help. There seems to be no relief for the problem due in part to the lack of public awareness of the extent of the DUI/DWI child endangerment problem and the reluctance to accept that to drive impaired with a child in the vehicle is a form of child abuse.

Victim advocates on the panel identified common problems that victims report in calls of frustration and desperation. The following issues and concerns were raised:

- Cases are not being properly charged, resulting in lack of prosecution.
- Cases that are charged are often plea bargained down or dismissed.
- Reports made to child protective agencies are not being documented or investigated.
- A general lack of awareness of the seriousness of the problem.
- Divorced parents who are confronted with the problem of an ex-spouse who drives while impaired face legal challenges and the financial risk of subjecting themselves to civil contempt actions if they refuse visitation privileges to protect their children.
- Many victims do not have the financial resources to seek relief in the civil court system.

WHY IS THERE A NEED FOR A CHILD ENDANGERMENT STATUTE?

Within each state, it is the legislature that determines the structure of child endangerment laws. Statutes of this nature are important because motor vehicle crashes outrank all other injuries and diseases as the major cause of death for children ages 1 and above. In 2002, alcohol-related vehicle crashes accounted for 22 percent of motor vehicle crash deaths of children.

States with child endangerment laws widely vary in provisions and enforcement. Additionally, public awareness is often so low many people do not know such statutes exist. Individually, the situation is even more complicated because families with child endangerment issues are often already coping with the legal ramifications of separation, divorce, and visitation/custody issues. After a court has accepted custody arrangements, concerned parents and adults have very few options for protecting a child from a parent who drives impaired. Even worse, if a parent attempts to prevent the child from riding with their impaired parent, breach of the custody agreement could be enforced leading to further victimization.

The law enforcement officers, judge, civil attorney and prosecutor on the panel identified difficulties in enforcing the child endangerment statutes. The following issues were identified:

- There is difficulty in interpreting the existing DUI/DWI child endangerment laws; many of the laws are too complex.
- There is a lack of education on all aspects of the laws and the problem of child endangerment in general.
- There is difficulty in not being able to enforce civil remedies absent a restraining order or request of participation from child protective services.
- Laws are not being uniformly enforced.
- Violation of terms of the divorce decree as it relates to impaired driving with minor children in the car should be clearly tied to change in custody or visitation.
- There is a critical need for judicial education programs addressing all the issues surrounding child endangerment.
- DUI/DWI offenders' parental status should be a consideration at sentencing in terms of probation restrictions against driving after drinking with children in the vehicle.

RESEARCH AND STATISTICS

A 1999 national telephone survey, sponsored by the National Highway Traffic Safety Administration (NHTSA), estimates that between 46 and 102 million drinking-driving trips are made each year with children under the age of 15 in the vehicle.

In May 2000, the Journal of the American Medical Association (JAMA) published "Characteristics of Child Passenger Deaths and Injuries Involving Drinking Drivers." The study found that from 1985 to 1996, there were 5,555 child passenger deaths involving a drinking driver. Of these deaths, 3,556 (64 percent) occurred while the child was riding with a drinking driver; 67 percent of these drinking drivers were old enough to be the parent or caregiver of the child. *1 footnote

Of all drivers transporting a child who died, drinking drivers were more than twice as likely as non-drinking drivers to have had a previous license suspension (17.1 percent vs. 7.1 percent) and more than six times as likely to have a conviction for driving while intoxicated (7.9 percent vs. 1.2 percent). These findings underscore the serious risk that persons arrested for alcohol-impaired driving pose to others and to themselves.

Drivers who have been arrested for driving while impaired are known to be at substantially increased risk of future death in alcohol-related motor vehicle crashes compared with drivers who have not been arrested for this offense. *2 footnote

In addition, studies have shown that 70 percent of the drivers arrested for driving while impaired have alcohol abuse problems and between 10 and 50 percent are alcohol dependent. *3 footnote

Taken together, these findings emphasize the importance of aggressive intervention with persons convicted of DUI/DWI, including evaluation and treatment for alcohol problems, to prevent future deaths in alcohol-related crashes.

From 1988 through 1996, an estimated 149,000 child passengers were non fatally injured in crashes involving a drinking driver. Of these, 58,000 (38.9 percent) were riding with a drinking driver when injured in the crash. *4 footnote

*1 footnote Royal, D. National Survey of Drinking and Driving Attitudes and Behavior: 1999, Volume 1: Findings. Washington, DC: US Dept of Transportation, National Highway Traffic Safety Administration; 2000. DOT Report HS 809 190

*2 footnote Brewer RD, Morris PD, Cole TB, Watkins S, Patetta MJ, Popkin C. The risk of dying in alcohol-related automobile crashes among habitual drunk drivers. *The New England Journal of Medicine*. 1994; 331:513-517.

*3 footnote Wiczorek W, Miller B., Nochajski T. Multiple and Single Location Drinking Among DWI Offenders Referred for Alcoholism Evaluation. *American Journal of Drug and Alcohol Abuse* 1992; 18, no. 1: 103-116.

*4 footnote Quinlan KP, Brewer RD, Sleet DA, Dellinger AM. Characteristics of Child Passenger Deaths and Injuries Involving Drinking Drivers. *Journal of the American Medical Association* 2000; 283: 2249-2252.

During the five-year period of 1997-2001, 1,985 child passengers died and an estimated 87,226 were injured in alcohol-related crashes. Sixty-eight (60) percent of the deaths and 38 percent of the injuries occurred among children who were riding in the same vehicle with the drinking driver.

Of the children who died while riding in the same vehicle with the drinking driver, only 29 percent were known to have been restrained (restraint use was unknown for another 9 percent of child passenger deaths). As the BAC of the child's driver increased, child restraint use decreased.

Although restraint use in this group of children remains unacceptably low, restraint use has increased in recent years. The May 2000 JAMA study found that only 18 percent of children who were riding with the drinking driver at the time of the crash were known to have been restrained. The increase in restraint use seen among child passenger deaths is consistent with the increase in child restraint use over time in the general population. Strong enforcement of child safety seat laws and passage of primary enforcement seat belt laws in all states could further reduce child passenger deaths. The safety benefits of stricter enforcement of restraint laws may be even greater for children who are transported by drinking drivers because these drivers are known to have higher rates of serious crashes.

During the five-year period of 1997-2001, 58 percent of the alcohol-related crashes in which a child passenger died while riding with the drinking driver occurred during daytime or evening hours (6AM to 9PM). This finding adds further support for the need to increase high visibility enforcement of child safety seat, primary seat belt, and DUI/DWI laws, especially during daytime hours.

The MADD child endangerment panel of experts agreed that there is not any empirical research that has been done to determine scientifically if child endangerment laws that have been enacted have reduced alcohol-related deaths and injuries among child passengers. Funding for research needs to be acquired to evaluate the effectiveness of current child endangerment laws.

WHAT CAN BE DONE TO HELP PROTECT CHILDREN?

As these startling statistics sadly point out, much more aggressive tactics need to be taken with impaired drivers when children are riding in the vehicle. Possible solutions may be found in public education, research, legislation, enforcement, prosecution and judicial arenas. Specific solutions to address appropriate measures to reduce incidences of child endangerment need to be developed on local and state levels.

In developing specific solutions, MADD reviewed existing state laws that relate to DUI/DWI child endangerment. Analysis of this data revealed the following:

- Current state laws are complex and vary greatly from state to state.
- A variance in the age of children when these laws apply and therefore there is a need for a uniform age.
- The need for a simplification in the DUI/DWI child endangerment laws to make enforcement and prosecution easier.
- There is no clear consensus on whether separate child endangerment statutes or enhanced penalties under existing DUI/DWI law is better.
- A need for minimum mandatory penalties for violations of child endangerment laws.

The panel discussed in great detail the need for the criminal, civil, and family courts to gain an understanding of the severity of this crime and the need to impose significant sanctions on the offender who drives impaired with children in the vehicle, thus reducing the number of children who are injured and killed as passengers.

MADD RECOMMENDATIONS

The input and suggestions of the child endangerment panel were crucial in bringing possible solutions into focus. After extensive examination and consideration of all the complex issues regarding child endangerment, MADD makes the following recommendations in Criminal Cases for Statutes, Criminal Penalties, Civil Cases, and Administrative Sanctions in DUI/DWI Child Endangerment Cases.

Uniform Age Requirement

A "child" for purposes of applying a child endangerment DUI/DWI statute should be minimally defined as a child under the age of 16 years. States that currently have a definition of over 16 years of age are encouraged to keep their existing definition.

Child Restraint Laws

State child passenger safety laws should be thorough in their coverage and must provide for primary enforcement. Law enforcement agencies are encouraged to give high priority to enforcement of these laws. Consideration should be given to adding driver license points for violations of child passenger restraint laws. Further consideration should be given to administrative revocation/suspension for drivers who commit a second or subsequent offense of any child passenger safety occupant protection laws.

Child Endangerment DUI/DWI Statutes

The penalties for violation of child endangerment provisions should be substantially higher than the penalties imposed in DUI/DWI cases where children are not involved and should include the following:

- In addition to criminal penalties imposed upon conviction, state law should provide for the administrative license revocation/suspension of licenses for alcohol-related child endangerment offenses and for those who refuse to take the state administered test of their breath, blood, urine or other bodily substance with children in the vehicle.
- Mandatory alcohol/drug assessment and treatment as indicated by the assessment.
- A required installation of an alcohol ignition interlock device on any vehicle that may be used by the defendant to transport children under the age of 16 years.
- License reinstatement or issuance of a limited driving permit following license suspension/revocation should be contingent upon installation of an alcohol ignition interlock device and, if treatment is required as a result of the court ordered alcohol/drug assessment, completion of the treatment program should be required for full license reinstatement.
- A second offense for violation of the child endangerment DUI/DWI statute should be a felony.
- An offender charged with violation of the child endangerment statute should not be eligible for pre-trial diversion, deferred adjudication, probation before judgment (PBJ) or similar programs and a conviction should remain on the offenders driving record permanently and would not "age off" or be expunged.

