

**The Florida Senate**  
**BILL ANALYSIS AND FISCAL 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: The Professional Staff of the Committee on Rules

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BILL: SB 88

INTRODUCER: Senators Stewart and Book

SUBJECT: Child Care Facilities

DATE: January 27, 2020

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

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	<b>Favorable</b>
2.	<u>Proctor</u>	<u>Miller</u>	<u>IS</u>	<b>Favorable</b>
3.	<u>Delia</u>	<u>Phelps</u>	<u>RC</u>	<b>Pre-meeting</b>

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## I. Summary:

SB 88 creates the “Child Safety Alarm Act” and requires that after January 1, 2021, vehicles used by child care facilities and large child care homes to transport children must 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 (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 is expected to have a significant fiscal impact on private entities and has an effective date of October 1, 2020.

## II. Present Situation:

Death by hyperthermia or vehicular heat stroke deaths have become more prevalent since federal law required that children ride in the backseat due to the danger of front passenger seat airbags.<sup>1</sup> The national average number of these deaths is 38 per year.<sup>2</sup> Fifty-four percent of hyperthermia deaths involve children under the age of one.<sup>3</sup> Between 1998 and 2019, Florida has the second highest number of child deaths from vehicular heat stroke.<sup>4</sup> To date, 50 children have fallen

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<sup>1</sup> See Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, available at: <http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html> (last visited January 15, 2020).

<sup>2</sup> See Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, available at: <https://www.kidsandcars.org/how-kids-get-hurt/heat-stroke/> (last visited January 15, 2020).

<sup>3</sup> See Kids and Cars.org, Fact Sheet, available at: <http://www.kidsandcars.org/wp-content/uploads/2018/10/Heatstroke-fact-sheet-2018-1.pdf> (last visited January 15, 2020).

<sup>4</sup> National Safety Council, Hot Car Deaths, available at: <https://injuryfacts.nsc.org/motor-vehicle/motor-vehicle-safety-issues/hotcars/> (last visited January 15, 2020).

victim to vehicular heat stroke deaths nationwide in 2019 alone.<sup>5</sup> 5 of the 50 deaths in 2019 have occurred in Florida.<sup>6</sup>

## **Technology Based Prevention**

### ***Automobile Manufacturers***

The auto industry has been aware of the problem for years. General Motors (GM) tried over ten years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, 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>

Ford was among the other automakers who also expressed interest in developing such a system, but a decade later, the technology isn't available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.<sup>8</sup>

In 2016, GM announced it would introduce a new safety system to remind drivers to check for children in the rear seats, and that it could eventually develop features to detect forgotten children.<sup>9</sup> The National Highway Traffic Safety Administration (NHTSA) said it has no plans to require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.<sup>10</sup>

### ***Aftermarket Systems***

There are numerous aftermarket 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.

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in their effectiveness, according to a study by NHTSA and the Children's Hospital of Philadelphia.<sup>11</sup>

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<sup>5</sup>See Kids and Cars, 2019 Child Hot Car Deaths, available at: <https://www.kidsandcars.org/2019-child-hot-car-deaths/> (last visited January 15, 2020).

<sup>6</sup> *Id.*

<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 January 15, 2020).

<sup>8</sup> *Id.*

<sup>9</sup> David Shepardson, *GM has a way to help prevent drivers from forgetting children in the back seat*, Business Insider, January 12, 2016, available at: <https://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1> (last visited January 15, 2020).

<sup>10</sup> *Id.*

<sup>11</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 January 15, 2020).

The study 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>12</sup>

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

The DCF establishes licensing standards that each licensed child care facility in the state must meet.<sup>13</sup> A child care facility is defined in Florida law as “any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit.”<sup>14</sup>

A large family child care home is defined as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.<sup>15</sup>

The DCF currently oversees 6,016 licensed child care entities including child care facilities, large family child care homes and family day care homes.<sup>16</sup> In addition, there are homes that are only registered by the agency, facilities that are exempt from licensure due to a religious affiliation,<sup>17</sup> and homes currently licensed by five counties in the state.<sup>18</sup> Of these homes, 1,979 child care facilities and large family child care homes regulated by the DCF reported that they transport children as of August 2019.<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

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<sup>12</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 January 15, 2020).

<sup>13</sup> Section 402.305, F.S.

<sup>14</sup> Section 402.302(2), F.S.

<sup>15</sup> Section 402.302(11), F.S.

<sup>16</sup> Florida Department of Children and Families, *DCF Quick Facts*, (Quarter 2, Fiscal Year 2018-2019), available at: <http://www.dcf.state.fl.us/general-information/quick-facts/cc> (last visited January 15, 2020).

<sup>17</sup> Section 402.316, F.S.

<sup>18</sup> Section 402.306, F.S. Those five counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

<sup>19</sup> Florida Department of Children and Families, *Agency Analysis of 2020 Senate Bill 88* (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs

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

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 the child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and that all children 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 standards for child care facilities and large family child care homes do not address alarm systems in vehicles, however, Palm Beach County and Broward County have requirements similar to the one proposed in the bill.<sup>23</sup>

### III. Effect of Proposed Changes:

**Section 1** provides a short title for the bill — the “Child Safety Alarm Act.”

**Section 2** amends s. 402.305, F.S., relating to licensing standards for child care facilities, to require that on or after January 1, 2020, 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; and
- Relevant accountability measures for each facility.

The bill also clarifies 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.

**Section 3** provides an effective date of October 1, 2020.

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

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

<sup>23</sup> Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

**IV. Constitutional Issues:**

## A. Municipality/County Mandates Restrictions:

None.

## B. Public Records/Open Meetings Issues:

None.

## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None identified.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

The DCF reported approximately 1,979 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>24</sup>

The fiscal impact on individual providers will vary based on unit cost, installation costs, and possible future warranty fees. As of 2019, 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>25</sup>

## C. Government Sector Impact:

The DCF advised there is a workload increase in establishing and maintaining a list of approved alarm manufacturers. In addition, there is a cost of approximately \$6,500 for rule promulgation to adopt minimum safety standards for the alarm systems. However,

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<sup>24</sup> Florida Department of Children and Families, Agency Analysis of 2020 Senate Bill 88 (August 16, 2019). On file with the Senate Committee on Children, Families, and Elder Affairs.

<sup>25</sup> *Id.*

according to the DCF this minimal fiscal impact can be absorbed through existing resources.<sup>26</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

The DCF notes that the language “safe transport” at line 44 regarding child care facilities not bearing responsibility for children being transported by parents or guardians may require further clarification, as it is unclear what specific duties are imposed on providers and when they would apply to a particular child care facility or large family home.<sup>27</sup>

**VIII. Statutes Affected:**

This bill substantially amends section 402.305 of the Florida Statutes.

**IX. Additional Information:**

**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

**B. Amendments:**

None.

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This Senate Bill Analysis does not reflect the intent or official position of the bill’s introducer or the Florida Senate.

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<sup>26</sup> *Id.*

<sup>27</sup> *Id.*