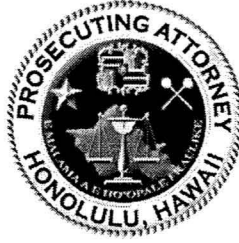


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**THE HONORABLE JOSEPH M. SOUKI, CHAIR  
HOUSE COMMITTEE ON TRANSPORTATION  
Twenty-fourth State Legislature  
Regular Session of 2008  
State of Hawaii**

January 23, 2008

**RE: H.B. 2034; RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES**

Good morning Chair Souki and members of the House Transportation Committee, the Department of Prosecuting Attorney submits the following testimony in support of H.B. 2034, Relating to Unattended Children in Motor Vehicles.

The purpose of this bill is to add a new offense of Leaving a Child Unattended in a Motor Vehicle in chapter *291C, Hawaii Revised Statutes (HRS)*. The offense provides that a person is liable when the person leaves a child under age nine in a motor vehicle without being accompanied by a person at least twelve years of age; it is punishable only by a fine similar to those provided in HRS section 291C-161(b). In addition, the bill also requires the driver's license test to specifically test for the applicant's knowledge of this law and mandates that rental car agencies display information about this law.

Under current laws, if a person leaves a minor in a vehicle, the person may be subject to prosecution for the misdemeanor offense of endangering the welfare of a minor in the second degree, HRS section 709-904(2), if and only if the person **knowingly** endangered the minor's physical or mental welfare by leaving the minor in the vehicle and thereby violated a legal duty of care or protection owed to the minor. The "knowing" state of mind requires that the defendant must be aware that it is **practically certain** that his or her conduct will cause the endangering of the minor's physical or mental welfare. This is often difficult to prove.

Creation of this offense would be significantly easier to prove since it would not require proof that the defendant was aware of the risk to the child; all that would have to be proven is that the person left the minor in the car without the required supervision. Given the number of incidents reported to the police involving unattended minor children whose parents have left them in the car under hazardous conditions, we believe this proposed offense is sorely needed. Unsupervised children under the age of 9, are vulnerable to physical injury due to the considerable potential for danger inherent to motor vehicles. For example, when the outside temperature is 80 degrees F (a common occurrence in Hawaii), the temperature inside a car receiving direct sunlight can reach 110 degrees F after 5 minutes. When a child's (or any other person's) body temperature reaches

106 degrees F, he or she can die or suffer permanent disability from heat stroke. Children left unattended in cars have also died from strangulation by a power window, inadvertently knocking a vehicle into gear, carbon monoxide poisoning, falling out of the car and being run over, choking on a toy or being kidnapped. A 2003 Center for Disease Control and Prevention study reports that during July 2000 to June 2001, an estimated 9,160 nonfatal injuries and 78 fatal injuries occurred in children 14 and younger as a result of being left unattended in or around motor vehicles that were not in traffic.

At least one dozen states have now adopted legislation specifically prohibiting leaving children alone in a motor vehicle. It is time for Hawaii to join the ranks of those states that have already acted to promote the safety of children in motorcars through this simple, but effective, means. The nominal fine attached to the violation proposed in this bill will serve as a reasonable reminder to parents, and an effective preventive measure for reducing the potential of this totally avoidable risk to our children.

For this reason, we strongly urge your support for the passage of House Bill 2034. Thank you for your time and consideration.

**Written Testimony of  
Deona Ryan  
Chair, Hot Spot**

I want to provide testimony regarding proposed HB 2034 for many reasons. I support HB2034 as a traffic violation, though I feel putting a 5-minute time limit is dangerous. Depending on how 5 minutes is interpreted in the community, a quick response needed to save a child's life could be delayed. I request the 5-minute rule be omitted so quick responses are available to save lives of children.

I am testifying for one child that died in Hawaii in 2004, my daughter, Aslyn Ryan.

Our little girl, Aslyn, died Feb. 7, 2004, at Kapiolani Medical Center, after suffering from hyperthermia from prolonged exposure to extreme environmental conditions in a car while we were stationed in Hawaii.

Our mission now is to prevent other parents and families from the heartache we have suffered.

On the morning of Feb. 5, my husband dropped our 1-year-old daughter off for child care at her sitter's house. Our day went the same as it always had, but at 2:30 that afternoon we were called to come to the ER because our child was suffering from respiratory problems. Her temperature was almost 106 degrees when the ambulance arrived at the sitter's house.

I never, as a nurse, could have dreamed what the horror of walking into the ER would be to see a code being performed on my own child.

Over the next 48 hours of her life in the intensive care unit, Aslyn suffered the trauma from this incident. She had multiple strokes and needed continuous blood transfusions from the bleeding in her intestines, kidneys and nose. She suffered many other hypoxic- and hyperthermia-related injuries. A parent's most heart-breaking moment in life has to be having the neurologist tell you your baby was no longer the baby you once knew and the medical staff was prolonging her death. She struggled to survive, but on Feb. 7, she lost her fight for life. We laid her to rest on Feb. 14, 2004.

The difficulty recovering over the last 4 years was magnified by the fact that that the sitter caring for her that day was never punished nor was she found criminally negligent. Through the investigation, the sitter told many versions of what happened, but the overlying reality and medical evidence pointed to the fact that she left Aslyn in a car, and this outweighed any other story the sitter told. Truth never changes.

The plans my family had had included life with Aslyn. But now time has been filled with educating the community through the Hot Spot Program her father and I founded in Aslyn's memory, and we do whatever we can to educate the community to prevent others from enduring the pain we have to suffer every day. No parent should ever have to feel this pain. No parent should ever feel that there is no justice.

Our program has been to educate the community on the dangers of leaving a child alone in a car can include:

- Heat stroke/death
- Strangulation in a car window
- Injury from being backed over or setting a car in motion
- Abduction by a stranger

In 2007, media reports show that more than 35 children were known to have died across the nation from being left alone in a car. These children have come from all areas of the country, from all parts of society and all racial backgrounds. These numbers do not include those who were left in a hot car and saved just in time, or those who have suffered but have not died as a result of being left in cars.

Many law enforcement personnel and first-responders we work with say they respond to children being left in cars all the time, leading us to believe the numbers are severely underestimated. Our country lacks ICD-9 codes for hospitals to adequately track deaths due to hyperthermia. Police and fire departments across the country add reports of children left unattended in cars into “welfare check” codes or in “children locked in cars” categories making the true number of children impacted difficult to discern.

Nationally only 50 percent of cases where a caregiver or parent has left a child in a car has anyone been charged with a crime.

Most significantly, though, is the simple fact that far too many children have lost their lives to something that is completely preventable. Whether it is accidental or intentional, how can we send a message that this is wrong? Our children are our legacy and we as a nation need to heed the realization that we must protect our future. Children are dying from being left unattended in motor vehicles on warm and hot days, depriving the community of their unrealized potential.

Some of these parents or caregivers have arrived at a store with their baby sleeping in the car seat. Not wanting to awaken the child, they leave them inside the car because they are only going into the store for a **minute**. As they gather what they need in the store, a minute turns into 5 minutes. When they are ready to check out, the checkout line is full, which in turn, turns into another 5 minutes. As they are leaving the store, they run into a friend and talk for another 5 minutes. Now, all of the sudden, the child has been restrained in the hot car for over **15 minutes**.

The temperature inside a car can quickly skyrocket. It is a metal box with no air circulation. A child -- or anyone, for that matter -- cannot tolerate it for long. But heat is much more dangerous to children than it is to adults. A child’s small size makes it harder for the child to shed heat. When left in a hot vehicle, a young child’s core body temperature may increase three to five times faster than that of an adult. This can cause permanent injury or even death in a short amount of time.

On a 100-degree day, a car can reach 124 degrees within 15 minutes. Even on an 89-degree day, a car can reach 108 degrees in 20 minutes. Cracking windows does nothing to help lower the temperature.

Help us with our educational message by making this bill a traffic violation, but please do not pass it with a time period. Our Hot Spot education teaches people to call for assistance immediately when a child is discovered in a car. Help us save the Hawaii keiki by passing a bill that makes this a traffic violation. Send a clear message that this is a preventable injury and that those who violate this law will be held accountable. Do not let what happened to Aslyn happen to anyone ever again.

#### Hot Spot Safety Tips

- Check the backseat before getting out of the car.
- Place an item you will need – purse, diaper bag, gym bag - in the back seat where the child is sitting.
- Teach children not to play in and around cars.
- Never leave a child unattended in a vehicle even with the window slightly open.
- Keep keys and remote entry devices out of the reach of children. Lock the car and trunk, especially at home.
- Walk all the way around your parked vehicle to check for children before getting in the car and starting the engine.
- Make sure young children are accompanied by an adult when getting in and out of a vehicle
- Identify safe play areas for children – away from vehicles.
- Teach children that trunks are only used to transport cargo and are not safe places to play
- If you car has a trunk release, show your children where it is and how to use it.
- If a child is missing, check the vehicle trunk immediately

Sincerely,

Deona Ryan  
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**FROM: GEORGE FOX**  
**To: COMMITTEE ON TRANSPORTATION**  
**RE: HB 2034 RELATING TO UNATTENDED CHILDREN IN MOTOR VEHICLES**  
**TIME: 8:30 a.m.**  
**PLACE: ROOM 309**  
State Capitol  
Honolulu, HI 96813

COMMITTEE ON TRANSPORTATION  
Rep. Joseph Souki, CHAIR  
Rep. Scott Y. Nishimoto, VICE CHAIR

Aloha honorable Chair, Vice chair, and members of the committee,  
I am in strong support of HB 2034 relating to unattended children in motor vehicles. I believe that in my 15 years experience testifying for consumers that this is the most important bill I've seen. I would suggest one small amendment and this is to add the words "and elderly person" after the word "child" throughout the Bill.

I suggest this because when I was a Disabled Parking Enforcement Officer volunteer with HPD I saw many instances where elderly persons were left in closed vehicles while the driver shopped. These vehicles were always parked in disabled stalls. Could it be that the disabled person was along for the ride just so the driver could legally use their parking placard and save a few steps? Please pass out HB2034 with my suggested amendment.

Mahalo,

George Fox