

Protecting kids left in hot cars through legislation

Arizona Republic columnists EJ Montini and Laurie Roberts discuss the Arizona hot car law and agreement with mother who left kids in car while interviewing for a job. The Arizona Republic

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(Photo: Charlie Leight, The Arizona Republic)

PHOENIX — Arizona has among the nation's highest death rates for [children left in hot cars](#), yet it is not among the states, 19 and counting, with laws specifically addressing the issue.

State statute does spell out that it's illegal to leave an animal unattended in a vehicle if injury or death is likely to occur.

According to the San Francisco State University Department of Geosciences, 26 children in Arizona died in vehicles of heat stroke between 1998 and 2013. Only the more populated states of Texas, Florida and California had more deaths in that period.

No Arizona children are among the at least 17 children who died of heatstroke vehicle deaths so far this year. Two Arizona children died in 2013:

- Three-month-old Jamison Gray died after his father left him in the car for nearly three hours outside the bar where he worked. While at the bar, authorities said, Daniel Gray smoked marijuana with co-workers. He was convicted of manslaughter and child abuse last month and sentenced to four years in prison.
- Markale Marques, 1, died after his father left him in the car for several hours while he was at work. Brokale Lytte Marques was charged with first-degree murder and child abuse. He is awaiting trial.

The national advocacy group [KidsandCars.org](#) has launched a White House petition drive asking the Obama administration to authorize the U.S. Department of Transportation to research and develop technology that would help parents remember when a child is in a rear car seat.

They also are asking the federal government to require technology be installed in all vehicles or child safety seats to prevent children from being accidentally left behind.

"You get a warning if you don't buckle your seat belt, leave a car door open, your gas is low or you leave your headlights on," said group President Janette Fennell in a news release. "If a child is left behind, you absolutely need a warning." Legal experts in Phoenix say current Arizona statutes covering child abuse and neglect are sufficient to handle situations where a child is left unattended in a vehicle.

But Rep. John Kavanagh, a Republican from Fountain Hills, Ariz., argues that a specific statute would bring more awareness to the issue. National advocacy groups also are pushing for more state and federal regulation of the issue. Shanesha Taylor made news earlier this year after leaving her 6-month-old and 2-year-old sons in a car with the windows cracked and fan blowing for about 45 minutes while she was interviewing for a job in Scottsdale, Ariz. The children were uninjured. Taylor initially faced felony child-abuse charges but reached an agreement, announced Friday, that includes attending parenting classes and no criminal charges.

Kavanagh unsuccessfully this year sponsored a bill which would have made it a misdemeanor for a child under age 10 to be left in a vehicle if the conditions present a health or safety risk or if the keys are left in the vehicle.

House Republican leaders never gave the bill a hearing. A similar 2007 bill met the same fate.

Kavanagh, a former law-enforcement officer, said, "By making it part of statute, it sends a clear warning for those who have children in a motor vehicle that this is dangerous and if you do it you will face criminal charges even if your child is not injured."

Some states have similar laws, with the age restrictions on the child ranging from under 6 to 16.

Criminal defense attorney Russ Richelsoph has handled clients facing charges for leaving children in cars. He said in cases where the child is uninjured, they are often charged with misdemeanor child endangerment.

"Do we need a statute that specifically addresses idiots leaving kids in hot cars? Probably not," he said.

He said a new state law would change nothing.

Tennessee is the first in the nation to tackle the issue in a new way. A law that went into effect this month allows someone to break into a car to get a trapped child if they believe the child is in imminent danger. They must first call 911.

Rep. David Hawk, a Republican, and the bill's sponsor, has said he hopes other states will use his law as model legislation.

Richelsoph said Arizona statute establishing a "necessity defense" allows for this. It essentially says an action could be justified if a reasonable person would conclude there is no alternative and the benefit outweighs the potential crime being committed.

"Does saving a child outweigh breaking a window? I'd say the answer is clearly yes," Richelsoph said.

Richelsoph advised calling 911 before taking any action.

State laws

Nineteen states have laws addressing children being left in hot vehicles. Some examples:

- **California:** It is a traffic violation to leave a child age 6 or younger in a car alone if conditions present a safety risk or if the vehicle is running.
- **Florida:** It is a misdemeanor crime to leave a child younger than 6 unsupervised in a car for more than 15 minutes or for any time if the vehicle is running or the child appears to be in distress. It becomes a felony if the above action results in great harm to the child.

The law also allows a law-enforcement officer who sees an unattended child in distress in a vehicle to use whatever means necessary to get the child out of the vehicle.

- **Nevada:** It is a misdemeanor crime to leave a child age 7 or younger alone in a vehicle if the conditions present a safety risk to the child or if the vehicle is left running.
- **Tennessee:** It is a misdemeanor crime to leave a child younger than 7 unattended in a vehicle if the conditions present a health risk or the vehicle is running or the keys are in the car.

A new law this year allows someone to break into a car to rescue a child if they believe the child is in imminent danger.

Source: KidsandCars.org

<http://www.usatoday.com/story/news/nation/2014/07/20/protecting-kids-hot-cars/12910767/>