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State Law Chart: Impaired Driving with a Child in the Vehicle

Alabama

If a child under the age of 14 is a passenger in the vehicle at the time of the offense, the Secretary of the Alabama State Law Enforcement Agency shall suspend the driving privilege or driver's license of the person convicted for a 90 day period and the person shall be required to have an ignition interlock device installed and operating on the designated motor vehicle driven by the offender for a two year period. Further, when any person over the age of 21 is convicted of violating this section and it is found that a child under the age of 14 years was a passenger in the vehicle at the time of the offense, the person shall be sentenced to at least double the minimum punishment that the person would have received if the child had not been a passenger in the motor vehicle.

Ala. Code §32-5A-191(n) and (p)

Alaska

A person commits the crime of endangering the welfare of a minor in the first degree if the person transports a child in a motor vehicle while in violation of Alaska's DUI statute, (AS 28.35.030). Endangering the welfare of a child under this statute is a Class A Misdemeanor.

AK ST Sec. 11.51.100.

Arizona

A person is guilty of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs if the person, while a person under fifteen years of age is in the vehicle, commits a violation of Arizona's statute against driving while under the influence, (A.R.S. §28-1381). A person who violates this rule will be imprisoned for ten days, fined no less than \$700, have their license revoked for one year, and their vehicle will be equipped with an ignition interlock system. Further, the court shall order the motor vehicle owned and operated by the person at the time of the offense forfeited.

A.R.S. §28-1383(A)(3)(a), (F), (J); A.R.S. §28-1381(I)(1); A.R.S. §28-1384(A)

Arkansas

If a passenger under 16 was in the vehicle at the time of the DUI offense, a person found guilty of Arkansas's DUI statute, (§5-65-103) is, upon conviction, guilty of an unclassified misdemeanor and may be imprisoned for between 7 days and 1 year. Further, the court may order public service instead of imprisonment. Additionally, there are multiple, additional penalties for subsequent violations of this statute.

California

For a first conviction of a violation of California's DUI statute, (Section 23152) when a minor under 14 was a passenger in the vehicle at the time of the offense, the punishment shall be 48 consecutive hours in the county jail. For a second conviction, imprisonment for 10 days. For a third conviction, imprisonment for 30 days. For subsequent convictions, imprisonment for 90 days.

These sanctions are not imposed if the driver has been convicted of violating Penal Code §273a which concerns endangering the life or health of a child.

Cal. Vehicle Code §23572

Connecticut

*Goes into effect on October 1, 2016.

For the first offense, A) a \$500-\$2,000 fine; B) imprisonment for no more than 1 year with 30 days not to be suspended or reduced in any manner; C) probation requiring that the person perform 100 hours of community service, submit to an assessment through the Court Support Services Division of the degree of such person's alcohol or drug abuse, undergo a treatment program, including chemical screening, if so ordered, submit to an interview and evaluation by the Department of Children and Families to assess any ongoing risk posed to any child who was a passenger in the motor vehicle at the time of the violation, and cooperate with the programming, treatment, directives or plan if so ordered by the Department of Children and Families; and D) have such person's motor vehicle operator's license or nonresident operating privilege suspended for 45 days and, as a condition for restoration, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon restoration, be prohibited for the 1 year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device.

For the second offense, A) a \$1,000-\$4,000; B) imprisonment for no more than 3 years with 180 days not to be suspended or reduced in any manner; C) probation requiring that the person perform 100 hours of community service, submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, undergo a treatment program, including chemical screening, if so ordered, submit to an interview and evaluation by the Department of Children and Families to assess any ongoing risk posed to any child who was a passenger in the motor vehicle at the time of the violation, and cooperate with any programming, treatment, directives or plan if so ordered by the Department of Children and Families; and D) have such person's motor vehicle operator's license or nonresident operating privilege suspended for 45 days and, as a condition for the restoration of such license, be required to install an ignition interlock device on each motor vehicle owned or operated by such person and, upon such restoration, be prohibited for the 3 year period following such restoration from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device, the first year of such 3 year period, such person's operation of a motor vehicle shall be limited to such person's transportation to or from work or school, an alcohol or drug abuse treatment program, an ignition interlock device service center, a treatment program ordered by the Department of Children and Families or an appointment with a probation officer or Department of Children and Families caseworker;

For a third or subsequent offense, A) a \$2,000-\$8,000 fine; B) imprisonment for no more than 5 years, 2 years of which not to be suspended or reduced in any manner; C) probation requiring that the person perform 100 hours of community service, submit to an assessment through the Court Support Services Division of the Judicial Branch of the degree of such person's alcohol or drug abuse, undergo a treatment program, including chemical screening, if so ordered, submit to an interview and evaluation by the Department of Children and Families to assess any ongoing risk posed to any child who was a passenger in the motor vehicle at the time of the offense, and cooperate with any programming, treatment, directives or plan if so ordered by the Department of Children and Families; and D) have such person's motor vehicle operator's license or nonresident operating privilege permanently revoked upon such third offense, such person shall be prohibited from operating a motor vehicle unless such motor vehicle is equipped with a functioning, approved ignition interlock device.

Public Act No. 16-126

Delaware

For the first offense of drunk driving with a child less than 17 in the vehicle, a fine of \$500-\$2,000, and 40 hours of community service in a program benefiting children. For each subsequent like offense, a fine of \$750-\$3,250, and 80 hours of community service in a program benefiting children. Violations of this statute shall be considered as an aggravating circumstance for sentencing purposes.

Del. Code Ann. 21 4177(B)

Florida

For the first offense of drunk driving while carrying passengers under 18 offenders face imprisonment of up to 9 months, and a \$1,000-\$2,000 fine. Further, they must have an ignition interlock device placed on all vehicles owned, leased, or routinely operated for up to 6 months. For a second offense offenders face imprisonment of up to 12 months, and a \$2,000-\$4,000 fine. Their ignition interlock device shall be installed for at least 2 years.

Fla. Stat. §316.193(4)

Georgia

For a first offense of transporting a child younger than 14 while intoxicated, it shall be a misdemeanor punishable by no more than 12 months imprisonment and a fine of no more than \$1,000. For a second offense, it shall be a misdemeanor punishable by imprisonment for no more than 12 months and a fine of no more than \$1,000. For a subsequent offense, it shall be a felony punishable by 1-3 years imprisonment and a fine of \$1,000-\$5,000.

Ga. Code §§16-12-1(d) and 40-6-391(1)

Hawaii

Offenders older than 18 who were operating a motor vehicle with a passenger younger than 15 are subject to a mandatory fine of \$500 and imprisonment for 48 consecutive hours. However, the total imprisonment time imposed for first, second or third offenses cannot exceed the maximum term of imprisonment provided for first, second and subsequent DUI offenses.

Hawaii Rev. Stat. §291E-61(b) (4)

Idaho

Child Endangerment: It is an offense for anyone older than age 18 to operate a motor vehicle in violation of the drunk-driving laws while transporting a “minor.” If there is no injury or death associated with this offense, it is a misdemeanor with a jail term of not more than six months and/or a fine of not more than \$1,000.

However, if the child is either injured or killed, it is a felony with imprisonment of one to 10 years (unless law authorizes a more severe penalty.)

Idaho Code §§18-1501(3) and 18-113

Illinois

For a first offense of a person 21 or older convicted of DUI while transporting a person under 16 the punishment shall be up to 6 months imprisonment, a fine of at least \$1,000, and 25 days of community service.

For a second offense with no bodily harm the punishment shall be up to 6 months imprisonment, a fine of at least \$1,000, and 140 hours of community service, with at least 40 hours going to programs benefitting children. This shall be a Class 4 Felony.

The penalties are increased if the driver, while committing a DUI, was involved in an accident that resulted in bodily harm to the child under 16 being transported, if the violation was the proximate cause of the injury. Such a violation is a Class 4 Felony and is subject to one year of imprisonment, a mandatory \$2,500 fine, and 25 days of community service in a program benefitting children. A subsequent offense is subject to 18 months imprisonment, a mandatory \$5,000 fine, and 25 days of community service in a program benefitting children.

Ill. Rev. Stat. Ch. 625 5/11-501 (c-5)

Indiana

It is a class D felony for a drunken driver who is at least 21 years of age to operate a vehicle in which at least one passenger was less than age eighteen (18).

IC 9-30-5-3

Kansas

If, at the time of the offense, a person was driving with a passenger younger than 14, the incarceration period is increased by one month consecutive to any other sanction, to be served in jail or as house arrest, work release or other conditional release.

Kan. Stat. Ann. §8-1567(C)

Kentucky

Operating a vehicle while transporting a passenger under 12.

For a first offense, a \$200-\$500 fine, imprisonment between 48 hours and 30 days, or both. In lieu of imprisonment, the fine, or both, the defendant may apply to the judge for permission to enter a community labor program for not less than 48 hours, nor more than 30 days.

For a second offense, a fine of \$350-\$500, imprisonment between 7 days and 6 months, possible community labor for not less than 10 days or more than 6 months.

For a third offense, a \$500-\$1,000 fine, imprisonment between 30 days and 12 months, possible community labor for not less than 10 days or more than 12 months.

For a fourth or subsequent offense, be guilty of a Class D felony.

Ky. Rev. Stat. §189A.010 (11) (f)

Louisiana

Louisiana's "Child Endangerment Law" provides that upon conviction that a minor child 12 or younger was a passenger in the vehicle at the time of the commission of a DUI offense, for a first offense, punishment by a \$300-\$1,000 fine, imprisonment for 10 days to 6 months, participation in a court-approved substance abuse program, participation in a court-approved driver-improvement program, and the court may order the use of an ignition interlock device.

In addition to the programs listed above, a second offense is punishable by a \$750-\$1,000 fine, imprisonment for 30 days to 6 months and the court shall order the use of an ignition interlock device for a period of no less than 6 months.

In addition to the programs listed above, a third offense is punishable by a \$2,000 fine, imprisonment for 1-5 years, the offender undergoing an evaluation by the Department of Health and Hospitals to determine the nature and extent of the offenders substance abuse disorder, the court shall order the use of an ignition interlock device until substance abuse treatment, home incarceration, or the requirements of the drug division probation are completed, and the offender's license shall be restricted.

In addition to the programs listed above, a fourth offense is punishable by a fine of \$5,000, imprisonment for 10-30 years, possible vehicle seizure and sale, the offender undergoing an evaluation by the Department of Health and Hospitals to determine the extent of the offender's substance abuse disorder, the court requiring the use of an ignition interlock device until substance abuse treatment, home incarceration, or the requirements of the drug division probation are completed, and the offender's license shall be restricted.

La Rev. Stat. Ann. §14:98; §§14:98.1-4.

Maine

A person who violates the drunk driving statute while transporting a passenger under 21 must have his/her license suspended for an additional 275 days and be imprisoned for 48 hours. Further, the licensing agency has the authority to suspend the driver's license for a longer period of time than indicated above for either an administrative per se violation or a drunk driving offense conviction.

Me. Rev. Stat. Ann. Tit. 29-A §§2411(5)(A)(3)(a)(iv) & (G)

Maryland

A person who is convicted of driving while under the influence of alcohol while transporting a minor younger than 18 is subject to:

For a first offense, a fine of not more than \$2,000 or imprisonment for not more than 2 years or both.

For a second offense, a fine of not more than \$3,000 or imprisonment for not more than 3 years or both.

For a third or subsequent offense, a fine of not more than \$4,000 or imprisonment for not more than 4 years or both.

Md. Transportation Code Ann. §27-101(q); §21-902(a)(3); §20-103

Massachusetts

Individuals who drive under the influence with a child under 14 are subject to:

For a first offense, imprisonment between 90 days and 1.5 years and a \$1,000-\$5,000 fine. License suspension of one year.

For repeat offenders, imprisonment between 6 months and 2.5 years and a \$5,000-\$10,000 fine. License suspension of three years.

Mass Gn. Laws Ann.Ch. 90 §24V

Michigan

A person who commits a DUI while a passenger under 16 is in the vehicle must pay a fine of \$200 to \$1,000. These offenders also are subject to a term of imprisonment of up to one year, 30 to 90 days of community service, or both.

A person who commits a second DUI while a passenger under 16 is in the vehicle within seven years of a first conviction or within 10 years of two or more prior convictions for DUI is guilty of a felony. Offenders must pay a fine of \$500 to \$5,000. Offenders are also subject to - a) a term of imprisonment of one to five years; or b) probation with imprisonment in a county jail for 30 days to one year and 60 to 180 days of community service.

Mich. Comp. Laws §257.625

Minnesota

Considered an “aggravating factor” if a child under the age of 16 is in the motor vehicle at the time of the offense, if the child is more than 36 months younger than the offender.

169A.03 Sub. 3(3)

Mississippi

A person over the age of 21 who commits a DUI while a passenger under 16 is in the vehicle commits a separate crime of “endangering a child by driving under the influence of alcohol or any other substance which has impaired such person's ability to operate a motor vehicle”.

First offense if serious injury or death of child does not occur: Misdemeanor punishable by no more than \$1,000 fine and no more than 12 months imprisonment.

Second offense if serious injury or death of child does not occur: Misdemeanor punishable by no less than \$1,000 fine and no more than a \$5,000 fine and/or imprisonment for 1 year.

Third offense if serious injury to death of child does not occur: Felony punishable by no less than \$10,000 fine and/or imprisonment for 1-5 years.

Offense which results in serious injury or death of a child: Felony punishable by no less than \$10,000 fine and imprisonment for no less than five years and no more than 25 years.

Miss. Code Ann. § 63-11-30(12)

Montana

Individuals who drive under the influence while a passenger under 16 is in the car are subject to:

For a first offense, imprisonment for 1-20 days, \$600-\$2,000 fine.

For a second offense, imprisonment for between 2 days to 1 year, \$1,200-\$2,000 fine.

For a third offense, imprisonment for between 60 days and 1 year, \$2,500-\$5,000 fine.

Mont. Code Ann. §61-8-714.

Nebraska

It is a Class I misdemeanor, punishable separately from any other offense, to operate a vehicle under the influence if a passenger under the age of 16 is present in the vehicle.

Neb. Rev. Stat. §2 Section 28-1254

Nevada

If a child younger than 15 was a passenger in the vehicle at the time of the offense, such a fact shall be considered an aggravating factor when determining sentencing.

Nev. Rev. Stat. §§484C.430 & 484C.400

New Hampshire

If the DWI offender was transporting a person under 16 at the time of the offense, the offender's driving privileges must be revoked for the maximum time period provided by law, and will not be restored until completion of IDCMP screening within 14 days of conviction.

N.H. Rev. Stat. §265-A:18, VIII

New Jersey

A parent or guardian who drives while intoxicated with a person who is under 17 in the car is guilty of a disorderly person's offense, and may be sentenced to imprisonment for no more than 6 months. Further, forfeiture of right to drive for no more than 6 months and community service for no more than 5 days.

N.J. Rev. Stat. §§39:4-50.15; 39:4-50; 2C:1-4.

New York

Individuals who drive with a blood-alcohol level greater than 0.08 who transport a passenger younger than 15 are guilty of a felony and can face imprisonment of up to 4 years.

N.Y. Vehicle and Traffic Law §1192(2-a)(b)

North Carolina

Driving by the defendant while a child under 18, or a person with the mental development of a child under the age of 18 years, was in the vehicle at the time of the offense is a grossly aggravating offense in terms of sentencing. The judge must impose the Level One punishment.

N.C. Gen. Stat. § 20-179

North Dakota

It is a Class A misdemeanor (imprisonment term for not more than one year and/or a fine of not more than \$1,000) for anyone 21 or older to commit a DWI offense while transporting a "minor."

Note: The term "minor" is not defined in the motor vehicle law (Title 39). However, North Dakota law usually defines a "minor" as anyone under age 18. (e.g., §14-10-01).

N.D. Cent. Code §§12.1-32-1 and 39-08-01.4.

Ohio

Individuals who drive under the influence with a passenger under the age of 18 are subject to:

If the violation did not result in serious physical harm, punishment for a misdemeanor of the first degree.

If the violation results in serious physical harm to the child, or the offender has previously been convicted of a like offense, or of any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, punishment for a felony of the fifth degree. Imprisonment between 6 months and 1 year, fine of not more than \$2,500.

In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender, the court may also impose a class seven suspension of the offender's driver's or commercial driver's license or permit. Further

Ohio Rev. Code Ann. §§2919.22, 2929.14, 2929.18 and 2929.21

Oklahoma

A person who is the parent, guardian, or person having custody or control over a child commits child endangerment when the person: Knowingly permits a child to be present in a vehicle when the person knows or should have known that the operator of the vehicle is impaired by or is under the influence of alcohol or another intoxicating substance; or Is the driver, operator, or person in physical control of a motor vehicle. Felony, punishable by imprisonment for no more than 4 years, no more than \$5,000 fine, or both.

Okla. Stat. Tit. 21 § 852.1 A

Oregon

In addition to other penalties, if an offender commits a DUI while a passenger under 18 is in the vehicle and the minor passenger is at least three years younger than the driver, the maximum fine is \$10,000.

Or. Rev. Stat. §813.010

Rhode Island

An offender who is over 18 is subject to imprisonment for no more than 1 year if they were transporting a passenger under 13 at the time of the offense.

R.I. Gen. Laws §31-27-2(d)(5)(ii)

Pennsylvania

An individual who drives while intoxicated where a minor under 18 years of age was an occupant in the vehicle when the violation occurred commits a misdemeanor of the first degree, punishable by imprisonment for no more than 5 years.

PA Title 75 §3803(b) & 18 Pa.C.S.A. § 106

South Carolina

A person 18 or older is guilty of “child endangerment” when the person drives under the influence with a passenger younger than 16 in the vehicle.

A conviction under this statute is punishable by a fine of not more than one-half the maximum fine allowed for committing “child endangerment.” Further, the person’s license shall be suspended for sixty days, the person is required to enroll in the Ignition Interlock Device Program for three months, and the person shall be enrolled in an alcohol and drug safety action program.

S.C. Code Ann. §56-5-2947

Tennessee

For any offense of the DUI statute while accompanied by a child under eighteen (18) years of age, the person shall be fined one thousand dollars (\$1,000) in addition to the fine for the DUI offense.

It’s a class D felony if the child suffers serious injury as a result, punishable by 2-12 years imprisonment.

It's a Class B felony if the child dies as a result, punishable by 8-30 years imprisonment.

License revocation possible.

Tenn. Code. Ann. §§55-10-403 & 40-35-112

Texas

If a person commits a DWI while a passenger younger than 15 is in the vehicle, the offender can be punished by between 180 days and 2 years imprisonment, and a possible \$10,000 fine. This offense is considered a state jail felony.

Tex. Penal Code Ann. §12.35

Utah

A person who drives under the influence for a first or second time with a passenger under 16, (or was 21 years or older and had a passenger under 18) in the vehicle at the time of the offense commits a Class A misdemeanor, punishable by up to one year imprisonment and no more than a \$2,500 fine.

Utah Code Ann. §§41-6a-502 & -503.

Virginia

Child Endangerment: A person convicted of a DWI offense while carrying a passenger 17 or younger is subject to additional sanctions: a mandatory fine of \$500 to \$1,000 and mandatory minimum period of confinement of five days.

Subsequent offense: mandatory fine of \$500 to \$1,000 and community service of mandatory 80 hours benefiting children.

Va. Code §18.2-270(D)

Washington

A person convicted of a DUI offense while a passenger under age 16 was in the vehicle must be ordered by the court to install an ignition interlock device for not less than 60 days. In any case in which the installation and use of such a device is otherwise mandatory, the device must be used for an additional 60 days.

Wash. Rev. Code §46.61.5055

West Virginia

Child Endangerment: A person who violates the drunk driving law while transporting a child younger than age 16 commits a misdemeanor and is subject to a jail term of two days to 12 months (with 48 hours of actual confinement mandatory) and/or a fine of \$200 to \$1,000.

W. Va. Code §17C-5-2(i).

Wisconsin

A person convicted of driving while impaired while carrying a minor passenger younger than age 16 at the time of the violation commits a misdemeanor and shall be fined not less than \$350 nor more than \$1,100 and imprisoned for not less than five days nor more than six months.

Wis. Stat. §346.65 (2) (f) 1.

Child Endangerment: For non-injury or injury without great bodily harm drunk-driving offenses, the maximum and minimum imprisonment, forfeiture and fine sanctions are doubled.

Wis. Stat. §346.65(2) (f) and (3)

Child Endangerment/Unborn Child: If the driver was transporting a person younger than age 16 or an unborn child, the maximum imprisonment and fine sanctions are doubled and the license revocation period is 10 years.

Wis. Stat. §§343.31(3) (c) and 94.09(1b)

Wyoming

Any person 18 or older who has a child passenger in the vehicle during a violation of the DUI law shall be punished for a first offense by imprisonment for no more than 1 year, a fine of no more than \$750, or both, and for a second subsequent offense by imprisonment for not more than 5 years.

Wyo Stat. 31-5-233(m) and (i)

Source: National Conference of State Legislatures, August 2016.