DUI Child Endangerment Laws

Child endangerment laws are designed to deter and punish individuals who endanger the welfare of children. In the context of impaired driving, these laws recognize the seriousness of an adult putting children, who are incapable of protecting themselves, in harm's way by driving drunk. In 2017, 1,147 children 14 and younger were killed in motor vehicle traffic crashes. Of these fatalities, 19% (220) died in alcohol-impaired-driving crashes. A total of 54% of these children were occupants of vehicles with drivers who had BACs of .08 g/dL or higher (NHTSA, 2018).

Current laws create a separate charge for driving under the influence (DUI) with a child in the vehicle, enhance existing DUI penalties, or both. In some instances, the presence of child in the vehicle at the time of arrest will also be considered an aggravating factor during sentencing. At present, there is great variance in these laws across the country (e.g., age cutoffs[1], charge classification - misdemeanor vs. felony, sanctions).

Research Highlights:

- Results from a 1999 national telephone survey (Royal, 2000) revealed that an estimated 46 to 102 million drinking-and-driving trips are made each year with children younger than age 15 in the motor vehicle.
- Rates of alcohol involvement in child passenger fatalities range from 22-28%, depending on the age group (CDC, 1997; Margolis et al., 2000; Quinlan et al., 2000).
- A Centers for Disease Control and Prevention (CDC) study (2004) found that 68% of the children who died in alcohol-related crashes between 1997 and 2002 were riding with drunk drivers. The median BAC of drinking drivers who were transporting children was .13.
- A more recent analysis by Kelley-Baker and Romano (2014) examining fatality data from 1982 to 2011, found that approximately 14% of all children who died in motor vehicle crashes were killed by a driver with a BAC of .08 or higher.
- Child passengers in the vehicle of a drunk driver are less likely to be properly restrained (CDC, 2004). Of 1,451 child passengers with known restraint information who died while riding with drinking drivers, 466 (32%) were restrained at the time of the crash.
- Trends have persisted in spite of vehicle improvements, child restraint improvements, and the enactment of traffic safety laws and policies (Kelley-Baker and Romano, 2015).
- Current evaluation research reveals that existing child endangerment laws by themselves have not been effective in reducing child fatalities (Thomas et al., 2014). There was no significant relationship between the strength of DUI child endangerment laws and the proportion of child fatalities by a drunk driver.

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[1] Age cutoffs range from under 12 years of age to under 21 years of age. The most common age cutoff is 16 which is currently used in 17 states. The second most common age cutoff is 18 years of age which is currently used in 9 states.

Prevalence:

Currently, 47 states and DC have enacted child endangerment DUI laws. More specifically, 42 states and DC have enhanced penalties for DUI convictions with a child passenger and 25 states have separate DUI child endangerment statutes (NDAA, 2015). A total of seven states classify this offense as a felony.[2]
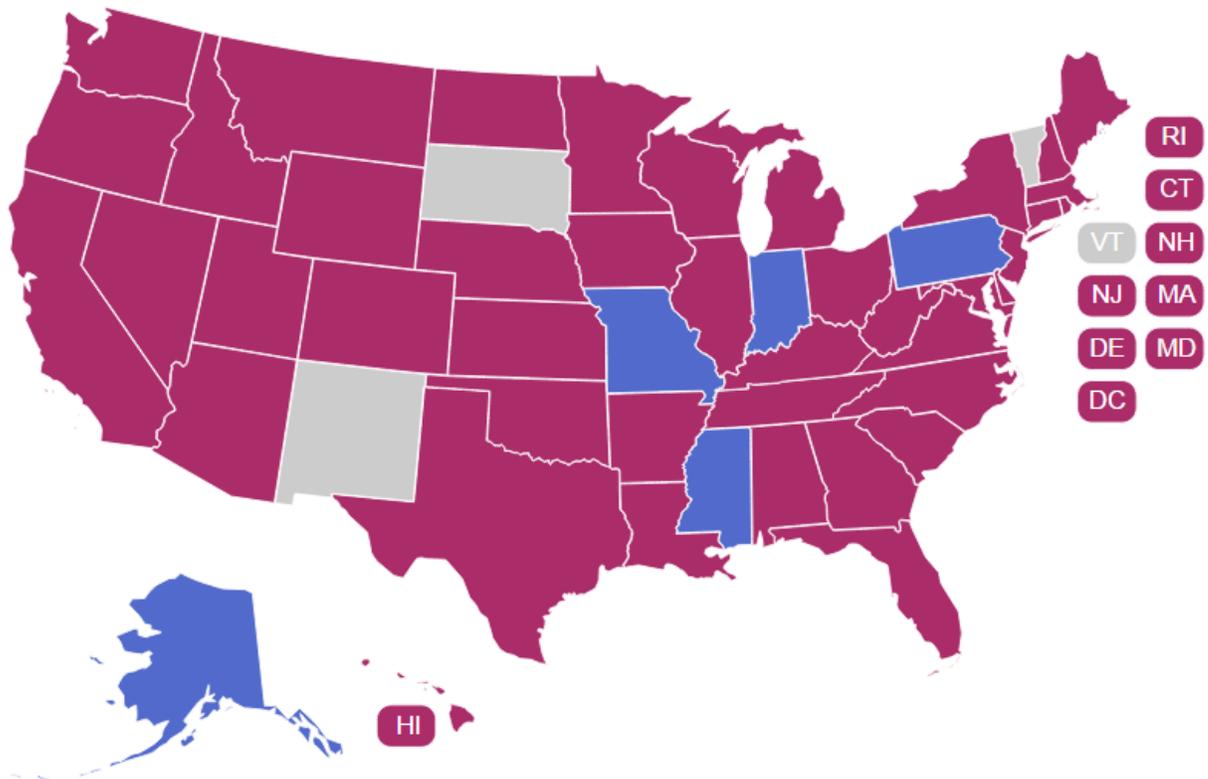
STATE LAW: DUI CHILD ENDANGERMENT LAWS

■ Enhanced penalties   ■ Statute without enhanced penalties   ■ No DUI child endangerment law
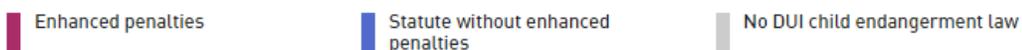
Access Responsibility.org's interactive State Laws Map to explore the visual display of this information.

Responsibility.org Position:

The Foundation for Advancing Alcohol Responsibility supports the passage of DUI child endangerment laws that increase penalties for offenders who endanger the lives of children. We support a comprehensive approach to the issue of child endangerment that goes beyond the passage and implementation of legislation. In order to be effective, these laws must be highly publicized (to create deterrence), consistently enforced, and prosecuted. Responsibility.org believes that the decision to drive impaired with a child in the vehicle is especially reckless, and, as such, these offenders should not be eligible for plea-bargaining (i.e., charge reduction) or diversion.

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[2] These states include Alaska, Arizona, Indiana, Missouri, New York, Oklahoma, and Texas.

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