

1 SB207
2 197769-2
3 By Senator Holley
4 RFD: Judiciary
5 First Read: 02-APR-19

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8 SYNOPSIS: Under existing law, a licensed day care
9 center, child care facility, program providing day
10 care service to incapacitated persons, or child
11 care service exempt from licensing, or an employee
12 thereof, is prohibited from leaving a child or an
13 incapacitated person in a motor vehicle unattended
14 in a manner that creates an unreasonable risk of
15 injury or harm.

16 Also under existing law, there is no
17 specific provision that provides criminal immunity
18 to a person who rescues a child or incapacitated
19 person from an unattended motor vehicle.

20 This bill would prohibit any person from
21 leaving a child or an incapacitated person in a
22 motor vehicle unattended in a manner that creates
23 an unreasonable risk of injury or harm.

24 This bill would also provide criminal
25 immunity to a person who rescues a child or
26 incapacitated person from an unattended motor
27 vehicle.

1 This bill would provide civil and criminal
2 immunity to a public safety official who rescues a
3 child or incapacitated person from an unattended
4 motor vehicle.

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6 A BILL
7 TO BE ENTITLED
8 AN ACT

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10 Relating to children and incapacitated persons; to
11 prohibit any person from leaving a child or an incapacitated
12 person in a motor vehicle unattended in a manner that creates
13 an unreasonable risk of injury or harm; to provide criminal
14 immunity to a person who rescues a child or incapacitated
15 person from an unattended motor vehicle; and to provide civil
16 and criminal immunity to a public safety official who rescues
17 a child or incapacitated person from an unattended motor
18 vehicle.

19 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

20 Section 1. (a) As used in this section, the
21 following terms shall have the following meanings:

22 (1) CHILD. A person who is under nine years of age.

23 (2) INCAPACITATED PERSON. As defined in Section
24 26-2A-20, Code of Alabama 1975.

25 (3) MOTOR VEHICLE. As defined in Section 32-1-1.1,
26 Code of Alabama 1975.

1 (4) PUBLIC SAFETY OFFICIAL. An individual employed
2 by a law enforcement agency, fire department, or 911 emergency
3 service.

4 (b) No person shall leave a child or an
5 incapacitated person in a motor vehicle unattended in a manner
6 that creates an unreasonable risk of injury or harm to the
7 child or incapacitated person. A vehicle that has an ambient
8 interior temperature of 99 degrees Fahrenheit or less shall be
9 presumed safe.

10 (c) A person who enters a motor vehicle by force or
11 otherwise at the direction of a public safety official, for
12 the purpose of removing a child or an incapacitated person
13 from the vehicle shall be immune from criminal liability for
14 damage to the motor vehicle if the person meets all of the
15 following requirements:

16 (1) Determines the motor vehicle is locked or there
17 is otherwise no reasonable method for the child or
18 incapacitated person to exit the motor vehicle without
19 assistance.

20 (2) Has a good faith and reasonable belief, based
21 upon the known circumstances, that entry into the motor
22 vehicle is necessary because the child or incapacitated person
23 is in imminent danger of suffering harm.

24 (3) Contacts a public safety official before
25 entering the motor vehicle, provides information requested by
26 the public safety official, and remains in contact with the

1 public safety official until the child or incapacitated person
2 is in a safe condition.

3 (4) Uses no more force to enter the motor vehicle
4 and remove the child or incapacitated person than is
5 necessary.

6 (5) Remains with the child or incapacitated person
7 in a safe location in reasonable proximity to the motor
8 vehicle until law enforcement or other first responders
9 arrive.

10 Section 2. (a) A public safety official who has been
11 contacted by a person reporting a child or incapacitated
12 person in a motor vehicle unattended in a manner that creates
13 an unreasonable risk of injury or harm to the child or
14 incapacitated person shall immediately dispatch a locksmith or
15 towing company with vehicle lockout capabilities and attempt
16 to make contact with a registered vehicle owner and the
17 vehicle operator.

18 (b) A public safety official, acting reasonably in
19 the course of his or her employment and pursuant to this act,
20 shall be immune from criminal liability and civil liability in
21 accordance with Section 36-1-12, Code of Alabama 1975.

22 Section 3. This act shall become effective on the
23 first day of the third month following its passage and
24 approval by the Governor, or its otherwise becoming law.