

By Mr. Locke of Wellesley, petition of John A. Locke for legislation to prohibit the leaving of an unattended child under eight years of age in a motor vehicle. Public Safety.

**The Commonwealth of Massachusetts**

In the Year One Thousand Nine Hundred and Ninety-Nine.

AN ACT CREATING THE OFFENSE OF LEAVING A CHILD UNATTENDED IN A MOTOR VEHICLE.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 39 of Chapter 119 of the General Laws, as  
2 appearing in the 1996 Official Edition, is hereby amended by  
3 adding the following new section at the end thereof:—

4 LEAVING A CHILD UNATTENDED  
5 IN A MOTOR VEHICLE.

6 No person who is a parent, guardian or other person having  
7 physical custody or control of a child under the age of eight (8)  
8 years, shall knowingly leave said child within the confines of a  
9 motor vehicle without regard for the mental or physical health,  
10 safety or welfare of the child.

1 SECTION 2. For the purposes of determining whether the child  
2 was left without regard for the child's mental or physical health,  
3 safety, or welfare, the trier of fact shall consider the following  
4 factors:

5 (a) WITHOUT REGARD FOR THE MENTAL OR PHYS-  
6 ICAL HEALTH, SAFETY AND WELFARE OF THE CHILD.

7 The following factors shall be used to determine whether the  
8 child has been left within the confines of a motor vehicle without  
9 regard for the mental or physical health, safety or welfare of  
10 the child:

- 11 (1) The age of the child, or children;
- 12 (2) Any special needs of the child, including whether the child is  
13 physically or mentally handicapped, or otherwise in need of ongoing  
14 prescribed medical treatment such as periodic doses of insulin or  
15 other medications;
- 16 (3) The duration of time in which the child was left without  
17 supervision;
- 18 (4) The time of day or night when the child was left without  
19 supervision;
- 20 (5) The weather conditions, including whether the child was  
21 left in a situation with adequate protection from the natural condi-  
22 tions, such as appropriate heat or light;
- 23 (6) The location of the parent, guardian, or other person having  
24 physical custody or control of the child at the time the child was  
25 left without supervision, the physical distance the child was from  
26 the parent, guardian or other person having physical custody or  
27 control of the child at the time the child was without supervision;
- 28 (7) Whether any of the conduct is attributable to economic hard-  
29 ship or illness and the parent, guardian or other person having  
30 physical custody or control of the child made a good faith effort to  
31 provide for the health and safety of the child;
- 32 (8) The age and physical and mental capabilities of the person  
33 or persons who provided supervision for the child;
- 34 (9) Any other relevant factor to determine whether the health  
35 and safety of the child was endangered.

36 b. SUPERVISION.

37 That the child was being visually observed from a distance of  
38 no greater than fifty (50) feet by a responsible person having  
39 attained the age of thirteen (13) years.

1 SECTION 3. A person convicted under the provisions of this  
2 section shall be punished by a fine of not more than \$1,000 or by  
3 imprisonment in a jail or house of correction for not more than six  
4 months, or both, for a first offense. A person convicted under the  
5 provisions of this section for a second or subsequent offense shall  
6 be punished by a fine of not more then \$5,000 and imprisonment  
7 in a jail or house of correction for not more than one year, or both.  
8 Any person found in violation of the foregoing section one may  
9 be arrested, upon probable cause, by a police officer and kept in

10 custody in a convenient place for not more than twenty-four hours,  
11 excepting Saturday, Sunday and legal holidays, or until the next  
12 scheduled sitting of the Court if sooner. where a complaint can be  
13 made against him or her for the offense and he/she be taken upon  
14 a warrant issued upon such complaint.

15 Police Officers shall notify the Department of Social Services  
16 as required by Section 51A of Chapter 119 of the General Laws.

1 SECTION 4. Children found within the confines of a motor  
2 vehicle without regard for the mental or physical health, safety or  
3 welfare of the child, may be transported by a police officer or  
4 emergency medical services to a hospital or medical facility for  
5 evaluation, observation or treatment.

1 SECTION 5. Police officers shall not be hold liable in any civil  
2 action regarding personal injury or injury to property brought by any  
3 party, stemming from an event involving a child left unattended  
4 within the confines of a motor vehicle, for an arrest based upon  
5 probable cause, for entry into said vehicle, for transporting said chil-  
6 dren to a medical facility or hospital, or for making notification to  
7 the Department of Social Services, when such officer acted reason-  
8 ably and in good faith and in compliance with the law.

1 SECTION 6. Whenever a police officer investigates an incident  
2 in which it is alleged that a child was left unattended within the  
3 confines of a motor vehicle, the officer shall immediately file a  
4 written incident report in accordance with the standards of the offi-  
5 cer's law enforcement agency and, wherever possible, in the form  
6 of the National Incident Based Reporting System, as defined by the  
7 Federal Bureau of Investigation. The latter information may be  
8 submitted voluntarily by the law enforcement agency on a monthly  
9 basis to the reporting unit of the criminal history systems board.

