

National Traffic Law Center  
National District Attorneys Association  
**CHILD ENDANGERMENT STATUTES**  
&  
**PENALTIES**  
(Updated February 26, 2015)

This compilation contains legislation, session laws, and codified statutes. All statutes, laws, and bills listed in this compilation have been signed by the pertinent governor and enacted into law. This report was compiled using Westlaw Services. This compilation is up-to-date as of the month it was created. However, please note we recommend checking both case law and current legislation for any possible modifications to the statutes listed below.

**Scope:** First, this compilation contains codified DUI statutes which provide enhanced penalties when children are passengers in the vehicle. Second, child endangerment statutes are listed which apply to traffic offenses.

\* **Note:** Where a state's DUI statute either lacks a child endangerment enhancement or where its child endangerment statute could not cover traffic offenses, a relevant criminal or traffic offense (such as assault or reckless driving) is given.

\* \* **Note:** Where this chart gives the statute's penalty in brackets, that indicates that the offense's statutory language only provided the offense's classification (e.g., Class A misdemeanor, Class C felony, etc.) and not the penalty associated with the classification.

\*\*\* **Note:** The penalties listed here do not include the automatic sentence range enhancements based on an offender's prior criminal history unless they are included in the child endangerment statute itself.

## Table of Contents

Table of Contents .....	2
Summary Chart .....	8
Alabama .....	9
Ala. Code §§ 32-5A-191 (e), (j) (2014). Driving while under influence of alcohol, controlled substances, etc .....	9
Ala. Code § 13A-13-6 (2014). Endangering welfare of child .....	10
Alaska .....	10
Alaska Stat. § 11.51.100 (b) (2014). Endangering the welfare of a child* in the first degree .....	10
Arizona .....	11
Ariz. Rev. Stat. Ann. § 28-1383(A)(3), (F), (G), (K), (L)(2) (2014). Aggravated driving or actual physical control while under the influence; violation; classification; definition. ....	11
Ariz. Rev. Stat. Ann. § 13-3619 (2014). Permitting life, health or morals of minor to be imperiled by neglect, abuse or immoral associations; classification. ....	12
Arkansas .....	12
Ark. Code Ann. § 5-65-111 (a)(2)(A),(B);(b)(1)(B);(b)(2)(B)(i); (b)(3)(B)(i); (b)(4)(B)(i); (d) (2015). Prison terms - - Exception .....	12
Ark. Code Ann. § 5-27-205 (2015). Endangering welfare of minor--First degree .....	14
Ark. Code Ann. § 5-27-206 (2015). Endangering the welfare of a minor-- second degree. ....	14
Ark. Code Ann. § 5-27-207 (2015). Endangering the welfare of a minor -- third degree .....	15
California .....	15
Cal. Veh. Code § 23572 (2015). Minor Passenger: Enhanced Penalty .....	15
Cal. Penal Code § 273a. (2012). Willful harm or injury to child; endangering person or health; punishment; conditions of probation. ....	16
Colorado .....	18
Colo. Rev. Stat. § 18-6-401 (2014). Child abuse .....	18
Connecticut .....	20
Conn. Gen. Stat. § 53-21 (2012). Injury or risk of injury to, or impairing morals of, children. Sale of children. ....	20
Delaware .....	20
Del. Code Ann. tit. 21 § 4177 (d)(10) (2015). Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties. ....	20
Del. Code Ann. tit. 11 § 1102 (2015). Endangering the welfare of a child; class A misdemeanor; class E or G felony. ....	21
Del. Code Ann. tit. 11 § 628 (2015). Vehicular assault in the third degree; class B misdemeanor .....	22

Del. Code Ann. tit. 11 § 628A (2015). Vehicular assault in the second degree; class A misdemeanor. ....	22
District of Columbia .....	22
D.C. Code Ann. § 50–2206.18 (2015). Additional penalty for impaired driving with a minor in vehicle. ....	23
D.C. Code Ann. § 22-1101 (2015). Cruelty to Children: Definition and penalty. ....	23
Florida.....	23
Fla. Stat. Ann. § 316.193 (2014). Driving under the influence .....	24
Fla. Stat. Ann. § 827.03 (2014). Abuse, aggravated abuse, and neglect of a child; Penalties. ....	24
Georgia.....	26
Ga. Code Ann. § 40-6-391 (2014). Drivers with ability impaired by alcohol, drugs, or toxic vapor. . . .	26
Ga. Code Ann. § 16-5-70 (2014). Cruelty to children. ....	26
Hawaii.....	27
Haw. Rev. Stat. Ann. § 291E-61(b)(4),(5) (2014). Operating a vehicle under the influence of an intoxicant.....	27
Haw. Rev. Stat. Ann. § 709-903.5 (2014). Endangering the welfare of a minor in the first degree.....	28
Haw. Rev. Stat. Ann. § 709-904 (2014). Endangering the welfare of a minor in the second degree.....	28
Idaho .....	29
Idaho Code Ann. § 18-1501(3) (2014) Injury to children. ....	29
Illinois .....	29
625 Ill. Comp. Stat. Ann. § 5/11-501(C)(3); (d)(1)(B),(J),(K); (d)(2)(A)-(J); (d)(3), (e)-(h) (2014). Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof. ....	29
720 Ill. Comp. Stat. Ann. § 5/12C-5 (201). Endangering the life or health of a child .....	32
Indiana.....	33
Ind. Code § 9-30-5-1 (2014). Class C Misdemeanor; defense. ....	33
Ind. Code Ann. § 9-30-5-2 (2014). Class A misdemeanor. ....	34
Ind. Code Ann. § 9-30-5-3 (a)(2)(B)(2014). Level 6 or Level 5 felony; previous convictions; passenger less than 18 years of age.....	34
Ind. Code Ann. § 35-46-1-4 (2014). Neglect of a dependent .....	35
Iowa.....	37
Iowa Code § 726.6 (2015). Child Endangerment. ....	37
Kansas.....	39
Kan. Stat. Ann. § 8-1567(c) (2014). Driving under influence of alcohol or drugs; blood alcohol concentration; penalties. . . .	39
Kan. Stat. Ann. § 21-5601 (2014). Endangering a child; aggravated endangering a child. ....	39
Kentucky.....	40
Ky. Rev. Stat. Ann. §189A.010 (5) (a)-(d), (11)(f) (2014). Operating motor vehicle with alcohol concentration of or above 0.08, or of or above 0.02 for persons under age twenty-one, or while under the influence of alcohol, a controlled substance, or other substance which impairs driving ability prohibited; admissibility of alcohol concentration test results; presumptions; penalties; aggravating circumstances. ....	40



Ky. Rev. Stat. § 530.060 (2011). Endangering the welfare of a Minor.....	42
Louisiana.....	42
La. Rev. Stat. Ann. § 14:98(B) (2014). Operating a vehicle while intoxicated.....	42
La. Rev. Stat. Ann. § 14:93 (2014). Cruelty to juveniles.....	42
La. Rev. Stat. Ann. § 93.2.3 (2014). Second degree cruelty to juveniles.....	43
Maine.....	44
Me. Rev. Stat. Ann. tit. 29-A, § 2411(5)(A)(3)(a)(iv), (5)(G) (2014). Criminal OUI.....	44
Me. Rev. Stat. Ann. tit. 29-A, § 2451 (5)(2014). Suspensions for OUI.....	44
Me. Rev. Stat. Ann. tit. 17-A, § 554 (2014). Endangering the welfare of a child.....	45
Me. Rev. Stat. Ann. tit. 17-A, § 211 (2014). Reckless conduct.....	46
Maryland.....	46
Md. Code Ann., Transp. § 21-902 (2014). Driving while under the influence of alcohol, while under the influence of alcohol per se, while impaired by alcohol, or while impaired by a drug, a combination of drugs, a combination of one or more drugs and alcohol, or while impaired by a controlled dangerous substance.....	46
Md. Code Ann., Transp. § 27-101(q) (2014). Fines and penalties for motor vehicle violations.....	47
Massachusetts.....	48
Mass. Gen. Laws Ann. Ch. 90 § 24V (2014). Child endangerment while operating a motor vehicle or vessel under the influence; penalties; suspension of license.....	48
Mass. Gen. Laws Ann. ch. 265 §13L (2014). Wanton or reckless behavior creating a risk of serious bodily injury or sexual abuse to a child; duty to act; penalty.....	49
Michigan.....	50
Mich. Comp. Laws Ann. § 257.625(7) (2014). Offenses involving operation of vehicle while under influence of alcoholic liquor or controlled substance or visibly impaired due to consumption of alcoholic liquor or controlled substance; punishment generally; use or prior convictions for enhancement of punishment; plea of guilty or nolo contendere; special verdict; records; burden of proof; probation conditions.....	50
Mich. Comp. Laws Ann. § 750.136b (2014). Child abuse; degrees of offense, elements; child discipline; affirmative defense.....	52
Minnesota.....	53
Minn. Stat. Ann. §169A.03 Subd. 3 (2014). Definitions.....	54
Minn. Stat. Ann. § 169A.25 (2014). Second-degree driving while impaired.....	54
Minn. Stat. Ann. § 169A.26 (2014). Third-degree driving while impaired.....	54
Minn. Stat. Ann. § 609.378 (2014). Neglect or endangerment of a child.....	55
Mississippi.....	56
Miss. Code Ann. § 97-3-7 (2014). Simple and aggravated assault; simple and aggravated domestic violence.....	56
Missouri.....	60
Mo. Rev. Stat. § 568.045 (2012). Endangering the welfare of a child, in the first degree-- Hope's Law.....	60
Mo. Rev. Stat. § 568.050 (2012). Endangering the welfare of a child in the second degree..	61
Montana.....	61
Mont. Code Ann. § 61-8-714 (2014). Penalty for driving under influence of alcohol or drugs-- first through third offense.....	61



Mont. Code Ann. § 45-5-622 (2014). Endangering welfare of children.....	63
Mont. Code Ann. § 45-5-207 (2014). Criminal endangerment—penalty.....	65
Mont. Code Ann. § 45-5-208 (2014). Negligent endangerment—Penalty.....	65
Nebraska .....	65
Neb. Rev. Stat. Ann. § 28-1254 (2014). Motor vehicle operation with person under age of sixteen years; prohibited acts; violation; penalty.....	65
Neb. Rev. Stat. Ann. § 28-707 (2014). Child abuse; privileges not available; penalties.....	66
Nevada .....	67
Nev. Rev. Stat. Ann. § 484C.430(4) (2014). Penalty if death or substantial bodily harm results; exception; segregation of offender; plea bargaining restricted; suspension of sentence and probation prohibited; affirmative defense; aggravating factor.....	67
Nev. Rev. Stat. Ann. § 200.508 (2014). Abuse, neglect or endangerment of child: Penalties; definitions.....	68
New Hampshire .....	71
N.H. Rev. Stat. Ann. § 265-A:3 (2014). Aggravated Driving While Intoxicated.....	71
N.H. Rev. Stat. Ann. § 265-A:18 (2012). Penalties for Intoxication or Under Influence of Drugs Offenses.....	72
N.H. Rev. Stat. Ann. § 639:3 (2014). Endangering Welfare of Child or Incompetent.....	76
N.H. Rev. Stat. Ann. § 631:3 (2014). Reckless Conduct.....	77
New Jersey .....	77
N.J. Rev. Stat. § 39:4-50.15 (2012). Additional definitions.....	77
New Mexico.....	78
N.M. Stat. Ann. § 30-6-1 (2014). Abandonment or abuse of a child.....	78
New York.....	79
N.Y. Veh. & Traf. § 1192 (2014). Operating a motor vehicle while under the influence of alcohol or drugs.....	79
N.Y. Veh. & Traf. § 1193 (2014). Sanctions.....	79
N.Y. Penal Law § 260.10 (2012). Endangering the welfare of a child.....	82
North Carolina .....	83
N.C. Gen. Stat. § 20-179 (c)(4),(g) (2014). Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.....	83
N.C. Gen. Stat. § 14-318.2 (2014). Child abuse.....	84
North Dakota.....	84
N.D. Cent. Code § 39-08-01.4 (2014). Driving while under the influence of alcohol while being accompanied by a minor – Penalty.....	84
N.D. Cent. Code § 12.1-17-01.1 (2014). Assault.....	85
N.D. Cent. Code § 12.1-17-03 (2014). Reckless Endangerment.....	85
Ohio.....	85
Ohio Rev. Code Ann. § 2919.22(C)(1), (E) (2012). Endangering children.....	85
Oklahoma.....	87
Okla. Stat. tit. 47 § 11-902 (2014). Persons under the influence of alcohol or other intoxicating substance or combination thereof--Penalty—Enhancement.....	87
Okla. Stat. tit. 47 § 11-904 (2014). Person involved in personal injury accident while under influence of alcohol or other intoxicating substance--Causing great bodily injury.....	87



Okla. Stat. tit. 21 § 852.1 (2014). Child endangerment--Knowingly permitting physical or sexual abuse--Good faith reliance on spiritual healing—Penalties. ....	88
Oregon.....	89
Or. Rev. Stat. § 813.010(4),(7) (2012). Driving under the influence of intoxicants; penalties. ....	89
Or. Rev. Stat. § 163.195 (2012). Recklessly endangering another person .....	90
Pennsylvania.....	90
75 Pa. Cons. Stat. Ann. § 3802(f) (2012). Driving under influence of alcohol or controlled substance.....	90
75 Pa. Cons. Stat. Ann. § 3804 (2012). Penalties.....	91
18 Pa. Cons. Stat. Ann. § 4304 (2012). Endangering welfare of children.....	92
Rhode Island .....	92
R.I. Gen. Laws § 31-27-2(d)(5)(ii) (2014). Driving under influence of liquor or drugs. ....	92
R.I. Gen. Laws § 11-5-2.2 (2011). Battery – Criminal negligence.....	93
South Carolina .....	93
S.C. Code Ann. § 56-5-2947 (2014). Child endangerment; definition; penalties; jurisdiction; evidence for taking child into protective custody.....	93
South Dakota.....	95
S.D. Codified Laws § 22-18-36 (2014). Vehicular battery.....	95
S.D. Codified Laws § 32-24-1 (2014). Reckless driving.....	95
S.D. Codified Laws § 22-18-1 (2014). Simple assault .....	95
Tennessee.....	96
Tenn. Code Ann. § 55-10-402(b), (c) (2014). Penalty for violations of § 55-10-401 -- Alternative facilities for incarceration -- Public service work -- Inpatient alcohol and drug treatment. ....	96
Tenn. Code Ann. § 55-10-403(a)(5) (2014). Fines for violations of § 55-10-401 -- Restitution. ....	97
Tenn. Code Ann. § 37-1-403 (c) (2014). Persons required to report; contents of report. ....	97
Tenn. Code Ann. § 39-15-401 (2014). Abuse or neglect.....	97
Texas.....	100
Tex. Penal Code Ann. § 49.045 (2011). Driving While Intoxicated with Child Passenger. .	100
Tex. Penal Code Ann. § 22.041 (2014). Abandoning or Endangering Child.....	100
Tex. Penal Code Ann. § 12.35 (2014). State Jail Felony Punishment.....	101
Utah.....	102
Utah Code Ann. § 41-6a-503 (2014). Penalties for driving under the influence violations..	102
Utah Code Ann. § 76-5-109 (2014). Child abuse - Child abandonment. ....	102
Utah Code Ann. § 76-3-204 (2014). Misdemeanor conviction--Term of imprisonment. ....	106
Vermont .....	107
Vt. Stat. Ann. tit. 13 § 1304 (2014). Cruelty to children under 10 by one over 16. ....	107
Virginia.....	107
Va. Code Ann. § 18.2-270(D) (2011). Penalty for driving while intoxicated; subsequent offense; prior conviction. ....	107
Va. Code Ann. § 18.2-371.1 (2014). Abuse and neglect of children; penalty; abandoned infant. ....	107
Washington.....	108

Wash. Rev. Code Ann. § 46.61.5055(6) (2012). Alcohol violators--Penalty schedule.....	108
Wash. Rev. Code Ann. § 9A.36.120 (2014). Assault of a child in the first degree.....	109
Wash. Rev. Code Ann. § 9A.36.011 (2012). Assault in the first degree.....	109
Wash. Rev. Code Ann. § 9A.36.140 (2012). Assault of a child in the third degree.....	110
Wash. Rev. Code Ann. § 9A.20.021 (2014). 9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after.....	110
West Virginia.....	111
W. Va. Code Ann. § 17C-5-2(j) (2014). Driving under influence of alcohol, controlled substances or drugs; penalties.....	111
W. Va. Code Ann. § 61-8D-4 (2014). Child neglect resulting in injury; child neglect creating risk of injury.....	111
W. Va. Code Ann. § 61-8D-4a (2014). Child neglect resulting in death; criminal penalties.....	112
Wisconsin.....	113
Wis. Stat. § 346.65 (2011). Penalty for violating sections § 346.62 [Reckless driving] through § 346.64 [Employment of drunken operators].....	113
Wis. Stat. § 343.31(3)(bm), (3)(c), (3)(e), (3)(f) (2014). Revocation or suspension of licenses after certain convictions or declarations.....	122
Wis. Stat. § 948.21 (2014). Neglecting a child.....	123
Wis. Stat. § 939.50(3) (2014). Classification of felonies.....	124
Wyoming.....	124
Wyo. Stat. Ann. § 31-5-233 (2014). Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties.....	124
Wyo. Stat. Ann. § 6-4-403. Abandoning or endangering children; penalties; “child”; disclosure or publication of identifying information; “minor victim”.....	125
END DOCUMENT.....	127



## Summary Chart

State	Enhanced Penalties for DUI Convictions with a Child Passenger	Endangerment Enhancement Statutes	Other Applicable Laws
AL	Yes	Yes	
AK	No	Yes	
AZ	Yes	No	Yes- Permitting life, health or morals of minor to be imperiled
AR	Yes	Yes	
CA	Yes	Yes	
CO	Yes	Yes	Yes- Child Abuse
CT	No	No	Yes- Injury or risk of injury to children
DE	Yes	Yes	Yes- Vehicular assault
DC	Yes	Yes	
FL	Yes	No	Yes- Abuse, aggravated abuse of children
GA	Yes	No	Yes- Cruelty to Children
HI	Yes	Yes	
ID	Yes		
IL	Yes	Yes	
IN	No		Yes- Neglect of a Dependent
IA	Yes	Yes	
KS	Yes	Yes	
KY	Yes	Yes	
LA	Yes		Yes- Cruelty to juveniles
ME	Yes	Yes	Yes- Reckless Conduct
MD	Yes		
MA	Yes	Yes	Yes- Wanton or Reckless Behavior
MI	Yes		Yes- Child Abuse
MN	Yes	Yes	
MS	No	No	Yes- Simple and aggravated assault
MO	No	Yes	
MT	Yes	Yes	Yes- Criminal Endangerment, Negligent Endangerment.
NE	Yes	Yes	Yes- Child Abuse
NV	Yes	Yes	



NH	Yes	Yes	Yes- Reckless Conduct
NJ	Yes		
NM	No	No	Yes- Abandonment or Abuse of Child
NY	Yes	Yes	
NC	Yes		Yes- Child Abuse
ND	Yes		Yes-Assault; Reckless Endangerment
OH	Yes	Yes	
OK	Yes	Yes	
OR	Yes		Yes- Recklessly Endangering Another Person
PA	No	Yes	
RI	Yes		Yes- Battery
SC	Yes	Yes	
SD	No	No	Yes-Vehicular Battery; Reckless Driving, Simple Assault
TN	Yes		Yes-Abuse or Neglect
TX	Yes	Yes	
UT	Yes	No	Yes- Child Abuse
VT	No	No	Yes- Cruelty to Children under 10 by one over 16
VA	Yes	No	Yes-Abuse and Neglect of Children
WA	Yes		Yes- Assault of Child
WV	Yes		Yes- Child Neglect
WI	Yes		Yes- Neglecting a Child
WY	Yes	Yes	

## Alabama

### Ala. Code §§ 32-5A-191 (e), (j) (2014). Driving while under influence of alcohol, controlled substances, etc.

...

(e) Upon first conviction, a person violating this section shall be punished by imprisonment in the county or municipal jail for not more than one year, or by fine of not less than six hundred dollars (\$600) nor more than two thousand one hundred dollars (\$2,100), or by both a fine and imprisonment. In addition, on a first conviction, the Director of Public Safety shall suspend the

driving privilege or driver's license of the person convicted for a period of 90 days. *If, on a first conviction, any person refusing to provide a blood alcohol concentration or if a child under the age of 14 years was a passenger in the vehicle at the time of the offense or if someone else besides the offender was injured at the time of the offense, the Director of the Department of Public Safety shall suspend the driving privilege or driver's license of the person convicted for a period of 90 days 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 period of two years from the date of issuance of a driver's license indicating that the person's driving privileges are subject to the condition of the installation and use of a certified ignition interlock device on a motor vehicle.*

...

(j) When any person over the age of 21 years 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 § 13A-13-6 (2014). Endangering welfare of child**

(a) A man or woman commits the crime of endangering the welfare of a child when:

(1) He or she knowingly directs or authorizes a child less than 16 years of age to engage in an occupation involving a substantial risk of danger to his life or health; or

(2) He or she, as a parent, guardian or other person legally charged with the care or custody of a child less than 18 years of age, fails to exercise reasonable diligence in the control of such child to prevent him or her from becoming a “dependent child” or a “delinquent child,” as defined in Section 12-15-1.

(b) A person does not commit an offense under Section 13A-13-4 or this section for the sole reason he provides a child under the age of 19 years or a dependent spouse with remedial treatment by spiritual means alone in accordance with the tenets and practices of a recognized church or religious denomination by a duly accredited practitioner thereof in lieu of medical treatment.

(c) Endangering the welfare of a child is a Class A misdemeanor.

## **Alaska**

### **Alaska Stat. § 11.51.100 (b) (2014). Endangering the welfare of a child\* in the first degree**



This document created by the National Traffic Law Center,  
a program of the National District Attorneys Association

...

(b) A person commits the crime of endangering the welfare of a minor<sup>1</sup> in the first degree if the person transports a child in a motor vehicle, aircraft, or watercraft while in violation of AS 28.35.030.

...

(e) Endangering the welfare of a child under (b) of this subsection is a class A misdemeanor. [punishable by a definite term of imprisonment of not more than one year, Alaska Stat. § 12.55.135 (2014)].

## Arizona

### **Ariz. Rev. Stat. Ann. § 28-1383(A)(3), (F), (G), (K), (L)(2) (2014). Aggravated driving or actual physical control while under the influence; violation; classification; definition.**

A. A person is guilty of aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs if the person does any of the following:

...

3. While a person under fifteen years of age is in the vehicle, commits a violation of either:

(a) Section 28-1381 [Driving or actual physical control while under the influence; trial by jury; presumptions; admissible evidence; sentencing; classification]

(b) Section 28-1382 [Driving or actual physical control while under the extreme influence of intoxicating liquor; trial by jury; sentencing; classification]

...

F. A person who is convicted under subsection A, paragraph 3, subdivision (a) of this section shall serve at least the minimum term of incarceration required pursuant to § 28-1381.

---

<sup>1</sup> Note: Alaska's criminal statutes do not define 'child'. However, Alaska does define age 18 as the age of majority: "A person is considered to have arrived at majority at the age of 18, and thereafter has control of the person's own actions and business and has all the rights and is subject to all the liabilities of citizens of full age, except as otherwise provided by statute." Alaska Stat. § 25.20.010 (2014).

G. A person who is convicted under subsection A, paragraph 3, subdivision (b) of this section shall serve at least the minimum term of incarceration required pursuant to § 28-1382.

...

K. After completing the period of suspension required by § 28-1385, a person whose driving privilege is revoked for a violation of subsection A, paragraph 3 of this section may apply to the department for a special ignition interlock restricted driver license pursuant to § 28-1401.

L. Aggravated driving or actual physical control while under the influence of intoxicating liquor or drugs committed under:

...

2. Subsection A, paragraph 3 of this section is a class 6 felony.

**Ariz. Rev. Stat. Ann. § 13-3619 (2014). Permitting life, health or morals of minor to be imperiled by neglect, abuse or immoral associations; classification.**

A person having custody of a minor under sixteen years of age who knowingly causes or permits the life of such minor to be endangered, its health to be injured or its moral welfare to be imperiled, by neglect, abuse or immoral associations, is guilty of a class 1 misdemeanor [A sentence of imprisonment for a misdemeanor shall be for a definite term to be served other than a place within custody of the state department of corrections. The court shall fix the term of imprisonment for a class 1 misdemeanor to six months, Ariz. Rev. Stat. § 13-707(A)(1) (2010)].

## Arkansas

**Ark. Code Ann. § 5-65-111 (a)(2)(A),(B);(b)(1)(B);(b)(2)(B)(i); (b)(3)(B)(i); (b)(4)(B)(i); (d) (2015). Prison terms - - Exception.**

(a)

...

(2)(A) However, if a passenger under sixteen (16) years of age was in the vehicle at the time of the offense, a person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 [**Intoxication, blood alcohol content--Unlawful acts**], for a first offense, may be imprisoned for no fewer than seven (7) days and no more than one (1) year.

(B) However, the court may order public service in lieu of jail, and in that instance, the court shall include the reasons for the order of public service in lieu of jail in the court's written order or judgment.

(b) Any person who pleads guilty or nolo contendere to or is found guilty of violating § 5-65-103 [Intoxication, blood alcohol content--Unlawful acts] or any other equivalent penal law of another state or foreign jurisdiction shall be imprisoned or shall be ordered to perform public service in lieu of jail as follows:

(1)

...

(B)(i) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for no fewer than thirty (30) days but no more than one (1) year for the second offense occurring within five (5) years of the first offense or no fewer than sixty (60) days of community service.

...

(2)

...

(B)(i) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for no fewer than one hundred twenty days (120) days but no more than one (1) year for the third offense occurring within five (5) years of the first offense or no fewer than one hundred twenty (120) days of community service.

...

(3)

...

(B)(i) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for at least two (2) years but no more than six (6) years for the fourth offense occurring within five (5) years of the first offense or not less than two (2) years of community service and is guilty of a felony.

...

(4)

(B)(i) However, if a person under sixteen (16) years of age was in the vehicle at the time of the offense, for at least three (3) years but no more than ten (10) years for the fifth offense occurring within five (5) years of the first offense or not less than three (3) years of community service and is guilty of a felony.

...

(d) It is an affirmative defense to prosecution under subdivisions (a)(2), (b)(1)(B), (b)(2)(B), (b)(3)(B), and (b)(4)(B) of this section that the person operating or in actual physical control of the motor vehicle was not more than two (2) years older than the passenger.

...

**Ark. Code Ann. § 5-27-205 (2015). Endangering welfare of minor--First degree .**

(a) A person commits the offense of endangering the welfare of a minor in the first degree if, being a parent, guardian, person legally charged with care or custody of a minor, or a person charged with supervision of a minor, he or she purposely:

(1) Engages in conduct creating a substantial risk of death or serious physical injury to a minor; or

(2) Deserts a minor less than ten (10) years old under circumstances creating a substantial risk of death or serious physical injury.

(b) Endangering the welfare of a minor in the first degree is a Class D felony. [For a Class D felony, the sentence shall not exceed six (6) years. Ark. Code Ann. § 5-4-401(a)(5).]

(c)(1) It is an affirmative defense to a prosecution under this section that a parent voluntarily delivered a child to and left the child with, or voluntarily arranged for another person to deliver a child to and leave the child with, a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

(2)(A) Nothing in subdivision (c)(1) of this section shall be construed to create a defense to any prosecution arising from any conduct other than the act of delivering a child as described in subdivision (c)(1) of this section.

(B) Subdivision (c)(1) of this section specifically does not constitute a defense to any prosecution arising from an act of abuse or neglect committed prior to the delivery of a child to a medical provider or law enforcement agency as provided in § 9-34-201 et seq.

**Ark. Code Ann. § 5-27-206 (2015). Endangering the welfare of a minor--second degree.**



(a)(1) A person commits the offense of endangering the welfare of a minor in the second degree if he or she knowingly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of another person known by the person to be a minor.

(2) As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

- (A) Protracted disfigurement;
- (B) Protracted impairment of physical or mental health; or
- (C) Loss or protracted impairment of the function of any bodily member or organ.

(b) Endangering the welfare of a minor in the second degree is a Class A misdemeanor. [For a Class A misdemeanor, the sentence shall not exceed one (1) year. Ark. Code Ann. § 5-4-401(b)(1)]

### **Ark. Code Ann. § 5-27-207 (2015). Endangering the welfare of a minor -- third degree**

(a)(1) A person commits the offense of endangering the welfare of a minor in the third degree if the person recklessly engages in conduct creating a substantial risk of serious harm to the physical or mental welfare of a person known by the actor to be a minor.

(2) As used in this section, "serious harm to the physical or mental welfare" means physical or mental injury that causes:

- (A) Protracted disfigurement;
- (B) Protracted impairment of physical or mental health; or
- (C) Loss or protracted impairment of the function of any bodily member or organ.

(b) Endangering the welfare of a minor in the third degree is a Class B misdemeanor.[For a Class B misdemeanor, the sentence shall not exceed ninety (90) days. Ark. Code Ann. § 5-4-401(b)(2).]

## **California**

### **Cal. Veh. Code § 23572 (2015). Minor Passenger: Enhanced Penalty**

(a) If any person is convicted of a violation of Section 23152 (Driving under influence; blood alcohol percentage; presumptions) and a minor under 14 years of age was a passenger in the



vehicle at the time of the offense, the court shall impose the following penalties in addition to any other penalty prescribed:

(1) If the person is convicted of a violation of Section 23152 punishable under Section 23536 [first offense], the punishment shall be enhanced by an imprisonment of 48 continuous hours in the county jail, whether or not probation is granted, no part of which shall be stayed.

(2) If a person is convicted of a violation of Section 23152 punishable under Section 23540 [second offense], the punishment shall be enhanced by an imprisonment of 10 days in the county jail, whether or not probation is granted, no part of which may be stayed.

(3) If a person is convicted of a violation of Section 23152 punishable under Section 23546 [third offense], the punishment shall be enhanced by an imprisonment of 30 days in the county jail, whether or not probation is granted, no part of which may be stayed.

(4) If a person is convicted of a violation of Section 23152 which is punished as a misdemeanor under Section 23550, the punishment shall be enhanced by an imprisonment of 90 days in the county jail, whether or not probation is granted, no part of which may be stayed.

(b) The driving of a vehicle in which a minor under 14 years of age was a passenger shall be pled and proven.

(c) No punishment enhancement shall be imposed pursuant to this section if the person is also convicted of a violation of Section 273a of the Penal Code arising out of the same facts and incident.

**Cal. Penal Code § 273a. (2012). Willful harm or injury to child; endangering person or health; punishment; conditions of probation.**

(a) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health is endangered, shall be punished by imprisonment in a county jail not exceeding one year, or in the state prison for two, four, or six years.

(b) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child,

willfully causes or permits the person or health of that child to be injured, or willfully causes or permits that child to be placed in a situation where his or her person or health may be endangered, is guilty of a misdemeanor.

(c) If a person is convicted of violating this section and probation is granted, the court shall require the following minimum conditions of probation:

(1) A mandatory minimum period of probation of 48 months.

(2) A criminal court protective order protecting the victim from further acts of violence or threats, and, if appropriate, residence exclusion or stay-away conditions.

(3)(A) Successful completion of no less than one year of a child abuser's treatment counseling program approved by the probation department. The defendant shall be ordered to begin participation in the program immediately upon the grant of probation. The counseling program shall meet the criteria specified in Section 273.1. The defendant shall produce documentation of program enrollment to the court within 30 days of enrollment, along with quarterly progress reports.

(B) The terms of probation for offenders shall not be lifted until all reasonable fees due to the counseling program have been paid in full, but in no case shall probation be extended beyond the term provided in subdivision (a) of Section 1203.1. If the court finds that the defendant does not have the ability to pay the fees based on the defendant's changed circumstances, the court may reduce or waive the fees.

(4) If the offense was committed while the defendant was under the influence of drugs or alcohol, the defendant shall abstain from the use of drugs or alcohol during the period of probation and shall be subject to random drug testing by his or her probation officer.

(5) The court may waive any of the above minimum conditions of probation upon a finding that the condition would not be in the best interests of justice. The court shall state on the record its reasons for any waiver.

## Colorado<sup>2</sup>

### Colo. Rev. Stat. § 18-6-401 (2014). Child abuse.

(1)(a) A person commits child abuse if such person causes an injury to a child's life or health, or permits a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, or engages in a continued pattern of conduct that results in malnourishment, lack of proper medical care, cruel punishment, mistreatment, or an accumulation of injuries that ultimately results in the death of a child or serious bodily injury to a child.

...  
(2) In this section, "child" means a person under the age of sixteen years.

...  
(7)(a) Where death or injury results, the following shall apply:

(I) When a person acts knowingly or recklessly and the child abuse results in death to the child, it is a class 2 felony except as provided in paragraph (c) of this subsection (7). [which carries 8-24 years imprisonment, fine \$5,000 - \$1m, Colo. Rev. Stat. § 18-1.3-401(1)(a)(III)(E)(V)(A).].

(II) When a person acts with criminal negligence and the child abuse results in death to the child, it is a class 3 felony. [As to any person sentenced for a felony committed on or after July 1, 1993, a class 3 felony carries a presumptive penalty of 4-12 years imprisonment, fine \$3,000 - \$750,000. Colo. Rev. Stat. § 18-1.3-401(1)(a)(III)(E)(V)(A).].

(III) When a person acts knowingly or recklessly and the child abuse results in serious bodily injury to the child, it is a class 3 felony [Id.].

(IV) When a person acts with criminal negligence and the child abuse results in serious bodily injury to the child, it is a class 4 felony. [As to any person sentenced for a felony committed on or after July 1, 1993, a class 4 felony carries a presumptive penalty of 2-6 years imprisonment, fine \$2,000 - \$500,000. Colo. Rev. Stat. § 18-1.3-401(1)(a)(III)(E)(V)(A).].

---

<sup>2</sup> See, *People v. Deskins*, 927 P. 2d. 368 (Colo. 1996). (Defendant was convicted in the District Court of vehicular homicide, child abuse resulting in death, vehicular assault, driving under influence, child abuse resulting in injury, and being habitual offender. Defendant appealed. The Court of Appeals, reversed on grounds that defendant was not properly advised of his right to testify. Petition for certiorari was granted. The Supreme Court held that: (1) advisement of right to testify was adequate to assure voluntary waiver of right, and (2) standard for reckless child abuse does not require actor's awareness that victim was child. Affirmed in part, reversed in part, and remanded with directions).

(V) When a person acts knowingly or recklessly and the child abuse results in any injury other than serious bodily injury, it is a class 1 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony. [Generally, a class 5 felony carries 1-3 years imprisonment and a fine of \$1,000 - \$100,000. Colo. Rev. Stat. § 18-1.3-401(1)(a)(III)(E)(V)(A). However, because the Colorado General Assembly found “that certain misdemeanors ... present an extraordinary risk of harm to society ... in the interest of public safety, the maximum sentence for convictions under this section shall be increased by six months.” Colo. Rev. Stat. § 18-1.3-501(3)(b)(III).]

(VI) When a person acts with criminal negligence and the child abuse results in any injury other than serious bodily injury to the child, it is a class 2 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony. [A class 5 felony carries a presumptive penalty of 1-3 years imprisonment, fine \$1,000 - \$100,000. Colo. Rev. Stat. § 18-1.3-401(1)(a)(III)(E)(V)(A)].

(b) Where no death or injury results, the following shall apply:

(I) An act of child abuse when a person acts knowingly or recklessly is a class 2 misdemeanor [3 months – 1 year imprisonment, fine \$250 - \$1,000, Colo. Rev. Stat. § 18-1.3-501 (1) (a)]; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony. [A class 5 felony carries a presumptive penalty of 1-3 years imprisonment, fine \$1,000 - \$100,000. Id.]

(II) An act of child abuse when a person acts with criminal negligence is a class 3 misdemeanor; except that, if it is committed under the circumstances described in paragraph (e) of this subsection (7), then it is a class 5 felony. [Which carries up to 6 months imprisonment, fine \$50 - \$750 for a 1<sup>st</sup> offense, Colo. Rev. Stat. § 18-1.3-501(1)(a)].

(c) When a person knowingly causes the death of a child who has not yet attained twelve years of age and the person committing the offense is one in a position of trust with respect to the child, such person commits the crime of murder in the first degree as described in section 18-3-102(1)(f).

...

...

(9) If a parent is charged with permitting a child to be unreasonably placed in a situation that poses a threat of injury to the child's life or health, pursuant to paragraph (a) of subsection (1) of this section, and the child was seventy-two hours old or younger at the time of the alleged offense, it shall be an affirmative defense to such charge that the parent safely, reasonably, and knowingly handed the child over to a firefighter, as defined in section 18-3-201(1.5), or to a

hospital staff member who engages in the admission, care, or treatment of patients, when such firefighter is at a fire station or such hospital staff member is at a hospital.

## Connecticut

### **Conn. Gen. Stat. § 53-21 (2012). Injury or risk of injury to, or impairing morals of, children. Sale of children.**

(a) Any person who (1) willfully or unlawfully causes or permits any child under the age of sixteen years to be placed in such a situation that the life or limb of such child is endangered, the health of such child is likely to be injured or the morals of such child are likely to be impaired, or does any act likely to impair the health or morals of any such child ... shall be guilty of a class C felony [which carries a penalty of not less than 1 year nor more than 10 years or a fine not more than \$10,000, Conn. Gen. Stat. § 53a-35a(7)].

## Delaware

### **Del. Code Ann. tit. 21 § 4177 (d)(10) (2015). Driving a vehicle while under the influence or with a prohibited alcohol or drug content; evidence; arrests; and penalties.**

Effective 7-1-2012.

...

(d) Whoever is convicted of a violation of subsection (a) of this section shall:

...

(10) In addition to the penalties otherwise authorized by this subsection, any person convicted of a violation of subsection (a) of this section, committed while a person who has not yet reached the person's seventeenth birthday is on or within the vehicle shall:

a. For the first offense, be fined an additional minimum of \$500 and not more than an additional \$1,500 and sentenced to perform a minimum of 40 hours of community service in a program benefiting children.

b. For each subsequent like offense, be fined an additional minimum of \$750 and not more than an additional \$2,500 and sentenced to perform a minimum of 80 hours of community service in a program benefiting children.

c. Violation of this paragraph shall be considered as an aggravating circumstance for sentencing purposes for a person convicted of a violation of subsection (a) of this section. Nothing in this paragraph shall prevent conviction for a violation of both subsection (a) of this section and any offense as defined elsewhere by the laws of this State.

d. Violation of or sentencing pursuant to this paragraph shall not be considered as evidence of either comparative or contributory negligence in any civil suit or insurance claim, nor shall a violation of or sentencing pursuant to this paragraph be admissible as evidence in the trial of any civil action.

...

**Del. Code Ann. tit. 11 § 1102 (2015). Endangering the welfare of a child; class A misdemeanor; class E or G felony.**

(a) A person is guilty of endangering the welfare of a child when:

(1) Being a parent, guardian or any other person who has assumed responsibility for the care or supervision of a child less than 18 years old the person:

a. Intentionally, knowingly or recklessly acts in a manner likely to be injurious to the physical, mental or moral welfare of the child; or

b. Intentionally, knowingly or recklessly does or fails to do any act, including failing to report a missing child, with the result that the child becomes a neglected or abused child.

...

(5) The person commits the offense of Driving Under the Influence as set forth in § 4177 of Title 21, or the offense of Operating a Vessel or Boat Under the Influence as set forth in § 2302 of Title 23, and during the commission of the offense knowingly permits a child less than 18 years of age to be a passenger in or on such vehicle, vessel or boat.

...

(b) Endangering the welfare of a child shall be punished as follows:

(1) When the death of a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class E felony [which carries a penalty of up to 5 years, Del. Code Ann. tit. 11 § 4205(b)(5)];

(2) When serious physical injury to a child occurs while the child's welfare was endangered as defined in subsection (a) of this section, endangering the welfare of a child is a class G felony [which carries a penalty of up to 2 years, Del. Code Ann. tit. 11 § 4205(b)(7)].

...

(4) In all other cases, endangering the welfare of a child is a class A misdemeanor. [Class A misdemeanor may include up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate, Del. Code Ann. tit 11 § 4206(a)].

(c) For the purpose of imposing the penalties prescribed in subdivision (b)(1), (b)(2) or (b)(3) of this section, it is not necessary to prove the person's state of mind or liability for causation with regard to the resulting death of or physical injury to the child or sexual offense against the child, notwithstanding the provisions of § 251, § 252, § 261, § 262, § 263 or § 264 of this title, or any other statutes to the contrary.

**Del. Code Ann. tit. 11 § 628 (2015). Vehicular assault in the third degree; class B misdemeanor.**

A person is guilty of vehicular assault in the third degree when, while in the course of driving or operating a motor vehicle, the person's criminally negligent driving or operation of said vehicle causes physical injury to another person.

Vehicular assault in the third degree is a class B misdemeanor. [which carries up to 6 months incarceration and such fine up to \$1,150, restitution or other conditions as the court deems appropriate, Del. Code Ann. tit. 11 § 4206(b)].

**Del. Code Ann. tit. 11 § 628A (2015). Vehicular assault in the second degree; class A misdemeanor.**

A person is guilty of vehicular assault in the second degree when:

- (1) While in the course of driving or operating a motor vehicle, the person's criminally negligent driving or operation of said vehicle causes serious physical injury to another person; or
- (2) While in the course of driving or operating a motor vehicle and under the influence of alcohol or drugs or with a prohibited alcohol or drug content, as defined by § 4177 of Title 21, the person's negligent driving or operation of said vehicle causes physical injury to another person.

Vehicular assault in the second degree is a class A misdemeanor (up to 1 year incarceration at Level V and such fine up to \$2,300, restitution or other conditions as the court deems appropriate, Del. Code Ann. tit. 11 § 4206(a)).

**District of Columbia**





**D.C. Code Ann. § 50–2206.18 (2015). Additional penalty for impaired driving with a minor in vehicle.**

(a) A person convicted of any offense under this part who, at the time of operation or physical control of the vehicle had a minor, other than him or herself, in the vehicle, shall, in addition to any applicable penalty under this part:

(1) Be fined a minimum of \$500 and not more than \$1,000 per minor; and

(2) Be incarcerated for a mandatory-minimum term of incarceration of:

(A) 5 days per minor if the minor or minors are restrained in, or by, an age-appropriate child passenger-safety restraint; or

(B) 10 days per minor if the minor or minors are not restrained in, or by, an age-appropriate child passenger-safety restraint.

(b) The fines set forth in this section shall not be limited by [§ 22-3571.01](#).

**D.C. Code Ann. § 22-1101 (2015). Cruelty to Children: Definition and penalty.**

(a) A person commits the crime of cruelty to children in the first degree if that person intentionally, knowingly, or recklessly tortures, beats, or otherwise willfully maltreats a child under 18 years of age or engages in conduct which creates a grave risk of bodily injury to a child, and thereby causes bodily injury.

(b) A person commits the crime of cruelty to children in the second degree if that person intentionally, knowingly, or recklessly:

(1) Maltreats a child or engages in conduct which causes a grave risk of bodily injury to a child; or

(2) Exposes a child, or aids and abets in exposing a child in any highway, street, field house, outhouse or other place, with intent to abandon the child.

(c) (1) Any person convicted of cruelty to children in the first degree shall be fined not more than \$10,000 or be imprisoned not more than 15 years, or both.

(2) Any person convicted of cruelty to children in the second degree shall be fined not more than the amount set forth in [§ 22-3571.01](#) or be imprisoned not more than 10 years, or both.

**Florida**



**Fla. Stat. Ann. § 316.193 (2014). Driving under the influence**

...

(4) Any person who is convicted of a violation of subsection (1) and who has a blood-alcohol level or breath-alcohol level of 0.15 or higher, or any person who is convicted of a violation of subsection (1) and who at the time of the offense was accompanied in the vehicle by a person under the age of 18 years, shall be punished:

(a) By a fine of:

1. Not less than \$ 1,000 or more than \$ 2,000 for a first conviction.
2. Not less than \$ 2,000 or more than \$ 4,000 for a second conviction.
3. Not less than \$ 4,000 for a third or subsequent conviction.

(b) By imprisonment for:

1. Not more than 9 months for a first conviction.
2. Not more than 12 months for a second conviction.

For the purposes of this subsection, only the instant offense is required to be a violation of subsection (1) by a person who has a blood-alcohol level or breath-alcohol level of 0.15 or higher.

(c) In addition to the penalties in paragraphs (a) and (b), the court shall order the mandatory placement, at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that are individually or jointly leased or owned and routinely operated by the convicted person for not less than 6 continuous months for the first offense and for not less than 2 continuous years for a second offense, when the convicted person qualifies for a permanent or restricted license.

**Fla. Stat. Ann. § 827.03 (2014). Abuse, aggravated abuse, and neglect of a child; Penalties.**

(1) DEFINITIONS.—As used in this section, the term:

(a) “Aggravated child abuse” occurs when a person:

1. Commits aggravated battery on a child;
2. Willfully tortures, maliciously punishes, or willfully and unlawfully cages a child; or
3. Knowingly or willfully abuses a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child.



(b) “Child abuse” means:

1. Intentional infliction of physical or mental injury upon a child;
2. An intentional act that could reasonably be expected to result in physical or mental injury to a child; or
3. Active encouragement of any person to commit an act that results or could reasonably be expected to result in physical or mental injury to a child.

(c) “Maliciously” means wrongfully, intentionally, and without legal justification or excuse. Maliciousness may be established by circumstances from which one could conclude that a reasonable parent would not have engaged in the damaging acts toward the child for any valid reason and that the primary purpose of the acts was to cause the victim unjustifiable pain or injury.

(d) “Mental injury” means injury to the intellectual or psychological capacity of a child as evidenced by a discernible and substantial impairment in the ability of the child to function within the normal range of performance and behavior as supported by expert testimony.

A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) “Neglect of a child” means:

1. A caregiver's failure or omission to provide a child with the care, supervision, and services necessary to maintain the child's physical and mental health, including, but not limited to, food, nutrition, clothing, shelter, supervision, medicine, and medical services that a prudent person would consider essential for the well-being of the child; or
2. A caregiver's failure to make a reasonable effort to protect a child from abuse, neglect, or exploitation by another person.

Except as otherwise provided in this section, neglect of a child may be based on repeated conduct or on a single incident or omission that results in, or could reasonably be expected to result in, serious physical or mental injury, or a substantial risk of death, to a child.

(2) OFFENSES.—

(a) A person who commits aggravated child abuse commits a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(b) A person who willfully or by culpable negligence neglects a child and in so doing causes great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(c) A person who knowingly or willfully abuses a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

(d) A person who willfully or by culpable negligence neglects a child without causing great bodily harm, permanent disability, or permanent disfigurement to the child commits a felony of the third degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

## Georgia

### **Ga. Code Ann. § 40-6-391 (2014). Drivers with ability impaired by alcohol, drugs, or toxic vapor.**

...

(l) A person who violates this Code section while transporting in a motor vehicle a child under the age of 14 years is guilty of the separate offense of endangering a child by driving under the influence of alcohol or drugs. The offense of endangering a child by driving under the influence of alcohol or drugs shall not be merged with the offense of driving under the influence of alcohol or drugs for the purposes of prosecution and sentencing. An offender who is convicted of a violation of this subsection shall be punished in accordance with the provisions of subsection (d) of Code Section 16-12-1.

### **Ga. Code Ann. § 16-5-70 (2014). Cruelty to children.**

(a) A parent, guardian, or other person supervising the welfare of or having immediate charge or custody of a child under the age of 18 commits the offense of cruelty to children in the first degree when such person willfully deprives the child of necessary sustenance to the extent that the child's health or well-being is jeopardized.

(b) Any person commits the offense of cruelty to children in the first degree when such person maliciously causes a child under the age of 18 cruel or excessive physical or mental pain.

(c) Any person commits the offense of cruelty to children in the second degree when such person with criminal negligence causes a child under the age of 18 cruel or excessive physical or mental pain.

(d) Any person commits the offense of cruelty to children in the third degree when:

(1) Such person, who is the primary aggressor, intentionally allows a child under the age of 18 to witness the commission of a forcible felony, battery, or family violence battery; or

(2) Such person, who is the primary aggressor, having knowledge that a child under the age of 18 is present and sees or hears the act, commits a forcible felony, battery, or family violence battery.

(e)(1) A person convicted of the offense of cruelty to children in the first degree as provided in this Code section shall be punished by imprisonment for not less than five nor more than 20 years.

(2) A person convicted of the offense of cruelty to children in the second degree shall be punished by imprisonment for not less than one nor more than ten years.

(3) A person convicted of the offense of cruelty to children in the third degree shall be punished as for a misdemeanor upon the first or second conviction. Upon conviction of a third or subsequent offense of cruelty to children in the third degree, the defendant shall be guilty of a felony and shall be sentenced to a fine not less than \$1,000.00 nor more than \$5,000.00 or imprisonment for not less than one year nor more than three years or shall be sentenced to both fine and imprisonment.

## Hawaii

### **Haw. Rev. Stat. Ann. § 291E-61(b)(4),(5) (2014). Operating a vehicle under the influence of an intoxicant.**

...

(b)(4) In addition to a sentence imposed under paragraphs (1) through (3), any person eighteen years of age or older who is convicted under this section and who operated a vehicle with a passenger, in or on the vehicle, who was younger than fifteen years of age, shall be sentenced to an additional mandatory fine of \$500 and an additional mandatory term of imprisonment of forty-eight hours; provided that the total term of imprisonment for a person convicted under this paragraph shall not exceed the maximum term of imprisonment provided in paragraph (1), (2), or (3), as applicable. Notwithstanding paragraphs (1) and (2), the probation period for a person sentenced under this paragraph shall be not less than two years; and

(5) If the person demonstrates to the court that the person:

(A) Does not own or have the use of a vehicle in which the person can install an ignition interlock device during the revocation period; or

(B) Is otherwise unable to drive during the revocation period, the person shall be

absolutely prohibited from driving during the period of applicable revocation provided in paragraphs (1) to (4); provided that the court shall not issue an ignition interlock permit pursuant to subsection (i) and the person shall be subject to the penalties provided by section 291E-62 if the person drives during the applicable revocation period.

**Haw. Rev. Stat. Ann. § 709-903.5 (2014). Endangering the welfare of a minor in the first degree.**

(1) Except as provided in subsection (2), a person commits the offense of endangering the welfare of a minor in the first degree if, having care or custody of a minor, the person:

(a) Intentionally or knowingly allows another person to inflict serious or substantial bodily injury on the minor; or

(b) Intentionally or knowingly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in sections 329-14, 329-16, 329-18, and 329-20 that has not been prescribed by a physician for the minor, except as permitted under section 329-122.

(2) It shall be a defense to prosecution under sections 709-903.5(1) and 709-904(1) if, at the time the person allowed another to inflict serious or substantial bodily injury on a minor, the person reasonably believed the person would incur serious or substantial bodily injury in acting to prevent the infliction of serious or substantial bodily injury on the minor.

(3) Endangering the welfare of a minor in the first degree is a class C felony [which carries a penalty of up to 5 years imprisonment, Haw. Rev. Stat. Ann. § 706-660(2), with a mandatory minimum sentence of one year, eight months if the victim is eight years of age or younger, Haw. Rev. Stat. Ann. § 706-660.2.(4)].

**Haw. Rev. Stat. Ann. § 709-904 (2014). Endangering the welfare of a minor in the second degree.**

(1) Except as provided in section 709-903.5(2), a person commits the offense of endangering the welfare of a minor in the second degree if, having care or custody of a minor, the person:

(a) Recklessly allows another person to inflict serious or substantial bodily injury on the minor; or

(b) Recklessly causes or permits the minor to inject, ingest, inhale, or otherwise introduce into the minor's body any controlled substance listed in sections 329-14, 329-16, 329-18, and 329-20 that has not been prescribed by a physician for the minor, except as permitted under section 329-122. This subsection shall not apply to nursing mothers who may cause the ingestion or introduction of detectable amounts of any controlled substance

listed in sections 329-14, 329-16, 329-18, and 329-20 to their minor children through breastfeeding.

(2) A person commits the offense of endangering the welfare of a minor in the second degree if, being a parent, guardian, or other person whether or not charged with the care or custody of a minor, the person knowingly endangers the minor's physical or mental welfare by violating or interfering with any legal duty of care or protection owed such minor.

(3) Endangering the welfare of a minor in the second degree is a misdemeanor [which carries a penalty of not more than one year, Haw. Rev. Stat. Ann. § 706-663].

## Idaho

### Idaho Code Ann. § 18-1501(3) (2014) Injury to children.

...

(3) A person over the age of eighteen (18) years commits the crime of injury to a child if the person transports a minor in a motor vehicle or vessel as defined in section 67-7003, Idaho Code, while under the influence of alcohol, intoxicating liquor, a controlled substance, or any combination thereof, in violation of section 18-8004 or 67-7034, Idaho Code. Any person convicted of violating this subsection is guilty of a misdemeanor. If a child suffers bodily injury or death due to a violation of this subsection, the violation will constitute a felony punishable by imprisonment for not more than ten (10) years, unless a more severe penalty is otherwise prescribed by law.

...

## Illinois

### 625 Ill. Comp. Stat. Ann. § 5/11-501(C)(3); (d)(1)(B),(J),(K); (d)(2)(A)-(J); (d)(3), (e)-(h) (2014). Driving while under the influence of alcohol, other drug or drugs, intoxicating compound or compounds or any combination thereof.

...

(c) Penalties.

...



(3) A person who violates subsection (a) is subject to 6 months of imprisonment, an additional mandatory minimum fine of \$1,000, and 25 days of community service in a program benefiting children if the person was transporting a person under the age of 16 at the time of the violation.

...

(d) Aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof.

(1) Every person convicted of committing a violation of this Section shall be guilty of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof if:

...

(B) the person committed a violation of subsection (a) while driving a school bus with one or more passengers on board;

...

(J) the person in committing a violation of subsection (a) was involved in a motor vehicle accident that resulted in bodily harm, but not great bodily harm, to the child under the age of 16 being transported by the person, if the violation was the proximate cause of the injury; or

(K) the person in committing a second violation of subsection (a) or a similar provision was transporting a person under the age of 16.

(2)(A) Except as provided otherwise, a person convicted of aggravated driving under the influence of alcohol, other drug or drugs, or intoxicating compound or compounds, or any combination thereof is guilty of a Class 4 felony.

(B) A third violation of this Section or a similar provision is a Class 2 felony. If at the time of the third violation the alcohol concentration in his or her blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum of 90 days of imprisonment and a mandatory minimum fine of \$2,500 shall be imposed in addition to any other criminal or administrative sanction. ***If at the time of the third violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.***

(C) A fourth violation of this Section or a similar provision is a Class 2 felony, for which a sentence of probation or conditional discharge may not be imposed. If at

the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. ***If at the time of the fourth violation, the defendant was transporting a person under the age of 16 a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.***

(D) A fifth violation of this Section or a similar provision is a Class 1 felony, for which a sentence of probation or conditional discharge may not be imposed. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. ***If at the time of the fifth violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.***

(E) A sixth or subsequent violation of this Section or similar provision is a Class X felony. If at the time of the violation, the alcohol concentration in the defendant's blood, breath, or urine was 0.16 or more based on the definition of blood, breath, or urine units in Section 11-501.2, a mandatory minimum fine of \$5,000 shall be imposed in addition to any other criminal or administrative sanction. ***If at the time of the violation, the defendant was transporting a person under the age of 16, a mandatory fine of \$25,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.***

(F) For a violation of subparagraph (C) of paragraph (1) of this subsection (d), the defendant, if sentenced to a term of imprisonment, shall be sentenced to not less than one year nor more than 12 years.

(G) A violation of subparagraph (F) of paragraph (1) of this subsection (d) is a Class 2 felony, for which the defendant, unless the court determines that extraordinary circumstances exist and require probation, shall be sentenced to: (i) a term of imprisonment of not less than 3 years and not more than 14 years if the violation resulted in the death of one person; or (ii) a term of imprisonment of not less than 6 years and not more than 28 years if the violation resulted in the deaths of 2 or more persons.

(H) For a violation of subparagraph (J) of paragraph (1) of this subsection (d), a mandatory fine of \$2,500, and 25 days of community service in a program

benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(I) A violation of subparagraph (K) of paragraph (1) of this subsection (d), is a Class 2 felony and a mandatory fine of \$2,500, and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction. If the child being transported suffered bodily harm, but not great bodily harm, in a motor vehicle accident, and the violation was the proximate cause of that injury, a mandatory fine of \$5,000 and 25 days of community service in a program benefiting children shall be imposed in addition to any other criminal or administrative sanction.

(J) A violation of subparagraph (D) of paragraph (1) of this subsection (d) is a Class 3 felony, for which a sentence of probation or conditional discharge may not be imposed.

(3) Any person sentenced under this subsection (d) who receives a term of probation or conditional discharge must serve a minimum term of either 480 hours of community service or 10 days of imprisonment as a condition of the probation or conditional discharge in addition to any other criminal or administrative sanction.

(e) Any reference to a prior violation of subsection (a) or a similar provision includes any violation of a provision of a local ordinance or a provision of a law of another state or an offense committed on a military installation that is similar to a violation of subsection (a) of this Section.

(f) The imposition of a mandatory term of imprisonment or assignment of community service for a violation of this Section shall not be suspended or reduced by the court.

(g) Any penalty imposed for driving with a license that has been revoked for a previous violation of subsection (a) of this Section shall be in addition to the penalty imposed for any subsequent violation of subsection (a).

(h) For any prosecution under this Section, a certified copy of the driving abstract of the defendant shall be admitted as proof of any prior conviction.

### **720 Ill. Comp. Stat. Ann. § 5/12C-5 (2013). Endangering the life or health of a child**

(a) A person commits endangering the life or health of a child when he or she knowingly: (1) causes or permits the life or health of a child under the age of 18 to be endangered; or (2) causes

---

<sup>3</sup> Note: *People v. Jordan*, 820 N.E.2d 1083 (2004). Unconstitutional statute section providing that there is rebuttable presumption that a person committed offense of endangering life and health of child if he or she left a child six years of age or younger unattended in motor vehicle for more than ten minutes, which contained impermissible mandatory rebuttable presumption, was severable from remainder of statute; excision of presumption section would not impair meaning of remainder of statute, as it merely operated to ease the state's burden of proof. 720 Ill. Comp. Stat. Ann. 5/12-21.6(b).

or permits a child to be placed in circumstances that endanger the child's life or health. It is not a violation of this Section for a person to relinquish a child in accordance with the Abandoned Newborn Infant Protection Act [[325 ILCS 2/1 et seq.](#)].

(b) A trier of fact may infer that a child 6 years of age or younger is unattended if that child is left in a motor vehicle for more than 10 minutes.

(c) "Unattended" means either: (i) not accompanied by a person 14 years of age or older; or (ii) if accompanied by a person 14 years of age or older, out of sight of that person.

(d) Sentence. A violation of this Section is a Class A misdemeanor [which carries a determinate sentence of less than one year, 730 Ill. Comp Stat. Ann. § 5/5-4.5-55]. A second or subsequent violation of this Section is a Class 3 felony. A violation of this Section that is a proximate cause of the death of the child is a Class 3 felony for which a person, if sentenced to a term of imprisonment, shall be sentenced to a term of not less than 2 years and not more than 10 years. A parent, who is found to be in violation of this Section with respect to his or her child, may be sentenced to probation for this offense pursuant to Section 12C-15.

## Indiana

### **Ind. Code § 9-30-5-1 (2014). Class C Misdemeanor; defense.**

Sec. 1. (a) A person who operates a vehicle with an alcohol concentration equivalent to at least eight-hundredths (0.08) gram of alcohol but less than fifteen-hundredths (0.15) gram of alcohol per:

(1) one hundred (100) milliliters of the person's blood; or

(2) two hundred ten (210) liters of the person's breath; commits a Class C misdemeanor. [A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars (\$500). Ind. Code § 35-50-3-4].

(b) A person who operates a vehicle with an alcohol concentration equivalent to at least fifteen-hundredths (0.15) gram of alcohol per:

(1) one hundred (100) milliliters of the person's blood; or

(2) two hundred ten (210) liters of the person's breath; commits a Class A misdemeanor. [A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000). Ind. Code Ann. § 35-50-3-2.]

(c) A person who operates a vehicle with a controlled substance listed in schedule I or II of IC 35-48-2 or its metabolite in the person's body commits a Class C misdemeanor. [A person who commits a Class C misdemeanor shall be imprisoned for a fixed term of not more than sixty (60) days; in addition, he may be fined not more than five hundred dollars (\$500). Ind. Code § 35-50-3-4].

(d) It is a defense to subsection (c) that the accused person consumed the controlled substance under a valid prescription or order of a practitioner (as defined in IC 35-48-1) who acted in the course of the practitioner's professional practice.

**Ind. Code Ann. § 9-30-5-2 (2014). Class A misdemeanor.**

Sec. 2. (a) Except as provided in subsection (b), a person who operates a vehicle while intoxicated commits a Class C misdemeanor. [A person who commits a Class A misdemeanor shall be imprisoned for a fixed term of not more than one (1) year; in addition, he may be fined not more than five thousand dollars (\$5,000). Ind. Code Ann. § 35-50-3-2.]

(b) An offense described in subsection (a) is a Class A misdemeanor if the person operates a vehicle in a manner that endangers a person.

**Ind. Code Ann. § 9-30-5-3 (a)(2)(B)(2014). Level 6 or Level 5 felony; previous convictions; passenger less than 18 years of age**

Sec. 3. (a) Except as provided in subsection (b), a person who violates section 1 or 2 of this chapter commits a Level 6 felony if [(b) A person who commits a Level 6 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between six (6) months and two and one-half (2 1/2) years, with the advisory sentence being one (1) year. In addition, the person may be fined not more than ten thousand dollars (\$10,000). Ind. Code Ann. § 35-50-2-7(b)]:

(1) the person has a previous conviction of operating while intoxicated that occurred within the five (5) years immediately preceding the occurrence of the violation of section 1 or 2 of this chapter; or

(2) the person:

(A) is at least twenty-one (21) years of age;

(B) violates section 1(b) or 2(b) of this chapter; and

(C) operated a vehicle in which at least one (1) passenger was less than eighteen (18) years of age.

(b) A person who violates section 1 or 2 of this chapter, or subsection (a)(2) of this section, commits a Level 5 felony [A person who commits a Level 5 felony (for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between one (1) and six (6) years, with the advisory sentence being four (3) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000). Ind. Code Ann. § 35-50-2-6 (b)] if:

(1) the person has a previous conviction of operating while intoxicated causing death (IC 9-30-5-5); or

(2) the person has a previous conviction of operating while intoxicated causing serious bodily injury (IC 9-30-5-4).

### **Ind. Code Ann. § 35-46-1-4 (2014). Neglect of a dependent**

(a) A person having the care of a dependent (“Dependent” means: an unemancipated person who is under eighteen (18) years of age, Ind. Code Ann. § 35-46-1-1 (1)), whether assumed voluntarily or because of a legal obligation, who knowingly or intentionally:

(1) places the dependent in a situation that endangers the dependent's life or health;

(2) abandons or cruelly confines the dependent;

(3) deprives the dependent of necessary support; or

(4) deprives the dependent of education as required by law; commits neglect of a dependent, a Level 6 felony.

(b) However, the offense is:

(1) a Level 5 felony if it is committed under subsection (a)(1), (a)(2), or (a)(3) and:

(A) results in bodily injury; or

(B) is:

(i) committed in a location where a person is violating IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in methamphetamine); or

(ii) the result of a violation of IC 35-48-4-1 (dealing in cocaine or a narcotic drug) or IC 35-48-4-1.1 (dealing in methamphetamine);

(2) a Level 3 felony [(for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between three (3) and sixteen (16) years, with the advisory sentence being nine (9) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000). Ind. Code Ann. § 35-50-2-5(b)] if it is committed under subsection (a)(1), (a)(2), or (a)(3) and results in serious bodily injury;

(3) a Level 1 felony [(for a crime committed after June 30, 2014) shall be imprisoned for a fixed term of between twenty (20) and forty (40) years, with the advisory sentence being thirty (30) years. In addition, the person may be fined not more than ten thousand dollars (\$10,000). Ind. Code Ann. § 35-50-2-4 (b)] if it is committed under subsection (a)(1), (a)(2), or (a)(3) by a person at least eighteen (18) years of age and results in the death of a dependent who is less than fourteen (14) years of age; and

(4) a Level 5 felony if it is committed under subsection (a)(2) and consists of cruel confinement or abandonment that:

(A) deprives a dependent of necessary food, water, or sanitary facilities;

(B) consists of confinement in an area not intended for human habitation; or

(C) involves the unlawful use of handcuffs, a rope, a cord, tape, or a similar device to physically restrain a dependent.

(c) It is a defense to a prosecution based on an alleged act under this section that:

(1) the accused person left a dependent child who was, at the time the alleged act occurred, not more than thirty (30) days of age with an emergency medical provider who took custody of the child under IC 31–34–2.5 when:

(A) the prosecution is based solely on the alleged act of leaving the child with the emergency medical services provider; and

(B) the alleged act did not result in bodily injury or serious bodily injury to the child; or

(2) the accused person, in the legitimate practice of the accused person's religious belief, provided treatment by spiritual means through prayer, in lieu of medical care, to the accused person's dependent.

(d) Except for property transferred or received:

(1) under a court order made in connection with a proceeding under IC 31–15, IC 31–16, IC 31–17, or IC 31–35 (or IC 31–1–11.5 or IC 31–6–5 before their repeal); or

(2) under section 9(b) of this chapter;



a person who transfers or receives any property in consideration for the termination of the care, custody, or control of a person's dependent child commits child selling, a Level 6 felony.

## Iowa

### Iowa Code § 726.6 (2015). Child Endangerment.

1. A person who is the parent, guardian, or person having custody or control over a child or a minor under the age of 18 with a mental or physical disability, or a person who is a member of the household in which a child or such a minor resides, commits child endangerment when the person does any of the following:

- a. Knowingly acts in a manner that creates a substantial risk to a child or minor's physical, mental or emotional health or safety.
- b. By an intentional act or series of intentional acts, uses unreasonable force, torture or cruelty that results in bodily injury, or that is intended to cause serious injury.
- c. By an intentional act or series of intentional acts, evidences unreasonable force, torture or cruelty which causes substantial mental or emotional harm to a child or minor.
- d. Willfully deprives a child or minor of necessary food, clothing, shelter, health care or supervision appropriate to the child or minor's age, when the person is reasonably able to make the necessary provisions and which deprivation substantially harms the child or minor's physical, mental or emotional health. For purposes of this paragraph, the failure to provide specific medical treatment shall not for that reason alone be considered willful deprivation of health care if the person can show that such treatment would conflict with the tenets and practice of a recognized religious denomination of which the person is an adherent or member. This exception does not in any manner restrict the right of an interested party to petition the court on behalf of the best interest of the child or minor.
- e. Knowingly permits the continuing physical or sexual abuse of a child or minor. However, it is an affirmative defense to this subsection if the person had a reasonable apprehension that any action to stop the continuing abuse would result in substantial bodily harm to the person or the child or minor.
- f. Abandons the child or minor to fend for the child or minor's self, knowing that the child or minor is unable to do so.
- g. Knowingly permits a child or minor to be present at a location where amphetamine, its salts, isomers, or salts of isomers, or methamphetamine, its salts, isomers, or salts of



isomers, is manufactured in violation of section 124.401, subsection 1, or where a product is possessed in violation of section 124.401, subsection 4.

- h. Knowingly allows a person custody or control of, or unsupervised access to a child or a minor after knowing the person is required to register or is on the sex offender registry as a sex offender under chapter 692A. However, this paragraph does not apply to a person who is a parent or guardian of a child or a minor, who is required to register as a sex offender, or to a person who is married to and living with a person required to register as a sex offender.

2. A parent or person authorized by the parent shall not be prosecuted for a violation of subsection 1, paragraph "f", relating to abandonment, if the parent or person authorized by the parent has voluntarily released custody of a newborn infant in accordance with section 233.2.

3. For the purposes of subsection 1, "***person having control over a child or a minor***" means any of the following:

- a. A person who has accepted, undertaken, or assumed supervision of a child or such a minor from the parent or guardian of the child or minor.
- b. A person who has undertaken or assumed temporary supervision of a child or such a minor without explicit consent from the parent or guardian of the child or minor.
- c. ***A person who operates a motor vehicle with a child or such a minor present in the vehicle.***

4. A person who commits child endangerment resulting in the death of a child or minor is guilty of a class "B" felony [punishable by no more than twenty-five years imprisonment, Iowa Code § 902.9(1)(b)]. Notwithstanding section 902.9, subsection 2, a person convicted of a violation of this subsection shall be confined for no more than fifty years.

5. A person who commits child endangerment resulting in serious injury to a child or minor is guilty of a class "C" felony [punishable by no more than ten years imprisonment, and a fine of at least one thousand dollars but not more than ten thousand dollars, Iowa Code § 902.9(1)(d)].

6. A person who commits child endangerment resulting in bodily injury to a child or minor or child endangerment in violation of subsection 1, paragraph "g", that does not result in a serious injury, is guilty of a class "D" felony [punishable by no more than five years imprisonment, and in addition shall be sentenced to a fine of at least seven hundred fifty dollars but not more than seven thousand five hundred dollars, Iowa Code § 902.9(1)(e)].

7. A person who commits child endangerment that is not subject to penalty under subsection 4, 5, or 6 is guilty of an aggravated misdemeanor [punishable by imprisonment not to exceed two years and a fine of at least \$625 but not to exceed \$6,250, Iowa Code § 903.1(2)].

## **Kansas**

### **Kan. Stat. Ann. § 8-1567(c) (2014). Driving under influence of alcohol or drugs; blood alcohol concentration; penalties. . .**

. . .

(c) Any person convicted of violating this section or an ordinance which prohibits the acts that this section prohibits who had one or more children under the age of 14 years in the vehicle at the time of the offense shall have such person's punishment enhanced by one month of imprisonment. This imprisonment must be served consecutively to any other minimum mandatory penalty imposed for a violation of this section or an ordinance which prohibits the acts that this section prohibits. Any enhanced penalty imposed shall not exceed the maximum sentence allowable by law. During the service of the enhanced penalty, the judge may order the person on house arrest, work release or other conditional release.

### **Kan. Stat. Ann. § 21-5601 (2014). Endangering a child; aggravated endangering a child.**

(a) Endangering a child is knowingly and unreasonably causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health may be endangered.

(b) Aggravated endangering a child is:

(1) Recklessly causing or permitting a child under the age of 18 years to be placed in a situation in which the child's life, body or health is endangered;

(2) causing or permitting such child to be in an environment where the person knows or reasonably should know that any person is distributing, possessing with intent to distribute, manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto; or

(3) causing or permitting such child to be in an environment where the person knows or reasonably should know that drug paraphernalia or volatile, toxic or flammable chemicals are stored for the purpose of manufacturing or attempting to manufacture any methamphetamine, or analog thereof, as defined by subsection (d)(3) or (f)(1) of K.S.A. 65-4107, and amendments thereto.

(c)(1) Endangering a child is a class A person misdemeanor [the sentence for which shall be a definite term of confinement in the county jail which shall be fixed by the court and shall not exceed one year, Kan. Stat. Ann § 21-6602(a)(1)].

(2) Aggravated endangering a child is a severity level 9, person felony [11-13 months imprisonment on a first offense, presumptive probation, Kan. Stat. Ann. § 21-6804 & Kansas Sentencing Grid]. The sentence for a violation of aggravated endangering a child shall be served consecutively to any other term or terms of imprisonment imposed. Such sentence shall not be considered a departure and shall not be subject to appeal.

(d) Nothing in subsection (a) shall be construed to mean a child is endangered for the sole reason the child's parent or guardian, in good faith, selects and depends upon spiritual means alone through prayer, in accordance with the tenets and practice of a recognized church or religious denomination, for the treatment or cure of disease or remedial care of such child.

(e) As used in this section:

(1) "Manufacture" means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto; and

(2) "drug paraphernalia" means the same as in K.S.A. 2014 Supp. 21-5701, and amendments thereto.

## Kentucky

**Ky. Rev. Stat. Ann. §189A.010 (5) (a)-(d), (11)(f) (2014). Operating motor vehicle with alcohol concentration of or above 0.08, or of or above 0.02 for persons under age twenty-one, or while under the influence of alcohol, a controlled substance, or other substance which impairs driving ability prohibited; admissibility of alcohol concentration test results; presumptions; penalties; aggravating circumstances.**

...

(5) Any person who violates the provisions of paragraph (a), (b), (c), (d), or (e) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars (\$200) nor more than five hundred dollars (\$500), or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days, or both. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. If any of the aggravating circumstances

listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars (\$350) nor more than five hundred dollars (\$500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(c) For a third offense within a five (5) year period, be fined not less than five hundred dollars (\$500) nor more than one thousand dollars (\$1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of early release;

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony [For a Class D felony, (imprisonment for) not less than one (1) year nor more than five (5) years, Ky. Rev. Stat. Ann § 532.060(2)(d)]. If any of the aggravating circumstances listed in subsection (11) of this section are present, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release; and

...

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

...

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

**Ky. Rev. Stat. § 530.060 (2011). Endangering the welfare of a Minor.**

(1) A parent, guardian or other person legally charged with the care or custody of a minor is guilty of endangering the welfare of a minor when he fails or refuses to exercise reasonable diligence in the control of such child to prevent him from becoming a neglected, dependent or delinquent child.

(2) Endangering the welfare of a minor is a Class A misdemeanor. [For a Class A misdemeanor, the term of imprisonment shall not exceed 12 months. Ky. Rev. Stat. Ann. § 532.090(1).]

**Louisiana**

**La. Rev. Stat. Ann. § 14:98(B) (2014). Operating a vehicle while intoxicated.**

...

B. (1) This Subsection shall be cited as the “Child Endangerment Law”.

(2) When the state proves, in addition to the elements of the crime as set forth in Subsection A of this Section, that a minor child twelve years of age or younger was a passenger in the motor vehicle, aircraft, watercraft, vessel, or other means of motorized conveyance at the time of the commission of the offense:

(a) Except as provided in Subparagraphs (b) and (c) of this Paragraph, the execution of the minimum mandatory sentence provided by R.S. 14:98.1 or 98.2, as appropriate, shall not be suspended.

(b) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.3 (Operating while intoxicated; third offense; penalties), the execution of the minimum mandatory sentence shall not be suspended.

(c) Notwithstanding any provision of law to the contrary, if imprisonment is imposed pursuant to the provisions of R.S. 14:98.4 (Operating while intoxicated; fourth offense; penalties) , the execution of the minimum mandatory sentence shall not be suspended.

...

**La. Rev. Stat. Ann. § 14:93 (2014). Cruelty to juveniles.**

A. Cruelty to juveniles is:

(1) The intentional or criminally negligent mistreatment or neglect by anyone seventeen years of age or older of any child under the age of seventeen whereby unjustifiable pain or suffering is caused to said child. Lack of knowledge of the child's age shall not be a defense; or



National Traffic Law Center

This document created by the National Traffic Law Center, a program of the National District Attorneys Association

(2) The intentional or criminally negligent exposure by anyone seventeen years of age or older of any child under the age of seventeen to a clandestine laboratory operation as defined by R.S. 40:983 in a situation where it is foreseeable that the child may be physically harmed. Lack of knowledge of the child's age shall not be a defense.

(3) The intentional or criminally negligent allowing of any child under the age of seventeen years by any person over the age of seventeen years to be present during the manufacturing, distribution, or purchasing or attempted manufacturing, distribution, or purchasing of a controlled dangerous substance in violation of the Uniform Controlled Dangerous Substances Law. Lack of knowledge of the child's age shall not be a defense.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be criminally negligent mistreatment or neglect of a child. The provisions of this Subsection shall be an affirmative defense to a prosecution under this Section. Nothing herein shall be construed to limit the provisions of R.S. 40:1299.36.1.

C. The trial judge shall have the authority to issue any necessary orders to protect the safety of the child during the pendency of the criminal action and beyond its conclusion.

D. Whoever commits the crime of cruelty to juveniles shall be fined not more than one thousand dollars or imprisoned with or without hard labor for not more than ten years, or both.

**La. Rev. Stat. Ann. § 93.2.3 (2014). Second degree cruelty to juveniles.**

A. (1) Second degree cruelty to juveniles is the intentional or criminally negligent mistreatment or neglect by anyone over the age of seventeen to any child under the age of seventeen which causes serious bodily injury or neurological impairment to that child.

(2) For purposes of this Section, “serious bodily injury” means bodily injury involving protracted and obvious disfigurement or protracted loss or impairment of the function of a bodily member, organ, or mental faculty, or substantial risk of death.

B. The providing of treatment by a parent or tutor in accordance with the tenets of a well-recognized religious method of healing, in lieu of medical treatment, shall not for that reason alone be considered to be intentional or criminally negligent mistreatment or neglect and shall be an affirmative defense to a prosecution under this Section.

C. Whoever commits the crime of second degree cruelty to juveniles shall be imprisoned at hard labor for not more than forty years.

## Maine

### Me. Rev. Stat. Ann. tit. 29-A, § 2411(5)(A)(3)(a)(iv), (5)(G) (2014). Criminal OUI

...

5. Penalties. Except as otherwise provided in this section and section 2508, violation of this section is a Class D crime, which is a strict liability crime as defined in Title 17-A, section 34, subsection 4-A. The following minimum penalties apply and may not be suspended:

A. For a person having no previous OUI offenses within a 10-year period:

(1) A fine of not less than \$500, except that if the person failed to submit to a test, a fine of not less than \$600;

(2) A court-ordered suspension of a driver's license for a period of 90 days; and

(3) A period of incarceration as follows:

(a) Not less than 48 hours when the person:

...

(iv) Was operating with a passenger under 21 years of age; and

...

G. The court shall order an additional period of license suspension of 275 days for a person sentenced under paragraph A, B, C, D, D-1 or D-2 if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age.

### Me. Rev. Stat. Ann. tit. 29-A, § 2451 (5)(2014). Suspensions for OUI

...

5. Additional period of suspension for transporting passengers under 21 years of age. Unless a court orders an additional period of license suspension of 275 days pursuant to section 2411, subsection 5, paragraph G, the Secretary of State shall impose an additional suspension period of 275 days for any failure to submit to a chemical test or for OUI if the person was operating the motor vehicle at the time of the offense with a passenger under 21 years of age.

**Me. Rev. Stat. Ann. tit. 17-A, § 554 (2014). Endangering the welfare of a child.**

1. A person is guilty of endangering the welfare of a child if that person:

A. Knowingly permits a child under 16 years of age to enter or remain in a house of prostitution;

B. Knowingly sells, furnishes, gives away or offers to sell, furnish or give away to a child under 16 years of age any intoxicating liquor, cigarettes, tobacco, air rifles, gunpowder, smokeless powder or ammunition for firearms;

B-1. Being the parent, foster parent, guardian or other person having the care and custody of the child, cruelly treats that child by abuse, neglect or extreme punishment;

B-2. Being a parent, foster parent, guardian or other person responsible for the long-term general care and welfare of a child under 16, recklessly fails to take reasonable measures to protect the child from the risk of further bodily injury after knowing:

(1) That the child had, in fact, sustained serious bodily injury or bodily injury under circumstances posing a substantial risk of serious bodily injury; and

(2) That such bodily injury was, in fact, caused by the unlawful use of physical force by another person;

B-3. Being the parent, foster parent, guardian or other person having the care and custody of the child, knowingly deprives the child of necessary health care, with the result that the child is placed in danger of serious harm; or

C. Otherwise recklessly endangers the health, safety or welfare of a child under 16 years of age by violating a duty of care or protection.

2. It is an affirmative defense to prosecution under this section that:

A. The defendant was the parent, foster parent, guardian or other similar person responsible for the long-term general care and welfare of a child under 16 years of age who furnished the child cigarettes, tobacco or a reasonable amount of intoxicating liquor in the actor's home and presence;

B. The defendant was a person acting pursuant to authority expressly or impliedly granted in Title 22; or

C. The defendant was the parent, foster parent, guardian or an adult approved by the parent, foster parent or guardian who furnished a child under 16 years of age an air rifle,



gunpowder, smokeless powder or ammunition for a firearm for use in a supervised manner.

3. Endangering the welfare of a child is a Class D crime, except that a violation of subsection 1, paragraph B-2 is a Class C crime. [which carries a penalty of imprisonment not to exceed 5 years, Me. Rev. Stat. Ann. tit. 17A § 1252 (2)(C)].

**Me. Rev. Stat. Ann. tit. 17-A, § 211 (2014). Reckless conduct.**

1. A person is guilty of reckless conduct if he recklessly creates a substantial risk of serious bodily injury to another person.

2. Reckless conduct is a Class D crime [which carries a penalty of less than one year imprisonment in a county jail, Me. Rev. Stat. Ann. tit. 17A § 1252 (2)(D)].

**Maryland**

**Md. Code Ann., Transp. § 21-902 (2014). Driving while under the influence of alcohol, while under the influence of alcohol per se, while impaired by alcohol, or while impaired by a drug, a combination of drugs, a combination of one or more drugs and alcohol, or while impaired by a controlled dangerous substance**

(a) Driving while under the influence of alcohol

(1) A person may not drive or attempt to drive any vehicle while under the influence of alcohol.

(2) A person may not drive or attempt to drive any vehicle while the person is under the influence of alcohol per se.

***(3) A person may not violate paragraph (1) or (2) of this subsection while transporting a minor.***

(b) Driving while impaired by alcohol

(1) A person may not drive or attempt to drive any vehicle while impaired by alcohol.

***(2) A person may not violate paragraph (1) of this subsection while transporting a minor.***

(c) Driving while under influence of drugs and/or alcohol

(1) A person may not drive or attempt to drive any vehicle while he is so far impaired by any drug, any combination of drugs, or a combination of one or more drugs and alcohol that he cannot drive a vehicle safely.

(2) It is not a defense to any charge of violating this subsection that the person charged is or was entitled under the laws of this State to use the drug, combination of drugs, or combination of one or more drugs and alcohol, unless the person was unaware that the drug or combination would make the person incapable of safely driving a vehicle.

***(3) A person may not violate paragraph (1) of this subsection while transporting a minor.***

(d) Driving while under influence of controlled dangerous substance

(1) A person may not drive or attempt to drive any vehicle while the person is impaired by any controlled dangerous substance, as that term is defined in § 5-101 of the Criminal Law Article, if the person is not entitled to use the controlled dangerous substance under the laws of this State.

***(2) A person may not violate paragraph (1) of this subsection while transporting a minor.***

(e) Crime committed in another jurisdiction. -- For purposes of the application of subsequent offender penalties under § 27-101 of this article, a conviction for a crime committed in another state or federal jurisdiction that, if committed in this State, would constitute a violation of subsection (a), (b), (c), or (d) of this section shall be considered a violation of subsection (a), (b), (c), or (d) of this section.

### **Md. Code Ann., Transp. § 27-101(q) (2014). Fines and penalties for motor vehicle violations.**

...  
(q) Violation of § 21-902 --

(1) Any person who is convicted of a violation of § 21-902(a)(3) or (d)(2) of this article is subject to:

(i) For a first offense, a fine of not more than \$2,000 or imprisonment for not more than 2 years or both;

(ii) For a second offense, a fine of not more than \$3,000 or imprisonment for not more than 3 years or both; and

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

(2) Any person who is convicted of a violation of § 21-902(b)(2) or (c)(3) of this article is subject to:

(i) For a first offense, a fine of not more than \$1,000 or imprisonment for not more than 6 months or both; and

(ii) For a second or subsequent offense, a fine of not more than \$2,000 or imprisonment for not more than 1 year or both.

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

(3) For the purpose of determining second or subsequent offender penalties provided under this subsection, a prior conviction of any provision of § 21-902 of this article that subjected a person to the penalties under this subsection shall be considered a prior conviction.

## Massachusetts

### **Mass. Gen. Laws Ann. Ch. 90 § 24V (2014). Child endangerment while operating a motor vehicle or vessel under the influence; penalties; suspension of license.**

(a) Whoever violates paragraph (a) of subdivision (1) of section 24 (Driving while under influence of intoxicating liquor, etc.; second and subsequent offenses; punishment; treatment programs; reckless and unauthorized driving; failure to stop after collision), subsection (a) of section 24G (Homicide by motor vehicle; punishment), operating a motor vehicle with a percentage by weight of blood alcohol of eight one-hundredths or greater, or while under the influence of intoxicating liquor in violation of subsection (b) of said section 24G, section 24L, subsection (a) of section 8 of chapter 90B (Operation while under influence of intoxicating liquor or narcotics, etc.; breath or blood testing; water skiing; professional exhibitions), or section 8A or 8B of chapter 90B, or section 13 1/2 of chapter 265 (Punishment for manslaughter while operating a motor vehicle) *with a child 14 years of age or younger in the motor vehicle or vessel shall also be guilty of child endangerment while operating a motor vehicle or vessel under the influence and shall be punished by an enhanced penalty of a fine of not less than \$1,000 nor more than \$5,000 and by imprisonment in the house of correction for not less than 90 days nor more than 2 1/2 years.* If a defendant has previously violated this subsection or a like offense in another jurisdiction preceding the date of the commission of the offense for which he has been convicted, he shall be punished by a fine of not less than \$5,000 nor more than \$10,000 and by imprisonment in the house of correction for not less than 6 months nor more than 2 1/2 years or by imprisonment in state prison for not less than 3 years but not more than 5 years. The sentence of imprisonment imposed upon such person shall not be reduced to less than 6 months, nor suspended, nor shall any such person be eligible for probation, parole, or furlough or

receive any deduction from his sentence for good conduct until he shall have served at least 6 months of such sentence but the commissioner of correction may, on the recommendation of the warden, superintendent or other person in charge of a correctional institution, or of the administrator of a county correctional institution, grant to an offender committed under this subsection a temporary release in the custody of an officer of such institution for the following purposes only: to attend the funeral of a relative; to visit a critically ill relative; to obtain emergency medical or psychiatric services unavailable at the institution; or to engage in employment pursuant to a work release program. A sentence imposed under this subsection shall be served consecutively to and not concurrently with the predicate violation of said paragraph (a) of subdivision (1) of section 24, subsection (a) of section 24G, subsection (b) of section 24G, section 24L, subsection (a) of section 8 of chapter 90B, or section 8A or 8B of chapter 90B, section 13 1/2 of chapter 265. Section 87 of chapter 276 and sections 1 to 9, inclusive, of chapter 276A shall not apply to a person charged with a violation of this subsection. Prosecutions commenced under this subsection shall not be placed on file or continued without a finding.

(b) The registrar shall suspend the license or right to operate of person who violates this section for a period of 1 year for a first offense, and for a period of 3 years for a second or subsequent violation.

**Mass. Gen. Laws Ann. ch. 265 §13L (2014). Wanton or reckless behavior creating a risk of serious bodily injury or sexual abuse to a child; duty to act; penalty.**

For the purposes of this section, the following words shall have the following meanings:--

“Child”, any person under 18 years of age.

“Serious bodily injury”, bodily injury which results in a permanent disfigurement, protracted loss or impairment of a bodily function, limb or organ, or substantial risk of death.

“Sexual abuse”, an indecent assault and battery on a child under 14 under section 13B of chapter 265; aggravated indecent assault and battery on a child under 14 under section 13B 1/2 of said chapter 265; a repeat offense under section 13B 3/4 of said chapter 265; indecent assault and battery on a person age 14 or over under section 13H of said chapter 265; rape under section 22 of said chapter 265; rape of a child under 16 with force under section 22A of said chapter 265; aggravated rape of a child under 16 with force under section 22B of said chapter 265; a repeat offense under section 22C of said chapter 265; rape and abuse of a child under section 23 of said chapter 265; aggravated rape and abuse of a child under section 23A of said chapter 265; a repeat offense under section 23B of said chapter 265; assault with intent to commit rape under section 24 of said chapter 265; and assault of a child with intent to commit rape under section 24B of said chapter 265.

Whoever wantonly or recklessly engages in conduct that creates a substantial risk of serious bodily injury or sexual abuse to a child or wantonly or recklessly fails to take reasonable steps to

alleviate such risk where there is a duty to act shall be punished by imprisonment in the house of correction for not more than 2 1/2 years.

For the purposes of this section, such wanton or reckless behavior occurs when a person is aware of and consciously disregards a substantial and unjustifiable risk that his acts, or omissions where there is a duty to act, would result in serious bodily injury or sexual abuse to a child. The risk must be of such nature and degree that disregard of the risk constitutes a gross deviation from the standard of conduct that a reasonable person would observe in the situation.

## Michigan

**Mich. Comp. Laws Ann. § 257.625(7) (2014). Offenses involving operation of vehicle while under influence of alcoholic liquor or controlled substance or visibly impaired due to consumption of alcoholic liquor or controlled substance; punishment generally; use or prior convictions for enhancement of punishment; plea of guilty or nolo contendere; special verdict; records; burden of proof; probation conditions.**

...

(7) A person, whether licensed or not, is subject to the following requirements:

(a) He or she shall not operate a vehicle in violation of subsection (1), (3), (4), (5), or (8) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a crime punishable as follows:

(i) Except as provided in subparagraph (ii), a person who violates this subdivision is guilty of a misdemeanor and shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(ii) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision is guilty of a felony and shall be sentenced to pay a fine of not less than \$500.00 or more than \$5,000.00 and to either of the following:

(A) Imprisonment under the jurisdiction of the department of corrections for not less than 1 year or more than 5 years.



(B) Probation with imprisonment in the county jail for not less than 30 days or more than 1 year and community service for not less than 60 days or more than 180 days. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(b) He or she shall not operate a vehicle in violation of subsection (6) while another person who is less than 16 years of age is occupying the vehicle. A person who violates this subdivision is guilty of a misdemeanor punishable as follows:

(i) Except as provided in subparagraph (ii), a person who violates this subdivision may be sentenced to 1 or more of the following:

(A) Community service for not more than 60 days.

(B) A fine of not more than \$500.00.

(C) Imprisonment for not more than 93 days.

(ii) If the violation occurs within 7 years of a prior conviction or after 2 or more prior convictions, regardless of the number of years that have elapsed since any prior conviction, a person who violates this subdivision shall be sentenced to pay a fine of not less than \$200.00 or more than \$1,000.00 and to 1 or more of the following:

(A) Imprisonment for not less than 5 days or more than 1 year. Not less than 48 hours of this imprisonment shall be served consecutively. This term of imprisonment shall not be suspended.

(B) Community service for not less than 30 days or more than 90 days.

(c) In the judgment of sentence under subdivision (a)(i) or (b)(i), the court may, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d. In the judgment of sentence under subdivision (a)(ii) or (b)(ii), the court shall, unless the vehicle is ordered forfeited under section 625n, order vehicle immobilization as provided in section 904d.

(d) This subsection does not prohibit a person from being charged with, convicted of, or punished for a violation of subsection (4) or (5) that is committed by the person while violating this subsection. However, points shall not be assessed under section 320a for both a violation of subsection (4) or (5) and a violation of this subsection for conduct arising out of the same transaction.



...

**Mich. Comp. Laws Ann. § 750.136b (2014). Child abuse; degrees of offense, elements; child discipline; affirmative defense.**

(1) As used in this section:

(a) “Child” means a person who is less than 18 years of age and is not emancipated by operation of law as provided in section 4 of 1968 PA 293, MCL 722.4.

(b) “Cruel” means brutal, inhuman, sadistic, or that which torments.

(c) “Omission” means a willful failure to provide food, clothing, or shelter necessary for a child's welfare or willful abandonment of a child.

(d) “Person” means a child’s parent or guardian or any other person who cares for, has custody of, or has authority over a child regardless of the length of time that a child is cared for, in the custody of, or subject to the authority of that person.

(e) “Physical harm” means any injury to a child's physical condition.

(f) “Serious physical harm” means any physical injury to a child that seriously impairs the child's health or physical well-being, including, but not limited to, brain damage, a skull or bone fracture, subdural hemorrhage or hematoma, dislocation, sprain, internal injury, poisoning, burn or scald, or severe cut.

(g) “Serious mental harm” means an injury to a child's mental condition or welfare that is not necessarily permanent but results in visibly demonstrable manifestations of a substantial disorder of thought or mood which significantly impairs judgment, behavior, capacity to recognize reality, or ability to cope with the ordinary demands of life.

(2) A person is guilty of child abuse in the first degree if the person knowingly or intentionally causes serious physical or serious mental harm to a child. Child abuse in the first degree is a felony punishable by imprisonment for not more than 15 years.

(3) A person is guilty of child abuse in the second degree if any of the following apply:

(a) The person's omission causes serious physical harm or serious mental harm to a child or if the person's reckless act causes serious physical harm or serious mental harm to a child.

(b) The person knowingly or intentionally commits an act likely to cause serious physical or mental harm to a child regardless of whether harm results.



- (c) The person knowingly or intentionally commits an act that is cruel to a child regardless of whether harm results.
- (4) Child abuse in the second degree is a felony punishable by imprisonment for not more than 4 years.
- (5) A person is guilty of child abuse in the third degree if any of the following apply:
  - (a) The person knowingly or intentionally causes physical harm to a child.
  - (b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, and the act results in physical harm to a child.
- (6) Child abuse in the third degree is a felony punishable by imprisonment for not more than 2 years.
- (7) A person is guilty of child abuse in the fourth degree if any of the following apply:
  - (a) The person's omission or reckless act causes physical harm to a child.
  - (b) The person knowingly or intentionally commits an act that under the circumstances poses an unreasonable risk of harm or injury to a child, regardless of whether physical harm results.
- (8) Child abuse in the fourth degree is a misdemeanor punishable by imprisonment for not more than 1 year.
- (9) This section does not prohibit a parent or guardian, or other person permitted by law or authorized by the parent or guardian, from taking steps to reasonably discipline a child, including the use of reasonable force.
- (10) It is an affirmative defense to a prosecution under this section that the defendant's conduct involving the child was a reasonable response to an act of domestic violence in light of all the facts and circumstances known to the defendant at that time. The defendant has the burden of establishing the affirmative defense by a preponderance of the evidence. As used in this subsection, "domestic violence" means that term as defined in section 1 of 1978 PA 389, MCL 400.1501.

## Minnesota



## **Minn. Stat. Ann. §169A.03 Subd. 3 (2014). Definitions**

...

Subd. 3. Aggravating factor. "Aggravating factor" includes:

(1) a qualified prior impaired driving incident within the ten years immediately preceding the current offense;

(2) having an alcohol concentration of 0.20 or more as measured at the time, or within two hours of the time, of the offense; or

(3) having a child under the age of 16 in the motor vehicle at the time of the offense if the child is more than 36 months younger than the offender.

...

## **Minn. Stat. Ann. § 169A.25 (2014). Second-degree driving while impaired**

Subdivision 1. Degree described. (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of second-degree driving while impaired if two or more aggravating factors were present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of second-degree driving while impaired if one aggravating factor was present when the violation was committed.

Subd. 2. Criminal penalty. Second-degree driving while impaired is a gross misdemeanor. The mandatory penalties described in section 169A.275 and the long-term monitoring described in section 169A.277 may be applicable.

## **Minn. Stat. Ann. § 169A.26 (2014). Third-degree driving while impaired**

Subdivision 1. Degree described. (a) A person who violates section 169A.20, subdivision 1, 1a, 1b, or 1c (driving while impaired crime), is guilty of third-degree driving while impaired if one aggravating factor was present when the violation was committed.

(b) A person who violates section 169A.20, subdivision 2 (refusal to submit to chemical test crime), is guilty of third-degree driving while impaired.

Subd. 2. Criminal penalty. Third-degree driving while impaired is a gross misdemeanor. The mandatory penalties described in section 169A.275 and the long-term monitoring described in section 169A.277 may be applicable.

**Minn. Stat. Ann. § 609.378 (2014). Neglect or endangerment of a child.**

Subdivision 1. Persons guilty of neglect or endangerment.

(a)

(1) A parent, legal guardian, or caretaker who willfully deprives a child of necessary food, clothing, shelter, health care, or supervision appropriate to the child's age, when the parent, guardian, or caretaker is reasonably able to make the necessary provisions and the deprivation harms or is likely to substantially harm the child's physical, mental, or emotional health is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both. If the deprivation results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both. If a parent, guardian, or caretaker responsible for the child's care in good faith selects and depends upon spiritual means or prayer for treatment or care of disease or remedial care of the child, this treatment or care is "health care," for purposes of this clause.

(2) A parent, legal guardian, or caretaker who knowingly permits the continuing physical or sexual abuse of a child is guilty of neglect of a child and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

(b) A parent, legal guardian, or caretaker who endangers the child's person or health by:

(1) intentionally or recklessly causing or permitting a child to be placed in a situation likely to substantially harm the child's physical, mental, or emotional health or cause the child's death; or

(2) knowingly causing or permitting the child to be present where any person is selling, manufacturing, possessing immediate precursors or chemical substances with intent to manufacture, or possessing a controlled substance, as defined in section 152.01, subdivision 4, in violation of section 152.021, 152.022, 152.023, 152.024, or 152.0262; is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical, mental, or emotional health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

This paragraph does not prevent a parent, legal guardian, or caretaker from causing or permitting a child to engage in activities that are appropriate to the child's age, stage of development, and experience, or from selecting health care as defined in subdivision 1, paragraph (a).

(c) A person who intentionally or recklessly causes a child under 14 years of age to be placed in a situation likely to substantially harm the child's physical health or cause the child's death as a result of the child's access to a loaded firearm is guilty of child endangerment and may be sentenced to imprisonment for not more than one year or to payment of a fine of not more than \$3,000, or both.

If the endangerment results in substantial harm to the child's physical health, the person may be sentenced to imprisonment for not more than five years or to payment of a fine of not more than \$10,000, or both.

Subd. 2. Defenses. It is a defense to a prosecution under subdivision 1, paragraph (a), clause (2), or paragraph (b), that at the time of the neglect or endangerment there was a reasonable apprehension in the mind of the defendant that acting to stop or prevent the neglect or endangerment would result in substantial bodily harm to the defendant or the child in retaliation

## Mississippi

### **Miss. Code Ann. § 97-3-7 (2014). Simple and aggravated assault; simple and aggravated domestic violence.**

(1) (a) A person is guilty of simple assault if he (i) attempts to cause or purposely, knowingly or recklessly causes bodily injury to another; (ii) negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) attempts by physical menace to put another in fear of imminent serious bodily harm; and, upon conviction, he shall be punished by a fine of not more than Five Hundred Dollars (\$ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(b) However, a person convicted of simple assault upon any of the persons listed in subsection (14) of this section under the circumstances enumerated in subsection (14) shall be punished by a fine of not more than One Thousand Dollars (\$ 1,000.00) or by imprisonment for not more than five (5) years, or both.

(2) (a) A person is guilty of aggravated assault if he (i) attempts to cause serious bodily injury to another, or causes such injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life; (ii) attempts to cause or purposely or knowingly causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or (iii) causes any injury to a child who is in the process of boarding or exiting a school bus in the course of a violation of Section 63-3-615; and, upon conviction, he shall be punished by imprisonment in the county jail for not more than one (1) year or in the Penitentiary for not more than twenty (20) years.

(b) However, a person convicted of aggravated assault upon any of the persons listed in subsection (14) of this section under the circumstances enumerated in subsection (14) shall be punished by a fine of not more than Five Thousand Dollars (\$ 5,000.00) or by imprisonment for not more than thirty (30) years, or both.

(3) (a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of simple domestic violence who:

(i) Attempts to cause or purposely, knowingly or recklessly causes bodily injury to another;

(ii) Negligently causes bodily injury to another with a deadly weapon or other means likely to produce death or serious bodily harm; or

(iii) Attempts by physical menace to put another in fear of imminent serious bodily harm.

Upon conviction, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(b) *Simple domestic violence: third.* A person is guilty of the felony of simple domestic violence third who commits simple domestic violence as defined in this subsection (3) and who, at the time of the commission of the offense in question, has two (2) prior convictions, whether against the same or another victim, within seven (7) years, for any combination of simple domestic violence under this subsection (3) or aggravated domestic violence as defined in subsection (4) of this section or substantially similar offenses under the law of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction, the defendant shall be sentenced to a term of imprisonment not less than five (5) nor more than ten (10) years.

(4) (a) When the offense is committed against a current or former spouse of the defendant or a child of that person, a person living as a spouse or who formerly lived as a spouse with the defendant or a child of that person, a parent, grandparent, child, grandchild or someone similarly situated to the defendant, a person who has a current or former dating relationship with the defendant, or a person with whom the defendant has had a biological or legally adopted child, a person is guilty of aggravated domestic violence who:

(i) Attempts to cause serious bodily injury to another, or causes such an injury purposely, knowingly or recklessly under circumstances manifesting extreme indifference to the value of human life;

(ii) Attempts to cause or purposely or knowingly causes bodily injury to another with a

deadly weapon or other means likely to produce death or serious bodily harm; or

(iii) Strangles, or attempts to strangle another.

Upon conviction, the defendant shall be punished by imprisonment in the custody of the Department of Corrections for not less than two (2) nor more than twenty (20) years.

(b) *Aggravated domestic violence; third.* A person is guilty of aggravated domestic violence third who, at the time of the commission of that offense, commits aggravated domestic violence as defined in this subsection (4) and who has two (2) prior convictions within the past seven (7) years, whether against the same or another victim, for any combination of aggravated domestic violence under this subsection (4) or simple domestic violence third as defined in subsection (3) of this section, or substantially similar offenses under the laws of another state, of the United States, or of a federally recognized Native American tribe. Upon conviction for aggravated domestic violence third, the defendant shall be sentenced to a term of imprisonment of not less than ten (10) nor more than twenty (20) years.

(5) *Sentencing for fourth or subsequent domestic violence offense.* Any person who commits an offense defined in subsection (3) or (4) of this section, and who, at the time of the commission of that offense, has at least three (3) previous convictions, whether against the same or different victims, for any combination of offenses defined in subsections (3) and (4) of this section or substantially similar offenses under the law of another state, of the United States, or of a federally recognized Native American tribe, shall, upon conviction, be sentenced to imprisonment for not less than fifteen (15) years nor more than twenty (20) years.

(6) In sentencing under subsections (3), (4) and (5) of this section, the court shall consider as an aggravating factor whether the crime was committed in the physical presence or hearing of a child under sixteen (16) years of age who was, at the time of the offense, living within either the residence of the victim, the residence of the perpetrator, or the residence where the offense occurred.

(7) Reasonable discipline of a child, such as spanking, is not an offense under subsections (3) and (4) of this section.

(8) A person convicted under subsection (4) or (5) of this section shall not be eligible for parole under the provisions of Section 47-7-3(1)(c) until he shall have served one (1) year of his sentence.

(9) For the purposes of this section:

(a) "Strangle" means to restrict the flow of oxygen or blood by intentionally applying pressure on the neck, throat or chest of another person by any means or to intentionally block the nose or mouth of another person by any means.

(b) "Dating relationship" means a social relationship as defined in Section 93-21-3.



(10) Every conviction under subsection (3), (4) or (5) of this section may require as a condition of any suspended sentence that the defendant participate in counseling or treatment to bring about the cessation of domestic abuse. The defendant may be required to pay all or part of the cost of the counseling or treatment, in the discretion of the court.

(11) (a) Upon conviction under subsection (3), (4) or (5) of this section, the court shall be empowered to issue a criminal protection order prohibiting the defendant from any contact with the victim. The court may include in a criminal protection order any other condition available under Section 93-21-15. The duration of a criminal protection order shall be based upon the seriousness of the facts before the court, the probability of future violations, and the continued safety of the victim or another person. However, municipal and justice courts may issue criminal protection orders for a maximum period of time not to exceed one (1) year. Circuit and county courts may issue a criminal protection order for any period of time deemed necessary.

(b) A criminal protection order shall not be issued against the defendant if the victim of the offense, or the victim's lawful representative where the victim is a minor or incompetent person, objects to its issuance, except in circumstances where the court, in its discretion, finds that a criminal protection order is necessary for the safety and well-being of a victim who is a minor child or incompetent adult.

(c) Criminal protection orders shall be issued on the standardized form developed by the Office of the Attorney General and a copy provided to both the victim and the defendant.

(d) It shall be a misdemeanor to knowingly violate any condition of a criminal protection order. Upon conviction for a violation, the defendant shall be punished by a fine of not more than Five Hundred Dollars (\$ 500.00) or by imprisonment in the county jail for not more than six (6) months, or both.

(12) When investigating allegations of a violation of subsection (3), (4), (5) or (11) of this section, whether or not an arrest results, law enforcement officers shall utilize the form prescribed for such purposes by the Office of the Attorney General in consultation with the sheriff's and police chief's associations. However, failure of law enforcement to utilize the uniform offense report shall not be a defense to a crime charged under this section. The uniform offense report shall not be required if, upon investigation, the offense does not involve persons in the relationships specified in subsections (3) and (4) of this section.

(13) In any conviction under subsection (3), (4), (5) or (11) of this section, the sentencing order shall include the designation "domestic violence." The court clerk shall enter the disposition of the matter into the corresponding uniform offense report.

(14) Assault upon any of the following listed persons is an aggravating circumstance for charging under subsections (1) (b) and (2) (b) of this section if the person is:

(a) A statewide elected official; law enforcement officer; fireman; emergency medical

personnel; public health personnel; social worker, family protection specialist or family protection worker employed by the Department of Human Services or another agency; youth detention center personnel; training school juvenile care worker; any county or municipal jail officer; superintendent, principal, teacher or other instructional personnel, school attendance officer or school bus driver; a judge of a circuit, chancery, county, justice, municipal or youth court or a judge of the Court of Appeals or a justice of the Supreme Court; district attorney or legal assistant to a district attorney; county prosecutor or municipal prosecutor; court reporter employed by a court, court administrator, clerk or deputy clerk of the court; or public defender when that person is acting within the scope of his duty, office or employment;

(b) A legislator while the Legislature is in regular or extraordinary session or while otherwise acting within the scope of his duty, office or employment; or

(c) A person who is sixty-five (65) years of age or older or a person who is a vulnerable person, as defined in Section 43-47-5.

## Missouri

### **Mo. Rev. Stat. § 568.045 (2012). Endangering the welfare of a child, in the first degree--Hope's Law**

1. A person commits the crime of endangering the welfare of a child in the first degree if:

(1) The person knowingly acts in a manner that creates a substantial risk to the life, body, or health of a child less than seventeen years old; or

(2) The person knowingly engages in sexual conduct with a person under the age of seventeen years over whom the person is a parent, guardian, or otherwise charged with the care and custody;

(3) The person knowingly encourages, aids or causes a child less than seventeen years of age to engage in any conduct which violates the provisions of chapter 195;

(4) Such person enlists the aid, either through payment or coercion, of a person less than seventeen years of age to unlawfully manufacture, compound, produce, prepare, sell, transport, test or analyze amphetamine or methamphetamine or any of their analogues, or to obtain any material used to manufacture, compound, produce, prepare, test or analyze amphetamine or methamphetamine or any of their analogues; or

(5) Such person, in the presence of a person less than seventeen years of age or in a residence where a person less than seventeen years of age resides, unlawfully manufactures, or attempts to manufacture compounds, possesses, produces, prepares, sells, transports, tests or analyzes amphetamine or methamphetamine or any of their analogues.



2. Endangering the welfare of a child in the first degree is a class C felony [which carries a penalty of imprisonment not to exceed seven years, Mo. Rev. Stat. § 558.011(1)(3)] unless the offense is committed as part of a ritual or ceremony, or except on a second or subsequent offense, in which case the crime is a class B felony [which carries a penalty of imprisonment not less than five years and not to exceed fifteen years, Mo. Rev. Stat. § 558.011(1)(2)].

3. This section shall be known as “Hope's Law”.

**Mo. Rev. Stat. § 568.050 (2012). Endangering the welfare of a child in the second degree.**

1. A person commits the crime of endangering the welfare of a child in the second degree if:

(1) He or she with criminal negligence acts in a manner that creates a substantial risk to the life, body or health of a child less than seventeen years old; or

...

(5) He or she operates a vehicle in violation of subdivision (2) or (3) of subsection 1 of section 565.024, RSMo, subdivision (4) of subsection 1 of section 565.060 (Involuntary Manslaughter; penalty), RSMo, section 577.010 (Driving while intoxicated--sentencing restrictions, Jackson County), RSMo, or section 577.012, RSMo (Driving with excessive blood alcohol content--sentencing restrictions, Jackson County), while a child less than seventeen years old is present in the vehicle.

...

3. Endangering the welfare of a child in the second degree is a class A misdemeanor [which carries a penalty of imprisonment not to exceed one year, Mo. Rev. Stat. § 558.011(1)(5)] unless the offense is committed as part of a ritual or ceremony, in which case the crime is a class D felony [which carries a penalty of imprisonment not to exceed four years, Mo. Rev. Stat. § 558.011(1)(4)].

## Montana

**Mont. Code Ann. § 61-8-714 (2014). Penalty for driving under influence of alcohol or drugs--first through third offense.**

(1)(a) Except as provided in subsection (4) or (5), a person convicted of a first violation of 61-8-401 (Driving under influence of alcohol or drugs—definitions) shall be punished by imprisonment for not less than 24 consecutive hours or more than 6 months and by a fine of not



less than \$300 or more than \$1,000, ***except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for not less than 48 consecutive hours or more than 1 year and by a fine of not less than \$600 or more than \$2,000.***

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending successful completion of court-ordered chemical dependency assessment, education, or treatment by the person.

(2)(a) Except as provided in subsection (4) or (5), a person convicted of a second violation of 61-8-401 (Driving under influence of alcohol or drugs—definitions) shall be punished by a fine of not less than \$600 or more than \$1,000 and by imprisonment for not less than 7 days or more than 1 year, ***except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by a fine of not less than \$1,200 or more than \$2,000 and by imprisonment for not less than 14 days or more than 1 year.***

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(3)(a) Except as provided in subsection (4) or (5), a person convicted of a third violation of 61-8-401 (Driving under influence of alcohol or drugs—definitions) shall be punished by imprisonment for a term of not less than 30 days or more than 1 year and by a fine of not less than \$1,000 or more than \$5,000, ***except that if one or more passengers under 16 years of age were in the vehicle at the time of the offense, the person shall be punished by imprisonment for a term of not less than 60 days or more than 1 year and by a fine of not less than \$2,000 or more than \$10,000.***

(b) The mandatory minimum imprisonment term may not be served under home arrest and may not be suspended unless the judge finds that the imposition of the imprisonment sentence will pose a risk to the person's physical or mental well-being.

(c) The remainder of the imprisonment sentence may be suspended for a period of up to 1 year pending the person's successful completion of a chemical dependency treatment program pursuant to 61-8-732.

(4) If the person has a prior conviction under 45-5-106, the person shall be punished as provided in 61-8-731 for a fourth or subsequent offense of driving under the influence of alcohol or drugs or with an excessive alcohol concentration.

(5) If the person has a prior conviction or pending charge for a violation of 61-8-465, the person shall be punished as provided in 61-8-465.

**Mont. Code Ann. § 45-5-622 (2014). Endangering welfare of children.**

(1) A parent, guardian, or other person supervising the welfare of a child less than 18 years old commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly endangers the child's welfare by violating a duty of care, protection, or support.

(2) Except as provided in 16-6-305, a parent or guardian or any person who is 18 years of age or older, whether or not the parent, guardian, or other person is supervising the welfare of the child, commits the offense of endangering the welfare of children if the parent, guardian, or other person knowingly contributes to the delinquency of a child less than:

(a) 18 years old by:

- (i) supplying or encouraging the use of an intoxicating substance by the child; or
- (ii) assisting, promoting, or encouraging the child to enter a place of prostitution; or

(b) 16 years old by assisting, promoting, or encouraging the child to:

- (i) abandon the child's place of residence without the consent of the child's parents or guardian; or
- (ii) engage in sexual conduct.

(3) A person, whether or not the person is supervising the welfare of a child less than 18 years of age, commits the offense of endangering the welfare of children if the person, in the residence of a child, in a building, structure, conveyance, or outdoor location where a child might reasonably be expected to be present, in a room offered to the public for overnight accommodation, or in any multiple-unit residential building, knowingly:

(a) produces or manufactures methamphetamine or attempts to produce or manufacture methamphetamine;

(b) possesses any material, compound, mixture, or preparation that contains any combination of the items listed in 45-9-107 with intent to manufacture methamphetamine; or

(c) causes or permits a child to inhale, be exposed to, have contact with, or ingest methamphetamine or be exposed to or have contact with methamphetamine paraphernalia.

(4) A parent, guardian, or other person supervising the welfare of a child less than 16 years of age may verbally or in writing request a person who is 18 years of age or older and who has no legal right of supervision or control over the child to stop contacting the child if the requester believes that the contact is not in the child's best interests. If the person continues to contact the child, the parent, guardian, or other person supervising the welfare of the child may petition or the county attorney may upon the person's request petition for an order of protection under Title 40, chapter 15. To the extent that they are consistent with this subsection, the provisions of Title 40, chapter 15, apply. A person who purposely or knowingly violates an order of protection commits the offense of endangering the welfare of children and upon conviction shall be sentenced as provided in subsection (5)(a).

(5)(a) Except as provided in subsection (5)(b), a person convicted of endangering the welfare of children shall be fined an amount not to exceed \$500 or be imprisoned in the county jail for any term not to exceed 6 months, or both. A person convicted of a second offense of endangering the welfare of children shall be fined an amount not to exceed \$1,000 or be imprisoned in the county jail for any term not to exceed 6 months, or both.

(b) A person convicted under subsection (3) is guilty of a felony and shall be imprisoned in the state prison for a term not to exceed 5 years and may be fined an amount not to exceed \$10,000, or both. If a child suffers serious bodily injury, the offender shall be fined an amount not to exceed \$25,000 or be imprisoned for a term not to exceed 10 years, or both. Prosecution or conviction of a violation of subsection (3) does not bar prosecution or conviction for any other crime committed by the offender as part of the same conduct.

(6) On the issue of whether there has been a violation of the duty of care, protection, and support, the following, in addition to all other admissible evidence, is admissible: cruel treatment; abuse; infliction of unnecessary and cruel punishment; abandonment; neglect; lack of proper medical care, clothing, shelter, and food; and evidence of past bodily injury.

(7) The court may order, in its discretion, any fine levied or any bond forfeited upon a charge of endangering the welfare of children paid to or for the benefit of the person or persons whose welfare the defendant has endangered.

**Mont. Code Ann. § 45-5-207 (2014). Criminal endangerment—penalty.**

(1) A person who knowingly engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of criminal endangerment. This conduct includes but is not limited to knowingly placing in a tree, log, or any other wood any steel, iron, ceramic, or other substance for the purpose of damaging a saw or other wood harvesting, processing, or manufacturing equipment.

(2) A person convicted of the offense of criminal endangerment shall be fined an amount not to exceed \$50,000 or imprisoned in the state prison for a term not to exceed 10 years, or both.

**Mont. Code Ann. § 45-5-208 (2014). Negligent endangerment—Penalty.**

(1) A person who negligently engages in conduct that creates a substantial risk of death or serious bodily injury to another commits the offense of negligent endangerment.

(2) A person convicted of the offense of negligent endangerment shall be fined an amount not to exceed \$1,000 or imprisoned in the county jail for a term not to exceed 1 year, or both.

**Nebraska**

**Neb. Rev. Stat. Ann. § 28-1254 (2014). Motor vehicle operation with person under age of sixteen years; prohibited acts; violation; penalty.**

(1) It shall be unlawful for any person to operate or be in the actual physical control of a motor vehicle with a person under the age of sixteen years as a passenger:

(a) While the person operating or in the actual physical control of the motor vehicle is under the influence of alcoholic liquor or any drug;

(b) When the person operating or in the actual physical control of the motor vehicle has a concentration of eight-hundredths of one gram or more by weight of alcohol per one hundred milliliters of his or her blood;

(c) When the person operating or in the actual physical control of the motor vehicle has a concentration of eight-hundredths of one gram or more by weight of alcohol per two hundred ten liters of his or her breath; or

(d) If the person operating or in the actual physical control of the motor vehicle refuses to submit to a chemical test or tests when directed to do so by a peace officer pursuant to section 60-6,197.

(2) A violation of this section shall be a Class I misdemeanor.

(3) The crime punishable under this section shall be treated as a separate and distinct offense from any other offense arising out of acts alleged to have been committed while the person was in violation of this section.

**Neb. Rev. Stat. Ann. § 28-707 (2014). Child abuse; privileges not available; penalties.**

(1) A person commits child abuse if he or she knowingly, intentionally, or negligently causes or permits a minor child to be:

- (a) Placed in a situation that endangers his or her life or physical or mental health;
- (b) Cruelly confined or cruelly punished;
- (c) Deprived of necessary food, clothing, shelter, or care;
- (d) Placed in a situation to be sexually exploited by allowing, encouraging, or forcing such minor child to solicit for or engage in prostitution, debauchery, public indecency, or obscene or pornographic photography, films, or depictions;
- (e) Placed in a situation to be sexually abused as defined in section 28-319, 28-319.01, or 28-320.01.
- (f) Placed in a situation to be a trafficking victim as defined in section 28-830.

(2) The statutory privilege between patient and physician, between client and professional counselor, and between husband and wife shall not be available for excluding or refusing testimony in any prosecution for a violation of this section.

(3) Child abuse is a Class I misdemeanor if the offense is committed negligently and does not result in serious bodily injury as defined in section 28-109 or death. [The Class I misdemeanor penalty range is not more than one year imprisonment, or one thousand dollars fine, or both. Neb. Rev. Stat. Ann. § 28-106(1).]

(4) Child abuse is a Class IIIA felony if the offense is committed knowingly and intentionally and does not result in serious bodily injury as defined in section 28-109 or death. [The Class IIIA felony penalty range is up to 5 years imprisonment or \$10,000 fine, or both. Neb. Rev. Stat. Ann. § 28-105(1).]

(5) Child abuse is a Class IIIA felony if the offense is committed negligently and results in serious bodily injury as defined in section 28-109. [The Class IIIA felony penalty range is up to 5 years imprisonment or \$10,000 fine, or both. Neb. Rev. Stat. Ann. § 28-105(1).]

(6) Child abuse is a Class III felony if the offense is committed negligently and results in the death of such child. [The Class III felony penalty range is one to 20 years imprisonment or \$25,000 fine, or both. Id.]

(7) Child abuse is a Class II felony if the offense is committed knowingly and intentionally and results in serious bodily injury as defined in such section. [The Class II felony penalty range is one to 50 years imprisonment. Id.]

(8) Child abuse is a Class IB felony if the offense is committed knowingly and intentionally and results in the death of such child. [The Class IB felony penalty range is 20 years to life imprisonment. Id.]

(9) For purposes of this section, negligently refers to criminal negligence and means that a person knew or should have known of the danger involved and acted recklessly, as defined in section 28-109, with respect to the safety or health of the minor child.

## Nevada

**Nev. Rev. Stat. Ann. § 484C.430(4) (2014). Penalty if death or substantial bodily harm results; exception; segregation of offender; plea bargaining restricted; suspension of sentence and probation prohibited; affirmative defense; aggravating factor.**

<Text of section expires by limitation on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State. See, also, section effective on the date of the repeal of the federal law requiring each state to make it unlawful for a person to operate a motor vehicle with a blood alcohol concentration of 0.08 percent or greater as a condition to receiving federal funding for the construction of highways in this State. >

1. Unless a greater penalty is provided pursuant to NRS 484C.440, a person who:

- (a) Is under the influence of intoxicating liquor;
- (b) Has a concentration of alcohol of 0.08 or more in his or her blood or breath;

(c) Is found by measurement within 2 hours after driving or being in actual physical control of a vehicle to have a concentration of alcohol of 0.08 or more in his or her blood or breath;

(d) Is under the influence of a controlled substance or is under the combined influence of intoxicating liquor and a controlled substance;

(e) Inhales, ingests, applies or otherwise uses any chemical, poison or organic solvent, or any compound or combination of any of these, to a degree which renders the person incapable of safely driving or exercising actual physical control of a vehicle; or

(f) Has a prohibited substance in his or her blood or urine in an amount that is equal to or greater than the amount set forth in subsection 3 of NRS 484C.110,

and does any act or neglects any duty imposed by law while driving or in actual physical control of any vehicle on or off the highways of this State, if the act or neglect of duty proximately causes the death of, or substantial bodily harm to, another person, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years and must be further punished by a fine of not less than \$2,000 nor more than \$5,000. A person so imprisoned must, insofar as practicable, be segregated from offenders whose crimes were violent and, insofar as practicable, be assigned to an institution or facility of minimum security.

2. A prosecuting attorney shall not dismiss a charge of violating the provisions of subsection 1 in exchange for a plea of guilty, guilty but mentally ill or nolo contendere to a lesser charge or for any other reason unless the attorney knows or it is obvious that the charge is not supported by probable cause or cannot be proved at the time of trial. A sentence imposed pursuant to subsection 1 may not be suspended nor may probation be granted.

3. If consumption is proven by a preponderance of the evidence, it is an affirmative defense under paragraph (c) of subsection 1 that the defendant consumed a sufficient quantity of alcohol after driving or being in actual physical control of the vehicle, and before his or her blood or breath was tested, to cause the defendant to have a concentration of alcohol of 0.08 or more in his or her blood or breath. A defendant who intends to offer this defense at a trial or preliminary hearing must, not less than 14 days before the trial or hearing or at such other time as the court may direct, file and serve on the prosecuting attorney a written notice of that intent.

***4. If the defendant was transporting a person who is less than 15 years of age in the motor vehicle at the time of the violation, the court shall consider that fact as an aggravating factor in determining the sentence of the defendant.***

**Nev. Rev. Stat. Ann. § 200.508 (2014). Abuse, neglect or endangerment of child: Penalties; definitions.**



1. A person who willfully causes a child who is less than 18 years of age to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 15 years has been served; or

(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 1 year and a maximum term of not more than 6 years; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 15 years,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

2. A person who is responsible for the safety or welfare of a child and who permits or allows that child to suffer unjustifiable physical pain or mental suffering as a result of abuse or neglect or to be placed in a situation where the child may suffer physical pain or mental suffering as the result of abuse or neglect:

(a) If substantial bodily or mental harm results to the child:

(1) If the child is less than 14 years of age and the harm is the result of sexual abuse or exploitation, is guilty of a category A felony and shall be punished by imprisonment in the state prison for life with the possibility of parole, with eligibility for parole beginning when a minimum of 10 years has been served; or



(2) In all other such cases to which subparagraph (1) does not apply, is guilty of a category B felony and shall be punished by imprisonment in the state prison for a minimum term of not less than 2 years and a maximum term of not more than 20 years; or

(b) If substantial bodily or mental harm does not result to the child:

(1) If the person has not previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a gross misdemeanor; or

(2) If the person has previously been convicted of a violation of this section or of a violation of the law of any other jurisdiction that prohibits the same or similar conduct, is guilty of a category C felony and shall be punished as provided in NRS 193.130,

unless a more severe penalty is prescribed by law for an act or omission that brings about the abuse or neglect.

3. A person does not commit a violation of subsection 1 or 2 by virtue of the sole fact that the person delivers or allows the delivery of a child to a provider of emergency services pursuant to NRS 432B.630.

4. As used in this section:

(a) “Abuse or neglect” means physical or mental injury of a nonaccidental nature, sexual abuse, sexual exploitation, negligent treatment or maltreatment of a child under the age of 18 years, as set forth in paragraph (d) and NRS 432B.070, 432B.100, 432B.110, 432B.140 and 432B.150, under circumstances which indicate that the child's health or welfare is harmed or threatened with harm.

(b) “Allow” means to do nothing to prevent or stop the abuse or neglect of a child in circumstances where the person knows or has reason to know that the child is abused or neglected.

(c) “Permit” means permission that a reasonable person would not grant and which amounts to a neglect of responsibility attending the care, custody and control of a minor child.

(d) “Physical injury” means:

(1) Permanent or temporary disfigurement; or

(2) Impairment of any bodily function or organ of the body.

(e) “Substantial mental harm” means an injury to the intellectual or psychological capacity or the emotional condition of a child as evidenced by an observable and substantial impairment of the ability of the child to function within his or her normal range of performance or behavior.

## New Hampshire

### **N.H. Rev. Stat. Ann. § 265-A:3 (2014). Aggravated Driving While Intoxicated.**

A person shall be guilty of aggravated driving while intoxicated if the person drives, operates, or attempts to operate an OHRV, or if the person drives or attempts to drive a vehicle upon any way, or if the person operates or attempts to operate a boat:

I. While under the influence of intoxicating liquor or any controlled drug, prescription drug, over-the-counter drug, or any other chemical substance, natural or synthetic, which impairs a person's ability to drive or any combination of intoxicating liquor and controlled drug or drugs, prescription drug or drugs, over-the-counter drug or drugs, or any other chemical substance or substances, natural or synthetic, which impair a person's ability to drive and, at the time alleged:

(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle, boating, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps or, in the case of a boat, navigational lamps while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or

***(d) Carries as a passenger a person under the age of 16;***

II. While having an alcohol concentration of 0.08 or more or, in the case of a person under the age of 21 at the time of the offense, 0.02 or more and, at the time alleged:

(a) Drives or operates at a speed more than 30 miles per hour in excess of the prima facie limit;

(b) Causes a motor vehicle, boating, or OHRV collision resulting in serious bodily injury, as defined in RSA 625:11, VI, to the person or another;

(c) Attempts to elude pursuit by a law enforcement officer by increasing speed, extinguishing headlamps or, in the case of a boat, navigational lights while still in motion, or abandoning a vehicle, boat, or OHRV while being pursued; or

*(d) Carries as a passenger a person under the age of 16; or*

III. While having an alcohol concentration of 0.16 or more.

## **N.H. Rev. Stat. Ann. § 265-A:18 (2012). Penalties for Intoxication or Under Influence of Drugs Offenses.**

I. Except as otherwise provided in this section:

...

(b) Any person who is convicted of any aggravated DWI offense under RSA 265-A:3, except as provided in subparagraph (c), shall be:

(1) Guilty of a class A misdemeanor;

(2) Fined not less than \$750;

(3) Sentenced to a mandatory sentence of not less than 17 consecutive days in the county correctional facility, of which 12 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 5 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period;

(4) Ordered to install an interlock device in accordance with RSA 265-A:36; and

(5) Subject to the following:

(A) The person's driver's license or privilege to drive shall be revoked for not less than 18 months and, at the discretion of the court, such revocation may be extended for a period not to exceed 2 years. Upon confirmation from the IDCMP

that the person is in full compliance with the service plan, the court may suspend up to 6 months of this sentence, with the condition that an interlock device be installed for the period of the suspended sentence in addition to any period required in accordance with RSA 265-A:36 and provided that all fees have been paid; and

(B) The sentencing court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

III. Any person who is convicted of an offense under RSA 265-A:2, I or RSA 630:3, II, and whose offense occurred while the person was under the age of 21, shall be sentenced according to the provisions of this section, except that in all cases the person's driver's license or privilege to drive shall be revoked for not less than one year. The person shall schedule a substance use disorder evaluation with a service provider indicated by an IDCMP within 30 days of conviction, or upon release from the correctional facility, whichever occurs later, complete the required substance use disorder evaluation within 60 days of release, comply with the service plan developed by the IDCMP, and complete an approved impaired driver education program if not previously completed within the past 5 years.

IV. Upon conviction of any offense under RSA 265-A:2, I or RSA 265-A:3, based on a complaint which alleged that the person has had one or more prior convictions under RSA 265-A:2, I or RSA 265-A:3, or RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction, within 10 years preceding the date of the second or subsequent offense, the person shall be subject to the following penalties in addition to those provided in paragraph I:

(a) For a second offense:

(1) The person shall be guilty of a class A misdemeanor.

(2) The person shall be fined not less than \$750.

(3)(A) If the complaint alleges that the prior conviction occurred within 2 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 60 consecutive days in the county correctional facility, of which 30 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 30 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if

the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period;

(B) If the complaint alleges that the prior conviction occurred more than 2 but not more than 10 years preceding the date of the second offense, the person shall be sentenced to a mandatory sentence of not less than 17 consecutive days in the county correctional facility, of which 12 days shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 5 days in the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period; and

(4) The person's driver's license or privilege to drive shall be revoked for not less than 3 years. The person's driver's license or privilege to drive shall not be restored by the department until the person shall have completed the service plan developed by the IDCMP, and paid all relevant fees.

(b) For a third offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraph (a) except that:

(1) The person's driver's license or privilege to drive shall be revoked indefinitely and shall not be restored for at least 5 years. At the end of the 5-year minimum revocation period the person may petition the court for eligibility to reapply for a driver's license and the court, for good cause shown, may grant such eligibility subject to such terms and conditions as the court may prescribe. Any untimely petition under this subparagraph shall be dismissed without a hearing. If such petition is granted and the person is otherwise eligible for license restoration, the person may then apply to the director for restoration of driver's license, but the license shall not be restored until all requirements under law are met. The person's driver's license or privilege to drive shall not be restored by the department until the person shall have completed the service plan developed by the IDCMP, and paid all relevant fees.

(2) The person shall be sentenced to a mandatory sentence of not less than 180 consecutive days of which 150 shall be suspended. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. A condition of the suspension shall be that upon release from serving the 30 days in

the county correctional facility, the person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. Any portion of the suspended sentence to the county correctional facility may be imposed if the defendant does not comply with all of the requirements of this subparagraph or becomes noncompliant with the service plan during the suspension period. The remainder of the sentence may be deferred for a period of up to 2 years. The court may, at the satisfactory completion of any required treatment, suspend any remaining deferred sentence.

(3) The sentencing court may sentence the person to additional alcohol and/or drug treatment and counseling or to a treatment program approved by the commissioner of health and human services, or both. In addition, the court may require the person to submit to random urinalysis or such other tests as the court may deem appropriate.

(c) For a fourth or subsequent offense, any person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person shall be guilty of a felony, and the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 7 years.

(d) For a third or subsequent offense when any prior offense under this paragraph is negligent homicide under RSA 630:3, II, or reasonably equivalent offense in an out-of-state jurisdiction, the person convicted under this paragraph shall be subject to all the penalties of subparagraphs (a) and (b) except that the person's driver's license or privilege to drive shall be revoked indefinitely and the person shall not petition for eligibility to reapply for a driver's license as provided in subparagraph (b)(1) for at least 10 years.

V. If any person is convicted of a violation of RSA 265-A:2, I or RSA 265-A:3, and the conviction is not based upon a complaint which alleges prior convictions as provided in paragraph IV, but the person is found to have had one or more such prior convictions in this state or in an out-of-state jurisdiction within 10 years preceding the date of the offense, the person's driver's license or privilege to drive shall be revoked for not less than one year nor more than 3 years. The court shall refer the person to an IDCMP to schedule a full substance use disorder evaluation. The person shall schedule a substance use disorder evaluation within 30 days of release, complete the required substance use disorder evaluation within 60 days of release, and comply with the service plan developed. The IDCMP shall administer the substance use disorder evaluation and shall develop the service plan from that substance use disorder evaluation. The court may suspend up to 6 months of this sentence, conditional on completion of the required evaluation within 30 days of the court's finding, completion of the service plan developed by the IDCMP, and payment of all relevant fees.

... .

VIII. Any person convicted of a violation of RSA 265-A:2, RSA 265-A:3, or RSA 265-A:19, II, and who at the time of driving or attempting to drive a vehicle or off highway recreational vehicle or operating or attempting to operate a boat was transporting a person under the age of 16, shall have the driver's license or privilege to drive revoked for the maximum time period under the section violated and the person's license or privilege to drive shall not be restored until the offender has completed an IDCMP screening within 14 days of conviction, and if testing demonstrates the likelihood of a substance use disorder, the person shall schedule a substance use disorder evaluation within 30 days of conviction or within 30 days of release from the correctional facility, whichever occurs later, complete the required substance use disorder evaluation within 60 days of release from the correctional facility, comply with the service plan developed from the substance abuse disorder evaluation by the IDCMP, and complete a department of health and human services approved impaired driver education program prior to the restoration of the person's driver's license or privilege to drive; provided however, that if the person has previously completed such a program within the past 5 years and provides required proof, that shall serve as fulfillment of this requirement.

**N.H. Rev. Stat. Ann. § 639:3 (2014). Endangering Welfare of Child or Incompetent.**

I. A person is guilty of endangering the welfare of a child or incompetent if he knowingly endangers the welfare of a child under 18 years of age or of an incompetent person by purposely violating a duty of care, protection or support he owes to such child or incompetent, or by inducing such child or incompetent to engage in conduct that endangers his health or safety.

II. In the prosecution of any person under this section, the tattooing or branding by any person of a child under the age of 18 constitutes endangering the welfare of such child.

III. In the prosecution of any person under this section, the solicitation by any person of a child under the age of 16 to engage in sexual activity as defined by RSA 649-A:2, III for the purpose of creating a visual representation as defined in RSA 649-A:2, IV, or to engage in sexual penetration as defined by RSA 632-A:1, V, constitutes endangering the welfare of such child.

IV. A person who pursuant to the tenets of a recognized religion fails to conform to an otherwise existing duty of care or protection is not guilty of an offense under this section.

V. A person who endangers the welfare of a child or incompetent by violating paragraph III of this section is guilty of a class B felony. All other violations of this section are misdemeanors. [Misdemeanors are punishable by up to 1 year imprisonment, N.H. Rev. Stat. Ann. § 625:9(IV)(a)].

VI. No person acting in accordance with the provisions of RSA 132-A shall be guilty of an offense under this section.



## **N.H. Rev. Stat. Ann. § 631:3 (2014). Reckless Conduct.**

I. A person is guilty of reckless conduct if he recklessly engages in conduct which places or may place another in danger of serious bodily injury.

II. Reckless conduct is a class B felony if the person uses a deadly weapon as defined in RSA 625:11, V. All other reckless conduct is a misdemeanor. [Misdemeanors are punishable by up to 1 year imprisonment, N.H. Rev. Stat. Ann. § 625:9(IV)(a)].

III. A person convicted of a class B felony offense under this section shall not be subject to the provisions of RSA 651:2, II-g. [Class B felonies are crimes so designated by statute within or outside this code and any crime defined outside of this code for which the maximum penalty, exclusive of fine, is imprisonment in excess of 1 year but not in excess of 7 years. N.H. Rev. Stat. Ann. § 625:9(III)(a)(2).]

IV. Upon proof that the victim and defendant were intimate partners or family or household members, as those terms are defined in RSA 631:2-b, III, a conviction under this section shall be recorded as "Reckless Conduct--Domestic Violence."

## **New Jersey**

### **N.J. Rev. Stat. § 39:4-50.15 (2012). Additional definitions.**

1. a. As used in this act:

“Minor” means a person who is 17 years of age or younger.

“Parent or guardian” means any natural parent, adoptive parent, resource family parent, stepparent, or any person temporarily responsible for the care, custody or control of a minor or upon whom there is a legal duty for such care, custody or control.

b. A parent or guardian who is convicted of a violation of R.S.39:4-50 (Driving while intoxicated) and who, at the time of the violation, has a minor as a passenger in the motor vehicle is guilty of a disorderly persons offense. [The penalty for a disorderly persons offense is imprisonment up to 6 months. N.J. Rev. Stat. § 2C:43-8 (2010).]

c. In addition to the penalties otherwise prescribed by law, a person who is convicted under subsection b. of this section shall forfeit the right to operate a motor vehicle over the highways of this State for a period of not more than six months and shall be ordered to perform community service for a period of not more than five days.



## New Mexico

### **N.M. Stat. Ann. § 30-6-1 (2014). Abandonment or abuse of a child.**

A. As used in this section:

- (1) “child” means a person who is less than eighteen years of age;
- (2) “neglect” means that a child is without proper parental care and control of subsistence, education, medical or other care or control necessary for the child's well-being because of the faults or habits of the child’s parents, guardian or custodian or their neglect or refusal, when able to do so, to provide them; and
- (3) “negligently” refers to criminal negligence and means that a person knew or should have known of the danger involved and acted with a reckless disregard for the safety or health of the child.

B. Abandonment of a child consists of the parent, guardian or custodian of a child intentionally leaving or abandoning the child under circumstances whereby the child may or does suffer neglect. A person who commits abandonment of a child is guilty of a misdemeanor, unless the abandonment results in the child's death or great bodily harm, in which case the person is guilty of a second degree felony.

C. A parent, guardian or custodian who leaves an infant less than ninety days old in compliance with the Safe Haven for Infants Act shall not be prosecuted for abandonment of a child.

D. Abuse of a child consists of a person knowingly, intentionally or negligently, and without justifiable cause, causing or permitting a child to be:

- (1) placed in a situation that may endanger the child’s life or health;
- (2) tortured, cruelly confined or cruelly punished; or
- (3) exposed to the inclemency of the weather.

E. A person who commits abuse of a child that does not result in the child's death or great bodily harm is, for a first offense, guilty of a third degree felony [basic sentence of three years imprisonment, N.M. Stat. Ann. § 31-18-15] and for second and subsequent offenses is guilty of a second degree felony [basic sentence of nine years imprisonment, N.M. Stat. Ann. § 31-18-15]. If the abuse results in great bodily harm to the child, the person is guilty of a first degree felony [basic sentence of eighteen years imprisonment, N.M. Stat. Ann. § 31-18-15].

F. A person who commits negligent abuse of a child that results in the death of the child is guilty of a first degree felony.

G. A person who commits intentional abuse of a child twelve to eighteen years of age that results in the death of the child is guilty of a first degree felony.

H. A person who commits intentional abuse of a child less than twelve years of age that results in the death of the child is guilty of a first degree felony resulting in the death of a child [life imprisonment, N.M. Stat. Ann. § 31-18-15].

I. Evidence that demonstrates that a child has been knowingly, intentionally or negligently allowed to enter or remain in a motor vehicle, building or any other premises that contains chemicals and equipment used or intended for use in the manufacture of a controlled substance shall be deemed prima facie evidence of abuse of the child.

J. Evidence that demonstrates that a child has been knowingly and intentionally exposed to the use of methamphetamine shall be deemed prima facie evidence of abuse of the child.

K. A person who leaves an infant less than ninety days old at a hospital may be prosecuted for abuse of the infant for actions of the person occurring before the infant was left at the hospital.

## **New York**

### **N.Y. Veh. & Traf. § 1192 (2014). Operating a motor vehicle while under the influence of alcohol or drugs.**

...

2-a. Aggravated driving while intoxicated. (a) Per se. No person shall operate a motor vehicle while such person has .18 of one per centum or more by weight of alcohol in such person's blood as shown by chemical analysis of such person's blood, breath, urine or saliva made pursuant to the provisions of section eleven hundred ninety-four of this article.

*(b) With a child. No person shall operate a motor vehicle in violation of subdivision two, three, four or four-a of this section while a child who is fifteen years of age or less is a passenger in such motor vehicle.*

...

### **N.Y. Veh. & Traf. § 1193 (2014). Sanctions.**

1. Criminal penalties.

...

(b) Driving while intoxicated or while ability impaired by drugs or while ability impaired by the combined influence of drugs or of alcohol and any drug or drugs; aggravated driving while intoxicated; misdemeanor offenses.

...

(ii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of, or adjudicated a youthful offender for, a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a term of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than twelve months; provided, however, that such period of interlock restriction shall terminate upon submission of proof that such person installed and maintained an ignition interlock device for at least six months, unless the court ordered such person to install and maintain an ignition interlock device for a longer period as authorized by this subparagraph and specified in such order. The period of interlock restriction shall commence from the earlier of the date of sentencing, or the date that an ignition interlock device was installed in advance of sentencing. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

(c) Felony offenses.

(i) A person who operates a vehicle (A) in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, within the preceding ten years, or (B) in violation of paragraph (b) of subdivision two-a of section eleven hundred ninety-two of this article shall be guilty of a class E felony, and shall be punished by a fine of not less than one thousand dollars nor more than five thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(ii) A person who operates a vehicle in violation of subdivision two, two-a, three, four or four-a of section eleven hundred ninety-two of this article after having been convicted of a violation of subdivision two, two-a, three, four or four-a of such section or of vehicular



assault in the second or first degree, as defined, respectively, in sections 120.03 and 120.04 and aggravated vehicular assault as defined in section 120.04-a of the penal law or of vehicular manslaughter in the second or first degree, as defined, respectively, in sections 125.12 and 125.13 and aggravated vehicular homicide as defined in section 125.14 of such law, twice within the preceding ten years, shall be guilty of a class D felony, and shall be punished by a fine of not less than two thousand dollars nor more than ten thousand dollars or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment.

(iii) In addition to the imposition of any fine or period of imprisonment set forth in this paragraph, the court shall also sentence such person convicted of a violation of subdivision two, two-a or three of section eleven hundred ninety-two of this article to a period of probation or conditional discharge, as a condition of which it shall order such person to install and maintain, in accordance with the provisions of section eleven hundred ninety-eight of this article, an ignition interlock device in any motor vehicle owned or operated by such person during the term of such probation or conditional discharge imposed for such violation of section eleven hundred ninety-two of this article and in no event for a period of less than six months. Provided, however, the court may not authorize the operation of a motor vehicle by any person whose license or privilege to operate a motor vehicle has been revoked pursuant to the provisions of this section.

...

(4)

(i) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph within the preceding ten years, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in violation of subdivision six of section eleven hundred ninety-two of this article after having been convicted of two or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class E felony, which shall be punishable by a fine of not less than one thousand dollars nor more than five thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section.

(ii) A person who operates a vehicle in violation of subdivision one, two, two-a, three, four or four-a of section eleven hundred ninety-two of this article and which is punishable as provided in subparagraph one, one-a, two or three of this paragraph after having been convicted of a violation of any such subdivision of section eleven hundred ninety-two of this article and penalized under subparagraph one, one-a, two or three of this paragraph twice within the preceding ten years, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. A person who operates a vehicle in violation of subdivision six of section eleven hundred ninety-two of this article after having been convicted of three or more violations of subdivisions one, two, two-a, three, four, four-a or six of section eleven hundred ninety-two of this article within the preceding five years, any one of which was a misdemeanor, shall be guilty of a class D felony, which shall be punishable by a fine of not less than two thousand dollars nor more than ten thousand dollars, or by a period of imprisonment as provided in the penal law, or by both such fine and imprisonment. In addition, any person sentenced pursuant to this subparagraph shall be subject to the disqualification provided in subparagraph three of paragraph (e) of subdivision two of this section.

...

### **N.Y. Penal Law § 260.10 (2012). Endangering the welfare of a child.**

A person is guilty of endangering the welfare of a child when:

1. He or she knowingly acts in a manner likely to be injurious to the physical, mental or moral welfare of a child less than seventeen years old or directs or authorizes such child to engage in an occupation involving a substantial risk of danger to his or her life or health; or
2. Being a parent, guardian or other person legally charged with the care or custody of a child less than eighteen years old, he or she fails or refuses to exercise reasonable diligence in the control of such child to prevent him or her from becoming an “abused child,” a “neglected child,” a “juvenile delinquent” or a “person in need of supervision,” as those terms are defined in articles ten, three and seven of the family court act.
3. A person is not guilty of the provisions of this section when he or she engages in the conduct described in subdivision one of section 260.00 of this article: (a) with the intent to wholly abandon the child by relinquishing responsibility for and right to the care and custody of such child; (b) with the intent that the child be safe from physical injury and cared for in an appropriate manner; (c) the child is left with an appropriate person, or in a suitable location and the person who leaves the child promptly notifies an appropriate person of the child's location; and (d) the child is not more than thirty days old.

Endangering the welfare of a child is a class A misdemeanor. [The penalty for a Class A misdemeanor is imprisonment that shall not exceed one year, N.Y. Penal Law § 70.15, or a fine that shall not exceed one thousand dollars. N.Y. Penal Law § 80.05.]

## North Carolina

### **N.C. Gen. Stat. § 20-179 (c)(4),(g) (2014). Sentencing hearing after conviction for impaired driving; determination of grossly aggravating and aggravating and mitigating factors; punishments.**

...

(c) Determining Existence of Grossly Aggravating Factors. -- At the sentencing hearing, based upon the evidence presented at trial and in the hearing, the judge, or the jury in superior court, must first determine whether there are any grossly aggravating factors in the case. Whether a prior conviction exists under subdivision (1) of this subsection, or whether a conviction exists under subdivision (d)(5) of this section, shall be matters to be determined by the judge, and not the jury, in district or superior court. If the sentencing hearing is for a case remanded back to district court from superior court, the judge shall determine whether the defendant has been convicted of any offense that was not considered at the initial sentencing hearing and impose the appropriate sentence under this section. The judge must impose the Aggravated Level One punishment under subsection (f3) of this section if it is determined that three or more grossly aggravating factors apply. ***The judge must impose the Level One punishment under subsection (g) of this section if it is determined that the grossly aggravating factor in subdivision (4) of this subsection applies or two of the other grossly aggravating factors apply.*** If the judge does not find that the aggravating factor at subdivision (4) of this subsection applies, then the judge must impose the Level Two punishment under subsection (h) of this section if it is determined that only one of the other grossly aggravating factors applies. The grossly aggravating factors are:

...

***(4) Driving by the defendant while (i) a child under the age of 18 years, (ii) a person with the mental development of a child under the age of 18 years, or (iii) a person with a physical disability preventing unaided exit from the vehicle was in the vehicle at the time of the offense.***

In imposing an Aggravated Level One, a Level One, or a Level Two punishment, the judge may consider the aggravating and mitigating factors in subsections (d) and (e) in determining the appropriate sentence. If there are no grossly aggravating factors in the case, the judge must weigh all aggravating and mitigating factors and impose punishment as required by subsection (f).

...

(g) Level One Punishment. - A defendant subject to Level One punishment may be fined up to four thousand dollars (\$4,000) and shall be sentenced to a term of imprisonment that includes a minimum term of not less than 30 days and a maximum term of not more than 24 months. The term of imprisonment may be suspended only if a condition of special probation is imposed to require the defendant to serve a term of imprisonment of at least 30 days. A judge may reduce the minimum term of imprisonment required to a term of not less than 10 days if a condition of special probation is imposed to require that a defendant abstain from alcohol consumption and be monitored by a continuous alcohol monitoring system, of a type approved by the Division of Adult Correction of the Department of Public Safety, for a period of not less than 120 days. If the defendant is monitored on an approved continuous alcohol monitoring system during the pretrial period, up to 60 days of pretrial monitoring may be credited against the 120-day monitoring requirement for probation. If the defendant is placed on probation, the judge shall impose a requirement that the defendant obtain a substance abuse assessment and the education or treatment required by G.S. 20-17.6 for the restoration of a drivers license and as a condition of probation. The judge may impose any other lawful condition of probation.

**N.C. Gen. Stat. § 14-318.2 (2014). Child abuse.**

(a) Any parent of a child less than 16 years of age, or any other person providing care to or supervision of such child, who inflicts physical injury, or who allows physical injury to be inflicted, or who creates or allows to be created a substantial risk of physical injury, upon or to such child by other than accidental means is guilty of the Class A1 misdemeanor of child abuse. [A Class A1 misdemeanor carries a penalty of 1-60 days imprisonment or a fine in the court's discretion. N.C. Gen. Stat. § 15A-1340.23(c)(2).]

(b) The Class A1 misdemeanor of child abuse is an offense additional to other civil and criminal provisions and is not intended to repeal or preclude any other sanctions or remedies.

(c) A parent who abandons an infant less than seven days of age pursuant to G.S. 14-322.3 shall not be prosecuted under this section for any acts or omissions related to the care of that infant.

**North Dakota**

**N.D. Cent. Code § 39-08-01.4 (2014). Driving while under the influence of alcohol while being accompanied by a minor – Penalty.**

It is a class A misdemeanor for an individual who is at least twenty-one years of age to violate section 39-08-01 (Persons under the influence of intoxicating liquor or any other drugs or substances not to operate vehicle—Penalty) if the violation occurred while a minor was accompanying the individual in a motor vehicle. [If convicted of Class A misdemeanor, a





maximum penalty of one year's imprisonment, a fine of three thousand dollars, or both, may be imposed. N.D. Cent. Code § 12.1-32-01(5).] If an individual has a previous conviction for a violation of section 39-08-01.4, a violation of this section is a class C felony [If convicted of Class C felony, a maximum penalty of five years' imprisonment, a fine of ten thousand dollars, or both, may be imposed. N.D. Cent. Code § 12.1-32-01(4).]

### **N.D. Cent. Code § 12.1-17-01.1 (2014). Assault.**

A person is guilty of a class A misdemeanor [If convicted of Class A misdemeanor, a maximum penalty of one year's imprisonment, a fine of three thousand dollars, or both, may be imposed. N.D. Cent. Code § 12.1-32-01(5).], except if the victim is under the age of twelve years in which case the offense is a class C felony, if that person:

1. Willfully causes substantial bodily injury to another human being; or
2. Negligently causes substantial bodily injury to another human being by means of a firearm, destructive device, or other weapon, the use of which against a human being is likely to cause death or serious bodily injury.

### **N.D. Cent. Code § 12.1-17-03 (2014). Reckless Endangerment.**

A person is guilty of an offense if he creates a substantial risk of serious bodily injury or death to another. The offense is a class C felony if the circumstances manifest his extreme indifference to the value of human life. Otherwise it is a class A misdemeanor. There is a risk within the meaning of this section if the potential for harm exists, whether or not a particular person's safety is actually jeopardized. [A class C felony carries a maximum penalty of 5 years' imprisonment, a fine of \$5,000, or both. N.D. Cent. Code § 12.1-32-01(4). A class A misdemeanor carries a maximum penalty of 1 year's imprisonment, a fine of \$2,000, or both. N.D. Cent. Code § 12.1-32-01(5).]

## **Ohio**

### **Ohio Rev. Code Ann. § 2919.22(C)(1), (E) (2012). Endangering children.**

...

(C)(1) No person shall operate a vehicle, streetcar, or trackless trolley within this state in violation of division (A) of section 4511.19 (Driving while under the influence of alcohol or drugs; tests; presumptions; penalties; immunity for those withdrawing blood) of the Revised Code when one or more children under eighteen years of age are in the vehicle, streetcar, or trackless trolley. Notwithstanding any other provision of law, a person may be convicted at the same trial or proceeding of a violation of this division and a violation of division (A) of section 4511.19 of the Revised Code that constitutes the basis of the charge of the violation of this division. For purposes of sections 4511.191 to 4511.197 of the Revised Code and all related



provisions of law, a person arrested for a violation of this division shall be considered to be under arrest for operating a vehicle while under the influence of alcohol, a drug of abuse, or a combination of them or for operating a vehicle with a prohibited concentration of alcohol, a controlled substance, or a metabolite of a controlled substance in the whole blood, blood serum or plasma, breath, or urine.

...

(E)

(1) Whoever violates this section is guilty of endangering children.

...

(5) If the offender violates division (C) of this section, the offender shall be punished as follows:

(a) Except as otherwise provided in division (E)(5)(b) or (c) of this section, endangering children in violation of division (C) of this section is a misdemeanor of the first degree [which carries not more than 180 days imprisonment, Ohio Rev. Code Ann. § 2929.24(1)].

(b) If the violation results in serious physical harm to the child involved or the offender previously has been convicted of an offense under this section or any offense involving neglect, abandonment, contributing to the delinquency of, or physical abuse of a child, except as otherwise provided in division (E)(5)(c) of this section, endangering children in violation of division (C) of this section is a felony of the fifth degree. . [For a felony of the fifth degree, the prison term shall be 6, 7, 8, 9, 10, 11 or 12 months. Ohio Rev. Code Ann. § 2929.14(5)].

(c) If the violation results in serious physical harm to the child involved and if the offender previously has been convicted of a violation of division (C) of this section, section 2903.06 or 2903.08 of the Revised Code, section 2903.07 of the Revised Code as it existed prior to March 23, 2000, or section 2903.04 of the Revised Code in a case in which the offender was subject to the sanctions described in division (D) of that section, endangering children in violation of division (C) of this section is a felony of the fourth degree. . [For a felony of the fourth degree, the prison term shall be 6, 7, 8, 9, 10, 11, 12, 13, 14, 15, 16, 17, or 18 months. Ohio Rev. Code Ann. § 2929.14(4)]

(d) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction it imposes upon the offender pursuant to division (E)(5)(a), (b), or (c) of this section or pursuant to any other provision of law and in addition to any suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege under Chapter 4506., 4509., 4510., or 4511. of the

Revised Code or under any other provision of law, the court also may impose upon the offender a class seven suspension of the offender's driver's or commercial driver's license or permit or nonresident operating privilege from the range specified in division (A)(7) of section 4510.02 of the Revised Code.

(e) In addition to any term of imprisonment, fine, or other sentence, penalty, or sanction imposed upon the offender pursuant to division (E)(5)(a), (b), (c), or (d) of this section or pursuant to any other provision of law for the violation of division (C) of this section, if as part of the same trial or proceeding the offender also is convicted of or pleads guilty to a separate charge charging the violation of division (A) of section 4511.19 of the Revised Code that was the basis of the charge of the violation of division (C) of this section, the offender also shall be sentenced in accordance with section 4511.19 of the Revised Code for that violation of division (A) of section 4511.19 of the Revised Code.

## Oklahoma

### **Okla. Stat. tit. 47 § 11-902 (2014). Persons under the influence of alcohol or other intoxicating substance or combination thereof--Penalty—Enhancement.**

...

L. 1. When a person is eighteen (18) years of age or older, and is the driver, operator, or person in physical control of a vehicle, and is convicted of violating any provision of this section while transporting or having in the motor vehicle any child less than eighteen (18) years of age, the fine shall be enhanced to double the amount of the fine imposed for the underlying driving under the influence (DUI) violation which shall be in addition to any other penalties allowed by this section.

2. Nothing in this subsection shall prohibit the prosecution of a person pursuant to Section 852.1 of Title 21 of the Oklahoma Statutes (Child endangerment--Knowingly permitting physical or sexual abuse--Good faith reliance on spiritual healing—Penalties) who is in violation of any provision of this section or Section 11-904 (Person involved in personal injury accident while under influence of alcohol or other intoxicating substance--Causing great bodily injury) of this title.

### **Okla. Stat. tit. 47 § 11-904 (2014). Person involved in personal injury accident while under influence of alcohol or other intoxicating substance--Causing great bodily injury.**

A. Any person who is involved in a personal injury accident while driving or operating a motor vehicle within this state and who is in violation of the provisions of subsection A of Section 11-

902 (Persons under the influence of alcohol or other intoxicating substance or combination thereof--Penalty—Enhancement) of this title may be charged with a violation of the provisions of this subsection as follows:

1. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a misdemeanor for the first offense and shall be punished by imprisonment in the county jail for not less than ninety (90) days nor more than one (1) year, and a fine of not more than Two Thousand Five Hundred Dollars (\$ 2,500.00); and
2. Any person who is convicted of a violation of the provisions of this subsection after having been previously convicted of a violation of this subsection or of Section 11-902 of this title shall be deemed guilty of a felony and shall be punished by imprisonment in a state correctional institution for not less than one (1) year and not more than five (5) years, and a fine of not more than Five Thousand Dollars (\$ 5,000.00).

B 1. Any person who causes an accident resulting in great bodily injury to any person other than himself while driving or operating a motor vehicle within this state and who is in violation of the provisions of subsection A of Section 11-902 [Persons under the influence of alcohol or other intoxicating substance] of this title may be charged with a violation of the provisions of this subsection. Any person who is convicted of a violation of the provisions of this subsection shall be deemed guilty of a felony punishable by imprisonment in a state correctional institution for not less than 1 year and not more than 5 years, and a fine of not more than \$ 5,000.00.

2. As used in this subsection, "great bodily injury" means bodily injury which creates a substantial risk of death or which causes serious, permanent disfigurement or protracted loss or impairment of the function of any bodily member or organ.

### **Okla. Stat. tit. 21 § 852.1 (2014). Child endangerment--Knowingly permitting physical or sexual abuse--Good faith reliance on spiritual healing—Penalties.**

A. A person who is the parent, guardian, or person having custody or control over a child as defined in Section 1-1-105 of Title 10A of the Oklahoma Statutes, commits child endangerment when the person:

1. Knowingly permits physical or sexual abuse of a child;
2. Knowingly permits a child to be present at a location where a controlled dangerous substance is being manufactured or attempted to be manufactured as defined in Section 2-101 of Title 63 of the Oklahoma Statutes;
3. ***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***

***4. Is the driver, operator, or person in physical control of a vehicle in violation of Section 11-902 of Title 47 of the Oklahoma Statutes while transporting or having in the vehicle such child or children.***

However, it is an affirmative defense to this paragraph if the person had a reasonable apprehension that any action to stop the physical or sexual abuse or deny permission for the child to be in the vehicle with an intoxicated person would result in substantial bodily harm to the person or the child.

Nothing in this subsection shall prohibit the prosecution of a person pursuant to the provisions of Section 11-902 or 11-904 of Title 47 of the Oklahoma Statutes.

B. The provisions of this section shall not apply to any parent, guardian or other person having custody or control of a child for the sole reason that the parent, guardian or other person in good faith selects and depends upon spiritual means or prayer for the treatment or cure of disease or remedial care for such child. This subsection shall in no way limit or modify the protections afforded said child in Section 852 of this title or Section 1-4-904 of Title 10A of the Oklahoma Statutes.

C. Any person convicted of violating any provision of this section shall be guilty of a felony punishable by imprisonment in the custody of the Department of Corrections for a term of not more than four (4) years, or by a fine not exceeding Five Thousand Dollars (\$5,000.00), or by both such fine and imprisonment.

## **Oregon**

### **Or. Rev. Stat. § 813.010(4),(7) (2012). Driving under the influence of intoxicants; penalties.**

...

(4) Except as provided in subsection (5) of this section, the offense described in this section, driving while under the influence of intoxicants, is a Class A misdemeanor and is applicable upon any premises open to the public.

...

(7) Notwithstanding ORS 161.635 (Misdemeanor; fines), \$10,000 is the maximum fine that a court may impose on a person convicted of driving while under the influence of intoxicants if:

(a) The current offense was committed in a motor vehicle; and

(b) There was a passenger in the motor vehicle who was under 18 years of age and was at least three years younger than the person driving the motor vehicle.

**Or. Rev. Stat. § 163.195 (2012). Recklessly endangering another person**

- (1) A person commits the crime of recklessly endangering another person if the person recklessly engages in conduct which creates a substantial risk of serious physical injury to another person.
- (2) Recklessly endangering another person is a Class A misdemeanor. [A Class A misdemeanor carries a penalty of 1 year. Or. Rev. Stat. § 161.615(1). It carries a fine not exceeding \$6,250. Or. Rev. Stat. § 161.635(a).]

**Pennsylvania**

**75 Pa. Cons. Stat. Ann. § 3802(f) (2012). Driving under influence of alcohol or controlled substance**

...

(f) Commercial or school vehicles.--An individual may not drive, operate or be in actual physical control of the movement of a commercial vehicle, school bus or school vehicle in any of the following circumstances:

(1) After the individual has imbibed a sufficient amount of alcohol such that the alcohol concentration in the individual's blood or breath is:

(i) 0.04% or greater within two hours after the individual has driven, operated or been in actual physical control of the movement of a commercial vehicle other than a school bus or a school vehicle.

(ii) 0.02% or greater within two hours after the individual has driven, operated or been in actual physical control of the movement of a school bus or a school vehicle.

(2) After the individual has imbibed a sufficient amount of alcohol such that the individual is rendered incapable of safely driving, operating or being in actual physical control of the movement of the vehicle.

(3) While the individual is under the influence of a controlled substance or combination of controlled substances, as defined in section 1603 (relating to definitions).

(4) While the individual is under the combined influence of alcohol and a controlled substance or combination of controlled substances, as defined in section 1603.

...

## **75 Pa. Cons. Stat. Ann. § 3804 (2012). Penalties**

...

(b) High rate of blood alcohol; minors; commercial vehicles and school buses and school vehicles; accidents.--Except as set forth in subsection (c), an individual who violates section 3802(a)(1) where there was an accident resulting in bodily injury, serious bodily injury or death of any person or damage to a vehicle or other property or who violates section 3802(b), (e) or (f) shall be sentenced as follows:

(1) For a first offense, to:

- (i) undergo imprisonment of not less than 48 consecutive hours;
- (ii) pay a fine of not less than \$500 nor more than \$5,000;
- (iii) attend an alcohol highway safety school approved by the department; and
- (iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(2) For a second offense, to:

- (i) undergo imprisonment of not less than 30 days;
- (ii) pay a fine of not less than \$750 nor more than \$5,000;
- (iii) attend an alcohol highway safety school approved by the department; and
- (iv) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(3) For a third offense, to:

- (i) undergo imprisonment of not less than 90 days;
- (ii) pay a fine of not less than \$1,500 nor more than \$10,000; and
- (iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

(4) For a fourth or subsequent offense, to:

- (i) undergo imprisonment of not less than one year;
- (ii) pay a fine of not less than \$1,500 nor more than \$10,000; and
- (iii) comply with all drug and alcohol treatment requirements imposed under sections 3814 and 3815.

**18 Pa. Cons. Stat. Ann. § 4304 (2012). Endangering welfare of children.**

(a) Offense defined.--

(1) A parent, guardian or other person supervising the welfare of a child under 18 years of age, or a person that employs or supervises such a person, commits an offense if he knowingly endangers the welfare of the child by violating a duty of care, protection or support.

(2) A person commits an offense if the person, in an official capacity, prevents or interferes with the making of a report of suspected child abuse under 23 Pa.C.S. Ch. 63 (relating to child protective services).

(3) As used in this subsection, the term “person supervising the welfare of a child” means a person other than a parent or guardian that provides care, education, training or control of a child.

(b) Grading.--An offense under this section constitutes a misdemeanor of the first degree [A crime is a misdemeanor of the first degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than five years. 18 Pa. Cons. Stat. 18 § 106(b)(6)]. However, where there is a course of conduct of endangering the welfare of a child, the offense constitutes a felony of the third degree [A crime is a felony of the third degree if it is so designated in this title or if a person convicted thereof may be sentenced to a term of imprisonment, the maximum of which is not more than seven years. 18 Pa. Cons. Stat. § 106(b)(4)].

**Rhode Island**

**R.I. Gen. Laws § 31-27-2(d)(5)(ii) (2014). Driving under influence of liquor or drugs.**

...

(d)(5)(ii) Any person over the age of eighteen (18) who is convicted under this section for operating a motor vehicle while under the influence of alcohol, other drugs, or a combination of these, while a child under the age of thirteen (13) years was present as a passenger in the motor



vehicle when the offense was committed may be sentenced to a term of imprisonment of not more than one year, and further, shall not be entitled to the benefit of suspension or deferment of this sentence. The sentence imposed under this section may be served in any unit of the adult correctional institutions in the discretion of the sentencing judge.

### **R.I. Gen. Laws § 11-5-2.2 (2011). Battery – Criminal negligence.**

(a) When serious bodily injury, as defined in § 11-5-2, of any person, occurs as a proximate result of criminal negligence, the person committing the criminal negligence shall be guilty of battery and shall be deemed to have committed a felony and shall be imprisoned not exceeding ten (10) years or fined not exceeding ten thousand dollars (\$10,000), or both.

(b) For the purposes of this section: (i) "Criminal negligence" shall mean: Conduct which is such a departure from what would be that of an ordinary prudent or careful person in the same circumstance as to be incompatible with a proper regard for human life or an indifference to consequences. Criminal negligence is negligence that is aggravated, culpable or gross; (ii) "Person" shall mean an individual or any business entity recognized by the laws of the state of Rhode Island including, but not limited to, corporations, limited liability corporations, partnerships or limited liability partnerships.

## **South Carolina**

### **S.C. Code Ann. § 56-5-2947 (2014). Child endangerment; definition; penalties; jurisdiction; evidence for taking child into protective custody.**

(A) A person eighteen years of age or over is guilty of child endangerment when:

(1) the person violates:

(a) Section 56-5-750 (Failure to stop motor vehicle when signaled by law-enforcement vehicle);

(b) Section 56-5-2930 (Operating motor vehicle while under influence of alcohol or drugs; penalties; enrollment in Alcohol and Drug Safety Action Program; prosecution);

(c) Section 56-5-2933 (Driving with an unlawful alcohol concentration; penalties; enrollment in Alcohol and Drug Safety Action Program; prosecution); or



(d) Section 56-5-2945 (Offense of felony driving under the influence; penalties; “great bodily injury” defined); and

(2) the person has one or more passengers younger than sixteen years of age in the motor vehicle when the violation occurs.

If more than one passenger younger than sixteen years of age is in the vehicle when a violation of subsection (A)(1) occurs, the person may be charged with only one violation of this section.

(B) Upon conviction the person must be:

(1) fined not more than one-half of the maximum fine allowed for committing the violation enumerated in subsection (A)(1), when the person is fined for that offense;

(2) imprisoned not more than one-half of the maximum term of imprisonment allowed for committing the violation enumerated in subsection (A)(1), when the person is imprisoned for the offense; or

(3) fined and imprisoned as prescribed in items (1) and (2) when the person is fined and imprisoned for the offense.

(C) No portion of the penalty assessed under subsection (B) may be suspended or revoked and probation may not be awarded.

(D) (1) In addition to imposing the penalties for offenses enumerated in subsection (A)(1) and the penalties contained in subsection (B), the Department of Motor Vehicles must suspend the person's driver's license for sixty days upon conviction under subsection (A)(1)(a). Upon conviction under subsection (A)(1)(b) through (d), the Department of Motor Vehicles shall suspend the person's driver's license.

(2) Upon conviction under subsection (A)(1)(b) through (d), the person shall enroll in the Ignition Interlock Device Program pursuant to Section 56-5-2941, end the suspension, and obtain an ignition interlock restricted license pursuant to Section 56-1-400. The ignition interlock device is required to be affixed to the motor vehicle for three months.

(3) Sections 56-1-1320 and 56-5-2990 as they relate to enrollment in an alcohol and drug safety action program and to the issuance of a provisional driver's license will not be effective until the ignition interlock restricted license period is completed.

(E) A person may be convicted under this section for child endangerment in addition to being convicted for an offense enumerated in subsection (A)(1).

(F) The court that has jurisdiction over an offense enumerated in subsection (A)(1) has jurisdiction over the offense of child endangerment.

(G) A first offense charge for a violation of this section may not be used as the only evidence for taking a child into protective custody pursuant to Sections 63-7-620(A) and 63-7-660.

## South Dakota

### **S.D. Codified Laws § 22-18-36 (2014). Vehicular battery**

Any person who, while under the influence of alcohol, drugs, or substances in a manner and to a degree prohibited by § 32-23-1 (Driving or control of vehicle prohibited with alcohol in blood or while under influence of alcohol, drug, or intoxicant), without design to effect serious bodily injury,<sup>4</sup> operates or drives a motor vehicle of any kind in a negligent manner and thereby causes the serious bodily injury of another person, including an unborn child, is guilty of vehicular battery. Vehicular battery is a Class 4 felony [which carries 10 years imprisonment in the state penitentiary. In addition, a fine of \$20,000 may be imposed. S.D. Codified Laws § 22-6-1(7)]. In addition to any other penalty prescribed by law, the court shall order that the driver's license of any person convicted of vehicular battery be revoked for a period of not less than three years from the date sentence is imposed or three years from the date of initial release from imprisonment, whichever is later. In the event the person is returned to imprisonment prior to the completion of the period of driver's license revocation, time spent imprisoned does not count toward fulfilling the period of revocation.

### **S.D. Codified Laws § 32-24-1 (2014). Reckless driving.**

Any person who drives any vehicle upon a highway, alley, public park, recreational area, or upon the property of a public or private school, college, or university carelessly and heedlessly in disregard of the rights or safety of others, or without due caution and circumspection and at a speed or in a manner so as to endanger or be likely to endanger any person or property, is guilty of reckless driving. Reckless driving is a Class 1 misdemeanor. [The penalty for a Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both. S.D. Codified Laws § 22-6-2(1).]

### **S.D. Codified Laws § 22-18-1 (2014). Simple assault**

Any person who:

(1) Attempts to cause bodily injury to another and has the actual ability to cause the injury;

---

<sup>4</sup> “Serious bodily injury” is defined as “(f)or purposes of §32-23-10, serious bodily injury is such injury as is grave and not trivial, and gives rise to apprehension of danger to life, health, or limb.” S.D. Codified Laws § 32-23-10.3 (2011).

- (2) Recklessly causes bodily injury to another;
- (3) Negligently causes bodily injury to another with a dangerous weapon;
- (4) Attempts by physical menace or credible threat to put another in fear of imminent bodily harm, with or without the actual ability to harm the other person; or
- (5) Intentionally causes bodily injury to another which does not result in serious bodily injury; is guilty of simple assault. Simple assault is a Class 1 misdemeanor [The penalty for a Class 1 misdemeanor: one year imprisonment in a county jail or two thousand dollars fine, or both. S.D. Codified Laws § 22-6-2(1)]. However, if the defendant has been convicted of, or entered a plea of guilty to, two or more violations of § 22-18-1, 22-18-1.1, 22-18-26, or 22-18-29 within ten years of committing the current offense, the defendant is guilty of a Class 6 felony for any third or subsequent offense [Class 6 felony: two years imprisonment in the state penitentiary or a fine of four thousand dollars, or both. S.D. Codified Laws § 22-6-1(9).]

## Tennessee

### **Tenn. Code Ann. § 55-10-402(b), (c) (2014). Penalty for violations of § 55-10-401 -- Alternative facilities for incarceration -- Public service work -- Inpatient alcohol and drug treatment.**

...

(b) (1) If a person is convicted of a violation of § 55-10-401[Driving under the influence prohibited -- Alcohol concentration in blood or breath], and at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, the person's sentence shall be enhanced by a mandatory minimum period of incarceration of thirty (30) days. The incarceration enhancement shall be served in addition to any period of incarceration received for the violation of § 55-10-401.

(2) Notwithstanding subsection (a), if, at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, and the child suffers serious bodily injury as the proximate result of the violation of § 55-10-401, the person commits a Class D felony and shall be punished as provided in § 39-13-106<sup>5</sup>, for vehicular assault.

<sup>5</sup> “Upon the conviction of a person for the first offense of vehicular assault, the court shall prohibit the convicted person from driving a vehicle in this state for a period of one (1) year. For the second such conviction, the court shall prohibit the convicted person from driving a vehicle in this state for a period of two (2) years. For the third such conviction, the court shall prohibit the convicted person from driving a vehicle in this state for a period of three (3) years. For fourth and subsequent convictions, the court shall prohibit the person from driving a vehicle in this state for a period of five (5) years.” Tenn. Code Ann. § 39-13-106(c) (2014).

(3) Notwithstanding subsection (a), if, at the time of the offense, the person was accompanied by a child under eighteen (18) years of age, and the child is killed as the proximate result of the violation of § 55-10-401, the person commits a Class B felony and shall be punished as provided in § 39-13-213(b)(2), for vehicular homicide involving intoxication.

(c) Subdivisions (b)(1)-(3) constitute an enhanced sentence, not a new offense.

**Tenn. Code Ann. § 55-10-403(a)(5) (2014). Fines for violations of § 55-10-401 - Restitution.**

(a) A person convicted for a violation of § 55-10-401, shall be fined as follows:

...

(5) For any offense 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.

...

**Tenn. Code Ann. § 37-1-403 (c) (2014). Persons required to report; contents of report.**

...

(c) (1) If a law enforcement official or judge becomes aware of known or suspected child abuse, through personal knowledge, receipt of a report, or otherwise, such information shall be reported to the department immediately upon the receipt of such information, and, where appropriate, the child protective team shall be notified to investigate the report for the protection of the child in accordance with this part. Further criminal investigation by such official shall be appropriately conducted in coordination with the team or department to the maximum extent possible.

(2) A law enforcement official or judge who knows or becomes aware of a person who is convicted of a violation of § 55-10-401 and sentenced under § 55-10-402(b), because such person was at the time of the offense accompanied by a child under eighteen (18) years of age, shall report such information, as provided in subdivision (c)(1), and the department shall consider such information to be appropriate for investigation in the same manner as other reports of suspected child abuse or neglect.

...

**Tenn. Code Ann. § 39-15-401 (2014). Abuse or neglect.**

(a) Any person who knowingly, other than by accidental means, treats a child under eighteen (18) years of age in such a manner as to inflict injury commits a Class A misdemeanor [Class A misdemeanor is punishable by not greater than eleven (11) months, twenty-nine (29) days or a

fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute Tenn. Code Ann. § 40-35-111(e)(1)]; provided, however, that, if the abused child is eight (8) years of age or less, the penalty is a Class D felony [Class D felony is punishable with not less than two (2) years nor more than twelve (12) years. In addition, the jury may assess a fine not to exceed five thousand dollars (\$5,000), unless otherwise provided by statute. Tenn. Code Ann. § 40-35-111(b)(4)].

(b) Any person who knowingly abuses or neglects a child under eighteen (18) years of age, so as to adversely affect the child's health and welfare, commits a Class A misdemeanor [Class A misdemeanor is punishable by not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute Tenn. Code Ann. § 40-35-111(e)(1)]; provided, that, if the abused or neglected child is eight (8) years of age or less, the penalty is a Class E felony [Class E felony, not less than one (1) year nor more than six (6) years. In addition, the jury may assess a fine not to exceed three thousand dollars (\$3,000), unless otherwise provided by statute. Tenn. Code Ann. § 40-35-111(b)(5)].

(c)(1) A parent or custodian of a child eight (8) years of age or less commits child endangerment who knowingly exposes such child to or knowingly fails to protect such child from abuse or neglect resulting in physical injury to the child.

(2) For purposes of this subsection (c):

(A) “Knowingly” means the person knew, or should have known upon a reasonable inquiry, that abuse to or neglect of the child would occur which would result in physical injury to the child. The risk must be of such a nature and degree that the failure to perceive it constitutes a gross deviation from the standard of care that an ordinary parent or legal custodian of a child eight (8) years of age or less would exercise under all the circumstances as viewed from the defendant's standpoint; and

(B) “Parent or custodian” means the biological or adoptive parent or any person who has legal custody of the child.

(3) A violation of this subsection (c) is a Class A misdemeanor. [The authorized term of imprisonment and fine for a Class A misdemeanor is not greater than eleven (11) months, twenty-nine (29) days or a fine not to exceed two thousand five hundred dollars (\$2,500), or both, unless otherwise provided by statute. Tenn. Code Ann. § 40-35-111(e)(1).]

(d)(1) Any court having reasonable cause to believe that a person is guilty of violating this section shall have the person brought before the court, either by summons or warrant. No arrest warrant or summons shall be issued by any person authorized to issue the warrant or summons, nor shall criminal charges be instituted against a child's parent, guardian or custodian for a violation of subsection (a), based upon the allegation that unreasonable corporal punishment was

administered to the child, unless the affidavit of complaint also contains a copy of the report prepared by the law enforcement official who investigated the allegation, or independent medical verification of injury to the child.

(2)(A) As provided in this subdivision (d)(2), juvenile courts, courts of general session, and circuit and criminal courts, shall have concurrent jurisdiction to hear violations of this section.

(B) If the person pleads not guilty, the juvenile judge or general sessions judge shall have the power to bind the person over to the grand jury, as in cases of misdemeanors under the criminal laws of this state. Upon being bound over to the grand jury, the person may be prosecuted on an indictment filed by the district attorney general and, notwithstanding § 40-13-103, a prosecutor need not be named on the indictment.

(C) On a plea of not guilty, the juvenile court judge or general sessions judge shall have the power to proceed to hear the case on its merits, without the intervention of a jury, if the person requests a hearing in juvenile court or general sessions court and expressly waives, in writing, indictment, presentment, grand jury investigation and a jury trial.

(D) If the person enters a plea of guilty, the juvenile court or general sessions court judge shall sentence the person under this section.

(E) Regardless of whether the person pleads guilty or not guilty, the circuit court or criminal court shall have the power to proceed to hear the case on its merits, and, if found guilty, to sentence the person under this section.

(e) Except as expressly provided, the provisions of this section shall not be construed as repealing any provision of any other statute, but shall be supplementary to any other provision and cumulative of any other provision.

(f) A violation of this section may be a lesser included offense of any kind of homicide, statutory assault, or sexual offense, if the victim is a child and the evidence supports a charge under this section. In any case in which conduct violating this section also constitutes assault, the conduct may be prosecuted under this section or under § 39-13-101 or § 39-13-102, or both.

(g) For purposes of this section, “adversely affect the child's health and welfare” may include, but not be limited to, the natural effects of starvation or dehydration.

(h) The court may, in addition to any other punishment otherwise authorized by law, order a person convicted of child abuse to refrain from having any contact with the victim of the offense, including, but not limited to, attempted contact through Internet services or social networking web sites; provided, that the person has no parental rights to such victim at the time of the court's order.

## Texas

### **Tex. Penal Code Ann. § 49.045 (2011). Driving While Intoxicated with Child Passenger.**

- (a) A person commits an offense if:
- (1) the person is intoxicated while operating a motor vehicle in a public place; and
  - (2) the vehicle being operated by the person is occupied by a passenger who is younger than 15 years of age.
- (b) An offense under this section is a state jail felony.

### **Tex. Penal Code Ann. § 22.041 (2014). Abandoning or Endangering Child.**

- (a) In this section, “abandon” means to leave a child in any place without providing reasonable and necessary care for the child, under circumstances under which no reasonable, similarly situated adult would leave a child of that age and ability.
- (b) A person commits an offense if, having custody, care, or control of a child younger than 15 years, he intentionally abandons the child in any place under circumstances that expose the child to an unreasonable risk of harm.
- (c) A person commits an offense if he intentionally, knowingly, recklessly, or with criminal negligence, by act or omission, engages in conduct that places a child younger than 15 years in imminent danger of death, bodily injury, or physical or mental impairment.
- (c-1) For purposes of Subsection (c), it is presumed that a person engaged in conduct that places a child in imminent danger of death, bodily injury, or physical or mental impairment if:
- (1) the person manufactured, possessed, or in any way introduced into the body of any person the controlled substance methamphetamine in the presence of the child;
  - (2) the person's conduct related to the proximity or accessibility of the controlled substance methamphetamine to the child and an analysis of a specimen of the child's blood, urine, or other bodily substance indicates the presence of methamphetamine in the child's body; or



(3) the person injected, ingested, inhaled, or otherwise introduced a controlled substance listed in Penalty Group 1, Section 481.102, Health and Safety Code, into the human body when the person was not in lawful possession of the substance as defined by Section 481.002(24) of that code.

(d) Except as provided by Subsection (e), an offense under Subsection (b) is:

(1) a state jail felony if the actor abandoned the child with intent to return for the child; or

(2) a felony of the third degree if the actor abandoned the child without intent to return for the child.

(e) An offense under Subsection (b) is a felony of the second degree if the actor abandons the child under circumstances that a reasonable person would believe would place the child in imminent danger of death, bodily injury, or physical or mental impairment.

(f) An offense under Subsection (c) is a state jail felony.

(g) It is a defense to prosecution under Subsection (c) that the act or omission enables the child to practice for or participate in an organized athletic event and that appropriate safety equipment and procedures are employed in the event.

(h) It is an exception to the application of this section that the actor voluntarily delivered the child to a designated emergency infant care provider under Section 262.302, Family Code.

### **Tex. Penal Code Ann. § 12.35 (2014). State Jail Felony Punishment.**

(a) Except as provided by Subsection (c), an individual adjudged guilty of a state jail felony shall be punished by confinement in a state jail for any term of not more than two years or less than 180 days.

(b) In addition to confinement, an individual adjudged guilty of a state jail felony may be punished by a fine not to exceed \$10,000.

(c) An individual adjudged guilty of a state jail felony shall be punished for a third degree felony if it is shown on the trial of the offense that:

(1) a deadly weapon as defined by Section 1.07 was used or exhibited during the commission of the offense or during immediate flight following the commission of the offense, and that the individual used or exhibited the deadly weapon or was a party to the offense and knew that a deadly weapon would be used or exhibited; or

(2) the individual has previously been finally convicted of any felony:

(A) under Section 20A.03 or 21.02 or listed in Section 3g(a)(1), Article 42.12, Code of Criminal Procedure; or

(B) for which the judgment contains an affirmative finding under Section 3g(a)(2), Article 42.12, Code of Criminal Procedure.

## Utah

### **Utah Code Ann. § 41-6a-503 (2014). Penalties for driving under the influence violations.**

(1) A person who violates for the first or second time Section 41-6a-502 [Driving under the influence of alcohol, drugs, or a combination of both or with specified or unsafe blood alcohol concentration--Reporting of convictions] is guilty of a:

(a) class B misdemeanor; or

(b) class A misdemeanor [Punishment in the case of a class A misdemeanor, for a term not exceeding one year. Utah Code Ann. § 76-3-204(1)] if the person:

(i) has also inflicted bodily injury upon another as a proximate result of having operated the vehicle in a negligent manner;

(ii) had a passenger under 16 years of age in the vehicle at the time of the offense; or

(iii) was 21 years of age or older and had a passenger under 18 years of age in the vehicle at the time of the offense.

...

### **Utah Code Ann. § 76-5-109 (2014). Child abuse - Child abandonment.**

(1) As used in this section:

(a) “Child” means a human being who is under 18 years of age.

(b)(i) “Child abandonment” means that a parent or legal guardian of a child:

(A) intentionally ceases to maintain physical custody of the child;

(B) intentionally fails to make reasonable arrangements for the safety, care, and physical custody of the child; and

(C)(I) intentionally fails to provide the child with food, shelter, or clothing;

(II) manifests an intent to permanently not resume physical custody of the child; or

(III) for a period of at least 30 days:

(Aa) intentionally fails to resume physical custody of the child; and

(Bb) fails to manifest a genuine intent to resume physical custody of the child.

(ii) “Child abandonment” does not include:

(A) safe relinquishment of a child pursuant to the provisions of Section 62A-4a-802; or

(B) giving legal consent to a court order for termination of parental rights:

(I) in a legal adoption proceeding; or

(II) in a case where a petition for the termination of parental rights, or the termination of a guardianship, has been filed.

(c) “Child abuse” means any offense described in Subsection (2), (3), or (4) or in Section 76-5-109.1.

(d) “Enterprise” is as defined in Section 76-10-1602.

(e) “Physical injury” means an injury to or condition of a child which impairs the physical condition of the child, including:

(i) a bruise or other contusion of the skin;

(ii) a minor laceration or abrasion;

(iii) failure to thrive or malnutrition; or

(iv) any other condition which imperils the child's health or welfare and which is not a serious physical injury as defined in Subsection (1)(f).

(f)(i) “Serious physical injury” means any physical injury or set of injuries that:

(A) seriously impairs the child's health;

- (B) involves physical torture;
- (C) causes serious emotional harm to the child; or
- (D) involves a substantial risk of death to the child.

(ii) "Serious physical injury" includes:

- (A) fracture of any bone or bones;
- (B) intracranial bleeding, swelling or contusion of the brain, whether caused by blows, shaking, or causing the child's head to impact with an object or surface;
- (C) any burn, including burns inflicted by hot water, or those caused by placing a hot object upon the skin or body of the child;
- (D) any injury caused by use of a dangerous weapon as defined in Section 76-1-601;
- (E) any combination of two or more physical injuries inflicted by the same person, either at the same time or on different occasions;
- (F) any damage to internal organs of the body;
- (G) any conduct toward a child that results in severe emotional harm, severe developmental delay or intellectual disability, or severe impairment of the child's ability to function;
- (H) any injury that creates a permanent disfigurement or protracted loss or impairment of the function of a bodily member, limb, or organ;
- (I) any conduct that causes a child to cease breathing, even if resuscitation is successful following the conduct; or
- (J) any conduct that results in starvation or failure to thrive or malnutrition that jeopardizes the child's life.

(2) Any person who inflicts upon a child serious physical injury or, having the care or custody of such child, causes or permits another to inflict serious physical injury upon a child is guilty of an offense as follows:

- (a) if done intentionally or knowingly, the offense is a felony of the second degree;
- (b) if done recklessly, the offense is a felony of the third degree; or

(c) if done with criminal negligence, the offense is a class A misdemeanor.

(3) Any person who inflicts upon a child physical injury or, having the care or custody of such child, causes or permits another to inflict physical injury upon a child is guilty of an offense as follows:

(a) if done intentionally or knowingly, the offense is a class A misdemeanor;

(b) if done recklessly, the offense is a class B misdemeanor; or

(c) if done with criminal negligence, the offense is a class C misdemeanor.

(4) A person who commits child abandonment, or encourages or causes another to commit child abandonment, or an enterprise that encourages, commands, or causes another to commit child abandonment, is:

(a) except as provided in Subsection (4)(b), guilty of a felony of the third degree; or

(b) guilty of a felony of the second degree, if, as a result of the child abandonment:

(i) the child suffers a serious physical injury; or

(ii) the person or enterprise receives, directly or indirectly, any benefit.

(5)(a) In addition to the penalty described in Subsection (4)(b), the court may order the person or enterprise described in Subsection (4)(b)(ii) to pay the costs of investigating and prosecuting the offense and the costs of securing any forfeiture provided for under Subsection (5)(b).

(b) Any tangible or pecuniary benefit received under Subsection (4)(b)(ii) is subject to criminal or civil forfeiture pursuant to Title 24, Chapter 1, Utah Uniform Forfeiture Procedures Act.

(6) A parent or legal guardian who provides a child with treatment by spiritual means alone through prayer, in lieu of medical treatment, in accordance with the tenets and practices of an established church or religious denomination of which the parent or legal guardian is a member or adherent shall not, for that reason alone, be considered to have committed an offense under this section.

(7) A parent or guardian of a child does not violate this section by selecting a treatment option for the medical condition of the child, if the treatment option is one that a reasonable parent or guardian would believe to be in the best interest of the child.

(8) A person is not guilty of an offense under this section for conduct that constitutes:

- (a) reasonable discipline or management of a child, including withholding privileges;
- (b) conduct described in Section 76-2-401; or
- (c) the use of reasonable and necessary physical restraint or force on a child:
  - (i) in self-defense;
  - (ii) in defense of others;
  - (iii) to protect the child; or
  - (iv) to remove a weapon in the possession of a child for any of the reasons described in Subsections (8)(c)(i) through (iii).

**Utah Code Ann. § 76-3-204 (2014). Misdemeanor conviction--Term of imprisonment.**

A person who has been convicted of a misdemeanor may be sentenced to imprisonment as follows:

- (1) In the case of a class A misdemeanor, for a term not exceeding one year;
- (2) In the case of a class B misdemeanor, for a term not exceeding six months;
- (3) In the case of a class C misdemeanor, for a term not exceeding 90 days.

**Utah Code Ann. § 76-3-203 (2014). Felony conviction -- Indeterminate term of imprisonment.**

A person who has been convicted of a felony may be sentenced to imprisonment for an indeterminate term as follows:

- (1) In the case of a felony of the first degree, unless the statute provides otherwise, for a term of not less than five years and which may be for life.
- (2) In the case of a felony of the second degree, unless the statute provides otherwise, for a term of not less than one year nor more than 15 years.
- (3) In the case of a felony of the third degree, unless the statute provides otherwise, for a term not to exceed five years.]

## Vermont

### **Vt. Stat. Ann. tit. 13 § 1304 (2014). Cruelty to children under 10 by one over 16.**

A person over the age of 16 years, having the custody, charge or care of a child under 10 years of age, who willfully assaults, ill treats, neglects or abandons or exposes such child, or causes or procures such child to be assaulted, ill-treated, neglected, abandoned or exposed, in a manner to cause such child unnecessary suffering, or to endanger his or her health, shall be imprisoned not more than two years or fined not more than \$500.00, or both.

## Virginia

### **Va. Code Ann. § 18.2-270(D) (2011). Penalty for driving while intoxicated; subsequent offense; prior conviction.**

...

D. In addition to the penalty otherwise authorized by this section or § 16.1–278.9 [Delinquent children; loss of driving privileges for alcohol, firearm, and drug offenses; truancy], any person convicted of a violation of § 18.2–266 [Driving motor vehicle, engine, etc., while intoxicated, etc] committed while transporting a person 17 years of age or younger shall be (i) fined an additional minimum of \$500 and not more than \$1,000 and (ii) sentenced to a mandatory minimum period of confinement of five days.

### **Va. Code Ann. § 18.2-371.1 (2014). Abuse and neglect of children; penalty; abandoned infant.**

A. Any parent, guardian, or other person responsible for the care of a child under the age of 18 who by willful act or omission or refusal to provide any necessary care for the child's health causes or permits serious injury to the life or health of such child shall be guilty of a Class 4 felony [The penalty for Class 4 felonies is a term of imprisonment of not less than two years nor more than 10 years and, subject to subdivision (g), a fine of not more than \$ 100,000. Va. Code Ann. § 18.2-10 (d). Except as specifically authorized in subdivision (e) or (f), or in Class 1 felonies for which a sentence of death is imposed, the court shall impose either a sentence of imprisonment together with a fine, or imprisonment only. However, if the defendant is not a natural person, the court shall impose only a fine. Va. Code Ann. § 18.2-10 (g)]. For purposes of this subsection, “serious injury” shall include but not be limited to (i) disfigurement, (ii) a fracture, (iii) a severe burn or laceration, (iv) mutilation, (v) maiming, (vi) forced ingestion of dangerous substances, or (vii) life-threatening internal injuries.



- B. 1. Any parent, guardian, or other person responsible for the care of a child under the age of 18 whose willful act or omission in the care of such child was so gross, wanton and culpable as to show a reckless disregard for human life shall be guilty of a Class 6 felony [The penalty for Class 6 felonies is a term of imprisonment of not less than one year nor more than five years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$ 2,500, either or both. Va. Code Ann. § 18.2-10(f)].
2. If a prosecution under this subsection is based solely on the accused parent having left the child at a hospital or rescue squad, it shall be an affirmative defense to prosecution of a parent under this subsection that such parent safely delivered the child to a hospital that provides 24-hour emergency services or to an attended rescue squad that employs emergency medical technicians, within the first 14 days of the child's life. In order for the affirmative defense to apply, the child shall be delivered in a manner reasonably calculated to ensure the child's safety.
- C. Any parent, guardian or other person having care, custody, or control of a minor child who in good faith is under treatment solely by spiritual means through prayer in accordance with the tenets and practices of a recognized church or religious denomination shall not, for that reason alone, be considered in violation of this section.

## Washington

### Wash. Rev. Code Ann. § 46.61.5055(6) (2012). Alcohol violators--Penalty schedule.

...

(6) **Penalty for having a minor passenger in vehicle.** If a person who is convicted of a violation of RCW 46.61.502 [Driving under the influence] or 46.61.504 [Drivers convicted of alcohol offenses] committed the offense while a passenger under the age of sixteen was in the vehicle, the court shall:

(a) Order the use of an ignition interlock or other device for an additional six months;

(b) In any case in which the person has no prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504 (6), order an additional twenty-four hours of imprisonment and a fine of not less than one thousand dollars and not more than five thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(c) In any case in which the person has one prior offense within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504 (6), order an additional five days of imprisonment and a fine of not less than two thousand dollars and not more than five thousand

dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent;

(d) In any case in which the person has two or three prior offenses within seven years, and except as provided in RCW 46.61.502(6) or 46.61.504(6), order an additional ten days of imprisonment and a fine of not less than three thousand dollars and not more than ten thousand dollars. One thousand dollars of the fine may not be suspended unless the court finds the offender to be indigent.

**Wash. Rev. Code Ann. § 9A.36.120 (2014). Assault of a child in the first degree.**

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the first degree if the child is under the age of thirteen and the person:

(a) Commits the crime of assault in the first degree, as defined in RCW 9A.36.011, against the child; or

(b) Intentionally assaults the child and either:

(i) Recklessly inflicts great bodily harm; or

(ii) Causes substantial bodily harm, and the person has previously engaged in a pattern or practice either of (A) assaulting the child which has resulted in bodily harm that is greater than transient physical pain or minor temporary marks, or (B) causing the child physical pain or agony that is equivalent to that produced by torture.

(2) Assault of a child in the first degree is a class A felony.

**Wash. Rev. Code Ann. § 9A.36.011 (2012). Assault in the first degree.**

(1) A person is guilty of assault in the first degree if he or she, with intent to inflict great bodily harm:

(a) Assaults another with a firearm or any deadly weapon or by any force or means likely to produce great bodily harm or death; or

(b) Administers, exposes, or transmits to or causes to be taken by another, poison, the human immunodeficiency virus as defined in chapter 70.24 RCW, or any other destructive or noxious substance; or

(c) Assaults another and inflicts great bodily harm.

(2) Assault in the first degree is a class A felony.

**Wash. Rev. Code Ann. § 9A.36.140 (2012). Assault of a child in the third degree.**

(1) A person eighteen years of age or older is guilty of the crime of assault of a child in the third degree if the child is under the age of thirteen and the person commits the crime of assault in the third degree as defined in § 9A.36.031(1)(d) [With criminal negligence, causes bodily harm to another person by means of a weapon or other instrument or thing likely to produce bodily harm; . . .] against the child.

(2) Assault of a child in the third degree is a class C felony.

**Wash. Rev. Code Ann. § 9A.20.021 (2014). 9A.20.021. Maximum sentences for crimes committed July 1, 1984, and after.**

(1) Felony. Unless a different maximum sentence for a classified felony is specifically established by a statute of this state, no person convicted of a classified felony shall be punished by confinement or fine exceeding the following:

(a) For a class A felony, by confinement in a state correctional institution for a term of life imprisonment, or by a fine in an amount fixed by the court of fifty thousand dollars, or by both such confinement and fine;

(b) For a class B felony, by confinement in a state correctional institution for a term of ten years, or by a fine in an amount fixed by the court of twenty thousand dollars, or by both such confinement and fine;

(c) For a class C felony, by confinement in a state correctional institution for five years, or by a fine in an amount fixed by the court of ten thousand dollars, or by both such confinement and fine.

(2) Gross misdemeanor. Every person convicted of a gross misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of up to three hundred sixty-four days, or by a fine in an amount fixed by the court of not more than five thousand dollars, or by both such imprisonment and fine.

(3) Misdemeanor. Every person convicted of a misdemeanor defined in Title 9A RCW shall be punished by imprisonment in the county jail for a maximum term fixed by the court of not more than ninety days, or by a fine in an amount fixed by the court of not more than one thousand dollars, or by both such imprisonment and fine.

(4) This section applies to only those crimes committed on or after July 1, 1984.

## West Virginia

### **W. Va. Code Ann. § 17C-5-2(j) (2014). Driving under influence of alcohol, controlled substances or drugs; penalties.**

...

(j) Any person who:

(1) Drives a vehicle in this state while he or she:

(A) Is under the influence of alcohol;

(B) Is under the influence of any controlled substance;

(C) Is under the influence of any other drug;

(D) Is under the combined influence of alcohol and any controlled substance or any other drug; or

(E) Has an alcohol concentration in his or her blood of eight hundredths of one percent or more, by weight; and

(2) The person while driving has on or within the motor vehicle one or more other persons who are unemancipated minors who have not reached their sixteenth birthday is guilty of a misdemeanor and, upon conviction thereof, shall be confined in jail for not less than two days nor more than twelve months, which jail term is to include actual confinement of not less than forty-eight hours and shall be fined not less than two hundred dollars nor more than one thousand dollars.

...

### **W. Va. Code Ann. § 61-8D-4 (2014). Child neglect resulting in injury; child neglect creating risk of injury; criminal penalties.**

(a) If a parent, guardian or custodian neglects a child and by such neglect causes the child bodily injury, as bodily injury is defined in section one, article eight-b of this chapter, then the parent,

guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$100 nor more than \$1,000 dollars or imprisoned in a state correctional facility for not less than one nor more than three years, or in the discretion of the court, be confined in jail for not more than one year, or both.

(b) If a parent, guardian or custodian neglects a child and by such neglect cause the child serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, then the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$300 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than ten years, or both.

(c) If a parent, guardian or custodian grossly neglects a child and by that gross neglect creates a substantial risk of death or serious bodily injury, as serious bodily injury is defined in section one, article eight-b of this chapter, of the child then the parent, guardian or custodian is guilty of a felony and, upon conviction thereof, shall be fined not less than \$1,000 nor more than \$3,000 dollars or imprisoned in a state correctional facility for not less than one nor more than five years, or both.

(c) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian or custodian.

(d) (1) If a parent, guardian or custodian who has not been previously convicted under this section, section three of this article or a law of another state or the federal government with the same essential elements neglects a child and by that neglect creates a substantial risk of bodily injury, as defined in section one, article eight-b of this chapter, to the child, then the parent, guardian or custodian, is guilty of a misdemeanor and, upon conviction thereof, for a first offense, shall be fined not less than \$100 nor more than \$1,000 or confined in jail not more than six months, or both fined and confined.

(2) For a second offense under this subsection or for a person with one prior conviction under this section, section three of this article or a law of another state or the federal government with the same essential elements, the parent, guardian or custodian is guilty of a misdemeanor and, upon conviction thereof, shall be fined not more than \$1,000 and confined in jail not less than thirty days nor more than one year, or both.

(e) The provisions of this section shall not apply if the neglect by the parent, guardian or custodian is due primarily to a lack of financial means on the part of such parent, guardian or custodian.

...

### **W. Va. Code Ann. § 61-8D-4a (2014). Child neglect resulting in death; criminal penalties.**

(a) If any parent, guardian or custodian shall neglect a child under his or her care, custody or



This document created by the National Traffic Law Center,  
a program of the National District Attorneys Association

control and by such neglect cause the death of said child, then such parent, guardian or custodian shall be guilty of a felony and, upon conviction thereof, shall be fined not less than one thousand dollars nor more than five thousand dollars or committed to the custody of the division of corrections for not less than three nor more than fifteen years, or both such fine and imprisonment.

(b) No child who in lieu of medical treatment was under treatment solely by spiritual means through prayer in accordance with a recognized method of religious healing with a reasonable proven record of success shall, for that reason alone, be considered to have been neglected within the provisions of this section. A method of religious healing shall be presumed to be a recognized method of religious healing if fees and expenses incurred in connection with such treatment are permitted to be deducted from taxable income as "medical expenses" pursuant to regulations or rules promulgated by the United States Internal Revenue Service.

(c) A child whose parent, guardian or legal custodian has inhibited or interfered with the provision of medical treatment in accordance with a court order may be considered to have been neglected for the purposes of this section.

## Wisconsin

### **Wis. Stat. § 346.65 (2011). Penalty for violating sections § 346.62 [Reckless driving] through § 346.64 [Employment of drunken operators].**

(Note: The numbering in this statute is inconsistent and difficult to follow therefore I left the entire statute intact and bolded and italicized the portions applicable to minor passengers).

(1) Except as provided in sub. (5m), any person who violates s. 346.62(2):

(a) May be required to forfeit not less than \$25 nor more than \$200, except as provided in par. (b).

(b) May be fined not less than \$50 nor more than \$500 or imprisoned for not more than one year in the county jail or both if the total of convictions under s. 346.62(2) or a local ordinance in conformity therewith or a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.62(2) equals 2 or more in a 4-year period. The 4-year period shall be measured from the dates of the violations which resulted in the convictions.

(2)(am) Any person violating s. 346.63(1):

1. Shall forfeit not less than \$150 nor more than \$300, except as provided in subs. 2. to 5. and par. (f).

2. Except as provided in pars. (bm) [(2)(am)2m.] and (f), shall be fined not less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) within a 10-year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

3. Except as provided in pars. (cm), (f), and (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 45 days nor more than one year in the county jail if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1), equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

4. Except as provided in subd. 4m. and pars. (dm), (f), and (g), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 60 days nor more than one year in the county jail if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1), equals 4, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

4m. Except as provided in pars. (f) and (g), is guilty of a Class H felony and shall be fined not less than \$600 and imprisoned for not less than 6 months if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1), equals 4 and the person committed an offense that resulted in a suspension, revocation, or other conviction counted under s. 343.307(1) within 5 years prior to the day of current offense, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one.

5. Except as provided in pars. (f) and (g), is guilty of a Class H felony and shall be fined not less than \$600 and imprisoned for not less than 6 months if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations and other convictions counted under s. 343.307(1), equals 5 or 6, except that suspensions, revocations or convictions arising out of the same incident or occurrence shall be counted as one.

6. Except as provided in par. (f), is guilty of a Class G felony if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1), equals 7, 8, or 9, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one. The confinement portion of a bifurcated sentence imposed on the person under s. 973.01 shall be not less than 3 years.



7. Except as provided in par. (f), is guilty of a Class F felony if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1), equals 10 or more except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one. The confinement portion of a bifurcated sentence imposed on the person under s. 973.01 shall be not less than 4 years.

(bm) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) within a 10-year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)2., but the period of imprisonment shall be not less than 5 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 5 nor more than 7 days. A person may be sentenced under this paragraph or under par. (cm) or (dm) or sub. (2j)(bm) , (cm), or (cr) or (3r) once in his or her lifetime.

(cm) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) equals 3, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)3., but the period of imprisonment shall be not less than 45 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 14 days. A person may be sentenced under this paragraph or under par. (bm) or (dm) or sub. (2j)(bm) , (cm), or (cr) or (3r) once in his or her lifetime.

(dm) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) equals 4, and par. (am)4m. does not apply, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)4., but the period of imprisonment shall be not less than 60 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 29 days. A person may be sentenced under this paragraph or under par. (bm) or (cm) or sub. (2j)(bm), (cm), or (cr) or (3r) once in his or her lifetime.

***(f)1. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(1), the person shall be fined not***

*less than \$350 nor more than \$1,100 and imprisoned for not less than 5 days nor more than 6 months, except as provided in subd. 2.*

***2. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(1), the applicable minimum and maximum fines and imprisonment under par. (am)2. to 7. for the conviction are doubled. An offense under s. 346.63(1) that subjects a person to a penalty under par. (am)3., 4., 4m., 5., 6., or 7. when there is a minor passenger under 16 years of age in the motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.***

(g)1. If a person convicted had an alcohol concentration of 0.17 to 0.199, the applicable minimum and maximum fines under par. (am)3. to 5. are doubled.

2. If a person convicted had an alcohol concentration of 0.20 to 0.249, the applicable minimum and maximum fines under par. (am)3. to 5. are tripled.

3. If a person convicted had an alcohol concentration of 0.25 or above, the applicable minimum and maximum fines under par. (am)3. to 5. are quadrupled.

(2c) In sub. (2)(am)2., 3., 4., 4m., 5., 6., and 7., the time period shall be measured from the dates of the refusals or violations that resulted in the revocation or convictions. If a person has a suspension, revocation, or conviction for any offense under a local ordinance or a state statute of another state that would be counted under s. 343.307(1), that suspension, revocation, or conviction shall count as a prior suspension, revocation, or conviction under sub. (2)(am)2., 3., 4., 4m., 5., 6., and 7.

(2e) If the court determines that a person does not have the ability to pay the costs and fine or forfeiture imposed under sub. (2)(am), (f), or (g), the court may reduce the costs, fine, and forfeiture imposed and order the person to pay, toward the cost of the assessment and driver safety plan imposed under s. 343.30(1q)(c), the difference between the amount of the reduced costs and fine or forfeiture and the amount of costs and fine or forfeiture imposed under sub. (2)(am), (f), or (g).

(2g)(a) In addition to the authority of the court under s. 973.05(3)(a) to provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a fine imposed under sub. (2)(am)2., 3., 4., 4m., and 5., (f), and (g) and except as provided in par. (ag), the court may provide that a defendant perform community service work for a public agency or a nonprofit charitable organization in lieu of part or all of a forfeiture under sub. (2)(am)1. or may require a person who is subject to sub. (2) to perform community service work for a public agency or a nonprofit charitable organization in addition to the penalties specified under sub. (2).

(ag) If the court determines that a person does not have the ability to pay a fine imposed under sub. (2)(am)2., 3., 4., 4m., or 5., (f), or (g), the court shall require the defendant to perform community service work for a public agency or a nonprofit charitable

organization in lieu of paying the fine imposed or, if the amount of the fine was reduced under sub. (2e), in lieu of paying the remaining amount of the fine. Each hour of community service performed in compliance with an order under this paragraph shall reduce the amount of the fine owed by an amount determined by the court.

(am) Notwithstanding s. 973.05(3)(b), an order under par. (a) or (ag) may apply only if agreed to by the organization or agency. The court shall ensure that the defendant is provided a written statement of the terms of the community service order and that the community service order is monitored. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of a community service order under this subsection does not entitle an indigent defendant who is subject to sub. (2)(am)1. to representation by counsel under ch. 977.

(b) The court may require a person ordered to perform community service work under par. (a) or (ag), or under s. 973.05(3)(a) if that person's fine resulted from violating s. 346.63(2), 940.09(1) or 940.25, to participate in community service work that demonstrates the adverse effects of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including working at an alcoholism treatment facility approved under s. 51.45, an emergency room of a general hospital or a driver awareness program under s. 346.637. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph. If the opportunities available to perform community service work are fewer in number than the number of defendants eligible under this subsection, the court shall, when making an order under this paragraph, give preference to defendants who were under 21 years of age at the time of the offense. All provisions of par. (am) apply to any community service work ordered under this paragraph.

***(c) If there was a minor passenger under 16 years of age in the motor vehicle or commercial motor vehicle at the time of the violation that gave rise to the conviction, the court may require a person ordered to perform community service work under par. (a) or (ag), under s. 973.05(3)(a) if that person's fine resulted from violating s. 346.63(2), (5)(a) or (6)(a), 940.09(1) or 940.25, or under s. 973.05(3)(a) if that person's fine resulted from violating s. 346.63(1)(am) and the motor vehicle that the person was driving or operating was a commercial motor vehicle, to participate in community service work that benefits children or that demonstrates the adverse effects on children of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug. The court may order the person to pay a reasonable fee, based on the person's ability to pay, to offset the cost of establishing, maintaining and monitoring the community service work ordered under this paragraph.***

(d) With respect to imprisonment under sub. (2)(am) 2., the court shall ensure that the person is imprisoned for not less than 5 days or ordered to perform not less than 30 days of community service work under s. 973.03(3)(a).

(2i) In addition to the authority of the court under sub. (2g) and s. 973.05(3)(a), the court may order a defendant subject to sub. (2), or a defendant subject to s. 973.05(3)(a) who violated s. 346.63(2), 940.09(1), or 940.25, to visit a site that demonstrates the adverse effects of substance abuse or of operating a vehicle while under the influence of an intoxicant or other drug, including an alcoholism treatment facility approved under s. 51.45 or an emergency room of a general hospital in lieu of part or all of any forfeiture imposed or in addition to any penalty imposed. The court may order the defendant to pay a reasonable fee, based on the person's ability to pay, to offset the costs of establishing, maintaining, and monitoring the visits ordered under this subsection. The court may order a visit to the site only if agreed to by the person responsible for the site. If the opportunities available to visit sites under this subsection are fewer than the number of defendants eligible for a visit, the court shall, when making an order under this subsection, give preference to defendants who were under 21 years of age at the time of the offense. The court shall ensure that the visit is monitored. A visit to a site may be ordered for a specific time and a specific day to allow the defendant to observe victims of vehicle accidents involving intoxicated drivers. If it appears to the court that the defendant has not complied with the court order to visit a site or to pay a reasonable fee, the court may order the defendant to show cause why he or she should not be held in contempt of court. Any organization or agency acting in good faith to which a defendant is assigned pursuant to an order under this subsection has immunity from any civil liability in excess of \$25,000 for acts or omissions by or impacting on the defendant. The issuance or possibility of the issuance of an order under this subsection does not entitle an indigent defendant who is subject to sub. (2)(am)1. to representation by counsel under ch. 977.

(2j)(am) Any person violating s. 346.63(5):

1. Shall forfeit not less than \$150 nor more than \$300 except as provided in subd. 2. or 3. or par. (d).
2. Except as provided in pars. (bm) [(2j)(am)2m.] and (d), shall be fined not less than \$300 nor more than \$1,000 and imprisoned for not less than 5 days nor more than 6 months if the number of prior convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspension, and revocations counted under s. 343.307(2) within a 10-year period, equals 2.
3. Except as provided in pars. (cm), (cr), and (d), shall be fined not less than \$600 nor more than \$2,000 and imprisoned for not less than 45 days nor more than one year in the county jail if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of other convictions, suspensions, and revocations counted under s. 343.307(2), equals 3 or more.

(bm) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) within a 10-year period, equals 2, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)2., but the period of imprisonment shall be not less than 5 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 5 nor more than 7 days. A person may be sentenced under this paragraph or under par. (cm) or (cr) or sub. (2)(bm) , (cm), or (dm) or (3r) once in his or her lifetime.

(cm) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) equals 3 , except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)3., but the period of imprisonment shall be not less than 45 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 14 days. A person may be sentenced under this paragraph or under par. (bm) or (cr) or sub. (2)(bm) , (cm), or (dm) or (3r) once in his or her lifetime.

(cr) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, if the number of convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus the total number of suspensions, revocations, and other convictions counted under s. 343.307(1) equals 4, and sub. (2)(am)4m. does not apply, except that suspensions, revocations, or convictions arising out of the same incident or occurrence shall be counted as one, the fine shall be the same as under par. (am)3., but the period of imprisonment shall be not less than 60 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 29 days. A person may be sentenced under this paragraph or under par. (bm) or (cm) or sub. (2)(bm), (cm), or (dm) or (3r) once in his or her lifetime.

***(d) If there was a minor passenger under 16 years of age in the commercial motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(5), the applicable minimum and maximum forfeitures, fines, or imprisonment under par. (am)1., 2., or 3. for the conviction are doubled. An offense under s. 346.63(5) that subjects a person to a penalty under par. (am)3. when there is a minor passenger under 16 years of age in the commercial motor vehicle is a felony and the place of imprisonment shall be determined under s. 973.02.***

(2m)(a) In imposing a sentence under sub. (2) for a violation of s. 346.63(1)(am) or (b) or (5) or a local ordinance in conformity therewith, the court shall review the record and consider the aggravating and mitigating factors in the matter. If the amount of alcohol in the person's blood or



urine or the amount of a restricted controlled substance in the person's blood is known, the court shall consider that amount as a factor in sentencing. The chief judge of each judicial administrative district shall adopt guidelines, under the chief judge's authority to adopt local rules under SCR 70.34, for the consideration of aggravating and mitigating factors.

(b) The court shall consider a report submitted under s. 85.53(2)(d) when imposing a sentence under sub. (2), (2q) or (3m).

***(2q) Any person violating s. 346.63(2m) shall forfeit \$200. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under 346.63(2m), the person shall be fined \$400.***

(2r)(a) In addition to the other penalties provided for violation of s. 346.63, a judge may order a defendant to pay restitution under s. 973.20.

(b) This subsection is applicable in actions concerning violations of local ordinances in conformity with s. 346.63.

(2u)(a) Any person violating s. 346.63(7) shall forfeit \$10.

(b) Upon his or her arrest for a violation of s. 346.63(7), a person shall be issued an out-of-service order for a 24-hour period by the arresting officer under s. 343.305(7)(b) or (9)(am).

(c) If a person arrested for a violation of s. 346.63(7) refuses to take a test under s. 343.305, the refusal is a separate violation and the person is subject to revocation of the person's operating privilege under s. 343.305(10)(em).

(2w) In determining the number of prior convictions for purposes of sub. (2j), the court shall count convictions under ss. 940.09(1) and 940.25 in the person's lifetime, plus other suspensions, revocations and convictions counted under s. 343.307(2). Revocations, suspensions and convictions arising out of the same incident or occurrence shall be counted as one. The time period shall be measured from the dates of the refusals or violations which resulted in the revocation, suspension or convictions. If a person has a conviction under s. 940.09(1) or 940.25 in the person's lifetime, or another suspension, revocation or conviction for any offense that is counted under s. 343.307(2), that suspension, revocation or conviction shall count as a prior suspension, revocation or conviction under this section.

(3) Except as provided in sub. (5m), any person violating s. 346.62(3) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail.

***(3m) Except as provided in sub. (3p) or (3r), any person violating s. 346.63(2) or (6) shall be fined not less than \$300 nor more than \$2,000 and may be imprisoned for not less than 30 days nor more than one year in the county jail. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s.***

**346.63(2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment for the conviction are doubled and the place of imprisonment shall be determined under s. 973.02.**

(3p) Any person violating s. 346.63(2) or (6) is guilty of a Class H felony if the person has one or more prior convictions, suspensions, or revocations, as counted under s. 343.307(1). ***If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(2) or (6), the offense is a felony and the applicable maximum fines or periods of imprisonment for the conviction are doubled.***

(3r) In any county that opts to offer a reduced minimum period of imprisonment for the successful completion of a probation period that includes alcohol and other drug treatment, any person violating s. 346.63(2) or (6) shall be fined the same as under sub. (3m), but the period of imprisonment shall be not less than 30 days, except that if the person successfully completes a period of probation that includes alcohol and other drug treatment, the period of imprisonment shall be not less than 15 days. ***If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(2) or (6), the offense is a felony, the applicable minimum and maximum fines or periods of imprisonment for the conviction are doubled and the place of imprisonment shall be determined under s. 973.02. A person may be sentenced under this subsection or under sub. (2)(bm) or (cm) or (2j)(bm) or (cm) once in his or her lifetime. This subsection does not apply to a person sentenced under sub. (3p).***

(4) Any person violating s. 346.64 may be fined not less than \$50 nor more than \$500 or imprisoned not more than 6 months or both.

(4m) Except as provided in sub. (5m), any person violating s. 346.62(2m) shall forfeit not less than \$300 nor more than \$1,000.

(4r)(a) If a court imposes a forfeiture under sub. (4m) for a violation of s. 346.62(2m), the court shall also impose a railroad crossing improvement surcharge under ch. 814 equal to 50% of the amount of the forfeiture.

(b) If a forfeiture is suspended in whole or in part, the railroad crossing improvement surcharge shall be reduced in proportion to the suspension.

(c) If any deposit is made for an offense to which this subsection applies, the person making the deposit shall also deposit a sufficient amount to include the railroad crossing improvement surcharge under this subsection. If the deposit is forfeited, the amount of the railroad crossing improvement surcharge shall be transmitted to the secretary of administration under par. (d). If the deposit is returned, the amount of the railroad crossing improvement surcharge shall also be returned.

(d) The clerk of the circuit court shall collect and transmit to the county treasurer the railroad crossing improvement surcharge as required under s. 59.40(2)(m). The county treasurer shall



then pay the secretary of administration as provided in s. 59.25(3)(f)2. The state treasurer shall deposit all amounts received under this paragraph in the transportation fund to be appropriated under s. 20.395(2)(gj).

(5) Except as provided in sub. (5m), any person violating s. 346.62(4) is guilty of a Class I felony.

(5m) If an operator of a vehicle violates s. 346.62(2) to (4) where persons engaged in work in a highway maintenance or construction area or in a utility work area are at risk from traffic or where sanitation workers are at risk from traffic and the operator knows or should know that sanitation workers are present, any applicable minimum and maximum forfeiture or fine specified in sub. (1), (3), (4m) or (5) for the violation shall be doubled.

(7) A person convicted under sub. (2)(am)2., 3., 4., 4m., 5., 6., or 7. or (2j)(am)2. or 3. shall be required to remain in the county jail for not less than a 48-consecutive-hour period.

**Wis. Stat. § 343.31(3)(bm), (3)(c), (3)(e), (3)(f) (2014). Revocation or suspension of licenses after certain convictions or declarations**

...

(3)

...

(bm) For any person convicted under a law of a federally recognized American Indian tribe or band in this state in conformity with s. 346.63(1) (Operating under influence of intoxicant or other drug):

...

4m. If the Indian tribal court that convicted the person determined that there was a minor passenger under 16 years of age in the motor vehicle at the time of the incident that gave rise to the conviction, the applicable minimum and maximum revocation periods under subd. 2., 3. or 4. for the conviction are doubled.

...

(c) Any person convicted under s. 940.09 (Homicide by intoxicated use of vehicle or firearm) of causing the death of another or of an unborn child by the operation or handling of a motor vehicle shall have his or her operating privilege revoked for 5 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.09, the revocation period is 10 years.

...

(e) Any person convicted under s. 346.63(2) (Operating under influence of intoxicant or other drug) shall have his or her operating privilege revoked for not less than one year nor more than 2 years. If there was a minor passenger under 16 years of age in the motor vehicle at the time of the violation that gave rise to the conviction under s. 346.63(2), the minimum and maximum revocation periods are doubled.

(f) Any person convicted under s. 940.25 (Injury by intoxicated use of a vehicle) shall have his or her operating privilege revoked for 2 years. If there was a minor passenger under 16 years of age or an unborn child, as defined in s. 939.75 (1), in the motor vehicle at the time of the violation that gave rise to the conviction under s. 940.25, the revocation period is 4 years.

(i) If a person is convicted for a violation of s. 346.67 (1) (Duty upon striking person or attended or occupied vehicle) where the accident involved great bodily harm, the period of revocation is 2 years.

(j) If a person is convicted for a violation of s. 346.67 (1) (Duty upon striking person or attended or occupied vehicle) where the accident involved death, the period of revocation is 5 years.

...

### **Wis. Stat. § 948.21 (2014). Neglecting a child.**

(1) Any person who is responsible for a child's welfare who, through his or her actions or failure to take action, intentionally contributes to the neglect of the child is guilty of one of the following:

- (a) A Class A misdemeanor .
- (b) A Class H felony if bodily harm is a consequence.
- (c) A Class F felony if great bodily harm is a consequence.
- (d) A Class D felony if death is a consequence.

(2) Under sub. (1), a person responsible for the child's welfare contributes to the neglect of the child although the child does not actually become neglected if the natural and probable consequences of the person's actions or failure to take action would be to cause the child to become neglected.

**Wis. Stat. § 939.50(3) (2014). Classification of felonies.**

(3) Penalties for felonies are as follows:

(a) For a Class A felony, life imprisonment.

(b) For a Class B felony, imprisonment not to exceed 60 years.

(c) For a Class C felony, a fine not to exceed \$100,000 or imprisonment not to exceed 40 years, or both.

(d) For a Class D felony, a fine not to exceed \$100,000 or imprisonment not to exceed 25 years, or both.

(e) For a Class E felony, a fine not to exceed \$50,000 or imprisonment not to exceed 15 years, or both.

(f) For a Class F felony, a fine not to exceed \$25,000 or imprisonment not to exceed 12 years and 6 months, or both.

(g) For a Class G felony, a fine not to exceed \$25,000 or imprisonment not to exceed 10 years, or both.

(h) For a Class H felony, a fine not to exceed \$10,000 or imprisonment not to exceed 6 years, or both.

(i) For a Class I felony, a fine not to exceed \$10,000 or imprisonment not to exceed 3 years and 6 months, or both.

**Wyoming**

**Wyo. Stat. Ann. § 31-5-233 (2014). Driving or having control of vehicle while under influence of intoxicating liquor or controlled substances; penalties.**

(a) As used in this section:

...

(vi) “Child passenger” means a person traveling in a vehicle who is under sixteen (16) years of age.

...



(m) Any person eighteen (18) years of age or older who has a child passenger in the vehicle during a violation of this section shall be punished upon conviction as follows:

(i) For a first conviction under this subsection, by imprisonment for not more than one (1) year, a fine of not more than seven hundred fifty dollars (\$750.00), or both;

(ii) If previously convicted and sentenced under this subsection, or any other law substantially conforming to the provisions of this subsection, by imprisonment for not more than five (5) years.

**Wyo. Stat. Ann. § 6-4-403. Abandoning or endangering children; penalties; “child”; disclosure or publication of identifying information; “minor victim”.**

(a) No parent, guardian or custodian of a child shall:

(i) Abandon the child without just cause; or

(ii) Knowingly or with criminal negligence cause, permit or contribute to the endangering of the child's life or health by violating a duty of care, protection or support.

(b) No person shall knowingly:

(i) Cause, encourage, aid or contribute to a child's violation of any law of this state;

(ii) Cause, encourage, aid or permit a child to enter, remain or be employed in any place or premises used for prostitution or for professional gambling;

(iii) Commit any indecent or obscene act in the presence of a child;

(iv) Sell, give or otherwise furnish a child any drug prohibited by law without a physician's prescription;

(v) Conceal or refuse to reveal to the parent, guardian, lawful custodian or to a peace officer the location of a child knowing that the child has run away from a parent, guardian or lawful custodian, except when the action of the defendant is necessary to protect the child from an immediate danger to the child's welfare; or

(vi) Cause, encourage, aid or contribute to the endangering of a child's health, welfare or morals, by using, employing or permitting a child:

(A) In any business enterprise which is injurious or dangerous to the health, morals, life or physical safety of the child;

(B) In any place for purposes of begging;

(C) To be exhibited for the purpose of displaying any deformity of a child, except to physicians, nurses or other health professionals; or

(D) In a place used for prostitution.

(E) Repealed By Laws 1999, ch. 180, § 3.

(c) A person violating this section is guilty of a misdemeanor punishable by imprisonment for not more than one (1) year, a fine of not more than one thousand dollars (\$1,000.00), or both. A person convicted of a second violation of this section is guilty of a felony punishable by imprisonment for not more than five (5) years, a fine of not more than five thousand dollars (\$5,000.00), or both.

(d) As used in this section, “child” means a person under the age of sixteen (16) years.

(e) Subsection (b)(ii) of this section does not apply to crimes chargeable under W.S. 6-4-103(a)(i). Subsection (b)(iv) of this section does not apply to crimes chargeable under W.S. 35-7-1036.

(f) Prior to the filing of an information or indictment charging a violation of W.S. 6-4-403(b)(ii), (iii) or (v)(D) or (E), neither the name of the person accused or the victim nor any other information reasonably likely to disclose the identity of the victim shall be released or negligently allowed to be released to the public by any public employee, except as authorized by the judge with jurisdiction over the criminal charges. The name of the person accused may be released to the public to aid or facilitate an arrest.

(g) After the filing of an information or indictment and absent a request to release the identity of a minor victim by the victim or another acting on behalf of a minor victim, the trial court shall restrict the disclosure or publication of information reasonably likely to identify the minor victim.

(h) Any person who willfully violates subsection (f) or (g) of this section or who willfully neglects or refuses to obey any court order made pursuant thereto is guilty of contempt and, upon conviction, shall be fined not more than seven hundred fifty dollars (\$750.00) or be imprisoned in the county jail not more than ninety (90) days, or both.

(j) A release of a name or other information to the public in violation of the proscriptions of subsection (f) or (g) of this section shall not stand as a bar to the prosecution of a defendant or be grounds for dismissal of any charges against a defendant.

(k) As used in subsection (g) of this section, “minor victim” means a person under the age of eighteen (18) years.

**END DOCUMENT**