



# Senate

General Assembly

**File No. 645**

January Session, 2023

Substitute Senate Bill No. 1133

*Senate, April 18, 2023*

The Committee on Judiciary reported through SEN. WINFIELD of the 10th Dist., Chairperson of the Committee on the part of the Senate, that the substitute bill ought to pass.

***AN ACT CONCERNING CIRCUMSTANCES PRESENTING A  
SUBSTANTIAL RISK TO A CHILD'S HEALTH OR SAFETY.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. Subsection (a) of section 53-21a of the general statutes is  
2 repealed and the following is substituted in lieu thereof (*Effective October*  
3 *1, 2023*):

4 (a) (1) Any parent, guardian or person having custody or control, or  
5 providing supervision, of any child under the age of twelve years who  
6 knowingly leaves such child unsupervised in a place of public  
7 accommodation or a motor vehicle for a period of time that presents a  
8 substantial risk to the child's health or safety, shall be guilty of a class A  
9 misdemeanor.

10 (2) In determining whether an action constitutes a violation of this  
11 subsection, (A) consideration shall be given to whether or not the  
12 parent, guardian or person having custody or control, or providing  
13 supervision, of a child under the age of twelve years exercised judgment

14 that a reasonable person would use in determining whether the child  
 15 was of sufficient age, maturity, physical ability and mental ability to be  
 16 unsupervised under the circumstances, and (B) no finding of substantial  
 17 risk may be based solely on a parent, guardian or person having custody  
 18 or control, or providing supervision, of such child allowing such child's  
 19 participation in independent activities, including, but not limited to,  
 20 traveling to and from school, traveling to and from commercial or  
 21 recreational facilities located near such child's home and unsupervised  
 22 outdoor play, provided such child is of sufficient age, maturity, physical  
 23 ability and mental ability to engage in such activities and the child's  
 24 participation would not lead a reasonable person to believe that such  
 25 participation creates an obvious danger to the child's safety.

This act shall take effect as follows and shall amend the following sections:		
Section 1	October 1, 2023	53-21a(a)

**JUD**      *Joint Favorable Subst.*

The following Fiscal Impact Statement and Bill Analysis are prepared for the benefit of the members of the General Assembly, solely for purposes of information, summarization and explanation and do not represent the intent of the General Assembly or either chamber thereof for any purpose. In general, fiscal impacts are based upon a variety of informational sources, including the analyst's professional knowledge. Whenever applicable, agency data is consulted as part of the analysis, however final products do not necessarily reflect an assessment from any specific department.

**OFA Fiscal Note**

**State Impact:**

Agency Affected	Fund-Effect	FY 24 \$	FY 25 \$
Resources of the General Fund	GF - Potential Revenue Loss	See Below	See Below
Judicial Dept. (Probation); Correction, Dept.	GF - Potential Savings	See Below	See Below

Note: GF=General Fund

**Municipal Impact:** None

**Explanation**

The bill makes changes to when a person may be charged with a class A misdemeanor for failure to supervise a child which may result in a potential revenue loss due to a reduction in fines and in a potential savings due to fewer cases of incarceration or probation. On average, the marginal cost to the state for incarcerating an offender for the year is \$2,500<sup>1</sup> while the average marginal cost for supervision in the community is less than \$800<sup>2</sup> each year.

Currently, there are eight individuals incarcerated for this offense. Since FY 2001, a total of about \$4,000 has been collected in fines for this offense.

<sup>1</sup> Inmate marginal cost is based on increased consumables (e.g. food, clothing, water, sewage, living supplies, etc.) This does not include a change in staffing costs or utility expenses because these would only be realized if a unit or facility opened.

<sup>2</sup> Probation marginal cost is based on services provided by private providers and only includes costs that increase with each additional participant. This does not include a cost for additional supervision by a probation officer unless a new offense is anticipated to result in enough additional offenders to require additional probation officers.

***The Out Years***

The annualized ongoing fiscal impact identified above would continue into the future subject to the number of offenses.

**OLR Bill Analysis****sSB 1133*****AN ACT CONCERNING CIRCUMSTANCES PRESENTING A SUBSTANTIAL RISK TO A CHILD'S HEALTH OR SAFETY.*****SUMMARY**

This bill limits the circumstances under which a parent or guardian may be found guilty of leaving a minor unattended in a public place or motor vehicle. In doing so, it also limits the circumstances under which injury or risk of injury to a minor may be found (see BACKGROUND).

Under existing law, it is a class A misdemeanor for any parent, guardian, or person with custody, control, or supervision of a child under age 12 to knowingly leave the child unsupervised in a place of public accommodation or motor vehicle for a period of time that presents a substantial risk to the child's health or safety. (A class A misdemeanor is punishable by up to 364 days in prison, a fine up to \$2,000, or both.)

When determining whether someone committed this violation, the bill requires consideration to be given to whether the person exercised judgment that a reasonable person would use to determine if the child was of sufficient age, maturity, and physical and mental ability to be unsupervised under the circumstances.

Additionally, the bill prohibits a finding of substantial risk based solely on the person allowing a child who is of sufficient age, maturity, physical condition, and mental ability to participate in independent activities, if a reasonable person would not believe participating creates an obvious danger to the child's safety.

Under the bill, "independent activities" include:

1. traveling to and from school,
2. traveling to and from commercial or recreational facilities near the child's home, and
3. unsupervised outdoor play.

EFFECTIVE DATE: October 1, 2023

## **BACKGROUND**

### ***Leaving Children Unsupervised in a Place of Public Accommodation***

By law, it is a class C felony to leave a child unsupervised in a place of public accommodation between 8:00 p.m. and 6:00 a.m., and a class D felony if the public accommodation holds an alcohol permit for on-premises consumption. (A class C felony is punishable by one to 10 years in prison, a fine up to \$10,000, or both. A class D felony is punishable by up to five years in prison, a fine up to \$5,000, or both.)

It is also a class A misdemeanor to knowingly fail to report the disappearance of a child under age 12. The duty to report applies to any parent, guardian, or person who has custody or control of, or is supervising, the child and who either does not know the child's location or has not had contact with him or her for a 24-hour period (CGS § 53-21a).

### ***Neglect or Risk of Injury to a Minor***

By law, a person who does any act likely to impair a child's health or morals may be found guilty of the crime of neglect or risk of injury to a minor. Among other things, this includes when a person willfully or unlawfully causes or allows any child under age 16 to be placed in a situation that (1) endangers the child's life or limb, (2) injures the child's health, or (3) impairs the child's morals.

Neglect or risk of injury to a minor is a class C felony (punishable by up to 10 years imprisonment) or class B felony (punishable by up to 20 years imprisonment, up to a \$15,000 fine, or both) depending on the

child's age and the nature of the violation (CGS § 53-21).

**Related Bill**

sSB 1048, reported favorably by the Children's Committee, limits a finding of neglect if, among other things, a child is allowed to participate in "independent activities," which it defines in a way that is substantially similar to this bill's definition.

**COMMITTEE ACTION**

Judiciary Committee

Joint Favorable Substitute

Yea 37    Nay 0    (03/31/2023)