

SENATE FILE NO. SF0025

DUI-child endangerment.

Sponsored by: Senator(s) Ross

A BILL

for

1 AN ACT relating to driving under the influence; providing
 2 additional penalties for driving under the influence with a
 3 child in the vehicle; providing for investigation by child
 4 protective services; amending a limitation on use of
 5 discharge or dismissal of prior convictions as specified;
 6 and providing for an effective date.

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8 *Be It Enacted by the Legislature of the State of Wyoming:*

9

10 **Section 1.** W.S. 7-13-301(d), 14-3-202(a)(ii)(D) and
 11 31-5-233(a) by creating a new paragraph (vi), (e) and by
 12 creating a new subsection (m) are amended to read:

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14 **7-13-301. Placing person found guilty, but not**
 15 **convicted, on probation.**

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1 (d) Except as otherwise provided by law, discharge
2 and dismissal under this section shall be without
3 adjudication of guilt and is not a conviction for any
4 purpose.

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6 **14-3-202. Definitions.**

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8 (a) As used in W.S. 14-3-201 through 14-3-216:

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10 (ii) "Abuse" means inflicting or causing
11 physical or mental injury, harm or imminent danger to the
12 physical or mental health or welfare of a child other than
13 by accidental means, including abandonment, unless the
14 abandonment is a relinquishment substantially in accordance
15 with W.S. 14-11-101 through 14-11-109, excessive or
16 unreasonable corporal punishment, malnutrition or
17 substantial risk thereof by reason of intentional or
18 unintentional neglect, and the commission or allowing the
19 commission of a sexual offense against a child as defined
20 by law:

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22 (D) "Imminent danger" includes threatened
23 harm and means a statement, overt act, condition or status
24 which represents an immediate and substantial risk of

1 sexual abuse or physical or mental injury. "Imminent
2 danger" includes violation of W.S. 31-5-233(m).

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4 **31-5-233. Driving or having control of vehicle while**
5 **under influence of intoxicating liquor or controlled**
6 **substances; penalties.**

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8 (a) As used in this section:

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10 (vi) "Child passenger" means a person traveling
11 in a vehicle who is under sixteen (16) years of age.

12

13 (e) Except as otherwise provided, a person convicted
14 of violating this section shall be ordered to or shall
15 receive a substance abuse assessment conducted by a
16 substance abuse provider certified by the department of
17 health pursuant to W.S. 9-2-2701(c) at or before
18 sentencing. The cost of the substance abuse assessment
19 shall be assessed to and paid by the offender. Except as
20 otherwise provided in this subsection or subsection (h) or
21 (m) of this section, a person convicted of violating this
22 section is guilty of a misdemeanor punishable by
23 imprisonment for not more than six (6) months, a fine of
24 not more than seven hundred fifty dollars (\$750.00), or

1 both. On a second conviction within five (5) years after a
2 conviction for a violation of this section or other law
3 prohibiting driving while under the influence, he shall be
4 punished by imprisonment for not less than seven (7) days
5 nor more than six (6) months, he shall be ordered to or
6 shall receive a substance abuse assessment conducted by a
7 substance abuse provider certified by the department of
8 health pursuant to W.S. 9-2-2701(c) before sentencing and
9 shall not be eligible for probation or suspension of
10 sentence or release on any other basis until he has served
11 at least seven (7) days in jail. In addition, the person
12 may be fined not less than two hundred dollars (\$200.00)
13 nor more than seven hundred fifty dollars (\$750.00). On a
14 third conviction within five (5) years after a conviction
15 for a violation of this section or other law prohibiting
16 driving while under the influence, he shall be punished by
17 imprisonment for not less than thirty (30) days nor more
18 than six (6) months, shall receive a substance abuse
19 assessment pursuant to W.S. 7-13-1302 and shall not be
20 eligible for probation or suspension of sentence or release
21 on any other basis until he has served at least thirty (30)
22 days in jail except that the court shall consider the
23 substance abuse assessment and may order the person to
24 undergo outpatient alcohol or substance abuse treatment

1 during any mandatory period of incarceration. The minimum
2 period of imprisonment for a third violation shall be
3 mandatory, but the court, having considered the substance
4 abuse assessment and the availability of public and private
5 resources, may suspend up to fifteen (15) days of the
6 mandatory period of imprisonment if, subsequent to the date
7 of the current violation, the offender completes an
8 inpatient treatment program approved by the court. In
9 addition, the person may be fined not less than seven
10 hundred fifty dollars (\$750.00) nor more than three
11 thousand dollars (\$3,000.00). The judge may suspend part or
12 all of the discretionary portion of an imprisonment
13 sentence under this subsection and place the defendant on
14 probation on condition that the defendant pursues and
15 completes an alcohol education or treatment program as
16 prescribed by the judge. Notwithstanding any other
17 provision of law, the term of probation imposed by a judge
18 under this section may exceed the maximum term of
19 imprisonment established for the offense under this
20 subsection provided the term of probation together with any
21 extension thereof, shall not exceed three (3) years for up
22 to and including a third conviction. On a fourth or
23 subsequent conviction within five (5) years for a violation
24 of this section or other law prohibiting driving while

1 under the influence, he shall be guilty of a felony and
2 fined not more than ten thousand dollars (\$10,000.00),
3 punished by imprisonment for not more than two (2) years,
4 or both.

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6 (m) Any person eighteen (18) years of age or older
7 who has a child passenger in the vehicle during a violation
8 of this section shall be punished upon conviction as
9 follows:

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11 (i) For a first conviction under this
12 subsection, by imprisonment for not more than one (1) year;

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14 (ii) If previously convicted and sentenced under
15 this subsection, or any other law substantially conforming
16 to the provisions of this subsection, by imprisonment for
17 not more than five (5) years; and

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19 (iii) For purposes of calculating if an
20 individual has a second or subsequent conviction for a
21 violation of this subsection or other law prohibiting
22 driving while under the influence with a child passenger in
23 the vehicle, any dismissal of a charge pursuant to W.S.
24 7-13-301 for a violation of this subsection or other law

1 prohibiting driving under the influence with a child
2 passenger in the vehicle shall be counted as a conviction
3 for purposes of this subsection.

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5 **Section 2.** This act is effective July 1, 2007.

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(END)