IN THE

DISTRICT COURT OF APPEAL

FIRST APPELLATE DISTRICT OF FLORIDA

RHONDA CHARMANE JEWELL,		
Appellant,	Case No. 1D2024-3279 Direct Criminal Appeal Eighth Circuit/Baker County	
V.		
STATE OF FLORIDA,	L.T. No. 02-2023-CF-000333	
Appellee.		

BRIEF OF AMICUS CURIAE KIDS AND CAR SAFETY IN SUPPORT OF APPELLANT JEWELL

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C. INTEREST OF AMICUS CURIAE

Kids and Car Safety is a leading national nonprofit organization that has worked for more than thirty years to prevent injuries and deaths of children in and around motor vehicles. The organization uses data collection, research and analysis, public education and programs, policy change, product redesign and awareness supporting families to channel their grief into positive change. *Kids* and Car Safety has amassed a wealth of data and expertise on the phenomenon of children being unintentionally left in hot cars. Its experience and expertise demonstrate why criminal prosecution is not an effective method for addressing unintentional hot car deaths and why a focus on prevention is essential. Kids and Car Safety submits this brief to assist the Court to understand the true nature of hot car deaths: they are not usually crimes - they are the devastating and preventable result of human memory failure. Additionally, this brief discusses the broader implications of criminal prosecutions in such cases.

D. INTRODUCTION

Hot car deaths are among the most tragic — and most misunderstood — ways that children lose their lives. In the public imagination, these deaths are often incorrectly equated with neglect or malice. But science tells a different, sobering story: these deaths happen because even the most devoted, careful caregivers are subject to a powerful and unfortunate function in human memory.

When prosecutors and courts criminalize caregivers for these events, they do so in direct contradiction to well-established neuroscience, decades of data, and the public policy imperative to save lives.

Each year, an average of nearly 40 children die in the United States due to vehicular heatstroke. *See* Kids and Car Safety, *Child Hot Car Dangers Fact Sheet*, available at https://www.kidsandcars.org/document_center/download/hotcars /Heatstroke-fact-sheet.pdf. (A-5).¹ The tragic death of 10-month-old A.P., left in the car by her caretaker Appellant Rhonda Jewell, is one

¹ References to the Appendix will be made by the designation "A" followed by the appropriate page number.

such heartbreaking event.² However, the criminal prosecution and severe sentencing of Appellant Jewell cannot deter unintentional acts, nor prevent future incidents. Convicting Appellant Jewell of murder and sentencing her to 17 years in prison for an unintentional act during which she lacked conscious awareness that A.P. was in her car will not deter similar unintentional incidents. Instead, it will exacerbate the exceedingly common misunderstanding that such occurrences must be the product of a criminal or negligent mind, and that a loving caregiver with a normal human brain would never be capable of such a tragic omission. Criminalizing these tragedies is not supported by scientific evidence that proves that most of these events are unintentional, nor is it consistent with the goals of prevention and justice. Treating them as crimes is not only cruel and pointless but fundamentally undermines efforts to prevent future deaths.

² See Interactive Map, Florida, available at https://www.kidsandcars.org/hot-cars/media-resources.

E. SUMMARY OF ARGUMENT

This brief makes two overarching points:

1. Criminal prosecution is ineffective in preventing unintentional hot car deaths because these incidents arise from predictable and well-documented failures of human memory – not from malicious intentional, reckless, or negligent conduct.

2. Treating unintentional hot car deaths as crimes promotes the dangerous myth that only negligent or reckless individuals can leave a child in a vehicle, thus reducing public understanding and hindering real prevention efforts.

Additionally, this brief discusses the brain science related to the

phenomenon of unknowingly leaving a child in the car, including

identifying the factors that contribute to prospective memory failures.

This brief also discusses technological solutions aimed at reducing

future hot car deaths and increasing public awareness of the risks.

F. ARGUMENT

1. Criminal Prosecution Is Ineffective Because Unintentional Hot Car Deaths Are a Predictable Result of Normal Memory Failure.

The primary justification for criminal prosecution is rooted in deterrence: the idea that punishing certain conduct will discourage future instances of it. See Charles v. State, 204 So. 3d 63, 67 (Fla. 4th DCA 2016) ("Thus, deterrence, both general ("send a message to the community") and specific (send a message to the individual being sentenced), is not merely one factor amidst the sea of relevant sentencing considerations; it is a key component of punishment itself-the "primary purpose" of sentencing under the CPC)(emphasis added). But deterrence cannot operate where the conduct is unintentional. Deterrence assumes a level of conscious choice or volition that is not present in most hot car death cases. These are, overwhelmingly, tragedies of inadvertence, caused by scientifically proven lapses in memory. They are not premeditated, reckless, or even negligent acts of harm.

Scientific research by experts in this field demonstrates that memory failure leading to a child being forgotten in a car is not a rare or unusual flaw. Rather, it is a predictable, comprehensible human function, when the right circumstances align. According to the research, the brain's memory systems can come into conflict. See David Diamond, Children dying in hot cars: a tragedy that can be prevented, The Conversation, (June 20, 2016, updated July 29, 2019), available online at https://theconversation.com/children-dying-in-hot-cars-a-tragedy-that-can-be-prevented-60909. (A-8). When performing habitual tasks — such as driving a familiar route — the brain's "autopilot" procedural memory can dominate over the brain's prospective memory, which governs future intentions, such as dropping off a child at daycare. When this happens, even loving, attentive caregivers can lose awareness of a quiet child in the back seat.³

This phenomenon explains how responsible individuals — including doctors, teachers, military officers, and even loving parents

³ Vehicular heatstroke deaths have increased as babies are being transported in rear-facing car seats in the backseat. *See* Interactive Map, Florida, available at https://www.kidsandcars.org/hot-cars/media-resources. From the driver's seat, the driver cannot discern just by glancing in the backseat whether an infant's rear-facing car seat is occupied. Additionally, many new parents quickly learn that a car ride can succeed where lullabies fail—that even the most colicky baby can find peace in the hum and gentle motion of a car ride, and sleep soundly for the duration of the trip.

and caregivers like Appellant Jewell — can experience catastrophic lapses. Because these lapses are involuntary, biological processes, no level of vigilance, moral character, or love for one's child guarantees immunity. As such, criminalizing these individuals fails not only as a deterrent but also as a just response to the nature of the event.

Critically, there is no evidence that criminal prosecution has reduced the incidence of hot car deaths. On the contrary, the number of such deaths has remained relatively stable, with spikes in recent years, suggesting that punishment after the fact does not address the root causes. Despite this, Florida is particularly punitive. Nationally, 42% of unknowingly left child hot car fatalities result in no criminal charges, yet in Florida only 29% result in no charges. Nationally, 31% of unknowingly left child hot car fatalities result in a criminal conviction, yet in Florida 45% result in a conviction. See Kids and Car Safety, U.S. Child Hot Car Death Data Analysis from the Kids and National Database (1990-2024),Car Safety available at https://www.kidsandcars.org/document_center/download/hotcars /Child-Hot-Car-Deaths-Data-Analysis.pdf. (A-12).

Over 1,129 children⁴ have died in hot cars since 1990, and in the majority of these cases, the caregiver simply forgot the child was in the car. See Kids and Car Safety, Child Hot Car Dangers Fact Sheet https://www.kidsandcars.org/document_center/ available at download/hotcars/Heatstroke-fact-sheet.pdf. (A-5). Thus, hot car deaths are best understood as tragic consequences of common human vulnerabilities, not acts of criminal negligence or recklessness. Treating these incidents as crimes misrepresents this scientific reality. In Appellant Jewell's case, she unintentionally left A.P. in the car after a change in routine and while tending to multiple other children in her care. Prosecuting her for third-degree murder and sentencing her to 17 years in prison will not deter the next memory failure — because memory lapses are not deterred by fear of punishment. Only systemic prevention — through public education, vehicle detection systems, and practical reminders — can effectively address the risk.

⁴ Sadly, this figure changes, sometimes daily, during the summer. This is the figure as of May 29, 2025, at noon C.S.T.

2. Criminalizing Unintentional Acts Reinforces Misconceptions That Hinder True Prevention.

Prosecuting caregivers when an unintentional memory failure results in a child's death sends a dangerously false message: that these deaths only happen when children are left in the care of "bad" or "careless" people. By framing unintentional hot car deaths as crimes — particularly violent crimes like murder — the legal system reinforces a dangerous and inaccurate narrative, i.e., that these tragedies are the result of evil, careless, or abusive parenting or caregiving. This perception allows others to wrongly believe, "It could never happen to me."

Research shows the opposite is true. It can happen to anyone, across every demographic group, among the most loving and attentive caregivers. *See* Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car Is a Horrifying Mistake. Is It a Crime?*, The Washington Post (originally published March 8, 2009), Kids and Car Safety, (July 8, 2016), available at http://www.kidsandcars.org/news/post/fatal-distraction-forgetting -a-child-in-the-backseat-of-a-car-is-a-horrifying-mistake-is-it-a-cri

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me. (A-28). Prosecuting such cases as crimes, particularly murder, perpetuates harmful myths that these incidents are the result of cruelty, indifference, alcohol or drug abuse, or criminality. In doing so, it undermines public understanding of the true risks and hampers efforts at broader prevention through awareness, policy change, and engineering solutions. The myth that only bad parents or caregivers leave children in cars reduces vigilance and undermines efforts to promote proactive safety measures like checking the back detection installing child presence technology. seat and Criminalization deters honest discussion and education about how these tragic incidents happen.

The goal must be prevention, not prosecution. This is a public health issue and should be treated as such. Policies that promote technological solutions, caregiver education, and public awareness campaigns are demonstrably more effective at reducing deaths. Criminalizing hot car deaths also contradicts established public policy trends. Recognizing the need for systemic solutions, Congress passed a provision in the Infrastructure Investment and Jobs Act, aimed at requiring automobile manufacturers to install technologies to detect and alert drivers to the presence of a child left in a vehicle.

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See Sec 24222, CHILD SAFETY, Hot Cars Section of the Infrastructure Investment and Jobs Act (H.R. 3684), available at http://www.kidsan dcars.org/document_center/download/laws-and-legislation/federal /SEC-24222-CHILD-SAFETY-Hot-Cars-Section.pdf. (A-53). Leading child safety organizations, including *Kids and Car Safety*, and others support such legislation precisely because it acknowledges the human element of these tragedies. *See* list of organizations available at https://www.kidsandcars.org/organizations-in-support-of-thecars-act.

Criminalization stands in direct opposition to these efforts. It implies moral failure where there is instead human fallibility, thereby undermining efforts to build a broad coalition for preventive action. Moreover, aggressive prosecution may discourage honest reporting and emergency responses. *Kids and Car Safety* has seen firsthand how prosecutions chill conversations that could save lives. Prevention requires public acknowledgment of the universal risk.

3. Understanding Unintentional Hot Car Deaths.

a. Memory Science Tells the Full Story: The neurobiology of Prospective Memory Function.

The brain science behind unintentional hot car deaths is both fascinating and sobering. The phenomenon at the core of hot car deaths — the failure of "prospective memory" — is well-documented in neuroscience. Prospective memory governs the ability to remember planned actions in the future. It is vulnerable to disruption by changes in routine, stress, fatigue, and distractions. Critically, this type of memory lapse can occur even when the forgotten action involves what a person values most — their own child.

Understanding how a caregiver can unintentionally leave a child in a vehicle requires an appreciation of human memory systems and brain function. Memory is not monolithic — there are different types of memory and corresponding parts of the brain involved. Sometimes these systems work in a complementary manner, and sometimes they compete. See David M. Diamond, When a Child Dies of Heatstroke After a Parent or Caretaker Unknowingly Leaves the Child in a Car: How Does It Happen and Is It a Crime?, 59 Med. Sci. L. 115, 2, (2019), available at http://doi.org/10.1177/0025802419831529. (A-58).

When a caregiver places a child in a car, the ability to remember to retrieve the child upon reaching the destination-absent an external cue in the moment — depends upon prospective memory. In simple terms, prospective memory involves remembering to perform an intended act. Acts that rely on prospective memory typically require recall at a particular time, for example, remembering to stop by the grocery store after work, remembering to take medication at a scheduled time, or remembering to retrieve a child from the back seat of a car upon reaching a destination. See id. at 2, 3; see also Kathryn C. Insel, et al., A Multifaceted Prospective Memory Intervention to Improve Medication Adherence: Design of a Randomized Control Trial, 64 J. Geriatrics 2391 Am. Soc'y (2016),available at https://doi.org/10.1111/jgs.14032. (A-70).

However, "when a person's task is to remember to carry out a specific action at a specific time in the future, if retrieval cues are not available at the moment the action needs to be carried out, and attention is not focused on the task goal, absent-minded forgetting can be severe." *See* Daniel L. Schacter, *The Seven Sins of Memory*: An Update, 30 Memory 1, 38 (2022), available at https://doi.org/10.1080/09658211.2021.1873391. (A-78). In reflecting on his 2001 research regarding this problematic conflict that occurs in prospective memory over 20 years later in 2022, Harvard memory scientist, Dr. Daniel L. Schacter, explains:

[N]either the prospective memory research nor everyday examples Ι cited presaged а phenomenon that was little known prior to 2001 but has become all too familiar since: parents who forget that their infant is in a car seat in the back of a hot car, often resulting in the death of the child. Such cases regularly appear each summer, and typically involve a "perfect storm" of circumstances that support absent-minded catastrophic forgetting: а change in routine, absorption with pressing concerns unrelated to the child, reliance on automatic behaviour, and an absence of retrieval cues at the moment they are needed. As Weingarten (2009) pointed out in his compelling discussion of these cases, they began to increase after experts recommended moving infant car seats to the rear of the car in order to avoid dangers posed to young children by front seat airbags: "If few foresaw the tragic consequence of the lessened visibility of the child ... well, who can blame them? What kind of person forgets a baby?"

Id. Schacter states, "We now know that almost anyone can exhibit such forgetting, including many highly functional and responsible

parents." *Id.* Importantly, Schacter does not describe this process as the result of a memory malfunction, glitch, or disorder. Rather, **it is**

something that occurs in a normal human brain under normal, everyday conditions. *Id.* It is observed in circumstances from the mundane to the tragic, as well as in the scientific laboratory. *Id.*

This process is a result of the complex nature of prospective memory, which involves the coordination of multiple brain regions:

- The **prefrontal cortex**, which is central to executive function maintaining goals, monitoring tasks, and inhibiting distractions.
- The **hippocampus**, which is involved in forming associative memories, spatial navigation, and awareness.
- The **basal ganglia**, which is responsible for habit formation and procedural memory, taking over when we are performing tasks on "auto-pilot."

Diamond (2019) at 6, 7; David Diamond, *Children Dying in Hot Cars: A Tragedy That Can Be Prevented*, The Conversation (June 20, 2016, updated July 29, 2019), available at https://theconversation.com/children-dying-in-hot-cars-a-tragedythat-can-be-prevented-60909. A normal human brain experiences competition among these parts when attempting prospective memory functions. The habitual activity of the basal ganglia competes with the prefrontal cortex by suppressing the active maintenance of future intentions. This competition escalates when one is under stress, fatigued, or processing disruption of a routine. Diamond (2019); Diamond (2016). On any given day, a caregiver may easily be experiencing all these risk factors.

Dangerously, this process occurs without any subjective feeling of forgetting—in the case of a caregiver with a child in the backseat, the caregiver leaves the car without the child, believing they have completed all necessary tasks. Diamond (2019), at 3, 4.

Dr. David Diamond, the nation's leading expert on the function of memory in incidents of children left in cars, explains that during habitual behavior such as driving to drop off a child at daycare before driving to work, the prefrontal cortex multi-tasks, allowing the driver to do things like listen to music, engage in discussion, and plan future activities. During that process, the driver may lose awareness that the child is in the car. With that loss of awareness, the driver's plan to stop at the daycare is also lost. Diamond (2019), at 7.

What happens next explains why caregivers may go on to their final destination with no awareness that the child remains in the car:

[W]hen the driver arrives at the routine destination, he or she exits the car having lost awareness that the child remains in the car. The driver's assumption that the child has been taken to day care becomes a false memory, which provides the driver with the false sense of security that the child is in a safe location. The driver then conducts routine activity at the destination for as much as an entire day or an entire evening, completely unaware that the child remains in the car.

Id. Observing the role of human memory in these tragic cases, Dr.

Diamond states:

In cases I have reviewed when people unknowingly left children in a car, there is strong support for the hypothesis that they were guided by their [basal ganglia], which was focused on accomplishing a habitual action. Brainimaging research reveals that [hippocampus] neural activity, which maintains the memory of the child's presence in the car, is reduced in a task in which [basal ganglia] activity is dominant. Thus, at the moment in which the driver exits the car, the [hippocampus] cellular activity that had processed the memory of the presence of the child in the car would be reduced below the level of conscious awareness. Moreover, in a process which is not well understood, the brain creates a false memory that the child has been taken to the planned destination (home or day care). Therefore, upon exiting the car, the driver has not left the child (or children) in the car purposely, knowingly, recklessly, negligently and certainly not with malice. Rather, the person's actions reflect the dynamics and imperfection of human brain functioning in a complex multi- tasking situation, which underlies the failure of [prospective memory].

Id. at 8. In this way, Dr. Diamond explains, the act of leaving the child in the car is truly an unconscious one, as it occurs when the basal ganglia has taken over, suppressing the activity in the

hippocampus where the memory of the child being in the car was processed. *Id.*; Diamond (2016).

b. Visualizing Layers of Risk: The Swiss Cheese Model and the Memory Science Behind Unintentional Hot Car Deaths.

While the vulnerabilities in prospective memory do not discriminate and can result in tragedy for any caregiver, such tragedies typically do not occur absent a "perfect storm." *See* Schacter (2022), at 38. To visualize the multi-layered breakdown that has typically occurred when this type of tragedy takes place, Dr. Diamond offers an adaptation of the "Swiss cheese model"—a model commonly used to represent multiple layers of risk that lead to tragedies in contexts ranging from healthcare to aviation. Diamond (2019), at 5, 6.

The Swiss cheese model demonstrates how catastrophic failures can occur despite multiple layers of defense, recognizing that each layer is subject to its own set of vulnerabilities or imperfections. Each "slice" of Swiss cheese represents a barrier intended to prevent harm: personal habits, environmental cues, social supports, and systemic protections. But each layer has its own holes. When those holes align in just the wrong way, a devastating error can pass through each layer unimpeded. *Id.*



Diamond (2019), at 5. As Dr. Cahill testified, several scientifically established risk factors converged in Appellant Jewell's case (IB at 15, 16), aligning the holes in the Swiss cheese slices in just the wrong way, leading to this tragic incident:

Slice 1: Divided Attention and Multitasking

- **Hole**: Appellant Jewell was driving, worrying about arriving on time, and, when she arrived, she quickly began taking care of multiple young children.
- Science: Divided attention impairs the cognitive maintenance of prospective intentions. *See* Diamond (2019), at 8.

Slice 2: Routine Disruption

- **Hole**: Deviations from Appellant Jewell's normal schedule, including an earlier start and caring for a different set of children, disrupted her routine.
- Science: Dr. Cahill describes this factor as a "big one." (IB at 15). Changes in routine are known to impair prospective memory retrieval. See Karen Ho, et al., Paediatric hyperthermiarelated deaths while entrapped and unattended inside vehicles: The Canadian experience and anticipatory guidance for prevention, 25 Paediatrics & Child Health 25, 145 (2020), available at https:// academic.oup.com/pch/article/24/4/294 /5521600 (A-85); Diamond (2019), at 3-8.

Slice 3: Stress

- **Hole**: Stress from an upcoming international trip and her child's impending move to college taxed Appellant Jewell's cognitive resources.
- Science: Stress is a significant predictor of prospective memory lapses. See Diamond (2019), at 6, 7; see also Castle A. Williams & Andrew J. Grundstein, Children Forgotten in Hot Cars: A Mental Models Approach for Improving Public Health Messaging, 23 Inj. Prevention 392 (2017), available at https://doi.org/10.1136/injuryprev-2016-042261. (A-91). Stress impairs prefrontal cortex functioning that is critical for executive control. Diamond (2019), at 7.

Slice 4: Lack of Retrieval Cues

• **Hole**: The infant was placed in Appellant Jewell's car in a rearfacing car seat⁵ and was sleeping quietly. The child's diaper bag being out of view, and when Appellant Jewell arrived at her destination, no one noted the child's absence.

⁵ The average number of children unknowingly left in vehicles who died from heatstroke in the 10 years prior to when children began riding in the back seat was 2 deaths per year versus 22 deaths per year after children began riding in the back seat – up to a 1,000% increase in the average number of deaths per year.

• **Science**: Absence of environmental cues reduces the likelihood of spontaneous retrieval. *See* Schacter (2022), at 38; Diamond (2019), at 3, 7, 8.

Finally, in addition to these layers, Appellant Jewell's car was not equipped with any technological safeguards such as an occupant detection system or a backseat alert. Not only are these systems not yet prevalent in most cars on the road, but perpetuating the myth that these unintentional incidents involve criminals or negligent caregivers threatens the use of life-saving prevention tools by those who have access to them.

c. A Crime Based on the Natural Fallibility of a Normal Human Brain: The Wrong Kind of Deterrent.

In a 2015 study, 52 percent of participating caregivers expressed disbelief and denial that they could ever forget a child in their care in the car. *See* Williams & Grundstein (2017), at 283. Eighty-four percent indicated their belief that there is a "type of parent" or a quality that increases the risk of leaving a child in the car. *Id.* Over 25 percent of these caregivers shared their belief that forgetting a child in a car was more likely to happen to those who are "unfit parents." *Id.* Another 25 percent believed certain lifestyle factors increased the risk, such as being a working parent or having low income.

Because a limited number of accounts of those who leave children in cars *intentionally* predominate the headlines, many caregivers have developed the belief-and indeed the convictionthat this tragedy cannot occur unintentionally. See Williams & Grundstein (2017), at 282; see also Piper Krase, et al., Understanding Parent and Caregiver Perceptions of Pediatric Vehicular Hyperthermia: implications for public health messaging from a pilot study, 49 Health Educ. Behav. 345 (2024),available available at at (A-100). https://doi.org/10.1136/ip-2023-045025. 17-year А murder sentence feeds this dangerous narrative. The harsh judgments that many have toward caregivers involved in these tragedies interfere with the use of measures that could otherwise prevent children from being left in cars. Caregivers often mistakenly believe that because they are good people who love the children in their care, they could "never" forget these children in a car and therefore do not need any external cues, reminders, or safety measures. See Gila Albert & Riva Kerbis, Are Parents Willing to Use

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Technology to Prevent the Tragedy of Forgetting Children Inside Cars?, Journal 162, 13 The Transportation (2019),available at https://opentransportationjournal.com/VOLUME/13/PAGE/162/. (A-103). Indeed, one study found that 21% of participating caregivers believed they would be seen as "a worse caregiver" if they used preventative technology. Erin E. Sartin et al., U.S. Caregivers' Risk Perceptions Toward Pediatric Attitudes and Vehicular Hyperthermia, 190 Accident Analysis & Prevention 107071, 5 (2023), available at https://doi.org/10.1016/j.aap.2021.107071. (A-110).

Ignoring the dire warnings the science provides about the unconscious nature of these acts — which can happen to *anyone* — will perpetuate deadly misconceptions that prevent improvements in public safety measures and messaging that could save children's lives.

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4. Available Technology Offers Effective Prevention.

Advancements in technology provide practical solutions to prevent unintentional hot car deaths. These technologies are designed to detect a child when left alone in the vehicle, and alert caregivers of a child's presence thereby mitigating the risk of memory lapses leading to tragedy.

a. Aftermarket Solutions.

Several aftermarket products have been developed to assist caregivers:

CleverElly: A device that reminds drivers to check the back seat before exiting the vehicle. It requires no installation (it simply plugs in to the 12V power outlet) and doubles as a USB car charger.

Payton's CHARM: A patented solution designed to help prevent hot car deaths of people and pets. It can serve as an independent solution in existing vehicles or be integrated into new vehicles.

Ride N Remind System: A system that monitors the vehicle's rear doors and provides an audio alert if the driver opens the back door prior to driving. If the driver completes a trip and turns off the vehicle without opening the back door again, the system sounds a chime, escalating to the car's horn if unaddressed.

b. Integrated Vehicle Technologies.

Some automobile manufacturers have begun integrating endof-trip reminder systems into their vehicles. See Kids and Car Safety, Technology Vehicles available in Today, https:// at www.kidsandcars.org/hot-cars/federal-legislation-technology/avail able. (A-117). These systems typically operate using door sequencing technology, providing audio and visual alerts if the driver opens the back door prior to driving. However, such systems may not provide reminders in scenarios where the back door was not opened before the trip, potentially limiting their effectiveness. End-of-trip reminder systems provide an alert even when a child is not present if a rear door is opened prior to driving. They do not detect the presence of a child but rather infer that a child may be present if the rear door has been opened. They would fail in several common scenarios and are not the most effective solution⁶.

⁶ Kids and Car Safety has sadly documented at least 7 children who have died in vehicles with this simple reminder alert.

c. Advanced Detection Systems.

Emerging technologies utilize sensors to detect the presence of occupants in the vehicle and provide alerts to the driver, bystanders, emergency contacts and even authorities:

Vayyar's 3D Imaging Sensor: This technology can detect the number of passengers, their location, and distinguish between adults and children, providing a sophisticated means of occupant detection.

A number of automobile manufacturers, including Toyota, Volvo, Kia, and Hyundai, have installed such technology in certain makes and models. Additionally, three car seat manufacturers now offer reminder alert systems. *See* Kids and Car Safety, Technology in Vehicles Today, available at https://www.kidsandcars.org/hotcars/federal-legislation-technology/available. (A-117).

Implementing such technologies, whether aftermarket or integrated, offers a proactive approach to preventing hot car deaths. By focusing on prevention through technology, the root causes of these tragedies can be more effectively addressed than through punitive measures.

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5. Integrating New Technology to Prevent Hot Car Deaths Is Feasible: Lessons from Trunk Safety Release Regulation Implementation.

The successful nationwide adoption of internal trunk release mechanisms demonstrates that integrating life-saving technology into vehicles is both feasible and effective.

In 1995, the founder of *Kids and Car Safety*, Janette Fennell, survived a terrifying ordeal that became the catalyst for her advocacy. After being kidnapped at gunpoint and locked inside of the trunk of her own vehicle, Fennell realized that there was no internal mechanism for escape. She later learned that this dangerous oversight had already contributed to the deaths of numerous children and adults trapped in vehicle trunks. *See* Kids and Car Safety, Trunk Entrapment Fact Sheet, available at https://www.kidsandcars.org/document_center/download/trunkentrapments/trunk-entrapment-fact-sheet.pdf. (A-119).

Fennell turned her experience into a national movement. *See* Elizabeth McLoughlin & Janette Fennell, The power of survivor advocacy: making car trunks escapable, Injury Prevention Special Feature (2000), available at https://www.kidsandcars.org/document_center/download/trunk-

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entrapments/2000-power-survivor-advocacy-study.pdf. (A-122). Through data collection, relentless advocacy, public education, and working alongside federal regulators and automakers, Fennell succeeded in pushing for new safety standards. As a result, starting in 2002, all new passenger vehicles sold or leased in the United States have been required to include a glow-in-the-dark internal trunk release – a simple yet powerful device that has saved countless lives. In fact, not one fatality has occurred in a vehicle that has that internal trunk release. Zero. See Richard Simon, Car Trunk Terror Spurs a Crusade for Changes, Los Angeles Times (March 30, 1999) available at https://www.kidsandcars.org/document_center/downlo ad/1999-03-30-LA-Times-Car-Trunk-Terror-Spurs-Crusade-for-Changes-p.pdf. (A-126).

This history proves that when safety risks are properly understood and addressed, and when technological solutions are prioritized, change is achievable on a national scale. Today, we face a similarly preventable crisis: children dying in hot cars due to predictable, scientifically proven human memory failures. The technology to prevent these deaths already exists, in the form of rearseat reminder systems, occupant detection sensors, and alarms that are readily available and growing more advanced. Following the model of the successful trunk release campaign, legislative action to mandate these technologies would create a meaningful, lasting solution to protect children. History shows it is possible, and the continued epidemic of hot car deaths shows it is necessary.

G. CONCLUSION

Tragic hot car deaths of children like A.P. are gut-wrenching. These events are the result of a common and unfortunate human brain failure, not criminal negligence or malice. They are failures of memory, not of love. Criminalizing such tragic incidents is contrary to both the scientific understanding of human cognition and the mission of organizations dedicated to preventing child fatalities. Punishing Appellant Jewell will not prevent the next child's death. Criminalizing caregivers will not overcome the human brain's limitations. It will not spur the technological and educational changes needed to protect children. Instead, punishing unintentional acts of memory failure only perpetuates dangerous myths and hinders progress toward genuine prevention. Education, regulation, and innovation—not criminal prosecution—are the path to saving lives.

Accordingly, *Kids and Car Safety* respectfully urges the Court to consider the scientific evidence leading to these tragedies, and the public policy implications of treating inadvertent hot car deaths as criminal acts. Due weight should be given to the substantial body of scientific evidence regarding the human mechanisms underlying these tragedies, which represent a public health threat. A legal framework that acknowledges the unintentional nature of these incidents is essential to ensuring both justice and the promotion of effective prevention.

H. CERTIFICATE OF SERVICE

Undersigned counsel certifies that a true and correct copy of

the foregoing instrument has been furnished to:

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on this 4th day of June, 2025.

Respectfully submitted,

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I. CERTIFICATE OF COMPLIANCE

Undersigned counsel hereby certifies pursuant to Florida Rule of Appellate Procedure 9.045(b) that the Brief of Amicus Curiae complies with the type size and typeface requirement because this document has been prepared in a proportionally spaced typeface using WordPerfect X9 in Bookman Old Style 14-point font size. Undersigned counsel also certifies pursuant to Florida Rule of Appellate Procedure 9.3.70(b) that the Brief of Amicus Curiae complies with word count limit because this document contains 4,967 words.

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