



DON'T BE SCARED. BE PREPARED.

Is a child you know in danger of riding in a car with an impaired driver?

Find out what Texas law says you can do to help save a child's life.



Activism | Victim Services | Education



EVERY CHILD DESERVES A DESIGNATED DRIVER

Drunk driving is a violent crime, and no one should be forced to ride with an impaired driver. However, minor children have little choice when the driver is a parent or appointed caregiver. Anyone who drives while impaired with children in the vehicle is putting that child's life in serious danger and needs to be held accountable.

If you fear for the safety of your own child when he or she is in the car with a co-parent, or if you are a caregiver, teacher or concerned adult who fears for the safety of a child you know, please review these steps and share them with the proper adults. It's up to all of us to take action.

SAVE A CHILD

Far too often in this country, a co-parent who is under the influence of alcohol or drugs hides behind court-ordered visitation rights to pick up his or her child and drive away. Sadly, through the years this has resulted in thousands of child passenger deaths and tens of thousands of injuries.

You want to do something, but when the impaired driver threatens to press charges of contempt and interference with child custody, what can you do?

That's the question this brochure will answer for you. Thanks to stronger laws in Texas, there is plenty you can do to help keep a child safe, both now and in the future.

CURRENT CHILD ENDANGERMENT LAWS

The term "child endangerment" refers to laws that punish an offender who puts a child in danger. While most states have some kind of endangerment statute, only 34 states have created special sanctions for cases of driving under the influence (DUI/DWI) while transporting a child.

These laws are complex and vary from state to state, making enforcement and prosecution difficult. Reports made to child protective agencies often are not documented or investigated. Many times, cases are improperly charged, plea bargained down or dismissed.

It's a frustrating situation, but at MADD we're helping to turn frustration into action.

TAKE ACTION

If you witness a circumstance where a child is or may be endangered by an impaired driver, there are several things you can do. It's all about standing up for the safety of the child and being prepared with the knowledge of what Texas law allows.

Put simply: If a co-parent reasonably believes that a child will come to harm by riding in the car with an impaired driver, that parent can stop the child from getting into the car, *even if this action is in violation of a court order.*

That said, be careful! There are several important steps that concerned parents need to take in order to prove to a judge their suspicions were, in fact, reasonable. We've detailed those steps below.

SIX STEPS TO SAFETY...AND TO PROVE YOUR CASE IN COURT!

1. **Call 911.** Explain that you suspect your co-parent is under the influence and is insisting on driving with your child in the car.
2. **Have an independent witness on hand.** Arrange with a friend, neighbor or neutral third party to be present when the co-parent comes to pick up the child. If the witness will agree, have him/her sign a witness statement for the police and be available to testify in court, if necessary.
3. **Document your suspicions of impairment.** Use the CHECKLIST to document the reasons you suspect the other parent is under the influence of alcohol or drugs. Be sure to date the CHECKLIST and keep the information for your records. Make a note of any other witnesses who are available. All contact with the police should be documented, and remember to request a copy of the police report for your files. Make a note of each time your child tells you he or she witnessed the other parent consuming alcohol or drugs.
4. **Discuss a safety plan with your child.** Empower your child to call you or 911 directly if he or she feels endangered at any time. Consider providing your child with a cell phone. If the child calls and is frightened by the other parent's behavior, call your local police and ask them to do a "welfare check." Using that term will alert them that a child may be in danger and that time is of the essence. You may also want to give the child the following tips on keeping him/herself safe.
 - a. Sit in the middle of the back seat. If smaller children are with you, put the smallest child in the middle.
 - b. Put your coat, sweater or jacket on if you have one, lean back, buckle your seat belt tight, and be very quiet.
 - c. Take everything off the seat and back window shelf and put it on the floor under your feet.
 - d. If the driver asks you to sit in the front seat, say "I know you want me to be safe, and the back seat is safest for kids."
 - e. Tell a trusted adult as soon as you can about the unsafe ride.
5. **Consider counseling for your child.** If the child has witnessed alcohol or drug use by the other parent, a professional counselor could help the child cope with that knowledge and provide tips for staying safe while with the other parent. Also, the counselor might prove useful as a witness later should your case go to court.
6. **Modify your court order.** This may require the services of an attorney, but it is a valuable safeguard for you and your child against alcohol abuse by the other parent. You may request some or all of the following:
 - a. Require visitation to be supervised by a neutral third party.
 - b. Require blood alcohol level testing for the problem parent prior to and/or during visitation.
 - c. Forbid the use of alcohol or other drugs by the problem parent for 24 hours before or during visitation.
 - d. Prohibit the problem parent from driving during the time he or she has primary responsibility for the child.
 - e. Require that a third party be named to pick up and drop off the child.

TEXAS LAW PROTECTS CHILDREN FROM HAVING TO RIDE WITH AN INTOXICATED DRIVER.

According to **Texas Penal Code Section 49.045**, driving while intoxicated with a child passenger is a state jail felony offense. A person commits an offense if:

1. The person is intoxicated while operating a motor vehicle in a public place; and,
2. The vehicle operated by the person is occupied by a passenger who is younger than 15 years of age.

By law, you can intervene to protect a child from having to ride with a drunk driver.

Texas Penal Code Section 9.22 states that (such) conduct is justified when:

1. The actor reasonably believes the conduct is immediately necessary to avoid imminent harm;
2. The desirability and urgency of avoiding the harm clearly outweigh, according to ordinary standards of reasonableness, the harm sought to be prevented by the law proscribing the conduct; and
3. A legislative purpose to exclude the justification claimed for the conduct does not otherwise plainly appear.

BE PREPARED. GET ORGANIZED!

You've heard it said that the best defense is a good offense, so don't wait until the other parent starts making trouble to put your plan in action. Get organized with the resources, documents and people you'll need to make sure your child stays safe from harm.

- Have this brochure with the CHECKLIST in an easy-to-get-to spot.
- Identify appropriate neutral third parties (one or more) and let them read this brochure. Secure their agreement to serve as a witness and have their phone number(s) available.
- Find out where your local police station is and have that phone number posted in a place that both you and your child can see.

SUPPORT ORGANIZATIONS

For more information, tips and advice on keeping yourself and your child safe, contact any one of these organizations.

STATEWIDE ORGANIZATIONS

Mothers Against Drunk Driving (MADD) www.madd.org
Victim Helpline: 877-MADD-HELP

Texas Advocacy Project

www.women-law.org

Family Violence Legal Line: 800-374-HOPE

Family Law Hotline: 800-777-FAIR

Dating Violence Legal Line: 800-374-HOPE

Sexual Assault Legal Hotline: 800-296-SAFE

Technical Advocacy Hotline: 888-325-SAFE

Assisted Pre Se Hotline: 866-598-4APS

MADD Texas would like to thank the Texas Advocacy Project for all its fine work in helping to secure the safety of our children.

Child and Adult Abuse Hotline: 800-252-5400

www.txabusehotline.org *

State Bar of Texas Lawyer Referral Service: 800-252-9690

NATIONAL ORGANIZATIONS

National Domestic Violence Hotline: 800-799-SAFE

National Center for Victims of Crime: 800-394-2255

www.ncvc.org

* In some instances, you may be required by law to report suspicions of child abuse to Child Protective Services. If you have "cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person" you "shall immediately make a report" of abuse to the proper authority. Tex. Fam. Code Ann. 261.101(a) (Vernon 1996 & Supp. 2000). If the person causing the suspected abuse is "a person responsible for the care, custody, or welfare of the child", then the report must be made to the Department of Family and Protective Services. Tex. Fam. Code Ann. 261.103(c) (Vernon Supp. 2005). Keep in mind that both parents and the children will probably be evaluated and that evaluations may include home visits.

REACHING OUT TO TEXAS.

MADD has six regional offices serving Texas:

State/Central	611 S. Congress #505, Austin, TX 78704 1-800-777-6233 512-445-4976 fax: 512-445-4979 tx.state@madd.org
East	215 Winchester Dr., Suite 100, Tyler, TX 75701 1-888-665-6233 903-534-6000 fax: 903-534-6085 east.tx@madd.org
North	8585 Stemmons Fwy., Suite 525 S., Dallas, TX 75247 1-800-382-6233 214-637-0372 fax: 214-637-0374 north.tx@madd.org
South	110 Broadway, Suite 442, San Antonio, TX 78205 1-888-686-6233 210-349-0200 fax: 210-349-9204 south.tx@madd.org
Southeast	15355 W. Vantage Pkwy., Suite 220, Houston, TX 77032 1-800-261-6233 281-590-2222 fax: 281-987-2274 southeast.tx@madd.org
West	6070 Gateway East, Suite 217, El Paso, TX 79905 1-888-779-2185 915-779-1987 fax: 915-779-2084 west.tx@madd.org



Our Mission is to stop drunk driving, support the victims of this violent crime, and prevent underage drinking.

MADD sponsors 1-877-MADD-HELP, a 24-hour helpline connecting victims to trained staff and volunteers providing emotional support and guidance through the justice system.

For more information please visit our website www.madd.org/tx or call 1-800-777-MADD (6233).



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