

2022 Regular Session

SENATE BILL NO. 335

BY SENATOR JACKSON

JUVENILE JUSTICE. Provides for a juvenile in a correctional facility to serve additional time when he commits an assault or battery on an employee of the facility or another juvenile in the facility or a simple or aggravated escape. (See Act)

AN ACT

To amend and reenact R.S. 14:34(B), 34.1(C), 34.5(B)(2), 35(B), 37(B), and 38(B) and R.S. 15:901(C), and to enact Children's Code Art. 857(A)(9) through (14), and to repeal R.S. 14:44.1(A)(6) and (B)(4), relative to battery or assault committed by juveniles; to provide relative to transfers for criminal prosecution in juvenile court; to provide additional offenses for which a juvenile may be prosecuted as an adult; to enhance penalties for certain battery and assault offenses committed by a juvenile under certain circumstances; to provide relative to enhanced penalties for aggravated escape and simple escape; to provide relative to commitment of juveniles; to provide for effectiveness; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Children's Code Art. 857(A)(9) through (14) are hereby enacted to read as follows:

Art. 857. Transfers for criminal prosecution; authority

A. The court on its own motion or on motion of the district attorney may conduct a hearing to consider whether to transfer a child for prosecution to the appropriate court exercising criminal jurisdiction if a delinquency petition has been

1 filed which alleges that a child who is fourteen years of age or older at the time of
2 the commission of the alleged offense but is not otherwise subject to the original
3 jurisdiction of a court exercising criminal jurisdiction has committed any one or
4 more of the following crimes:

5 (1) First degree murder.

6 (2) Second degree murder.

7 (3) Aggravated kidnapping.

8 (4) Aggravated or first degree rape.

9 (5) Aggravated battery when committed by the discharge of a firearm.

10 (6) Armed robbery when committed with a firearm.

11 (7) Repealed by Acts 2001, No. 301, §2.

12 (8) Forcible or second degree rape if the rape is committed upon a child at
13 least two years younger than the rapist.

14 (9) Aggravated battery when the child is under the jurisdiction and legal
15 custody of the Department of Public Safety and Corrections or is being detained
16 in any juvenile institution, and the victim is a juvenile under the jurisdiction
17 and legal custody of the Department of Public Safety and Corrections or is
18 being detained in any juvenile institution.

19 (10) Second degree battery when the child is under the jurisdiction and
20 legal custody of the Department of Public Safety and Corrections or is being
21 detained in any juvenile institution, and the victim is a juvenile under the
22 jurisdiction and legal custody of the Department of Public Safety and
23 Corrections or is being detained in any juvenile institution.

24 (11) Battery on a correctional facility employee.

25 (12) Simple battery when the child is under the jurisdiction and legal
26 custody of the Department of Public Safety and Corrections or is being detained
27 in any juvenile institution, and the victim is a juvenile under the jurisdiction
28 and legal custody of the Department of Public Safety and Corrections or is
29 being detained in any juvenile institution.

(13) Aggravated assault when the child is under the jurisdiction and legal custody of the Department of Public Safety and Corrections or is being detained in any juvenile institution, and the victim is a juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections or is being detained in any juvenile institution.

(14) Simple assault when the child is under the jurisdiction and legal custody of the Department of Public Safety and Corrections or is being detained in any juvenile institution, and the victim is a juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections or is being detained in any juvenile institution.

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Section 2. R.S. 14:34(B), 34.1(C), 34.5(B)(2), 35(B), 37(B), and 38(B) are hereby amended and reenacted to read as follows:

§34. Aggravated battery

* * *

B.(1) Whoever commits an aggravated battery shall be fined not more than five thousand dollars, imprisoned with or without hard labor for not more than ten years, or both. At least one year of the sentence imposed shall be served without benefit of parole, probation, or suspension of sentence if the offender knew or should have known that the victim is an active member of the United States Armed Forces or is a disabled veteran and the aggravated battery was committed because of that status.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, and the victim is a juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of

1 sentence for not less than one year nor more than five years. The sentence
2 imposed pursuant to this Paragraph shall be consecutive to any other sentence
3 imposed for violation of the provisions of any state criminal law.

4 * * *

5 §34.1. Second degree battery

6 * * *

7 C.(1) Whoever commits the crime of second degree battery shall be fined not
8 more than two thousand dollars or imprisoned, with or without hard labor, for not
9 more than eight years, or both. At least eighteen months of the sentence imposed
10 shall be served without benefit of parole, probation, or suspension of sentence if the
11 offender knew or should have known that the victim is an active member of the
12 United States Armed Forces or is a disabled veteran and the second degree battery
13 was committed because of that status.

14 (2) If at the time of the commission of the offense the offender is under
15 the jurisdiction and legal custody of the Department of Public Safety and
16 Corrections, or is being detained in any juvenile institution, and the victim is a
17 juvenile under the jurisdiction and legal custody of the Department of Public
18 Safety and Corrections, or is being detained in any juvenile institution, the
19 offender shall be fined not more than one thousand dollars and imprisoned with
20 or without hard labor without benefit of parole, probation, or suspension of
21 sentence for not less than one year nor more than five years. The sentence
22 imposed pursuant to this Paragraph shall be consecutive to any other sentence
23 imposed for violation of the provisions of any state criminal law.

24 * * *

25 §34.5. Battery of a correctional facility employee

26 * * *

27 B.

* * *

28 (2) If at the time of the commission of the offense the offender is under the
29 jurisdiction and legal custody of the Department of Public Safety and Corrections,

or is being detained in any jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. ~~Such~~ **The** sentence **imposed pursuant to this Paragraph** shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

* * *

§35. Simple battery

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B.**(1)** Whoever commits a simple battery shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, and the victim is a juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, the offender shall be fined not more than five hundred dollars or imprisoned not more than six months or both. The sentence imposed pursuant to this Paragraph shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

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§37. Aggravated assault

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B.**(1)** Whoever commits an aggravated assault shall be fined not more than one thousand dollars or imprisoned for not more than six months, or both.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, and the victim is a

juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. The sentence imposed pursuant to this Paragraph shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

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§38. Simple assault

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B.(1) Whoever commits a simple assault shall be fined not more than two hundred dollars, or imprisoned for not more than ninety days, or both.

(2) If at the time of the commission of the offense the offender is under the jurisdiction and legal custody of the Department of Public Safety and Corrections, or is being detained in any juvenile institution and the victim is a juvenile under the jurisdiction and legal custody of the Department of Public Safety and Corrections or is being detained in any juvenile institution, the offender shall be fined not more than one thousand dollars and imprisoned with or without hard labor without benefit of parole, probation, or suspension of sentence for not less than one year nor more than five years. The sentence imposed pursuant to this Paragraph shall be consecutive to any other sentence imposed for violation of the provisions of any state criminal law.

* * *

§110. Simple escape; aggravated escape

A. Simple escape shall mean any of the following:

(1) The intentional departure, under circumstances wherein human life is not endangered, of a person imprisoned, committed, or detained from a place where such person is legally confined, from a designated area of a place where such person is legally confined, or from the lawful custody of any law enforcement officer or

1 officer of the Department of Public Safety and Corrections.

2 (2) The failure of a criminal serving a sentence and participating in a work
3 release program authorized by law to report or return from his planned employment
4 or other activity under the program at the appointed time.

5 (3) The failure of a person who has been granted a furlough under the
6 provisions of R.S. 15:833 or R.S. 15:908 to return to his place of confinement at the
7 appointed time.

8 ~~B.(1) A person who is participating in a work release program as defined in~~
9 ~~Paragraph (A)(2) of this Section and who commits the crime of simple escape may~~
10 ~~be imprisoned with or without hard labor for not less than six months nor more than~~
11 ~~one year.~~

12 ~~(2) A person who fails to return from an authorized furlough as defined in~~
13 ~~Paragraph (A)(3) of this Section shall be imprisoned with or without hard labor for~~
14 ~~not less than six months nor more than one year and any such sentence shall not run~~
15 ~~concurrently with any other sentence.~~

16 ~~(3) A person participating in a home incarceration program under the~~
17 ~~jurisdiction and control of the sheriffs of the respective parishes who commits the~~
18 ~~crime of simple escape shall be imprisoned with or without hard labor for not less~~
19 ~~than six months nor more than five years, and such sentence shall not run~~
20 ~~concurrently with any other sentence.~~

21 ~~(4) A person imprisoned, committed, or detained who commits the crime of~~
22 ~~simple escape as defined in Paragraph (A)(1) of this Section shall be imprisoned with~~
23 ~~or without hard labor for not less than two years nor more than five years; provided~~
24 ~~that such sentence shall not run concurrently with any other sentence.~~

25 **A person imprisoned, committed, or detained who commits the crime of**
26 **simple escape as defined in Paragraph (A)(1) of this Section shall be imprisoned**
27 **with or without hard labor for not less than two years nor more than five years,**
28 **which shall be served consecutively to any other sentence the offender was**
29 **serving at the time of the escape.**

1 (2) A person who is participating in a work release program as defined
2 in Paragraph (A)(2) of this Section and who commits the crime of simple escape
3 may be imprisoned with or without hard labor for not less than six months nor
4 more than one year, which shall be served consecutively to any other sentence
5 the offender was serving at the time of the escape.

6 (3) A person who fails to return from an authorized furlough as defined
7 in Paragraph (A)(3) of this Section shall be imprisoned with or without hard
8 labor for not less than six months nor more than one year, which shall be served
9 consecutively to any other sentence the offender was serving at the time of the
10 escape.

11 (4) A person participating in a home incarceration program under the
12 jurisdiction and control of the sheriffs of the respective parishes who commits
13 the crime of simple escape shall be imprisoned with or without hard labor for
14 not less than six months nor more than five years, which shall be served
15 consecutively to any other sentence the offender was serving at the time of the
16 escape.

17 (5) Whoever commits a simple escape when a person is injured during
18 the escape shall be imprisoned for not more than five years, which shall be
19 served consecutively to the sentence the offender was serving at the time of the
20 escape.

21 C.(1) Aggravated escape is the intentional departure of a person from the
22 legal custody of any officer of the Department of Public Safety and Corrections or
23 any law enforcement officer or from any place where such person is legally confined
24 when his departure is under circumstances wherein human life is endangered.

25 (2) Whoever commits an aggravated escape as herein defined shall be
26 imprisoned at hard labor for not less than five years nor more than ten years, ~~and any~~
27 ~~such sentence shall not run concurrently with~~ which shall be served consecutively
28 to any other sentence the offender was serving at the time of the escape.

29 (3) Whoever commits an aggravated escape when a person is injured

1 during the escape shall be imprisoned not less than five nor more than ten years,
2 which shall be served consecutively to the sentence the offender was serving at
3 the time of the escape.

4 D. For purposes of this Section, a person shall be deemed to be in the lawful
5 custody of a law enforcement officer or of the Department of Public Safety and
6 Corrections and legally confined when he is in a rehabilitation unit, a work release
7 program, or any other program under the control of a law enforcement officer or the
8 department.

9 E. The provisions of this Section shall be applicable to all penal, correctional,
10 juvenile, rehabilitational, and work release centers and any and all prison facilities
11 under the control of the sheriffs of the respective parishes of the state of Louisiana.
12 The prison facilities shall include but are not limited to parish jails, correctional
13 centers, home incarceration, work release centers, and rehabilitation centers,
14 hospitals, clinics, and any and all facilities where inmates are confined under the
15 jurisdiction and control of the sheriffs of the respective parishes.

16 Section 3. R.S. 15:901(C) is hereby amended and reenacted to read as follows:

17 §901. Juvenile reception and diagnostic center; establishment, commitment of
18 juveniles, substance abuse inpatient program, order, report, fact of
19 commitment

20 * * *

21 C. The order of commitment may require the department to take physical
22 custody of a child adjudicated a delinquent, committed to its custody pursuant to
23 Article 897(D) or 899(D) of the Children's Code, and recommended by the court or
24 the department for assignment to a secure program or facility, within ~~fourteen~~ sixty
25 days from the date of the court's signing of the judgment of disposition when the
26 child is in or is going to be placed in the physical custody of a parish juvenile
27 facility. If a court modifies a judgment of disposition, in accordance with Chapter 17
28 of Title VIII of the Children's Code, and gives the department custody of the
29 adjudicated delinquent, the provisions of this Section and Article 903 of the

1 Children's Code apply.

2 * * *

3 Section 4. R.S. 14:44.1(A)(6) and (B)(4) are hereby repealed.

4 Section 5. This Act shall take effect and become operative if and when the proposed
5 amendment of Article V, Section 12 of the Constitution of Louisiana contained in the Act
6 which originated as Senate Bill No. 234 of this 2022 Regular Session of the Legislature is
7 adopted at the statewide election to be held on November 8, 2022, and becomes effective.

The original instrument and the following digest, which constitutes no part
of the legislative instrument, were prepared by Whitney Kauffeld.

DIGEST

SB 335 Engrossed

2022 Regular Session

Jackson

Present law provides for the divestiture of juvenile court jurisdiction for certain present law offenses.

Proposed law retains present law and adds the offenses of aggravated battery, second degree battery, battery on a correctional facility employee, simple battery, aggravated assault, and simple assault to the list of offenses for which a juvenile may be prosecuted as an adult under certain circumstances.

Proposed law enhances penalties when a juvenile, under the jurisdiction and legal custody of the Dept. of Public Safety and Corrections or being detained in a juvenile institution, commits any of the following offenses upon a correctional facility employee or a juvenile under the legal custody of the department, or is being detained in a juvenile institution:

- (1) Aggravated battery.
- (2) Second degree battery.
- (3) Battery on a correctional facility employee.
- (4) Simple battery.
- (5) Aggravated assault.
- (6) Simple assault.

Present law provides penalties for the crimes of aggravated escape and simple escape.

Proposed law provides enhanced penalties for a person who injures another during the commission of aggravated escape or simple escape. Proposed law further makes present law and proposed law applicable to persons confined in juvenile facilities.

Proposed law otherwise retains present law.

Present law provides that second degree kidnapping includes using the victim to facilitate the commission of a simple escape or aggravated escape, including a simple escape or aggravated escape from either an adult or juvenile correctional or detention facility.

Proposed law deletes present law.

Proposed law provides that kidnapping includes the forcible seizing of any corrections officer or any other official or employee of an adult or juvenile correctional or detention facility for any period of time.

Proposed law deletes present law.

Present law provides relative to juvenile reception and diagnostic center and the commitment of juveniles. Present law provides that the order of commitment may require the Dept. of Public Safety and Corrections to take physical custody of a child adjudicated a delinquent, committed to its custody pursuant to present law, and recommended by the court or the department for assignment to a secure program or facility, within 14 days from the date of the court's signing of the judgment of disposition when the child is in or is going to be placed in the physical custody of a parish juvenile facility.

Proposed law changes the time within which the department must take physical custody from 14 days to 60 days.

Proposed law otherwise retains present law.

Effective if and when the proposed amendment of Article V, Section 12 of the Constitution of Louisiana originating as SB No. 234 of this 2022 Regular Session of the Legislature is adopted at the statewide election to be held on 11/8/22 and becomes effective.

(Amends R.S. 14:34(B), 34.1(C), 34.5(B)(2), 35(B), 37(B), 38(B), 110, and R.S. 15:901(C); adds Ch.C. Art. 857(A)(9)-(14); repeals R.S. 14:44.1(A)(6) and (B)(4))

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Judiciary C to the original bill

1. Change penalties for a violation of proposed law relative to simple battery from a fine of \$1,000 or imprisonment of one to five years to a fine of \$500 or imprisonment of up to six months.
2. Enhance penalties for the crimes of simple escape and aggravated escape under certain circumstances.
3. Provide that the crimes of simple escape and aggravated escape are applicable to persons confined in a juvenile facility.
4. Change time within which the Dept. of Public Safety and Corrections must take custody of a juvenile under certain circumstances from 14 days from the court's signing of judgment of disposition to 60 days from signing of the judgment.