

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. (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 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 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 filed which alleges that a child who is fourteen years of age or older at the time of the commission of the alleged offense but is not otherwise subject to the original

jurisdiction of a court exercising criminal jurisdiction has committed any one or more of the following crimes:

- (1) First degree murder.
- (2) Second degree murder.
- (3) Aggravated kidnapping.
- (4) Aggravated or first degree rape.
- (5) Aggravated battery when committed by the discharge of a firearm.
- (6) Armed robbery when committed with a firearm.
- (7) Repealed by Acts 2001, No. 301, §2.
- (8) Forcible or second degree rape if the rape is committed upon a child at least two years younger than the rapist.

(9) Aggravated battery 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.

(10) Second degree battery 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.

(11) Battery on a correctional facility employee.

(12) Simple Battery 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.

(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

1 in any juvenile institution, and the victim is a juvenile under the jurisdiction
2 and legal custody of the Department of Public Safety and Corrections or is
3 being detained in any juvenile institution.

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

9 * * *

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

12 §34. Aggravated battery

13 * * *

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

21 (2) If at the time of the commission of the offense the offender is under
22 the jurisdiction and legal custody of the Department of Public Safety and
23 Corrections, or is being detained in any juvenile institution, and the victim is a
24 juvenile under the jurisdiction and legal custody of the Department of Public
25 Safety and Corrections, or is being detained in any juvenile institution, the
26 offender shall be fined not more than one thousand dollars and imprisoned with
27 or without hard labor without benefit of parole, probation, or suspension of
28 sentence for not less than one year nor more than five years. The sentence
29 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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§34.1. Second degree battery

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C.(1) Whoever commits the crime of second degree battery shall be fined not more than two thousand dollars or imprisoned, with or without hard labor, for not more than eight years, or both. At least eighteen months 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 second degree 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 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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§34.5. Battery of a correctional facility employee

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(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 jail, prison, correctional facility, juvenile institution, temporary holding center, halfway house, or detention facility, the offender shall be

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Coding: Words which are ~~struck through~~ are deletions from existing law; words in **boldface type and underscored** are additions.

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

7 * * *

8 §38. Simple assault

9 * * *

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

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

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

23 Section 4. This Act shall take effect and become operative if and when the proposed
24 amendment of Article V, Section 12 of the Constitution of Louisiana contained in the Act
25 which originated as Senate Bill No. 234 of this 2022 Regular Session of the Legislature is
26 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.

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Present law provides for the divestiture of juvenile court jurisdiction for certain 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 Dept. of Public Safety and Corrections 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 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.

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), and 38(B); adds Ch.C. Art. 857(A)(9) - (14); repeals R.S. 14:44.1(A)(6) and (B)(4))