

2019 Regular Session

HOUSE BILL NO. 25

BY REPRESENTATIVE MCMAHEN

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

CRIME: Provides a universal definition of "serious bodily injury" for purposes of Title 14 of the La. Revised Statutes

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AN ACT

To amend and reenact R.S. 14:34.4(B)(2), 52.2(E), and 92.2(A)(4) and R.S. 15:1212(B)(4), to enact R.S. 14:2(C), and to repeal R.S. 14:34.1(B)(3), 34.7(B)(3), 34.9(B)(4), 35.3(B)(6), 39.2(C), 43.2(B), 64.4(A)(2), 93.2.3(A)(2), 100(B)(2), 102.12(4), 102.22(B)(2), 108.1(E)(2)(b), 231(D)(4), 403(A)(1)(b)(ii), 403.7(B)(4), and 502(B)(3), relative to the definition of "serious bodily injury"; to provide a universal definition of "serious bodily injury" for purposes of Title 14 of the Louisiana Revised Statutes of 1950; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 14:34.4(B)(2), 52.2(E), and 92.2(A)(4) are hereby amended and reenacted and R.S. 14:2(C) is hereby enacted to read as follows:

§2. Definitions

* * *

C. For purposes of this Title, "serious bodily injury" means bodily injury which involves unconsciousness; extreme physical pain; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death. For purposes of R.S. 14:403, "serious bodily injury" shall also include injury resulting from starvation or malnutrition.

* * *

1 §34.4. Battery of a school or recreation athletic contest official

2 * * *

3 B.

4 * * *

5 (2) Whoever commits the crime of battery of a school or recreation athletic
6 contest official which results in serious bodily injury to the victim as defined in R.S.
7 ~~14:34.1(B)(3)~~ shall be fined not less than one thousand dollars and not more than
8 five thousand dollars and imprisoned for not less than ten days nor more than six
9 months.

10 * * *

11 §52.2. Negligent arson

12 * * *

13 E. Whoever commits the crime of negligent arson resulting in death or
14 serious bodily injury to a human being shall be fined not more than five thousand
15 dollars and imprisoned, with or without hard labor, for not more than five years. In
16 addition, the offender shall be ordered to pay restitution for damages sustained. ~~For~~
17 ~~the purposes of this Subsection, "serious bodily injury" means bodily injury that~~
18 ~~involves unconsciousness, extreme physical pain or protracted and obvious~~
19 ~~disfigurement, or protracted loss or impairment of the function of a bodily member,~~
20 ~~organ, or mental faculty, or a substantial risk of death.~~

21 * * *

22 §92.2. Improper supervision of a minor by parent or legal custodian; penalty

23 A. Improper supervision of a minor by a parent or legal custodian, who has
24 care and control of the minor, includes any of the following:

25 * * *

26 (4) Causing or permitting an unlicensed minor to drive a motor vehicle or
27 power cycle upon any public road or highway in this state, in violation of R.S.
28 32:416 and 417, when the unlicensed minor is involved in a collision which results
29 in the serious bodily injury or death of another person. ~~For purposes of this~~

1 Paragraph, "~~serious bodily injury~~" means a ~~bodily injury which involves~~
2 ~~unconsciousness, protracted and obvious disfigurement, or protracted loss or~~
3 ~~impairment of the function of a bodily member, organ, or mental faculty, or a~~
4 ~~substantial risk of death.~~

5 * * *

6 Section 2. R.S. 15:1212(B)(4) is hereby amended and reenacted to read as follows:

7 §1212. Creation of database; functions

8 * * *

9 B. The commission shall be the central depository for all information
10 submitted for entry into the database by law enforcement agencies, correctional
11 agencies, and institutions and shall have the following functions, powers, and duties:

12 * * *

13 (4) To prepare and distribute, to all such persons and agencies, forms to be
14 used in reporting data to the database. The forms shall provide for detailed
15 information regarding the name of the law enforcement officer, the designated
16 position, the status of all P.O.S.T. certifications and decertifications related to
17 training and qualifications, the hire date, the final disposition of disciplinary actions
18 that result in involuntary termination, resignations in lieu of termination, resignations
19 pending an investigation, final judgments in civil cases related to civil rights
20 violations under the provisions of 42 U.S.C. 1983 or related to serious bodily injury
21 as defined in R.S. ~~14:34.1(B)~~ 14:2(C) or criminal cases related to the duties of a law
22 enforcement officer in the course and scope of his employment when the misconduct
23 of that specific law enforcement officer gave rise to the cause of action, and the date
24 of separation from service.

25 * * *

26 Section 3. R.S. 14:34.1(B)(3), 34.7(B)(3), 34.9(B)(4), 35.3(B)(6), 39.2(C), 43.2(B),
27 64.4(A)(2), 93.2.3(A)(2), 100(B)(2), 102.12(4), 102.22(B)(2), 108.1(E)(2)(b), 231(D)(4),
28 403(A)(1)(b)(ii), 403.7(B)(4), and 502(B)(3) are hereby repealed in their entirety.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 25 Engrossed

2019 Regular Session

McMahan

Abstract: Provides a universal definition of "serious bodily injury" for purposes of Title 14 of the La. Revised Statutes of 1950.

The following present law crimes either require serious bodily injury as an element of the offense or provide for enhanced penalties when the offense results in serious bodily injury: second degree battery (R.S. 14:34.1), battery of a school or recreation athletic contest official (R.S. 14:34.4), aggravated second degree battery (R.S. 14:34.7), battery of a dating partner (R.S. 14:34.9), domestic abuse battery (R.S. 14:35.3), first degree vehicular negligent injuring (R.S. 14:39.2), criminal hazing (R.S. 14:40.8), second degree sexual battery (R.S. 14:43.2), human trafficking (R.S. 14:46.2), negligent arson (R.S. 14:52.2), second degree robbery (R.S. 14:64.4), pornography involving juveniles (R.S. 14:81.1), computer-aided solicitation of a minor (R.S. 14:81.3), improper supervision of a minor by parent or legal custodian (R.S. 14:92.2), retaliation by a minor against a parent, legal custodian, witness, or complainant (R.S. 14:92.3), second degree cruelty to juveniles (R.S. 14:93.2.3), hit-and-run driving (R.S. 14:100), unlawful ownership of a vicious dog (R.S. 14:102.15), harboring or concealing an animal which has bitten or inflicted serious bodily injury on a human (R.S. 14:102.22), flight from an officer and aggravated flight from an officer (R.S. 14:108.1), threatening a public official (R.S. 14:122.2), false communication with the intent to cause an emergency response (R.S. 14:126.1.1), terrorism (R.S. 14:128.1), prohibition on counterfeit and nonfunctional air bags and air bag fraud (R.S. 14:231), riot (R.S. 14:329.1 and 329.7), inciting to riot (R.S. 14:329.2 and 329.7), failure to comply with command to disperse (R.S. 14:329.3 and 329.7), wrongful use of public property (R.S. 14:329.4 and 329.7), prohibition on interference with educational process (R.S. 14:329.5 and 329.7), abuse of children (R.S. 14:403), failure to report a missing child (R.S. 14:403.7), and failure to seek assistance (R.S. 14:502).

For purposes of present law, Title 14 of the La. Revised Statutes of 1950, including these present law offenses, proposed law defines "serious bodily injury" as bodily injury which involves unconsciousness; extreme physical pain; protracted and obvious disfigurement; protracted loss or impairment of the function of a bodily member, organ, or mental faculty; or a substantial risk of death. Proposed law further provides that for purposes of the crime of abuse of children (R.S. 14:403), "serious bodily injury" shall also include injury resulting from starvation or malnutrition.

Proposed law makes a technical correction to a present law provision in Title 15 regarding the La. Uniform Law Enforcement Statewide Reporting Database to reflect the citation to the definition of "serious bodily injury" as provided by proposed law.

(Amends R.S. 14:34.4(B)(2), 52.2(E), and 92.2(A)(4) and R.S. 15:1212(B)(4); Adds R.S. 14:2(C); Repeals R.S. 14:34.1(B)(3), 34.7(B)(3), 34.9(B)(4), 35.3(B)(6), 39.2(C), 43.2(B), 64.4(A)(2), 93.2.3(A)(2), 100(B)(2), 102.12(4), 102.22(B)(2), 108.1(E)(2)(b), 231(D)(4), 403(A)(1)(b)(ii), 403.7(B)(4), and 502(B)(3))

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Administration of Criminal Justice to the original bill:

1. Provide that the universal definition of "serious bodily injury", as provided in proposed law, applies to the present law crime of battery of a school or recreational athletic contest official.