

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)

1 AN ACT

2 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.
3 15:901(C), and to enact Children's Code Art. 857(A)(9) through (14), and to repeal
4 R.S. 14:44.1(A)(6) and (B)(4), relative to battery or assault committed by juveniles;
5 to provide relative to transfers for criminal prosecution in juvenile court; to provide
6 additional offenses for which a juvenile may be prosecuted as an adult; to enhance
7 penalties for certain battery and assault offenses committed by a juvenile under
8 certain circumstances; to provide relative to enhanced penalties for aggravated
9 escape and simple escape; to provide relative to commitment of juveniles; to provide
10 for effectiveness; and to provide for related matters.

11 Be it enacted by the Legislature of Louisiana:

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

14 Art. 857. Transfers for criminal prosecution; authority

15 A. The court on its own motion or on motion of the district attorney may
16 conduct a hearing to consider whether to transfer a child for prosecution to the
17 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11 (7) Repealed by Acts 2001, No. 301, §2.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.**

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,

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

8 * * *

9 §35. Simple battery

10 * * *

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

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

22 * * *

23 §37. Aggravated assault

24 * * *

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

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

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

8 * * *

9 §38. Simple assault

10 * * *

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

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

23 * * *

24 §110. Simple escape; aggravated escape

25 A. Simple escape shall mean any of the following:

26 (1) The intentional departure, under circumstances wherein human life is not
 27 endangered, of a person imprisoned, committed, or detained from a place where such
 28 person is legally confined, from a designated area of a place where such person is
 29 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 **servng 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 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.