

2018 Regular Session

SENATE BILL NO. 428

BY SENATOR MILKOVICH

CRIME/PUNISHMENT. Increases the penalties for second degree battery. (gov sig)

1 AN ACT

2 To amend and reenact R.S. 14:34.1(A) and (C), relative to the crime of second degree
3 battery; to provide that second degree battery is committed when two or more
4 offenders jointly commit a battery upon the victim; to provide relative to second
5 degree battery committed by one or more blows to the victim's head under certain
6 circumstances; to provide penalties; and to provide for related matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:34.1(A) and (C) are hereby amended and reenacted to read as
9 follows:

10 §34.1. Second degree battery

11 A. Second degree battery is a battery **committed** when **either of the**
12 **following occur:**

13 ~~the (1) The~~ offender intentionally inflicts serious bodily injury; ~~however,~~
14 **except that** this ~~provision~~ **Paragraph** shall not apply to a medical provider who has
15 obtained the consent of a patient.

16 **(2) Two or more offenders jointly commit a battery and inflict any injury**
17 **upon the victim.**

* * *

C.(1) Whoever commits the crime of second degree battery by a violation of Paragraph (A)(1) of this Section shall be fined not more than two thousand five hundred dollars or imprisoned, with or without hard labor, for not more than eight ten years, or both.

(2) Whoever commits the crime of second degree battery by a violation of Paragraph (A)(1) of this Section consisting of one or more blows to the head of the victim or by a violation of Paragraph (A)(2) of this Section shall be fined not less than one thousand dollars nor more than two thousand five hundred dollars or imprisoned, with or without hard labor, for not less than one year nor more than ten years, or both.

(3) At least eighteen months of the any sentence of imprisonment imposed under Paragraph (1) or (2) of this Subsection, or the entire sentence if less than eighteen months, 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.

Section 2. This Act shall become effective upon signature by the governor or, if not signed by the governor, upon expiration of the time for bills to become law without signature by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If vetoed by the governor and subsequently approved by the legislature, this Act shall become effective on the day following such approval.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Alden A. Clement Jr.

DIGEST

SB 428 Original 2018 Regular Session Milkovich

Present law provides relative to the crime of second degree battery. Present law defines second degree battery as a battery committed when the offender intentionally inflicts serious bodily injury, except that this provision of present law does not apply to a medical provider who has obtained the consent of a patient.

Proposed law retains present law and adds that second degree battery is also committed when two or more offenders jointly commit a battery and inflict injury upon the victim.

Present law provides that second degree battery is punishable by a fine of up to \$2,000, or imprisonment with or without hard labor for up to eight years, or both.

Proposed law increases the penalties for second degree battery where serious bodily injury is inflicted by providing that the offense is punishable by a fine of up to \$2,500, or imprisonment with or without hard labor for up to 10 years, or both.

Proposed law provides that a second degree battery committed by either one or more blows to the victim's head resulting in serious bodily injury or by two or more offenders who inflict any injury upon the victim is punishable by a fine between \$1,000 and \$2,500, imprisonment with or without hard labor for between one year and 10 years, or both.

Present law provides that at least 18 months of any penalty of imprisonment for a violation of present law must 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 U.S. Armed Forces or is a disabled veteran and the second degree battery was committed because of that status.

Proposed law retains present law and also makes present law applicable to proposed law.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Amends R.S. 14:34.1(A) and (C))