SLS 22RS-491 ORIGINAL

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)

1 AN ACT

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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

1	jurisdiction of a court exercising criminal jurisdiction has committed any one or
2	more of the following crimes:
3	(1) First degree murder.
4	(2) Second degree murder.
5	(3) Aggravated kidnapping.
6	(4) Aggravated or first degree rape.
7	(5) Aggravated battery when committed by the discharge of a firearm.
8	(6) Armed robbery when committed with a firearm.
9	(7) Repealed by Acts 2001, No. 301, §2.
10	(8) Forcible or second degree rape if the rape is committed upon a child at
11	least two years younger than the rapist.
12	(9) Aggravated battery when the child is under the jurisdiction and legal
13	custody of the Department of Public Safety and Corrections or is being detained
14	in any juvenile institution, and the victim is a juvenile under the jurisdiction
15	and legal custody of the Department of Public Safety and Corrections or is
16	being detained in any juvenile institution.
17	(10) Second degree battery when the child is under the jurisdiction and
18	legal custody of the Department of Public Safety and Corrections or is being
19	detained in any juvenile institution, and the victim is a juvenile under the
20	jurisdiction and legal custody of the Department of Public Safety and
21	Corrections or is being detained in any juvenile institution.
22	(11) Battery on a correctional facility employee.
23	(12) Simple Battery when the child is under the jurisdiction and legal
24	custody of the Department of Public Safety and Corrections or is being detained
25	in any juvenile institution, and the victim is a juvenile under the jurisdiction
26	and legal custody of the Department of Public Safety and Corrections or is
27	being detained in any juvenile institution.
28	(13) Aggravated assault when the child is under the jurisdiction and legal
29	custody of the Department of Public Safety and Corrections or is being detained

1	in any juvenne institution, and the victim is a juvenne 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

imposed pursuant to this Paragraph shall be consecutive to any other sentence

1	imposed for violation of the provisions of any state criminal law.
2	* * *
3	§34.1. Second degree battery
4	* * *
5	C.(1) Whoever commits the crime of second degree battery shall be fined not
6	more than two thousand dollars or imprisoned, with or without hard labor, for not
7	more than eight years, or both. At least eighteen months of the sentence imposed
8	shall be served without benefit of parole, probation, or suspension of sentence if the
9	offender knew or should have known that the victim is an active member of the
10	United States Armed Forces or is a disabled veteran and the second degree battery
11	was committed because of that status.
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	* * *
23	§34.5. Battery of a correctional facility employee
24	* * *
25	B. * * *
26	(2) If at the time of the commission of the offense the offender is under the
27	jurisdiction and legal custody of the Department of Public Safety and Corrections,
28	or is being detained in any jail, prison, correctional facility, juvenile institution,
29	temporary holding center, halfway house, or detention facility, the offender shall be

1	fined not more than one thousand dollars and imprisoned with or without hard labor
2	without benefit of parole, probation, or suspension of sentence for not less than one
3	year nor more than five years. Such The sentence imposed pursuant to this
4	<u>Paragraph</u> shall be consecutive to any other sentence imposed for violation of the
5	provisions of any state criminal law.
6	* * *
7	§35. Simple battery
8	* * *
9	B.(1) Whoever commits a simple battery shall be fined not more than one
10	thousand dollars or imprisoned for not more than six months, or both.
11	(2) If at the time of the commission of the offense the offender is under
12	the jurisdiction and legal custody of the Department of Public Safety and
13	Corrections, or is being detained in any juvenile institution, and the victim is a
14	juvenile under the jurisdiction and legal custody of the Department of Public
15	Safety and Corrections, or is being detained in any juvenile institution, the
16	offender shall be fined not more than one thousand dollars and imprisoned with
17	or without hard labor without benefit of parole, probation, or suspension of
18	sentence for not less than one year nor more than five years. The sentence
19	imposed pursuant to this Paragraph shall be consecutive to any other sentence
20	imposed for violation of the provisions of any state criminal law.
21	* * *
22	§37. Aggravated assault
23	* * *
24	B.(1) Whoever commits an aggravated assault shall be fined not more than
25	one thousand dollars or imprisoned for not more than six months, or both.
26	(2) If at the time of the commission of the offense the offender is under
27	the jurisdiction and legal custody of the Department of Public Safety and
28	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

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

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 2022 Regular Session

Jackson

SB 335 Original

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

<u>Proposed law</u> retains <u>present law</u> 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.

<u>Proposed law</u> 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.

<u>Present law</u> 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. <u>Proposed law</u> deletes <u>present law</u>.

<u>Proposed law</u> 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. <u>Proposed law</u> deletes <u>present law</u>.

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))