

Regular Session, 2008

HOUSE BILL NO. 394

BY REPRESENTATIVE GREENE

CRIME/HOMICIDE: Provides with respect to criminal penalties of negligent homicide

1 AN ACT

2 To amend and reenact R.S. 14:32(C), relative to the crime of negligent homicide; to provide  
3 with respect to criminal penalties for negligent homicide; to require the court to issue  
4 reasons under certain circumstances; and to provide for related matters.

5 Be it enacted by the Legislature of Louisiana:

6 Section 1. R.S. 14:32(C) is hereby amended and reenacted to read as follows:

7 §32. Negligent homicide

8 \* \* \*

9 C.(1) Except as provided for in Paragraph (2) of this Subsection, ~~Whoever~~  
10 whoever commits the crime of negligent homicide shall be imprisoned with or  
11 without hard labor for not more than five years, fined not more than five thousand  
12 dollars, or both.

13 (2)(a) However, if ~~If~~ the victim was killed as a result of receiving a battery  
14 and was under the age of ten years, the offender shall be imprisoned at hard labor,  
15 without benefit of probation, parole, or suspension of sentence, for not less than two  
16 nor more than five years.

17 (b) If the court does not order the offender to a term of imprisonment when  
18 the following two factors are established, the court shall state, both orally and in  
19 writing at the time of sentencing, the reasons for not sentencing the offender to a  
20 term of imprisonment:

1            (i) The fatality was caused by a person engaged in the operation of, or in  
2            actual physical control of, any motor vehicle, aircraft, watercraft, or other means of  
3            conveyance; and

4            (ii) The offender's blood alcohol concentration contributed to the fatality.

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

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#### 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)]

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Greene

HB No. 394

**Abstract:** Requires courts to issue reasons when it does not sentence a person convicted of negligent homicide in certain cases to a term of imprisonment.

Present law provides for the crime of negligent homicide and defines it as the killing of a human being by criminal negligence.

Present law contains criminal penalties for the crime of negligent homicide, which include imprisonment, with or without hard labor for not more than five years, a fine of not more than \$5,000, or both. Further provides that if the victim was killed as a result of a battery and was under the age of 10 years, then the penalty includes imprisonment at hard labor for two to five years, without benefit of probation or suspension of sentence.

Proposed law retains present law and requires the court to state reasons at the time of sentencing for not sentencing the offender to a term of imprisonment when the following occur:

- (1) The fatality was caused by a person engaged in the operation of a vehicle; and
- (2) The offender's blood alcohol concentration contributed to the fatality.

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

(Amends R.S. 14:32(C))

#### Summary of Amendments Adopted by House

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

1. Deletes from proposed law provisions which provided for a minimum mandatory sentence of two years when the offender had a BAC of 0.03% or more.

2. Requires courts to state reasons at the time of sentencing when certain persons convicted of negligent homicide are not sentenced to a term of imprisonment.
3. Provides for an emergency effective date.