



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

Senate Bill No. 1067

(Patron – Quayle)

Date Submitted: 1/3/01

LD #: 01-4607520

Topic: Assault of a family or household member.

Proposed Change:

Amends §18.2-57.2 to include simple assaults against a family or household member in addition to assault and battery offenses.

Current Practice:

Currently, under §18.2-57.2, assault and battery of a family or household member is punishable as a Class 1 misdemeanor, while a third or subsequent offense within ten years is punishable as a Class 6 felony. Simple assault is covered under §18.2-57 and is punishable by up to 12 months in jail with no enhancement provisions for simple assault against a family member. None of these crimes carry a mandatory minimum term of incarceration.

Based on FY1997 and FY1998 Pre/Post-Sentence Investigation (PSI) data, 93 offenders were convicted of the felony provision of §18.2-57.2 as the primary, or most serious, offense. Of those convictions, 39% of the offenders received a state-responsible (prison) term, with a median sentence of 1.3 years (see *Background Sentencing Information* below).

Background Sentencing Information

Crime	Number of Cases	% No Incarceration	% Local Responsible	% State Responsible	Median State-Responsible Sentence
Third or subsequent assault and battery of a family or household member (§18.2-57.2)	93	19%	42%	39%	1.3 yrs.

Data Source: FY1997 and FY1998 Pre/Post-Sentence Investigation (PSI) database.

Virginia's sentencing guidelines cover convictions under §18.2-57.2. Not all offenders convicted of this offense are recommended for a prison term when this offense is the primary offense in a sentencing event. Due to the seriousness of additional or prior record offenses, prior incarcerations and the offender's legal status at the time of the offense, two-thirds of offenders convicted of §18.2-57.2 (as the primary offense) and sentenced during FY2000 were recommended by the guidelines for an incarceration term over six months. In such cases,

offenders begin with a midpoint recommendation of seven months, but additional or prior record offenses, weapon use, serious victim injury and the offender's legal status all serve to increase the recommended sentence.

Impact of Proposed Legislation:

The impact of the proposed legislation cannot be determined. Currently, offenders who commit simple assault against a family member can be charged with a Class 1 misdemeanor carrying a 12-month maximum penalty. However, data sources are not available to determine how many of the simple assaults were directed at family members and, of those, how many would be eligible for the enhanced felony level penalty based on previous assaults or assaults and batteries on family members.

Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation cannot be determined.