

VIRGINIA ACTS OF ASSEMBLY -- 2003 SESSION

CHAPTER 38

An Act to amend and reenact § 18.2-57.3 of the Code of Virginia, relating to assault and battery against a family or household member.

[S 826]

Approved March 16, 2003

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-57.3 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on probation; conditions; education and treatment programs; costs and fees; violations; discharge.

When a person who is no younger than ~~eighteen~~ 18 years of age or who is considered an adult at the time of conviction has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to assault and battery against a family or household member or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to a violation of § 18.2-57.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court ~~shall~~ *may* require the accused to be ~~evaluated and, based on the results of screening, assessment, evaluation, and testing~~ *screened, assessed, or evaluated and, with or without any evaluation, may require the accused* to enter an education or treatment program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused.

The court shall require the person entering such education or treatment program under the provisions of this section to pay all or part of the costs of the program, including the costs of ~~the~~ *any* screening, evaluation, testing, education and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of local probation, *if such probation is available*, the court shall require the accused to successfully complete all treatment and/or education programs required ~~and~~. *The court shall further order the defendant* to be of good behavior for a period of not less than two years following the ~~completion of local probation supervision~~ *finding of facts that would justify a finding of guilt*.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. As such, no charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 18.2-308.