

# VIRGINIA ACTS OF ASSEMBLY -- 2004 SESSION

## CHAPTER 448

*An Act to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to third offense of assault and battery against a family or household member; penalty.*

[H 863]

Approved April 12, 2004

**Be it enacted by the General Assembly of Virginia:**

**1. That § 18.2-57.2 of the Code of Virginia is amended and reenacted as follows:**

§ 18.2-57.2. Assault and battery against a family or household member; penalty.

A. Any person who commits an assault and battery against a family or household member ~~shall be~~ *is* guilty of a Class 1 misdemeanor.

B. ~~On a third or subsequent~~ *Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, information, or indictment on which a person is convicted, that (i) such person has been previously convicted twice of two offenses against a family or household member of (i) assault and battery against a family or household member in violation of this section, (ii) malicious wounding in violation of § 18.2-51, (iii) aggravated malicious wounding in violation of § 18.2-51.2, (iv) malicious bodily injury by means of a substance in violation of § 18.2-52, or of a similar (v) an offense under the law of any other jurisdiction which has the same elements of any of the above offenses, in any combination, all of which occurred within ten a period of 10 years of the third or subsequent offense, and (ii) each such assault and battery of which occurred on a different dates date,* such person ~~shall be~~ *is* guilty of a Class 6 felony.

C. Whenever a warrant for a violation of this section is issued, the magistrate shall issue an emergency protective order as authorized by § 16.1-253.4, except if the defendant is a minor, an emergency protective order shall not be required.

D. The definition of "family or household member" in § 16.1-228 applies to this section.

**2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.**