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HOUSE BILL NO. 656

House Amendments in [] — February 4, 2004

A *BILL to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to assault and battery against a family or household member.*

Patron Prior to Engrossment—Delegate Bell

Referred to Committee for Courts of Justice

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 guilty of a Class 1 misdemeanor. *[If the person commits the assault in the presence of, or the assault is witnessed by, the person's or the victim's minor child, minor stepchild or a minor child residing within the household of the person or victim, the sentence shall include mandatory counseling.]*

B. On a third or subsequent 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 assault and battery against a family or household member, or of a similar offense under the law of any other jurisdiction, [within ~~ten~~ 20 years of the third or subsequent offense,] and (ii) each such assault and battery occurred on different dates, such person shall be 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.

ENGROSSED

HB656E