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HOUSE BILL NO. 863

Offered January 14, 2004

Prefiled January 14, 2004

A BILL 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.

Patrons—Byron and Albo

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 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 of (i) assault and battery against a family or household member, (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 similar to any of the above under the law of any other jurisdiction, 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 is \$1,591,303 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.

INTRODUCED

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