

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number HB 863

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

2. Patron Byron

3. Committee Passed both houses

4. Title Assault of a family member

5. Summary/Purpose:

Under current law, assault and battery against a family or household member is a Class 1 misdemeanor. If the offender has two previous convictions of assault and battery against a family or household member within the previous ten years, the offense is a Class 6 felony.

The proposed legislation would expand the list of previous offenses that raise the offense to a Class 6 felony. The result would be that assault and battery against a family or household member would be a Class 6 felony if the offender had been convicted twice within the previous ten years of any of the following offenses, in any combination, against a family or household member:

- Assault and battery
- Malicious wounding
- Aggravated malicious wounding
- Malicious bodily injury by means of a substance

6. Fiscal Impact Estimates are: Final. See Item 8.

7. Budget amendment necessary: None.

8. Fiscal implications:

The proposed legislation likely could result in more persons being committed to local jails or state correctional institutions. Based on the number of persons convicted in recent years of assault and battery against a family member and the number convicted of malicious wounding with the victim being a family member, the proposed legislation could result in more persons being subject to a Class 6 felony, rather than a Class 1 misdemeanor. In addition to more offenders being affected by the proposed legislation, sentence length could be affected. Because the expanded list of prior record offenses would include felonies (rather than just misdemeanor assault and battery cases, as in the current law), sentences for offenders convicted under the statute as proposed may be longer than sentences for offenders under the law as currently written. However, because of limitations in the data, the Virginia

Criminal Sentencing Commission was not able to determine the impact on state-responsible (prison) and local-responsible (jail) beds.

9. Specific agency or political subdivisions affected:

Department of Corrections
Local and regional jails

10. Technical amendment necessary: None.

11. Other comments: HB 656, which has also been enrolled, would increase the “look-back” period for these offenses from 10 to 20 years. In combination, these two bills could have a bigger impact on correctional bed space than they would if viewed separately.

Date: 03/25/04 / rwh

Document: G:\LEGIS\Fis-04\HB863ER.Doc Dick Hall-Sizemore

cc: Secretary of Finance
Secretary of Public Safety