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SENATE BILL NO. 203

Offered January 11, 2012

Prefiled January 10, 2012

A *BILL to amend and reenact §§ 18.2-57.2, 18.2-104, and 18.2-250.1 of the Code of Virginia, relating to adjudication of certain crimes; penalties.*

Patron—Marsden

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That §§ 18.2-57.2, 18.2-104, and 18.2-250.1 of the Code of Virginia are 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 is guilty of a Class 1 misdemeanor.

B. Upon a conviction for assault and battery against a family or household member, where it is alleged in the warrant, petition, information, or indictment on which a person is convicted, that such person has been previously convicted *or adjudicated* 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 (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 a period of 20 years, and each of which occurred on a different date, such person 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.

§ 18.2-104. Punishment for conviction or adjudication of misdemeanor larceny.

When a person is convicted *or adjudicated* of an offense of larceny or any offense deemed to be or punished as larceny under any provision of the Code, and it is alleged in the warrant, indictment or information on which he is convicted *or adjudicated*, and admitted, or found by the jury or judge before whom he is tried, that he has been before convicted *or adjudicated* in the Commonwealth of Virginia or in another jurisdiction for any offense of larceny or any offense deemed or punishable as larceny, or of any substantially similar offense in any other jurisdiction, regardless of whether the prior convictions *or adjudications* were misdemeanors, felonies or a combination thereof, he shall be confined in jail not less than ~~thirty~~ 30 days nor more than ~~twelve~~ 12 months; and for a third, or any subsequent offense, he shall be guilty of a Class 6 felony.

§ 18.2-250.1. Possession of marijuana unlawful.

A. It is unlawful for any person knowingly or intentionally to possess marijuana unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for violation of this section, ownership or occupancy of the premises or vehicle upon or in which marijuana was found shall not create a presumption that such person either knowingly or intentionally possessed such marijuana.

Any person who violates this section shall be guilty of a misdemeanor, and be confined in jail not more than ~~thirty~~ 30 days and a fine of not more than \$500, either or both; any person, upon a second or subsequent conviction *or adjudication* of a violation of this section, shall be guilty of a Class 1 misdemeanor.

B. The provisions of this section shall not apply to members of state, federal, county, city or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of marijuana is necessary for the performance of their duties.

INTRODUCED

SB203