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**SENATE BILL NO. 66**

Offered January 10, 2018

Prefiled November 30, 2017

*A BILL to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to assault and battery against a family member; child witness as sentencing consideration.*

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Patrons—Favola; Delegate: Kory

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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 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 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 or unlawful 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, (v) strangulation in violation of § 18.2-51.6, or (vi) 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. *For any person convicted under this section, at a sentencing hearing the court may consider as an aggravating factor in the ascertainment of punishment a circumstance in which a minor who is a family or household member of the convicted person was a witness to the offense.*

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

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