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SENATE BILL NO. 826

Senate Amendments in [] — February 3, 1995

A *BILL to amend and reenact § 19.2-81.3 of the Code of Virginia, relating to family member assault and battery; arrest.*

Patrons—Robb, Earley, Norment and Stosch; Delegates: Callahan, Fisher, Hamilton, Kilgore, Purkey, Rhodes, Ruff, Sherwood, Wagner and Wardrup

Referred to the Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 19.2-81.3 of the Code of Virginia is amended and reenacted as follows:**

§ 19.2-81.3. Arrest without a warrant authorized in cases of assault and battery against a family or household member; procedure, etc.

A. Any law-enforcement officer may arrest, in the same manner as provided in § 19.2-81, persons for crimes involving a violation of § 18.2-57.2.

B. A law-enforcement officer investigating any complaint of assault and battery against a family or household member may, upon request, transport an abused person to a hospital, safe shelter, or magistrate.

C. A law-enforcement officer who has reasonable grounds to believe that assault and battery against a family or household member has occurred shall [~~arrest, with or without a warrant and whether or not the assault and battery was committed in his presence, the person believed to have committed the offense and shall~~] file a written report of the incident with his department [~~and provide a copy to the victim or a representative of the victim~~] .

D. Any law-enforcement officer may, with or without a warrant, take the following course of action where the officer has reasonable grounds to believe that a person committed assault and battery against a family or household member, whether or not that assault and battery occurred in his presence:

1. The law-enforcement officer may make reasonable inquiry of the family or household member who the officer believes is the victim of assault and battery and other witnesses as there may be.

2. If a law-enforcement officer has reasonable grounds to believe that there is probable danger of further assault and battery by a person upon a family or household member, the law-enforcement officer [~~may shall~~] petition for an emergency protective order pursuant to § 16.1-253.4.

E. As used in this section, "family or household member" means (i) the person's spouse, whether or not he or she resides in the same home with the person, (ii) the person's former spouse, whether or not he or she resides in the same home with the person, (iii) the person's parents, stepparents, children, stepchildren, brothers and sisters, grandparents and grandchildren who reside in the same home with the person, (iv) the person's mother-in-law, father-in-law, sons-in-law, daughters-in-law, brothers-in-law and sisters-in-law who reside in the same home with the person, (v) any person who has a child in common with the defendant, whether or not the person and that person have been married or have resided together at any time, or (vi) any individual who cohabits or who, within the previous twelve months, cohabited with the person, and any children of either of them then residing in the same home with the defendant.

F. As used in this section, a "law-enforcement officer" means any full-time or part-time employee of a police department or sheriff's office which is part of or administered by the Commonwealth or any political subdivision thereof, and who is responsible for the prevention and detection of crime and the enforcement of the penal, traffic or highway laws of this Commonwealth. Part-time employees are compensated officers who are not full-time employees as defined by the employing police department or sheriff's office.

ENGROSSED

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