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HOUSE BILL NO. 1815

Offered January 13, 1999

A BILL to amend and reenact § 18.2-57.2 of the Code of Virginia and to amend the Code of Virginia by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.3, relating to third offense assault and battery; penalty.

Patron—Armstrong

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, and that the Code of Virginia is amended by adding in Article 4 of Chapter 4 of Title 18.2 a section numbered 18.2-57.3 as follows:

§ 18.2-57.2. Assault and battery against a family or household member.

A. Any person who commits an assault and battery against a family or household member shall be guilty of a Class 1 misdemeanor.

B. ~~On a third or subsequent 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 assault and battery against a family or household member, or of a similar offense under the law of any other jurisdiction, within ten years of the third or subsequent offense, and that (ii) each such assault and battery occurred on different dates, such person shall be 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.

D. C. As used in this section, "family or household member" means (i) the defendant's spouse, whether or not he or she resides in the same home with the defendant; (ii) the defendant's former spouse, whether or not he or she resides in the same home with the defendant; (iii) the defendant's parents, stepparents, children, stepchildren, brothers and sisters, grandparents and grandchildren who reside in the same home with the defendant; (iv) the defendant'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 defendant; (v) any person who has a child in common with the defendant, whether or not the defendant 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 defendant, and any children of either of them then residing in the same home with the defendant.

§ 18.2-57.3. ~~Third or subsequent conviction for assault and battery.~~

~~Upon a third or subsequent conviction for assault and battery under this article, where it is alleged and proved that (i) such person has been previously convicted twice of assault and battery under this article, or of a similar offense under the law of any other jurisdiction or a combination of such offenses, within ten years of the third or subsequent offense, and that (ii) each such assault and battery occurred on a different date, such person shall be guilty of a Class 6 felony.~~

2. That the provisions of this act may result in a net increase in periods of imprisonment in state correctional facilities. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$250,000 in FY 2009.

INTRODUCED

HB1815