

VIRGINIA ACTS OF ASSEMBLY — CHAPTER

An Act to amend and reenact § 19.2-151 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 assault and battery against a family or household member.

[S 1166]

Approved

Be it enacted by the General Assembly of Virginia:

1. That § 19.2-151 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:

§ 18.2-57.3. Persons charged with first offense of assault and battery against a family or household member may be placed on probation; conditions; screening, evaluation and education programs; costs and fees; violations; discharge.

When any person who has not previously been convicted of any offense under this article or under any statute of the United States or of any state or any ordinance of any local government relating to assault and battery against a family or household member or has not previously had a proceeding against him for violation of such an offense dismissed as provided in this section, pleads guilty to or enters a plea of not guilty to a violation of § 18.2-57.2, the court, upon such plea if the facts found by the court would justify a finding of guilt, without entering a judgment of guilt and with the consent of the accused, may defer further proceedings and place him on probation upon terms and conditions.

As a term or condition, the court shall require the accused to be evaluated and enter a treatment and/or education program, if available, such as, in the opinion of the court, may be best suited to the needs of the accused. The program may be located in the judicial district in which the charge is brought or in any other judicial district as the court may provide.

The court shall require the person entering such a program under the provisions of this section to pay all or part of the costs of the program, including the costs of the screening, evaluation, testing, and treatment, based upon the accused's ability to pay unless the person is determined by the court to be indigent.

As a condition of probation, the court shall require the accused to successfully complete all treatment and/or education programs required and to be of good behavior for a period of not less than two years.

The court shall, unless done at arrest, order the accused to report to the original arresting law-enforcement agency to submit to fingerprinting.

Upon violation of a term or condition, the court may enter an adjudication of guilt and proceed as otherwise provided. Upon fulfillment of the terms and conditions, the court shall discharge the person and dismiss the proceedings against him. Discharge and dismissal under this section shall be without adjudication of guilt and is a conviction only for the purposes of applying this section in subsequent proceedings. As such, no charges dismissed pursuant to this section shall be eligible for expungement under § 19.2-392.2 for a period of two years.

Notwithstanding any other provision of this section, whenever a court places an individual on probation upon terms and conditions pursuant to this section, such action shall be treated as a conviction for purposes of § 18.2-308.

§ 19.2-151. Satisfaction and discharge of assault and similar charges.

When a person is in jail or under a recognizance to answer a charge of assault and battery or other misdemeanor, or has been indicted for an assault and battery or other misdemeanor, for which there is a remedy by civil action, unless the offense was committed (i) by or upon any law-enforcement officer, (ii) riotously in violation of §§ 18.2-404 to 18.2-407, (iii) against a family or household member in violation of § 18.2-57.2 and the person charged has before been convicted of a violation of § 18.2-57.2 or had a charge of such a violation dismissed pursuant to this section or by a nolle prosequi, or (iv) with intent to commit a felony, if the person injured appears before the court which made the commitment or took the recognizance, or before the court in which the indictment is pending, and acknowledges in writing that he has received satisfaction for the injury, the court may, in its discretion, by an order, supersede the commitment, discharge the recognizance, or dismiss the prosecution, upon payment by the defendant of costs accrued to the Commonwealth or any of its officers.

2. That the authority of the court to defer proceedings and impose the terms and conditions set forth in this act is declaratory of existing law.

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