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HOUSE BILL NO. 1616

Offered January 12, 2011

Prefiled January 7, 2011

A BILL to amend and reenact § 18.2-57.2 of the Code of Virginia, relating to assault and battery against family or household member; juvenile present; penalty.

Patron—Ward

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 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. Any adult who maintains a custodial relationship over a juvenile, including but not limited to a parent, stepparent, grandparent, or stepgrandparent, or who stands in loco parentis with respect to such juvenile, and who knowingly allows that juvenile to be (i) present in the same dwelling, apartment as defined in § 55-79.2, unit of a hotel as defined in § 35.1-1, garage, shed, or vehicle during the assault and battery of a family or household member, or (ii) in such proximity to an assault and battery of a family or household member that the juvenile sees or hears the assault and battery, is guilty of a Class 1 misdemeanor

D. 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.

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

INTRODUCED

HB1616