



## Fiscal Impact Statement for Proposed Legislation

### Virginia Criminal Sentencing Commission

#### House Bill No. 485 (Patron – McClellan)

LD#: 16102194

Date: 12/18/2015

Topic: Assault and battery of a family or household member

#### Fiscal Impact Summary:

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Correctional Centers:**  
Cannot be determined\*\*
- **Juvenile Detention Facilities:**  
Cannot be determined\*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

#### Summary of Proposed Legislation:

The proposal amends § 18.2-57.2, relating to assault and battery against a family or household member. Currently, under § 18.2-57.2, assault and battery of a family or household member is a Class 1 misdemeanor. The penalty for this offense is elevated to a Class 6 felony if it is alleged in the warrant, etc., that the offender has been previously convicted of two specified offenses against a family or household member. Under the proposal, these offenses would be expanded to include any simple assault; a battery would not be required to obtain a conviction under § 18.2-57.2. Thus, the proposal would expand the list of offenses that may be counted as current or prior convictions for the purposes of enhancing the penalty for a third offense against a family or household member to a felony. Penalties prescribed in this section would remain the same.

#### Analysis:

According to the Case Management Systems (CMS) for General District Court, Circuit Court, and the Juvenile and Domestic Relations Court for fiscal year (FY) 2014 and FY2015, 12,483 offenders were convicted of a Class 1 misdemeanor under § 18.2-57.2 for assault and battery against a family or household member. This crime was the primary, or most serious, offense in 12,319 cases. Of these, 60.8% did not receive an active term of incarceration to serve after sentencing. The other 39.2% received a local-responsible (jail) term, with a median sentence of two months.

According to the FY2014 and FY2015 Sentencing Guidelines database, 488 offenders were convicted of a Class 6 felony under § 18.2-57.2 for a third or subsequent assault and battery against a family or household member. This offense was the primary, or most serious, offense in 459 cases. Of these, 14.2%

did not receive an active term of incarceration after sentencing. Another 51.4% received a local-responsible (jail) term, with a median sentence of six months. The remaining 34.4% received a state-responsible (prison) term, for which the median sentence was 1.5 years.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By expanding the felony provisions of § 18.2-57.2 to include an assault against a family or household member that does not occur in conjunction with a battery, the proposal may increase the number of felony convictions. Because it may result in additional felony convictions, the proposal may increase the future state-responsible (prison) bed space needs of the Commonwealth. However, the number of additional felony convictions that may result cannot be estimated. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs. However, the magnitude of the impact cannot be determined.

**Adult community corrections programs.** Because the proposal could result in felony convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for state community corrections resources. Since the number of cases that may be affected by the proposal cannot be determined, the potential impact on community corrections cannot be quantified.

**Virginia's sentencing guidelines.** The sentencing guidelines cover felony violations of § 18.2-57.2 when this offense is the primary, or most serious, offense in a case. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile correctional centers.** According to the Department of Juvenile Justice (DJJ), the impact of the proposal on juvenile correctional center (JCC) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 665 of the 2015 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.**

**Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.**

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