

**Department of Planning and Budget
2010 Fiscal Impact Statement**

1. Bill Number: HB 953

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. Patron: Jones

3. Committee: Passed both houses.

4. Title: Schedule II, III, IV, and V drugs; adds various controlled substances to list

5. Summary: Adds tapentadol to Schedule II; boldione, desoxymethyltestosterone (madol), and 19-nor-4,9(10)-androstadienedione (estra-4,9(10)-diene-3,17-dione) to Schedule III; fospropofol to Schedule IV, and lacosamide to Schedule V of the drug control act.

6. Fiscal Impact Estimates: Final. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$50,000	General
2012	\$0	
2013	\$0	
2014	\$0	
2015	\$0	
2016	\$0	

7. Budget Amendment Necessary: Yes. Item 380. *The budget bill, HB 30, as passed by the General Assembly does not have an appropriation for this bill, as required by §30-19.1:4 of the Code of Virginia.*

8. Fiscal Implications:

The proposed legislation expands the lists of Schedule II, III, IV, and V controlled substances under the Virginia Drug Control Act. Possession or sale of a controlled substance can range from a Class 3 misdemeanor, with only a fine as punishment, to life in prison, depending on the circumstances. In between these extremes are Class 1 misdemeanors, for which offenders can be sentenced to up to 12 months in jail, and Class 6 felony, for which an offender can be sentenced to up to 12 months in jail or 1-5 years in prison.

By expanding the list of substances included in Schedules II through V of the Drug Control Act, the proposed legislation could result in additional persons convicted and housed in jail or prison or housed for longer periods of time.

There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$8.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2009), the estimated total state support for local jails averaged \$32.66 per inmate, per day in FY 2008.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 781 of the 2009 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected:

Department of Health Professions
Department of Corrections
Local and regional jails

10. Technical Amendment Necessary:

Because the proposed legislation would have a fiscal impact under the provisions of § 30-19.1:4 of the Code of Virginia and Chapter 781 of the 2009 Acts of Assembly, the following standard language should be added:

2. 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 781 of the 2009 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

11. Other Comments: None

Date: 3/30/2010

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