

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB 1165

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

2. Patron: Phillips

3. Committee: Health, Welfare and Institutions

4. Title: Addition of drug to Schedule IV of Controlled Drug Act

5. Summary:

The proposed legislation would add tramadol to Schedule IV of the Virginia Controlled Drug Act.

6. Fiscal Impact Estimates:

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.

8. Fiscal Implications:

The proposed legislation would add tramadol, a centrally-acting analgesic used for the treatment of moderate to moderately severe pain in adults, to Schedule IV of the Virginia Controlled Drug Act. Tramadol has also been used in the illicit production of OxyContin® mimic tablets recently seized in Virginia.

Possession of a Schedule IV controlled substance is a Class 2 misdemeanor under § 18.2-250(A,b1). This offense is punishable by a term of incarceration of up to six months in jail. Distribution of a Schedule IV controlled substance as an accommodation is a Class 1 misdemeanor punishable by up to twelve months in jail under § 18.2-248(E3). Manufacturing, selling, giving, distributing, or possessing with intent to distribute a Schedule IV controlled substance in violation of § 18.2-248(E2) is a Class 6 felony punishable by imprisonment from one to five years.

By adding a substance, the non-medical use of which has increased, to Schedule IV of the Virginia Drug Control Act, the proposed legislation could result in more people being committed to jail or prison.

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, \$8.00 a day for each state responsible inmate held for sixty days or less, and \$14.00 a day for each state responsible inmate held for more than sixty days. It also funds a considerable portion 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.