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HOUSE BILL NO. 1638

Offered January 14, 2015

Prefiled January 9, 2015

A *BILL to amend and reenact § 18.2-33 of the Code of Virginia, relating to felony homicide; felony drug offenses; penalty.*

Patron—Miller

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:**1. That § 18.2-33 of the Code of Virginia is amended and reenacted as follows:****§ 18.2-33. Felony homicide defined; punishment.**

A. The killing of one accidentally, contrary to the intention of the parties, while in the prosecution of some felonious act other than those specified in §§ 18.2-31 and 18.2-32, is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five years nor more than ~~forty~~ 40 years.

B. *The killing of one accidentally, contrary to the intention of the parties, from the use of a controlled substance in violation of a felony provision of § 18.2-248, regardless of any lapse in time between the felony violation of § 18.2-248 and the use of the controlled substance, is murder of the second degree and is punishable by confinement in a state correctional facility for not less than five years nor more than 40 years. Venue for a prosecution under this subsection shall lie in the locality where the felony violation of § 18.2-248 occurred, where the use of the controlled substance occurred, or where the death occurred.*

2. That the provisions of this act clarify the intent of the General Assembly with regard to the law governing felony homicide and serve to overrule the decision of the Court of Appeals of Virginia in *Woodard v. Commonwealth*, 61 Va. App. 567, 739 S.E.2d 220 (2013), *aff'd*, 287 Va. 276, 754 S.E.2d 309 (2014).

3. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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 2 of the Acts of Assembly of 2014, Special Session I, 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 is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

INTRODUCED

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