

## Department of Planning and Budget 2016 Fiscal Impact Statement

**1. Bill Number: HB 102**

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input checked="" type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

**2. Patron: Lingamfelter**

**3. Committee: Senate Finance**

**4. Title: Felony homicide**

**5. Summary:**

Felony homicide, or second degree murder, is the accidental killing of another while engaged in some other felonious act. It is punishable by a prison sentence of 5 to 40 years.

Under current law and court interpretation, offenders whose manufacture, distribution, etc., of a Schedule I or II controlled substance results in the unintentional death of another may only be convicted of felony homicide if the death is so closely related in time, place, and causal connection as to be part of the same felonious criminal enterprise.

The proposed legislation would allow offenders who manufacture, etc., a Schedule I or II controlled substance to be convicted of felony homicide if the recipient's use of the drug was a proximate cause of death, regardless of the time or place death occurred in relation to the sale or distribution of the drug. However, if the defendant proves that he gave or distributed the controlled substance only as an accommodation to the recipient and had no intent to profit nor to induce the recipient to become addicted to the controlled substance, the legislation provides that the offense would be a Class 5 felony, which is punishable with a sentence of up to twelve months in jail or 1 to 10 years in prison.

Finally, the legislation provides that it would be an affirmative defense to prosecution for the offense if the defendant gave the recipient only as an accommodation and sought emergency medical attention, in the case of an overdose, remained on the scene until a law-enforcement officer or medical help arrived, identified himself to the law-enforcement officer, and cooperated in the investigation of the incident.

**6. Budget Amendment Necessary: Yes. Item 394. The House amendments to the budget bill includes funding for the fiscal impact of this legislation.**

**7. Fiscal Impact Estimates:** Final. See Item 8 below.

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2017	\$50,000	General
2018	\$0	
2019	\$0	
2020	\$0	
2021	\$0	
2022	\$0	

**8. Fiscal Implications:**

By expanding the scope of a major felony offense and creating a new Class 5 felony, the proposed legislation could result in more persons being held in local and regional jails and in state prisons.

According to the Virginia Criminal Sentencing Commission, not enough information is available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail. It also funds the majority of the jails' operating costs, e.g. correctional officers. The state's share of these costs varies from locality to locality. According to the Compensation Board's most recent Jail Cost Report (November 2015), the estimated total state support for local jails averaged \$32.24 per inmate, per day in FY 2014.

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 665 of the 2015 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 Corrections  
Local and regional jails.  
Compensation Board

**10. Technical Amendment Necessary:** None.

**11. Other Comments:** None.

**Date:** 3/1/2016

**Document:** G:\LEGIS\fis-16\hb102.docx Dick Hall-Sizemore