

## Department of Planning and Budget 2017 Fiscal Impact Statement

**1. Bill Number: HB 1616-S1**

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

**2. Patron: Lingamfelter**

**3. Committee: Reported from committee**

**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 proposed legislation provides that it would be an affirmative defense to prosecution if a person gave or distributed the controlled substance only as an accommodation to the individual who died if the defendant:

- In good faith, sought emergency medical attention for the individual who took the controlled substance;
- Remained at the scene of the overdose, or the site to which he was transported by medical personnel, until law-enforcement personnel responded;
- Identified himself to the law-enforcement officer who responded to the report of the overdose; and
- Substantially cooperated in any investigation of any criminal offense related to the incident.

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

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

**Expenditure Impact:**

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2018	\$50,000	General
2019	\$0	
2020	\$0	
2021	\$0	
2022	\$0	
2023	\$0	

**8. Fiscal Implications:**

By expanding the scope of a major felony offense, the proposed legislation could result in more persons being held in state prisons.

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

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

**11. Other Comments:**

The proposed legislation has a clause providing that it does not become effective unless there is an appropriation provided for the fiscal impact of the bill.

**Date:** 2/20/2017