

Department of Planning and Budget 2016 Fiscal Impact Statement

1. Bill Number: SB 66

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

2. Patron: Wexton

3. Committee: Senate Courts of Justice

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.

The legislation would reduce the offense to a Class 5 felony, punishable by up to 12 months in jail or 1 to 10 years in prison if the offender proves that he gave or distributed the drug only as an accommodation to another individual, with no intent to profit thereby.

Finally, the legislation would allow as an affirmative defense to prosecution if the defendant gave or distributed the drug as an accommodation to another and:

- In good faith, sought or obtained emergency medical attention;
- Stayed at the scene of the overdose until a law-enforcement officer responded;
- Identified himself to law-enforcement officers; and
- Substantially cooperated in the investigation.

6. Budget Amendment Necessary: Yes. Item 394.

7. Fiscal Impact Estimates: Preliminary. 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.

10. Technical Amendment Necessary: None.

11. Other Comments: Similar to HB 102.

Date: 1/29/2016

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