

## 1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 18.2-33 of the Code of Virginia, relating to felony homicide, certain*  
3 *drug offenses; penalty.*

4 [H 2528]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 18.2-33 of the Code of Virginia is amended and reenacted as follows:**8 **§ 18.2-33. Felony homicide defined; punishment.**

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

13 B. A person is guilty of felony homicide under subsection A if the felonious act that resulted in the  
14 killing of one accidentally, contrary to the intention of the parties, involved the manufacture, sale, gift,  
15 or distribution of a controlled substance classified in Schedule I or II of the Drug Control Act  
16 (§ 54.1-3400 et seq.) to another person in violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 and (i)  
17 such other person's death results from his use of the controlled substance and (ii) such controlled  
18 substance is the proximate cause of the death of such other person regardless of the time or place death  
19 occurred in relation to the commission of the underlying felony. It is not a defense to a prosecution  
20 under this subsection that the decedent contributed to his own death by his knowing or voluntary use of  
21 the controlled substance. Venue for a prosecution under this subsection shall lie in the locality where  
22 the felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 occurred, where the use of the  
23 controlled substance occurred, or where death occurred.

24 C. However, if a person proves that he gave or distributed a controlled substance classified in  
25 Schedule I or II only as an accommodation to another individual who is not an inmate in a community  
26 correctional facility, local correctional facility, or state correctional facility as defined in § 53.1-1, or in  
27 the custody of an employee thereof, and not with intent to profit thereby from any consideration received  
28 or expected nor to induce the recipient of the controlled substance to use or become addicted to or  
29 dependent upon such controlled substance, he is guilty of a Class 5 felony.

30 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
31 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the**  
32 **necessary appropriation is \$149,967 for periods of imprisonment in state adult correctional**  
33 **facilities and cannot be determined for periods of commitment to the custody of the Department of**  
34 **Juvenile Justice.**

ENROLLED

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