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HOUSE BILL NO. 605

Offered January 8, 2020
Prefiled January 6, 2020

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

Patron—Brewer

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. A person is guilty of felony homicide under subsection A if the felonious act that resulted in the killing of one accidentally, contrary to the intention of the parties, involved the manufacture, sale, gift, or distribution of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) to another person in violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 and (i) such other person's death results from his use of the controlled substance and (ii) such controlled substance is the proximate cause of the death of such other person regardless of the time or place death occurred in relation to the commission of the underlying felony. It is not a defense to a prosecution under this subsection that the decedent contributed to his own death by his knowing or voluntary use of the controlled substance. Venue for a prosecution under this subsection shall lie in the locality where the felony violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 occurred, where the use of the controlled substance occurred, or where 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 of the Code of Virginia, the estimated amount of the necessary appropriation is $155,546 for periods of imprisonment in state adult correctional facilities and cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.