# Department of Planning and Budget 2025 General Assembly Session State Fiscal Impact Statement

PUBLISHED: 1/14/2025 8:47 PM ORIGINAL

Bill Number: HB2168 Patron: Gilbert

**Bill Title:** Felony homicide; certain drug offenses; penalty.

Bill Summary: Provides that a person is guilty of felony homicide, which constitutes second degree murder and is punishable by confinement of not less than five nor more than 40 years, if the underlying felonious act that resulted in the killing of another involved the manufacture, sale, gift, or distribution of a Schedule I or II controlled substance to another and (i) such other person's death results from his use of the controlled substance and (ii) the controlled substance is the proximate cause of his death. The bill provides that venue for a prosecution of this crime shall lie in the locality where the underlying felony occurred, where the use of the controlled substance occurred, or where death occurred. The bill also provides that if a person gave or distributed a Schedule I or II controlled substance only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility, or state correctional facility, or in the custody of an employee thereof, and not with intent to profit thereby from any consideration received or expected nor to induce the recipient of the controlled substance to use or become addicted to or dependent upon such controlled substance, he is guilty of a Class 5 felony.

**Budget Amendment Necessary:** Yes **Items Impacted:** Item 390

**Explanation:** See below

#### Fiscal Summary:

Proposal requires "Woodrum" impact funding per § 30-19.1:4, Code of Virginia, to account for a possible increase in the need for state prison beds due to this legislation.

### **General Fund Expenditure Impact:**

<u>Agency</u>	FY2025	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
Dept. of Corrections		\$370,619				
TOTAL		\$370,619				
TOTAL		<b>4370,01</b> 3				

### **Fiscal Analysis:**

This proposal would allow offenders who manufacture, etc., a Schedule I or II drug to be convicted of felony homicide (punishable by up to 40 years imprisonment) if the recipient's use of the drug was the proximate cause of the death, regardless of the time or place death occurred in relation to the commission of the underlying felony. As such, the proposal would expand the applicability of felony homicide to additional

# Department of Planning and Budget 2025 General Assembly Session State Fiscal Impact Statement

circumstances beyond what is currently allowed by law. Anyone convicted of a Class 5 felony is subject to a term of imprisonment of not less than one year nor more than 10 years, or in the discretion of the jury or the court trying the case without a jury, confinement in jail for not more than 12 months and a fine of not more than \$2,500, either or both. Given these parameters, this proposal may increase the jail and state-responsible (prison) bed space needs of the Commonwealth.

Any increase in jail population that might result from this proposal will increase costs to the state. The Commonwealth currently pays the localities \$5.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail and \$15.00 a day for each state-responsible prisoner. It also funds a considerable portion of the jails' operating costs, e.g., correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2024), the estimated total state support for local jails averaged \$56.38 per inmate, per day in FY 2023.

The Virginia Criminal Sentencing Commission (VCSC) estimates the impact of this proposal to be at least seven additional prison beds statewide by FY2031. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$370,619.

Other: None