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

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Bill Number: SB1235 Patron: DeSteph

Bill Title: Manufacturing, selling, giving, distributing, etc., of fentanyl, heroin, or related controlled

substances; penalties.

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. The bill also requires the Office of the Chief Medical Examiner to investigate the cause and manner of a death in any case where the attorney for the Commonwealth or the investigating law-enforcement agency has probable cause to believe that the death resulted from such felony homicide.

The bill also adds mandatory minimum fines for manufacturing, selling, giving, distributing, or possessing with the intent to manufacture, sell, give, or distribute a mixture or substance containing a detectable amount of heroin, fentanyl, or carfentanil based on the weight of such mixtures or substances.

Budget Amendment Necessary: Yes **Items Impacted:** 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>	<u>FY2025</u>	<u>FY2026</u>	FY2027	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
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TOTAL		\$370,619				

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Fiscal Analysis: The provisions of this legislation would not have a fiscal impact on the Virginia Department of Health as attorneys for the Commonwealth or the investigating law-enforcement agency can already request autopsies under current law.

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 circumstances beyond what is currently allowed by law.

The Virginia Criminal Sentencing Commission (VCSC) estimates the impact 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.

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.

Other: None.