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HOUSE BILL NO. 2657
AMENDMENT IN THE NATURE OF A SUBSTITUTE
(Proposed by the House Committee for Courts of Justice
on _____)
(Patron Prior to Substitute—Delegate Thomas)

A BILL to amend the Code of Virginia by adding a section numbered 18.2-36.3, relating to involuntary manslaughter; certain drug offenses.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 18.2-36.3 as follows:

§ 18.2-36.3. Involuntary manslaughter; certain drug offenses.

A. Any person who feloniously, as a result of manufacturing, selling, or distributing with the intent to manufacture, sell, or distribute a controlled substance that contains a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers, in violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7, and unintentionally causes the death of another person is guilty of involuntary manslaughter if (i) such death results from the use of the controlled substance and (ii) such controlled substance is the proximate cause of the death regardless of the time or place death occurred in relation to the commission of the underlying manufacturing, selling, or distributing with the intent to manufacture, sell, or distribute a controlled substance that contains a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers.

B. It is not a defense to a prosecution under this section 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 manufacturing, selling, or distributing with the intent to manufacture, sell, or distribute a controlled substance that contains a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers occurred, where the use of the controlled substance occurred, or where death occurred.

C. However, if any person proves that he gave or distributed a controlled substance that contains a detectable amount of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers, in violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 only as an accommodation to another individual who is not an inmate in a community correctional facility, local correctional facility or state correctional facility as defined in § 53.1-1 or in the custody of an employee thereof, and not with intent to profit thereby from any

31 *consideration received or expected nor to induce the recipient or intended recipient of the controlled*
32 *substance to use or become addicted to or dependent upon such controlled substance, he shall not be guilty of*
33 *involuntary manslaughter but may be prosecuted for a violation of subsection D or E3 of § 18.2-248.*

34 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**
35 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**
36 **appropriation is _____ for periods of imprisonment in state adult correctional facilities; therefore,**
37 **Chapter 2 of the Acts of Assembly of 2024, Special Session I, requires the Virginia Criminal Sentencing**
38 **Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4 of the Code of**
39 **Virginia, the estimated amount of the necessary appropriation is _____ for periods of commitment to**
40 **the custody of the Department of Juvenile Justice.**