

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

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ORIGINAL

Bill Number: SB746H1 **Patron:** McDougle
Bill Title: Felony homicide; certain drug offenses; penalty.

Bill Summary: The substitute bill provides that a person is guilty of involuntary manslaughter, if the underlying felonious act that resulted in the killing of an individual involved the manufacture, sale, gift, or distribution of fentanyl, including its derivatives, isomers, esters, ethers, salts, and salts of isomers to another person and (i) such person’s death results from his use of the fentanyl and (ii) the fentanyl is the proximate cause of the person’s death. The bill provides that the venue for a prosecution of this crime shall lie in the locality where the underlying felony occurred, where the use of the fentanyl occurred, or where death occurred. The bill also provides that if a person gave or distributed fentanyl 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 will not be guilty of involuntary manslaughter but may be prosecuted for a violation of subsection D or E3 of § 18.2-248.

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>	<u>FY2025</u>	<u>FY2026</u>	<u>FY2027</u>	<u>FY2028</u>	<u>FY2029</u>	<u>FY2030</u>
Dept. of Corrections		\$64,996				
TOTAL		\$64,996				

Fiscal Analysis:

The proposal adds § 18.2-36.3 relating to involuntary manslaughter involving certain drugs. Under the proposal, any person who, as a result of manufacturing, selling, or distributing a controlled substance that contains a detectable amount of fentanyl, unintentionally causes the death of another person is guilty of involuntary manslaughter if (i) such death results from use of the controlled substance and (ii) such controlled

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substance is the proximate cause of the death. Involuntary manslaughter is a Class 5 felony, which is punishable by imprisonment of 1 to 10 years. The proposal also specifies that if such person proves that he gave or distributed a controlled substance that contains a detectable amount of fentanyl only as an accommodation to another individual who was not an inmate, such person shall not be guilty of involuntary manslaughter but may be prosecuted for a violation of §§ 18.2-248(D) or 18.2-248(E3) (sale as accommodation of Schedule I/II drugs or III/IV drugs).

By expanding the applicability of involuntary manslaughter to additional circumstances beyond what is currently allowed by law, the proposal will likely increase the future state-responsible (prison) bed space needs of the Commonwealth above what would otherwise be needed. The Virginia Criminal Sentencing Commission (VCSC) estimates the impact to be at least one bed statewide by FY2031. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is at least \$64,996. The proposal may have additional impacts beyond the six-year forecast window required by § 30-19.1:4.

VCSC does not expect this proposal to increase the local-responsible (jail) bed space needs, as all of the identified offenders who could be affected by the proposed change currently receive a state-responsible (prison) term.

Other: None