

The proposal adds § 18.2-36.3 to the *Code of Virginia* 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

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is guilty of involuntary manslaughter if (i) such death results from use of the controlled substance and (ii) such controlled 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 an accommodation sale punishable as a Class 6 felony. Anyone convicted of a Class 6 felony is subject to a term of imprisonment of not less than one year nor more than five 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. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison.

Due to the lack of data, the Virginia Criminal Sentencing Commission (VCSC) has concluded, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined. In such cases, Chapter 2, 2024 Acts of Assembly, Special Session I, requires that a minimum impact of \$50,000 be assigned to the bill.

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: Woodrum funding (\$64,996) for this bill is included in the Conference Report budget. Similar to HB2657.