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

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Bill Number: SB746ER Patron: McDougle

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

Bill Summary: The 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 is guilty of an accommodation sale punishable as a Class 6 felony.

Budget Amendment Necessary: Yes Items Impacted: Item 390

Explanation: See below

Fiscal Summary:

Proposal requires minimum "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	FY2026	FY2027	FY2028	<u>FY2029</u>	FY2030
Dept. of		¢50,000				
Corrections		\$50,000				
TOTAL		\$50,000				

Fiscal Analysis:

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.