

1 HOUSE BILL NO. 1642  
2 AMENDMENT IN THE NATURE OF A SUBSTITUTE  
3 (Proposed by the House Committee for Courts of Justice)  
4 on \_\_\_\_\_)  
5 (Patron Prior to Substitute--Delegate Kilgore)

6 A BILL to amend and reenact § 18.2-33 of the Code of Virginia, relating to felony homicide; certain drug  
7 offenses; penalty.

8 **Be it enacted by the General Assembly of Virginia:**

9 **1. That § 18.2-33 of the Code of Virginia is amended and reenacted as follows:**

10 **§ 18.2-33. Felony homicide defined; punishment.**

11 A. The killing of one accidentally, contrary to the intention of the parties, while in the prosecution  
12 of some felonious act other than those specified in §§ 18.2-31 and 18.2-32, is murder of the second degree  
13 and is punishable by confinement in a state correctional facility for not less than five years nor more than  
14 ~~forty~~ 40 years.

15 B. A person is guilty of felony homicide under subsection A if the felonious act that resulted in  
16 the killing of one accidentally, contrary to the intention of the parties, involved the manufacture, sale, gift,  
17 or distribution of a controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-  
18 3400 et seq.) to another person in violation of Article 1 (§ 18.2-247 et seq.) of Chapter 7 and such other  
19 person's use of the controlled substance results in his death, regardless of the time or place death occurred  
20 in relation to the commission of the underlying felony. It is not a defense to a prosecution under this  
21 subsection that the decedent contributed to his own death by his knowing or voluntary use of the controlled  
22 substance. Venue for a prosecution under this subsection shall lie in the locality where the felony violation  
23 of Article 1 of Chapter 7 occurred, where the use of the controlled substance occurred, or where death  
24 occurred.

25 C. However, if a person proves that he gave or distributed a controlled substance classified in  
26 Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.) only as an accommodation to another

27 individual who is not an inmate in a community correctional facility, local correctional facility, or state  
28 correctional facility as defined in § 53.1-1, or in the custody of an employee thereof, and not with intent  
29 to profit thereby from any consideration received or expected nor to induce the recipient of the controlled  
30 substance to use or become addicted to or dependent upon such controlled substance, he is guilty of a  
31 Class 5 felony.

32 **2. That the provisions of this act may result in a net increase in periods of imprisonment or**  
33 **commitment. Pursuant to § 30-19.1:4 of the Code of Virginia, the estimated amount of the necessary**  
34 **appropriation is \_\_\_\_\_ for periods of imprisonment in state adult correctional facilities;**  
35 **therefore, Chapter 2 of the Acts of Assembly of 2022, Special Session I, requires the Virginia**  
36 **Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-**  
37 **19.1:4 of the Code of Virginia, the estimated amount of the necessary appropriation is \_\_\_\_\_ for**  
38 **periods of commitment to the custody of the Department of Juvenile Justice.**

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