

REQUEST TO TRACK TYPE OF DRUGS

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17102039D

HOUSE BILL NO. 2166

Offered January 11, 2017

Prefiled January 11, 2017

A BILL to amend and reenact § 18.2-250 of the Code of Virginia, relating to possession of controlled substances.

Patrons—Pillion, Kilgore and O'Quinn; Senator: Carrico

Referred to Committee for Courts of Justice

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-250 of the Code of Virginia is amended and reenacted as follows:

§ 18.2-250. Possession of controlled substances unlawful.

A. It is unlawful for any person knowingly or intentionally to possess a controlled substance unless the substance was obtained directly from, or pursuant to, a valid prescription or order of a practitioner while acting in the course of his professional practice, or except as otherwise authorized by the Drug Control Act (§ 54.1-3400 et seq.).

Upon the prosecution of a person for a violation of this section, ownership or occupancy of a premises or vehicle upon or in which a controlled substance was found shall not create a presumption that such person either knowingly or intentionally possessed such controlled substance.

~~(a) B. Any person who violates this section with respect to any controlled substance classified in Schedule I or II of the Drug Control Act shall be the following substances is guilty of a Class 5 felony; except that:~~

1. Cocaine;
2. Codeine;
3. Fentanyl;
4. Heroin;
5. Hydrocodone;
6. Hydromorphone;
7. Methadone;
8. Methamphetamine;
9. Methylphenidate;
10. Morphine;
11. Oxycodone; or
12. Any other controlled substance classified in Schedule I or II of the Drug Control Act (§ 54.1-3400 et seq.).

However, any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof who violates this section with respect to a cannabimimetic agent is guilty of a Class 1 misdemeanor.

~~(b) C. Any person other than an inmate of a penal institution as defined in § 53.1-1 or in the custody of an employee thereof, who violates this section with respect to a controlled substance classified in Schedule III shall be the following substances is guilty of a Class 1 misdemeanor:~~

1. Buprenorphine; or
2. Any other controlled substance classified in Schedule III.

~~(b1) D. Violation of this section with respect to a controlled substance classified in Schedule IV shall be is punishable as a Class 2 misdemeanor.~~

~~(b2) E. Violation of this section with respect to a controlled substance classified in Schedule V shall be is punishable as a Class 3 misdemeanor.~~

~~(e) F. Violation of this section with respect to a controlled substance classified in Schedule VI shall be is punishable as a Class 4 misdemeanor.~~

G. The provisions of this section shall not apply to members of state, federal, county, city, or town law-enforcement agencies, jail officers, or correctional officers, as defined in § 53.1-1, certified as handlers of dogs trained in the detection of controlled substances when possession of a controlled substance or substances is necessary in the performance of their duties.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation is \$0 for periods of imprisonment in state adult correctional facilities and is \$0 for periods of commitment to the custody of the Department of Juvenile Justice.

3. That the Virginia Criminal Sentencing Commission shall promulgate separate Virginia crime code references for each controlled substance specifically set out in § 18.2-250 of the Code of Virginia.

Sentencing Guidelines Cover Sheet

Scheduled Sentencing Date:

 / /

Complete this form ONLY for applicable felonies sentenced on or after July 1, 2017.

Proposed

◆ OFFENDER

First _____ Middle _____ Last _____ Suffix _____

Date of Birth: / / Social Security Number: - - CCRE: CORIS Offender ID:

◆ COURT

Judicial Circuit City/County _____ FIPS Code Sentencing Judge's Name _____ Preparer Name _____ Commonwealth's Attorney Probation Officer

Prosecuting Commonwealth's Attorney _____ Defense Attorney _____

◆ CONVICTIONS

Offense	Counts	VCC	Offense Date
Primary Offense			Month Day Year
_____	<input type="text"/> <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
Additional Offenses	<input type="text"/> <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
_____	<input type="text"/> <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
_____	<input type="text"/> <input type="text"/>	<input type="text"/> - <input type="text"/> - <input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>

Primary Offense Code Section _____ Docket Number _____

Drug Type in Event Please check all that apply

- Cocaine Codeine Fentanyl Heroin Hydrocodone Methadone
 Methamphetamine Methylphenidate Morphine Oxycodone Any other Schedule I/II drug please specify _____

◆ METHOD OF ADJUDICATION

- Jury Trial Sentence Set by Jury: Life Juvenile Fine Only
 Bench Trial Guilty Plea Alford Plea/Nolo contendere

◆ SENTENCING GUIDELINES RECOMMENDATION

- Section B**
 Probation/No Incarceration
 Incarceration 1 Day to 3 Months
 Incarceration 1 Day to 6 Months
 Incarceration 3 to 6 Months
 Probation/No Incarceration or Incarceration to 6 Months
Section B
 Mandatory Minimum _____ Recommendation Adjusted for Mandatory Minimum
- Section C**
 Life Sentence Non-Guidelines Offense
 Incarceration (Enter Midpoint and Range Below)
 Range Midpoint
 Sentence Range TO

◆ NONVIOLENT RISK ASSESSMENT Section D of Drug, Fraud, and Larceny Worksheets

- Recommended for Alternative Punishment Not Applicable (INELIGIBILITY CONDITIONS marked on Section D)
 NOT Recommended for Alternative Punishment Not a DRUG, FRAUD or LARCENY Offense

Sentencing Guidelines Cover Sheet

Scheduled Sentencing Date:

/ /

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Prosecuting Commonwealth's Attorney _____ Defense Attorney _____

◆ CONVICTIONS

Offense	Counts	VCC	Offense Date
Primary Offense	<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
Additional Offenses	<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>
	<input type="text"/>	<input type="text"/>	<input type="text"/> / <input type="text"/> / <input type="text"/>

Primary Offense Code Section: _____ District Number: _____

Drug Type in Event Please put in number of counts for each drug type that applies

Cocaine Codeine Fentanyl Heroin Hydrocodone Methadone
 Methamphetamine Methylphenidate Morphine Oxycodone Any other Schedule VIII drug please specify _____

◆ METHOD OF ADJUDICATION

Jury Trial Sentence Set by Jury: Life Juvenile Fine Only
 Bench Trial Guilty Plea Alford Plea/Nolo contendere

◆ SENTENCING GUIDELINES RECOMMENDATION

Section B

- Probation/No Incarceration
 Incarceration 1 Day to 3 Months
 Incarceration 1 Day to 6 Months
 Incarceration 3 to 6 Months
 Probation/No Incarceration or Incarceration to 6 Months

Section B

Mandatory Minimum _____

Section C

- Life Sentence
 Incarceration (Enter Midpoint and Range Below)

Range Midpoint Sentence Range TO Recommendation Adjusted for Mandatory Minimum

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