



Impact Analysis on Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 453

(Patron – Griffith)

Date Submitted: 01/09/02

LD #: 02-5267228

Topic: Crimes committed for terrorism

Proposed Change and Current Practice:

Adds §§18.2-37.1 and 18.2-37.2, and amends §§18.2-51.1, 18.2-52.1, 18.2-53.1, 18.2-85, 18.2-152.4, 19.2-11.01, 19.2-61, 19.2-66, 19.2-70.2, 19.2-215.1, 19.2-294, and 46.2-105.2 of the *Code of Virginia* as they relate to terrorism.

This proposal is a comprehensive effort to revise the *Code of Virginia* to address terrorism. Penalties are enhanced in some cases, procedures are revised and in other cases specific terrorism laws are proposed. The following table summarizes the current practice and the proposed changes to the *Code of Virginia*.

Statute & Description of Crime or Procedure	Current Practice	Description of Proposed Change
§18.2-37.1 Terrorism (proposed)	<ul style="list-style-type: none">No specific crime is defined	<ul style="list-style-type: none">Act of terrorism – Class 2 felonyAct or conspiracy of terrorism resulting in the willful, deliberate and premeditated killing of a person – Class 1 felonyDefines “act of terrorism”
§18.2-37.2 Possession of chemical or nuclear substance (proposed)	<ul style="list-style-type: none">No specific crime is defined	<ul style="list-style-type: none">Possession with intent to injure or place another in fear of injury – Class 3 felonyDefines “chemical substance” and “nuclear substance”
§18.2-51.1 Malicious wounding to law-enforcement officer or firefighter	<ul style="list-style-type: none">Search and rescue personnel and emergency medical services providers not included	<ul style="list-style-type: none">Includes search and rescue personnel and emergency medical services providersDefines “search and rescue personnel”
§18.2-52.1 Possession of infectious biological substances with intent to injure	<ul style="list-style-type: none">Class 5 felony	<ul style="list-style-type: none">Class 4 felony

Statute & Description of Crime or Procedure	Current Practice	Description of Proposed Change
§18.2-52.1 Destroy, damage or attempt to destroy or damage a facility, the equipment or material involving such substances capable of causing death with intent to injure	<ul style="list-style-type: none"> • Class 4 felony 	<ul style="list-style-type: none"> • Class 3 felony
§18.2-53.1 Use of a firearm in committing a felony	<ul style="list-style-type: none"> • 3 or 5 year mandatory sentence applies to firearms used in a: murder, rape, forcible sodomy, object sexual penetration, robbery, carjacking, burglary, malicious wounding, malicious wounding to a law-enforcement officer, aggravated malicious wounding, malicious wounding by mob, and abduction 	<ul style="list-style-type: none"> • Applies mandatory sentences to firearms used in the commission of an act of terrorism
§18.2-85 Manufacture fire bombs	<ul style="list-style-type: none"> • Class 5 felony 	<ul style="list-style-type: none"> • Class 4 felony
§18.2-85 Hoax fire bombs	<ul style="list-style-type: none"> • Class 6 felony 	<ul style="list-style-type: none"> • Class 5 felony
§18.2-152.4 Computer trespass	<ul style="list-style-type: none"> • Class 3 misdemeanor • Reckless damage of \$2500 or more – Class 1 misdemeanor • Malicious damage of \$2500 or more – Class 6 felony 	<ul style="list-style-type: none"> • If part of an act of terrorism – Class 5 felony
§19.2-11.01 Definition of victim	<ul style="list-style-type: none"> • Victim is defined as a person who has suffered physical, psychological or economic harm as a direct result of a felony, certain assault and batteries, stalking, attempted sexual battery, maiming and DWI when victim is permanently impaired 	<ul style="list-style-type: none"> • Victims of terrorism are included in the definition of victim.
§19.2-61 Definitions of wire communications	<ul style="list-style-type: none"> • Electronic communication system includes photo-electronic facilities for the transmission of electronic communications • Pen register is defined as a device which records or decodes electronic or other impulses which identify the number dialed on a telephone line • Trap and trace device is defined as a device which captures the incoming electronic or other impulses identifying the origination number 	<ul style="list-style-type: none"> • Definition expanded to include photo-electronic facilities for the transmission of wire communications • Pen register is defined as a device which records or decodes dialing, routing, addressing or signaling information transmitted by an instrument or facility • Trap and trace device is defined as a device or process which captures the originating number or other dialing, routing, addressing and signaling information

Statute & Description of Crime or Procedure	Current Practice	Description of Proposed Change
§19.2-66 When Attorney General may apply for order authorizing interception of communications	<ul style="list-style-type: none"> Attorney General may apply for interception of communications in cases of extortion, bribery, kidnapping, murder any felony violation of §18.2-248 or §18.2-248.1, any felony violation of Chapter 29 or Title 59.1. 	<ul style="list-style-type: none"> Circumstances when the Attorney General may apply for interception of communications expanded to include any felony violation of Article 1.1 (§18.2-37.1 et seq.) of Chapter 4 or Title 18.2
§19.2-70.2 Application for and issuance of order for a pen register and trace device	<ul style="list-style-type: none"> The order must specify: the telephone line the device is to be attached, the subject of the investigation, and the physical location of the device 	<ul style="list-style-type: none"> The order must also specify if a facility other than a phone line is to be trapped or traced.
§19.2-215.1 Functions of multi-jurisdiction grand jury	<ul style="list-style-type: none"> Limits multi-jurisdiction grand juries to selected felony criminal violations 	<ul style="list-style-type: none"> Expands the list for which multi-jurisdiction grand juries may investigate to include any felony violation of Article 1.1 (§18.2-37.1 et seq.) of Chapter 4 or Title 18.2
§19.2-294 Offenses against two or more statutes or ordinances	<ul style="list-style-type: none"> Convictions under one statute or from one jurisdiction bars prosecution under the other. 	<ul style="list-style-type: none"> The provisions of this section are not to be applied to any offense involving terrorism
§46.2-105.2 Obtaining false documents from DMV	<ul style="list-style-type: none"> Class 2 misdemeanor Class 4 felony if documents are obtained for more than 4 people 	<ul style="list-style-type: none"> If part of an act of terrorism – Class 4 felony

Impact of the Proposed Legislation:

The impact of the proposed legislation on state-responsible (prison) bed space cannot be quantified. The proposal expands several statutes to include new elements and enhances the penalties for other crimes already defined in the *Code of Virginia*. It also expands the *Code of Virginia* to create new laws that are specific to terrorism. Databases available to the Commission are insufficient to determine the impact the proposal would have on state-responsible (prison) bed space.

Pursuant to §30-19.1:4, the estimated amount of the necessary appropriation cannot be determined 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.