

Department of Planning and Budget 2004 Fiscal Impact Statement

1. Bill Number **HB 1149**

House of Origin ☒ Introduced ☐ Substitute ☐ Engrossed
Second House ☐ In Committee ☐ Substitute ☐ Enrolled

2. Patron McDonnell

3. Committee Appropriations

4. Title Criminal street gangs

5. Summary/Purpose:

Current law makes participation in a criminal act to benefit a criminal street gang a separate Class 5 felony offense. The recruitment of a juvenile to join a criminal street gang is also a felony offense. The law sets out the following definitions:

“*Criminal street gang*”—a group of three or more persons who meet the following criteria:

- Have as one of its primary objectives or activities the commission of “predicate criminal acts”;
- Have an identifying name or symbol; and
- Engage in a “pattern of criminal gang activity.”

“*Pattern of criminal gang activity*”—the commission of two or more “predicate criminal acts” of which at least one is an act of violence.

“*Predicate criminal act*”—an act of violence (as defined by statute) or any one of several specified assault, trespass, and vandalism offenses.

The proposed legislation would expand the list of “predicate criminal acts” which would constitute a “pattern of criminal gang activity.” It would add offenses relating to the manufacture, sale, or distribution of illegal drugs, recruitment of juveniles for criminal street gangs, and the brandishing of firearms.

6. Fiscal Impact: Preliminary. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2004-05	191,430	General
2005-06	5,840	General
2006-07	5,840	General
2007-08	5,840	General
2008-09	5,840	General
2009-10	5,840	General

7. Budget amendment necessary: Yes. Item 67 and new Item 402.10.

8. Fiscal implications:

The penalty for participating in gang activity (a Class 5 felony) is higher than the penalties for many of the underlying offenses proposed to be added to the list of offenses constituting gang activity. Accordingly, the legislation increase the number of persons subject to the additional, higher criminal penalties.

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$185,790 (the highest annual cost over the next six years). The amount is based on the projection that the legislation will result in 8 additional inmates being incarcerated in prison.

The Virginia Criminal Sentencing Commission also projects that the proposed legislation will result in the need for additional local and regional jail beds. The state reimburses localities \$8.00 per day for each “local responsible” inmate housed in local and regional jails.

The fiscal impact data set out for FY 2005 in Item 6 include the amounts projected for additional inmates in both prisons and jails. For the years beyond FY 2005, the amounts are those additional inmates in local and regional jails.

Because the statutes regarding gang activity are relatively new, prosecutors and law-enforcement officials have probably not utilized those provisions to their fullest potential. Therefore, these projections likely understate the potential bed space impact of this legislation.

9. Specific agency or political subdivisions affected:

Department of Corrections
Compensation Board

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 02/11/04 / rwh

Document: G:\LEGIS\Fis-04\HB1149.DOC Dick Hall-Sizemore

cc: Secretary of Finance

Secretary of Public Safety