

## Department of Planning and Budget 2004 Fiscal Impact Statement

**1. Bill Number**    **HB 1149**

<b>House of Origin</b>	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
<b>Second House</b>	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

**2. Patron**            McDonnell

**3. Committee**    Passed both houses

**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 and the recruitment of juveniles for criminal street gangs.

**6. Fiscal Impact:** Final. See Item 8.

**7. Budget amendment necessary:** None.

**8. Fiscal implications:**

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

Commission has stated that the impact of the proposed bill on the prison population cannot be determined, although it is expected to be negligible over the next six years.

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, it is possible that the expansion of those provisions in the proposed legislation could result in an increase in the number of persons in prison.

**9. Specific agency or political subdivisions affected:** Department of Corrections

**10. Technical amendment necessary:** None.

**11. Other comments:** There are several other bills passed by the General Assembly that amend the sections relating to criminal street gangs—HB 569, 760, 801, 1012, and 1149 and SB 321. To get a truer sense of the potential impact of all these bills, including the one under consideration here (HB 1149), they should be considered as a whole, rather than in isolation.

**Date:** 03/22/04 / rwh

**Document:** G:\LEGIS\Fis-04\HB1149ER.DOC Dick Hall-Sizemore

cc: Secretary of Finance

Secretary of Public Safety