

Department of Planning and Budget 2005 Fiscal Impact Statement

1. Bill Number: HB 2217

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

2. Patron: Albo

3. Committee: Passed both houses

4. Title: Criminal street gang predicate crimes; gang activity

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 criminal activities;
- Have an identifying name or symbol; and
- Engage in 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 enrolled legislation would make the following changes in the provisions related to gang activity:

1. Expand the list of “predicate criminal acts” to include:
 - Assault by mob;
 - Reckless handling of firearms;
 - Extortion;
 - Shooting from vehicles;
 - Carrying loaded automatic weapons in public areas in certain jurisdictions; and
 - Possession of firearm, stun weapon, or other weapons on school property.
2. Require a mandatory minimum sentence of two years for participating in a street gang and committing a predicate criminal act on school property, on public property within 1,000 feet of a school, or on a school bus;

3. Make it a Class 6 felony to recruit someone to join a gang while on school property, on public property within 1,000 feet of a school, or on a school bus. (Recruitment is now a Class 1 misdemeanor.) If the person doing the recruiting is 18 years old or older and the person being recruited is a juvenile, the offense would be a Class 5 felony. (Currently, it is a Class 6 felony.)
4. Make it a Class 5 felony to use force or threats, while on school property, near a school, or on a school bus, to get someone to join a street gang, remain a member of a street gang, or commit a criminal offense on the demand of a street gang. (Such an offense is currently a Class 6 felony.)

In addition to these criminal provisions, the legislation has the following provisions related to criminal gang activity:

- Restricts the disclosure of the address, telephone number, or place of employment of a witness in trial involving gang activity or gang recruitment, if so requested by the witness.
- Enables any building, place, or area used for criminal street gang activities to be declared a public nuisance.

6. Fiscal impact: Final. See Item 8.

7. Budget amendment necessary: None.

8. Fiscal implications:

Because the legislation expands the list of predicate crimes applicable to gang activity and increases the penalties for certain gang-related offenses, it may result in more offenders being committed to state prisons. However, due to the lack of data, the Virginia Criminal Sentencing Commission has determined, pursuant to §30-19.1:4 of the Code of Virginia, that the impact of the proposed legislation on state-responsible (prison) bed space cannot be determined.

Potentially, this legislation could have some impact on prison bed space. The gang-related statutes were enacted only in 2000, with major expansions made in 2004. Therefore, not enough time has elapsed since their enactment to reasonably project how many offenders might be convicted under them. Furthermore, because of their newness, prosecutors and law-enforcement officials have probably not utilized those provisions to their fullest potential.

9. Specific agency or political subdivisions affected:

Department of Corrections

10. Technical amendment necessary: None.

11. Other comments: None.

Date: 03/04/05 / rwh

Document: G:\LEGIS\Fis-05\HB2217ER.Doc Dick Hall-Sizemore