Fiscal Impact Statement for Proposed Legislation

Virginia Criminal Sentencing Commission

House Bill No. 2429

(Patron – Albo)

LD#: 07-3320105 **Date:** 12/27/2006

Topic: Solicitation for terrorism

Fiscal Impact Summary:

- **State Adult Correctional Facilities:** Cannot be determined
- **Local Adult Correctional Facilities:** Cannot be determined
- **Adult Community Corrections Programs:** Cannot be determined
- **Juvenile Correctional Centers:** None ($0)
- **Juvenile Detention Facilities:** None ($0)

Summary of Proposed Legislation:

The proposal amends § 2.2-511 by allow the Attorney General, with the concurrence of the local prosecutor, to assist in the prosecution of gang and terrorism crimes specified in §§ 18.2-46.2, 18.2-46.3, 18.2-46.5 when the violations occur on the grounds of a state correctional facility.

The proposal also amends § 18.2-46.5 to make it a Class 4 felony for any person to solicit, recruit, or otherwise cause or attempt to cause another to participate in an act or acts of terrorism. The proposal specifies that violation of this new provision shall not prohibit or bar prosecution or proceeding under any other subsection in § 18.2-46.5.

Currently, under § 18.2-46.5(A), any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such an act (i.e., murder) is punishable by imprisonment for life or at least 20 years. Such an act is a Class 3 felony if the penalty for the base offense is less than 20 years. "Base offense" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent required to commit an act of terrorism.

Analysis:

Based on fiscal year (CY) 2004 and 2005 Local Inmate Data System (LIDS) data, no offenders held pre- or post-trial in jail were convicted of crimes involving acts of terrorism under § 18.2-46.5.

Impact of Proposed Legislation:

State adult correctional facilities. The proposed legislation creates a new Class 4 felony involving the solicitation or recruitment of another person to participate in an act or acts of terrorism. The proposal may increase the state-responsible (prison) bed space needs of the Commonwealth; however, the magnitude of the potential impact cannot be determined.

Local adult correctional facilities. The proposal may have an impact on local-responsible (jail) bed space; however, the magnitude of the potential impact cannot be determined.

Adult community corrections programs. The impact on adult community corrections programs cannot be determined.

Virginia's sentencing guidelines. Convictions under Article 2.2 (Terrorism Offenses) of Chapter 4 of Title 18.2 are not covered by Virginia's sentencing guidelines as the primary offense (most serious) but may augment the guidelines recommendation if a covered offense is the most serious at conviction. No adjustment to the sentencing guidelines would be necessary under the proposal.

Juvenile correctional centers. According to the Department of Juvenile Justice (DJJ), the proposal is not expected to increase juvenile correctional center (JCC) bed space needs.

Juvenile detention facilities. The Department of Juvenile Justice (DJJ) reports that the proposal is not expected to increase the bed space needs of juvenile detention facilities.

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.

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