

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: HB 682

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

2. Patron: Miller, J.H.

3. Committee: Senate Courts of Justice

4. Title: Expansion of gang-free zones

5. Summary:

Current law makes participation in a criminal act to benefit a criminal street gang a separate Class 5 felony offense. If the criminal street gang includes a juvenile member or participant, such participation in a criminal act to benefit the gang is a Class 4 felony. 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.

Furthermore, current law stipulates higher penalties for participating in prohibited gang activity at specified locations. Participating in gang activity in those locations is subject to a mandatory minimum sentence of two years. Likewise, gang recruitment or using force to get a person to join a gang or remain in a gang in those locations are offenses subject to higher penalties. The proposed legislation would expand the definition of these “gang-free” zones to include publicly owned or operated community or recreation centers.

6. Fiscal Impact Estimates: Preliminary. See Item 8.

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$50,000	General
2012	\$0	

2013	\$0
2014	\$0
2015	\$0

7. Budget Amendment Necessary: Yes. Item 380.

8. Fiscal Implications:

Because the proposed legislation expands the definition of areas in which a mandatory minimum sentence of two years would be applicable and also increases the punishment for other gang activity in more areas, it may increase the need for state prison beds.

Due to the lack of data, the Virginia Criminal Sentencing Commission has concluded, 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. In such cases, Chapter 781 of the 2009 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to the bill.

9. Specific Agency or Political Subdivisions Affected: Department of Corrections

10. Technical Amendment Necessary: None.

11. Other Comments: None.

Date: 2/19/2010 dpb

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