

# Department of Planning and Budget

## 2010 Fiscal Impact Statement

**1. Bill Number: SB 530**

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

**2. Patron: McDougle**

**3. Committee: Senate Courts of Justice**

**4. Title: Criminal street gang recruitment**

**5. Summary:**

Under current law, it is a Class 1 misdemeanor to solicit, invite, recruit, or encourage someone to actively participate in or become a member of what he knows to be a criminal street gang. The proposed legislation would make any such recruitment a Class 6 felony if it were conducted by telephone or by any electronically transmitted communication producing a visual or electronic message.

In addressing this and other offenses, current law uses 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.

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

6a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$50,000	General
2012	\$0	
2013	\$0	
2014	\$0	
2015	\$0	
2016	\$0	

**7. Budget Amendment Necessary:** Yes. Item 380.

**8. Fiscal Implications:**

A person convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. In contrast, a judge has the option of sentencing someone convicted of a Class 6 felony to up to 12 months in jail or to one to five years in prison. By increasing the penalty for using an electronic means of recruiting persons to join criminal street gangs from a Class 1 misdemeanor to a Class 6 felony, the proposed legislation could result in additional persons housed in state prisons.

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:** Identical to HB 868.

Date: 2/11/2010 dpb