

Department of Planning and Budget

2010 Fiscal Impact Statement

1. Bill Number: SB 142

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

2. Patron: Miller, J.C.

3. Committee: Senate Finance

4. Title: Criminal street gangs

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.

The proposed legislation would expand the list of “predicate criminal acts” to include breaking into a dwelling during the night or discharging a firearm within, or shooting at, an occupied building.

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

Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2011	\$8,439	General
2012	\$0	
2013	\$0	
2014	\$0	
2015	\$0	
2016	\$0	

7. Budget Amendment Necessary: Yes. Item 380.

8. Fiscal Implications:

Pursuant to §30-19.1:4 of the Code of Virginia, the Virginia Criminal Sentencing Commission estimates a fiscal impact of \$8,439 (the highest annual cost over the next six years). The amount is based on the projection that the legislation will result in less than one additional prison bed being needed.

Generally speaking, any gang-related bill could eventually have an impact on prison bed space. There are two features of the gang-related statutes that could make them result in more inmates being in prison for longer periods of time. First, many of the predicate offenses that define “participation in a criminal act to benefit a criminal street gang” are less serious offenses than that specific offense, which is a Class 5 felony. In fact, some of the predicate offenses are misdemeanors. Second, “participation in a criminal act to benefit a criminal street gang” is a separate offense, with the result that the offender could be sentenced both for the predicate crime and “participation in a criminal act to benefit a criminal street gang.”

9. Specific Agency or Political Subdivisions Affected:

Department of Corrections
Local and regional jails

10. Technical Amendment Necessary: None.

11. Other Comments: Identical to HB 167.

Date: 2/11/2010 dpb