

## Department of Planning and Budget 2011 Fiscal Impact Statement

**1. Bill Number: HB 1596**

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

**2. Patron: Iaquinto**

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

**4. Title: Gang activity**

**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 school bus stops and the public property within 1,000 feet of a school bus stop during the time when children are waiting to be picked up for transport to school and to the property of public parks, libraries, and hospitals.

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

**7. Fiscal Impact Estimates:** Preliminary. See Item 8 below.

**7a. Expenditure Impact:**

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

**8. Fiscal Implications:**

Because the proposed legislation expands the definition of areas in which a mandatory minimum sentence of two years would be applicable, 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 874 of the 2010 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:** 1/11/2011

**Document:** G:\LEGIS\Fis-11\Hb1596.Doc Dick Hall-Sizemore