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HOUSE BILL NO. 2410

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the Senate Committee for Courts of Justice
on February 13, 2017)

(Patron Prior to Substitute—Delegate Gilbert)

A BILL to amend and reenact § 18.2-46.4 of the Code of Virginia and to amend the Code of Virginia by adding a section numbered 18.2-46.5:1, relating to providing material support or resources to designated terrorist organizations; penalty.

Be it enacted by the General Assembly of Virginia:

1. That § 18.2-46.4 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding a section numbered 18.2-46.5:1 as follows:

§ 18.2-46.4. Definitions.

As used in this article unless the context requires otherwise or it is otherwise provided:

"Act of terrorism" means an act of violence as defined in clause (i) of subdivision A of § 19.2-297.1 committed with the intent to (i) intimidate the civilian population at large; or (ii) influence the conduct or activities of the government of the United States, a state or locality through intimidation.

"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.

"Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.

"Material support or resources" means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, and transportation, except medicine or religious materials.

"Personnel" means one or more individuals who may be or include oneself.

"Training" means instruction or teaching designed to impart a specific skill.

"Weapon of terrorism" means any device or material that is designed, intended or used to cause death, bodily injury or serious bodily harm, through the release, dissemination, or impact of (i) poisonous chemicals; (ii) an infectious biological substance; or (iii) release of radiation or radioactivity.

§ 18.2-46.5:1. Providing material support or resources to designated foreign terrorist organization; penalty.

A. Any person who provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or are to be given, in whole or in part, to a person or an organization that he knows has been designated by the U.S. Secretary of State as a foreign terrorist organization or an organization that he knows has engaged in or engages in, an act of terrorism as defined in § 18.2-46.4 is guilty of a Class 3 felony. If the death of any person results from providing material support or resources or the concealment or disguising of such material support or resources, then the person who provides material support or resources is guilty of a Class 2 felony.

B. No person may be prosecuted under this section in connection with the provision of personnel unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with personnel to work under that terrorist organization's direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives shall not be considered to be working under the foreign terrorist organization's direction and control.

No person may be prosecuted under this section if the provision of material support or resources to a foreign terrorist organization was approved by the U.S. Secretary of State with the concurrence of the U.S. Attorney General.

C. The provisions of this section shall not preclude prosecution under any other statute.

2. That the provisions of this act may result in a net increase in periods of imprisonment or commitment. 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; therefore, Chapter 780 of the Acts of Assembly of 2016 requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000. Pursuant to § 30-19.1:4, the estimated amount of the necessary appropriation cannot be determined for periods of commitment to the custody of the Department of Juvenile Justice.