



## Fiscal Impact Statement for Proposed Legislation

### *Virginia Criminal Sentencing Commission*

**House Bill No. 2410**  
***Amendment in the Nature of a Substitute***  
***(Patron Prior to Substitute – Gilbert)***

**LD#:** 17105165

**Date:** 2/6/2017

**Topic:** Providing support to terrorist organizations

**Fiscal Impact Summary:**

- **State Adult Correctional Facilities:**  
\$50,000 \*
- **Local Adult Correctional Facilities:**  
Cannot be determined
- **Adult Community Corrections Programs:**  
Cannot be determined

- **Juvenile Direct Care:**  
Cannot be determined \*\*
- **Juvenile Detention Facilities:**  
Cannot be determined \*\*

\*\*Provided by the Department of Juvenile Justice

\* The estimated amount of the necessary appropriation cannot be determined for periods of imprisonment in state adult correctional facilities; therefore, Chapter 780 of the 2016 Acts of Assembly requires the Virginia Criminal Sentencing Commission to assign a minimum fiscal impact of \$50,000.

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**Summary of Proposed Legislation:**

The proposal amends §§ 18.2-46.4 and 18.2-46.5 of the *Code of Virginia* to prohibit the act of providing material support to terrorists.

Currently, under § 18.2-46.5, any person who commits, conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such an act may be punished by a term of imprisonment of twenty years or more. If the statutory maximum penalty for the base offense is a term of imprisonment or incarceration in jail of less than twenty years, the offender is guilty of a Class 3 felony. In addition, any person who solicits, recruits, or otherwise causes or attempts to cause another to participate in an act of terrorism is guilty of a Class 4 felony.

The proposal amends § 18.2-46.4 to expand the definition of “act of terrorism” to include any act that would be an act of violence if committed in the Commonwealth that is committed within or outside of the Commonwealth. Under the proposed modifications to § 18.2-46.5, any person who knowingly provides material support to an individual or organization whose primary objective is to commit an act of terrorism with the intent to further such objective would be guilty of a Class 3 felony. If the death of any person results from providing any material support, the individual would be guilty of a Class 2 felony.

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**Analysis:**

According to the Circuit Court Case Management System (CMS) for fiscal year (FY) 2011 through FY2016, two offenders were convicted of a felony under § 18.2-46.5 for committing, etc., an act of

terrorism. In each case, the violation was the primary (most serious) offense at sentencing. One offender, convicted of two counts of committing an act of terrorism and two counts of recruiting, etc., another for terrorism, was sentenced to serve a state-responsible (prison) term of twelve years. The other offender, convicted of one count of attempting to commit an act of terrorism, was sentenced to five years imprisonment.

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**Impact of Proposed Legislation:**

**State adult correctional facilities.** By establishing new felony offenses, the proposal may increase the state-responsible (prison) bed space needs of the Commonwealth. Available data sources do not contain sufficient detail to estimate the number of additional felony convictions that may result from enactment of the proposal. Therefore, the magnitude of the impact on prison bed space needs cannot be determined.

**Local adult correctional facilities.** Similarly, the proposal may increase local-responsible (jail) bed space needs; however, the magnitude of the impact cannot be determined.

**Adult community corrections resources.** Because the proposal could result in convictions and subsequent supervision requirements for an additional number of offenders, the proposal may increase the need for adult community corrections resources. Since the number of cases affected cannot be determined, the potential impact on community corrections cannot be quantified.

**Virginia's sentencing guidelines.** Since the proposal defines new felony offenses, convictions under the proposed section of the *Code* would not be covered by the sentencing guidelines as the primary, or most serious, offense. However, such convictions may augment the guidelines recommendation if the most serious offense at sentencing is covered by the guidelines. No adjustment to the guidelines would be necessary under the proposal.

**Juvenile direct care.** According to the Department of Juvenile Justice, the impact of the proposal on direct care (juvenile correctional center or alternative commitment placement) bed space needs cannot be determined.

**Juvenile detention facilities.** The Department of Juvenile Justice reports that the proposal's impact on the bed space needs of juvenile detention facilities cannot be determined.

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**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 2016 Acts of Assembly 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.**

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