

Department of Planning and Budget 2018 Fiscal Impact Statement

1. Bill Number: HB1601

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

2. Patron: Price

3. Committee: House Courts of Justice

4. Title: Domestic terrorism offenses and designation.

5. Summary: The proposed legislation creates a new series of separate and distinct felonies and misdemeanors based on prohibited domestic terrorism activity and participation in such domestic terrorism activity. The bill provides a definition for an act of domestic terrorism and a domestic terrorism organization. The bill defines domestic terrorism as an act of violence or any violation of several code sections listed in the proposal, that is committed against a person or his property with the intent of instilling fear or intimidation in the individual against whom the act is perpetrated because of race, religion, national origin, gender, sexual orientation, or disability, or that is committed against such person for the purpose of restraining that person from exercising his rights under the Constitution or laws of this Commonwealth or of the United States.

A person participating in an assembly of three or more members of a domestic terrorist organization with the intent of advancing some unlawful goal, mission, or purpose of the domestic terrorist organization would be guilty of a Class 1 misdemeanor. This offense is elevated to a Class 5 felony if the member carries a firearm or other deadly or dangerous weapon while participating in the assembly. Additionally, a person who actively participates in or is a member of a domestic terrorist organization and who knowingly and willfully participates in any act of domestic terrorism committed for the benefit of, at the direction of, or in association with any domestic terrorist organization would be guilty of a Class 5 felony. Violation of this proposed section would constitute a separate and distinct felony.

The bill also directs the Superintendent of the Department of State Police to promulgate regulations, to be updated annually, designating all organizations, groups, or associations meeting the definition of a domestic terrorist organization. The regulations shall be published in the Virginia Register of Regulations.

Finally, the bill requires state, county, and municipal law-enforcement agencies to report to the Department of State Police all acts of domestic terrorism occurring in their jurisdictions in a form, time, and manner prescribed by the Superintendent. Such reports will not be open to public inspection except insofar as the Superintendent permits.

6. Budget Amendment Necessary: Yes. Items 391 and 419.

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

8. Fiscal Implications: According to the Virginia State Police (VSP), the Virginia Fusion Center (VFC) collects and maintains criminal intelligence information concerning organizations, associations, groups and individuals if there is reasonable suspicion that they are involved in criminal conduct or activity if the information is relevant to that activity. Currently, there are 32 analyst positions assigned to various responsibilities within the VFC. The VFC also tracks statistics and information on incidents related to hate crimes. In 2017, the VFC received between 100-200 incidents of hate crime in the Commonwealth. VSP believes it may need additional staff, however, it is not possible to estimate the total number of positions required because it is not feasible to estimate the number of additional domestic terrorism incidents that would be reported because of this legislation. If VSP's domestic terrorist caseload increases significantly beyond their current caseload (between 100-200 cases per year), they would need additional staff. In the introduced budget (HB30/SB30), VSP was provided with general fund appropriation to support four additional analyst positions in the VFC, primarily to assist in the VFC Watch Center, which collects and distributes criminal intelligence and homeland security information to law enforcement agencies.

According to VSP, the VFC does not designate domestic terrorism groups (as defined in the bill) as such, but it does collect and maintain intelligence information when there is reasonable suspicion that they are involved in criminal activity. In order to make such a designation as required by the bill, VSP has indicated that they would need to create a new registry to track domestic terrorism organizations. The agency believes a new registry would assist the agency to manage the designation of these groups. The estimated one-time IT cost to develop a new database registry is expected to be \$1,646,000.

Specifically, the work that will be required is as follows:

- Develop an interface to permit VSP employees to enter and manage data;
- Develop a webpage to be used by the public to query data;
- Interface/link terrorism information with VSP's document management system;
- Interface data with the Master Name Index to allow terrorism information to be transmitted to the Virginia Criminal Information Network (VCIN);
- Create a new Computerized Criminal History (CCH) interface to allow for conviction data to be reported to the registry;
- Create a new interface to allow for data extraction from manual and other forms of data entry;
- Give the program the capacity to develop reports and use data visualization features.

This proposal could also result in an increase in the number of persons sentenced to jail or prisons. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. A Class 5 felony is punishable by 1 to 10 years in prison. A Class 2 felony is punishable by imprisonment for 20 years to life. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however,

any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanor or otherwise local responsible prisoner held in a jail and \$12.00 a day for each state responsible inmate. It also funds a considerable portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

Chapter 836 of the 2017 Acts of Assembly requires that a minimum impact of \$50,000 be assigned to this bill because the impact on state-responsible (prison) bed space cannot be determined due to insufficient data. The impact on the Department of Juvenile Justice and local correctional facilities cannot be determined.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Corrections, Local corrections, and Department of Juvenile Justice.

10. Technical Amendment Necessary: No.

11. Other Comments: None.