

## Department of Planning and Budget 2019 Fiscal Impact Statement

**1. Bill Number:** HB1991

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:** Price

**3. Committee:** Courts of Justice

**4. Title:** Domestic terrorist organization designation; domestic terrorism offenses

**5. Summary:** The proposed legislation would require the Superintendent of the Department of State Police (VSP) to promulgate regulations, creating a procedure and establishing criteria for identifying domestic terrorist organizations and determining whether a particular organization, group, or association constitutes or is part of a domestic terrorist organization. The regulations must ensure an opportunity for a potentially affected organization, group, or association to present evidence as to why it should not be designated as a domestic terrorist organization. Groups may ask for judicial review of these designations and petition the Superintendent of State Police on an annual basis to be removed from the list. State, county, and municipal law enforcement agencies are required to report to VSP all acts of domestic terrorism occurring in their jurisdictions in a time, form, and manner prescribed by the Superintendent of State Police.

The bill also permits the Office of the Attorney General (OAG) to initiate a civil action in a circuit court if it appears that any person is engaged in, or is about to engage in, any act that constitutes or would constitute a violation of this bill. Any person who provides material support or resources in connection with an act of domestic terrorism shall be subject to civil liability in any action brought by an individual directly affected by the act if a preponderance of evidence can be shown.

In addition to a civil penalty, the bill also provides that a person who participates in or is a member of a group identified as a domestic terrorist organization and who knowingly and willfully participates in an act of domestic terrorism committed for the benefit of, at the direction of, or in association with such an organization is guilty of a Class 5 felony.

Current law provides that, anyone who knowingly provides material support to a domestic terrorist organization with the intent to further its objectives is guilty of a Class 3 felony. Current law further provides that if the death of any person results from providing that support, he is guilty of a Class 2 felony.

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

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

- 8. Fiscal Implications:** According to the Virginia State Police (VSP), currently, 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 2018, the VFC received between 75-100 reports of hate crimes occurring in the Commonwealth. The Federal Bureau of Investigation reported 193 hate crime incidents occurred in Virginia in 2017.

While it is not possible at this time to estimate the exact number of additional domestic terrorism incidents that would be reported if the legislation is enacted, the agency believes that it may need up to eight additional analyst positions (one lead analyst and seven senior analysts) at the VFC to conduct research, verify information, respond to requests for information, and perform in-depth analysis in support of active criminal investigations if additional incidents are reported beyond their current caseload. The total cost for a lead analyst position is \$97,882 (salary and benefits), and the cost for each senior analyst position is \$83,449 (salary and benefits). Depending on the caseload, VSP also believes it may need up to 21 special agents (at an annual cost of \$131,341 for salary and benefits and \$36,740 in one-time equipment costs per position) and two sergeant positions (at an annual cost of \$151,665 for salary and benefits, with one of these positions requiring \$75,044 in one-time equipment costs in the first year). The total estimated cost for all positions is \$4,590,100 in the first year (includes one-time equipment costs) and \$3,743,516 annually thereafter.

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 with managing the designation of these groups. The estimated one-time information technology 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;
- 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 Virginia Intelligence Management System (VIMS) interface to allow for data extraction from manual and other forms of data entry; and
- Develop the program capacity to generate reports and use data visualization features.

According to the Office of the Attorney General (OAG), there is no anticipated fiscal impact on its operations as a result of this proposed legislation.

This bill would expand the number of people who could possibly be convicted of a felony. Therefore, this proposal could result in an increase in the number of persons sentenced to jail or prison; however, 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 2 of the 2018 Acts of Assembly, Special Session I requires that a minimum impact of \$50,000 be assigned to the bill. The impact on the Department of Juvenile Justice and local correctional facilities could not be determined.

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 2018), the estimated total state support for local jails averaged \$33.83 per inmate, per day in FY 2017.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Office of the Attorney General, Department of Corrections, Department of Juvenile Justice, local corrections, Courts, local law enforcement agencies.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.