

SENATE BILL REPORT

SB 6731

As of January 29, 2002

Title: An act relating to criminal penalties for terrorism offenses.

Brief Description: Increasing penalties for terrorism offenses.

Sponsors: Senators Kline and Rasmussen; by request of Governor Locke and Attorney General.

Brief History:

Committee Activity: Judiciary: 1/31/02.

Brief Summary of Bill

- "Terroristic intent" is defined.
- Six new terrorist crimes are created.
- Terrorism in the first degree is a capital offense.
- Conviction for a terrorist offense is a violation of the criminal profiteering act.
- There is no statute of limitations of terrorist offenses.

SENATE COMMITTEE ON JUDICIARY

Staff: Aldo Melchiori (786-7439)

Background: In response to the terrorist acts of September 11, 2001, and subsequent to that time, the federal government passed the USA PATRIOT Act of 2001. The federal act provides for many new criminal penalties, sanctions, and procedures for use in response to terrorists and those who offer them support. Many states are also considering terrorism legislation to bolster their response to possible future terrorist acts.

Summary of Bill: The Washington AntiTerrorism Act of 2002 constitutes a new chapter created for terrorism offenses. "Terrorist intent" means the intent to use a weapon of mass destruction, or to cause substantial damage to a habitable structure or to critical infrastructure with the intent to intimidate or coerce a civilian population or to affect the conduct of a government or unit of government. A "weapon of mass destruction" is any device, object, or substance that is designed, or that the defendant intends to use, to cause multiple human deaths or serious physical injuries, or the intentional unlawful release, or dissemination of a biological agent, radioactive material, or chemical agent. Six new crimes are created using the definition of terrorist intent. Terrorist offenses may be prosecuted at any time after their commission.

Terrorism in the first degree is committed when a person acts with terrorist intent and causes the death of another person. "Another person" includes emergency personnel responding to

the event. This offense is ranked at level XVI on the sentencing grid. The offense is punishable by life imprisonment without the possibility of release or by the death penalty.

Terrorism in the second degree is committed when a person acts with terrorist intent and causes either: (1) substantial bodily harm to more than one person; (2) substantial damage to a habitable building or structure sufficient to create a substantial risk of death to another person; or (3) substantial damage sufficient to disrupt the normal functioning of a critical public or private infrastructure system including a public water system or an emergency, governmental, medical, fire, or law enforcement response system. This offense is a class A felony ranked at level XV on the sentencing grid (240 to 320 months for a first offense).

A person commits the crime of the unlawful use or possession of a weapon of mass destruction if he or she, with terrorist intent, uses, manufactures, transports, possesses, spills, disposes, or releases a weapon of mass destruction. This offense is a class A felony ranked at level XIV on the sentencing grid (123 to 164 months for a first offense).

Threatening acts of terrorism is committed when a person knowingly threatens to commit, falsely claims to have committed, or takes any other action intended to cause a reasonable belief that the crime of unlawful use or possession of a weapon of mass destruction has or will be committed. The offense includes placement of an imitation weapon of mass destruction in an area open to the public. The offender need not have the intent or capability of committing the act. This is a class B felony ranked at level XII on the sentencing grid (93 to 123 months for a first offense).

A person who knowingly provides material support or resources or conceals or disguises the nature, location, source, or ownership of material support or resources intending that they will be used to carry out a terrorist offense, concealment, or escape is guilty of a class B felony ranked at level X on the sentencing grid (51 to 68 months for a first offense).

Unlawful possession of false identification for terrorist purposes is committed when a person, with intent to commit or facilitate any of the above offenses, possesses or uses any document or record that contains false information relating to the person who is the subject of the document or record. This is a class B felony ranked at level X on the sentencing grid (51 to 68 months for a first offense).

Each of these crimes and any other crime may be prosecuted separately. Any person convicted of these offenses is ordered to pay restitution for actual damages sustained by injured persons or entities and all costs and expenses incurred by the state or county in investigation and prosecution, including the costs of defense at public expense.

The six new terrorist offenses enumerated above are designated as acts that constitute criminal profiteering. A single terrorist act may trigger application of the criminal profiteering act. The Attorney General, prosecuting attorney, or an injured individual may bring the action. During the pendency of the criminal case, the court may enter an order to restrain, prevent or remedy a terrorist act or attach, place in receivership, or provide injunctive relief in regard to real or personal property. Upon conviction, the court may impose a civil penalty up to \$250,000 in addition to awarding the costs of the suit. A number of other post conviction remedies can be ordered including: the payment of up to three times the actual damages and

ordering forfeiture of property and proceeds first to compensate victims, then to the state general fund.

Appropriation: None.

Fiscal Note: Requested on January 29, 2002.

Effective Date: The bill contains an emergency clause and takes effect immediately.