

# SENATE BILL REPORT

## SHB 2879

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As of February 19, 2002

**Title:** An act relating to terrorism offenses.

**Brief Description:** Providing penalties and remedies for terrorism offenses.

**Sponsors:** House Committee on Select Committee on Community Security (originally sponsored by Representatives Hurst, Lisk, Mulliken, Woods, Buck, Kirby, Simpson, Barlean, Fromhold, Edwards, Haigh, Morris, Kessler, Jackley, O'Brien, Sullivan, Lovick, Berkey, Pflug, Ballasiotes, Campbell, Esser, Alexander, Chase and Conway; by request of Governor Locke and Attorney General).

**Brief History:**

**Committee Activity:** Judiciary: 2/28/02.

**Brief Summary of Bill**

- Six new terrorist crimes are created and ranked on the sentencing grid.
- 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.

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**SENATE COMMITTEE ON JUDICIARY**

**Staff:** Aldo Melchiori (786-7439)

**Background:** In response to the terrorist acts of September 11, 2002, 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. 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 the intentional unlawful possession, release, or dissemination of a biological agent, radioactive material, or chemical agent. Six new crimes are created. Terrorist offenses may be prosecuted at any time after their commission.

Terrorism in the first degree is committed when a person acts with the intent to significantly disrupt the conduct of government or of the general civilian population of the state or United States, commits an act which manifests an extreme indifference to human life 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 the intent to significantly disrupt the conduct of government or of the general civilian population of the state or United States, commits an act which manifests an extreme indifference to human life and causes either: (1) substantial bodily harm to any other person; (2) substantial damage to a habitable building or structure sufficient to create a substantial risk of death to another person if the person had been occupied; 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 the intent to significantly disrupt the conduct of government or of the general civilian population of the state or United States, commits an act which manifests an extreme indifference to human life and uses, manufactures, transports, possesses, spills, disposes of, 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. Threatening acts of terrorism in the first degree is a class B felony ranked at level XII on the sentencing grid (93 to 123 months for a first offense) if the offense is committed with the intent to significantly disrupt the conduct of government or of the general civilian population of the state or United States and the conduct manifests an extreme indifference to human life. Threatening acts of terrorism in the second degree is an unranked class C felony (up to one year confinement) committed under circumstances not amounting to the first degree offense. The offender need not have the intent or capability of committing the act for either degree.

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).

All of the new offenses are also ranked juvenile offenses. Each of these crimes and any other crime may be prosecuted separately. Any person convicted of these offenses shall be 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:** Available.

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