

WEST VIRGINIA LEGISLATURE

2024 REGULAR SESSION

Introduced

House Bill 4994

FISCAL
NOTE

By Delegates Ridenour, Kirby, Mallow, Ward, Phillips,
Steele, Foster, Kimble, Hillenbrand, Householder, and
Gearheart

[Introduced January 22, 2024; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §61-6-24 of the Code of West Virginia, 1931, as amended, relating to
 2 clarifying definitions of terroristic acts and groups, creates mandatory sentencing, and
 3 requires the Attorney General to identify terroristic groups and requires restitution to be
 4 paid to victims of terrorism.

Be it enacted by the Legislature of West Virginia:

ARTICLE 6. CRIMES AGAINST THE PEACE.

~~§61-6-24. Threats of terrorist acts, conveying false information concerning terrorist acts and committing terrorist hoaxes prohibited; penalties~~ The Anti-Terrorism Act.

1 (a) The Legislature finds that terrorism poses an increased threat to good governance and
 2 the ability of citizens and groups to exist without fear. The Legislature finds that terrorism must be
 3 eradicated to the greatest extent possible, and terrorists must be prevented from operating in West
 4 Virginia.

5 ~~(a)~~ (b) As used in this section:

6 (1) "Economic harm" means all direct, incidental and consequential pecuniary harm
 7 suffered by a victim as a result of criminal conduct. Economic harm includes, but is not limited to,
 8 the following:

9 (A) All wages, salaries or other compensation lost as a result of the criminal conduct;

10 (B) The cost of all wages, salaries or other compensation paid to employees for time those
 11 employees are prevented from working as a result of the criminal conduct;

12 (C) The cost of all wages, salaries or other compensation paid to employees for time those
 13 employees spent in reacting to the results of the criminal conduct; or

14 (D) The overhead costs incurred for the time that a business is shut down as a result of the
 15 criminal conduct.

16 (2) "Hoax substance or device" means any substance or device that is shaped, sized,
 17 colored, marked, imprinted, numbered, labeled, packaged, distributed, priced or delivered so as to
 18 cause a reasonable person to believe that the substance or device is of a nature which is capable

19 of causing serious bodily injury or damage to property or the environment.

20 ~~(3) "Terrorist act" means an act that is:~~

21 ~~(A) Likely to result in serious bodily injury or damage to property or the environment; and~~

22 ~~(B) Intended to:~~

23 ~~(i) Intimidate or coerce the civilian population;~~

24 ~~(ii) Influence the policy of a branch or level of government by intimidation or coercion;~~

25 ~~(iii) Affect the conduct of a branch or level of government by intimidation or coercion; or~~

26 ~~(iv) Retaliate against a branch or level of government for a policy or conduct of the~~
27 ~~government~~

28 (3) "Terrorism" means the unlawful use or threatened use of physical force, violence, or
29 acts dangerous to life in order to inculcate fear and appear intended to coerce, intimidate, retaliate
30 against or attack groups, governments, or societies to influence or affect the policies of those
31 entities by perpetrators in the pursuit of goals that are generally political, religious, or ideological.

32 (4) "Terrorist act" means an act of terrorism, including active participation in a violent mass
33 action.

34 (5) "Terrorist violent mass action" means a violent mass action event, including violent
35 protests, riots and mobs, conducted to inculcate fear and appear intended to coerce, intimidate or
36 attack groups, governments, or societies.

37 (6) "Terrorist group" means any entity that uses terrorism to advance its agenda.

38 (7) "Terrorist" means any person who uses terrorism to advance a cause.

39 (8) "Critical infrastructure" means publicly or privately owned facilities, systems, functions,
40 or assets, whether physical or virtual, providing or distributing services for the benefit of the public,
41 including, but not limited to, energy, fuel, water, agriculture, health care, finance, or
42 communication.

43 (9) "Weapon of mass destruction" means chemical warfare agents, weaponized biological
44 or biologic warfare agents, nuclear weapons, radiological weapons and agents or the intentional

45 release of industrial agents as a weapon.

46 (10) "Terroristic vandalism" are acts resulting in permanent destruction of property as a
47 means to coerce, intimidate or attack targeted groups, governments, or societies.

48 (11) "Terrorist swatting" means unlawfully deliberately and maliciously reporting or
49 contriving a false crime or emergency to law enforcement to evoke an aggressive response by a
50 law enforcement agency to a targeted location to harass and intimidate a person, persons or
51 entity. Swatting is a terrorist act if the action meets the definition of terrorism above.

52 (12) "Material support to terrorism" means provision of material support or resources; or
53 concealment or disguise of the nature, location, source, or ownership of material support or
54 resources; knowing or intending that they are to be used in preparation for or in carrying out
55 terrorism.

56 (13) "Material support or resources" means any property, tangible or intangible, or service,
57 including:

58 (A) Solicitation for a terrorist act;

59 (B) Currency or monetary instruments or financial securities;

60 (C) Financial services,

61 (D) Lodging,

62 (E) Training,

63 (F) Expert advice or assistance, including direction, supervision, planning or support to
64 planning terrorism;

65 (G) Providing means of escape for terrorist entities, including harboring, concealment,
66 safehouses, or false documentation or identification;

67 (H) Communications equipment;

68 (I) Facilities;

69 (J) Weapons or items that may be used as weapons to inflict lethal or serious bodily
70 injuries, or lethal substances, or explosives;

71 (K) Personnel (1 or more persons who may be or include oneself); and

72 (L) Transportation;

73 (14) "Training" means instruction or teaching designed to impart a specific skill, as
74 opposed to general knowledge; and

75 (15) "Expert advice or assistance" means advice or assistance derived from scientific,
76 technical or other specialized knowledge.

77 (b) Any person who knowingly and willfully threatens to commit a terrorist act, with or
78 without the intent to commit the act, is guilty of a felony and, upon conviction thereof, shall be fined
79 not less than ~~\$5,000~~ \$100,000 nor more than ~~\$25,000~~ \$2,500,000 or confined in a state
80 correctional facility for not less than ~~one year~~ three years nor more than ~~three years~~ 10 years, or
81 both.

82 (c) Any person who knowingly and willfully conveys false information knowing the
83 information to be false concerning an attempt or alleged attempt being made or to be made of a
84 terrorist act is guilty of a felony and, upon conviction thereof, shall be fined not less
85 than ~~\$5,000~~ \$100,000 nor more than ~~\$25,000~~ \$2,500,000 or confined in a state correctional
86 facility for not less than ~~one year~~ three years nor more than ~~three years~~ 10 years, or both.

87 (d) Any person who uses a hoax substance or device with the specific intent to commit a
88 terrorist act is guilty of a felony and, upon conviction thereof, shall be fined not less
89 than ~~\$10,000~~ \$100,000 nor more than ~~\$50,000~~ \$2,500,000 or confined in a state correctional
90 facility for not less than ~~one year~~ three years nor more than ~~five~~ 10 years, or both.

91 (e) The court shall order any person convicted of an offense under this section to pay the
92 victim restitution in an amount not to exceed three times the total amount of any economic harm
93 suffered.

94 (f) The court shall order any person convicted of an offense under this section to reimburse
95 the state or any subdivision of the state for any expenses incurred by the state or the subdivision
96 incident to its response to a violation of this section.

97 (g) The conviction of any person under the provisions of this section does not preclude or
98 otherwise limit any civil proceedings arising from the same act.

99 (h) Any person who knowingly and willfully commits a terrorist act or is a member of a
100 terrorist group is guilty of a felony and, upon conviction thereof, shall be confined in a state
101 correctional facility for three years for each instance of terrorism or membership in a terrorist
102 group, 10 additional years for each instance resulting in any injury or property damage, 20
103 additional years for each instance resulting in any injury to a law enforcement officer.

104 (i) Any person who actively participates in violent actions as part of a terrorist act in which
105 another person is killed as a result of the terrorist act will be charged with at least voluntary
106 manslaughter and terrorism. If the person killed died as a direct result of a perpetrator's actions,
107 that perpetrator will be charged with at least first degree murder and terrorism.

108 (j) Any person or group that actively conducts a violent attack during a terrorist violent
109 mass action is engaged in terrorism and will be identified as a terrorist/terrorist group and will be
110 punished in accordance with the above upon conviction by a court of law.

111 (k) Any person or group that conducts a deliberate attack on critical infrastructure is
112 engaged in terrorism and will be identified as a terrorist/terrorist group and will be punished in
113 accordance with the above upon conviction by a court of law. Any person or group that for political
114 reasons blockades property containing critical infrastructure is engaged in threatening terrorism
115 and will be punished in accordance with the above upon conviction by a court of law. Any person
116 or group that trespasses for political reasons onto property containing critical infrastructure is
117 engaged in threatening terrorism and will be punished in accordance with the above upon
118 conviction by a court of law.

119 (l) Any person or group that uses a weapon of mass destruction in an attack or distributes a
120 weapon of mass destruction that results in an injury or death is engaged in terrorism and will be
121 identified as a terrorist/terrorist group and will be punished in accordance with the above upon
122 conviction by a court of law.

123 (m) Any person or group that uses terroristic vandalism is engaged in terrorism and will be
124 identified as a terrorist/terrorist group and will be punished in accordance with the above upon
125 conviction by a court of law.

126 (n) Any person or group that uses terrorist swatting is engaged in terrorism and will be
127 identified as a terrorist/terrorist group and will be punished in accordance with the above upon
128 conviction by a court of law.

129 (o) Any person or group that provides material support to terrorism is engaged in terrorism
130 and will be identified as a terrorist/terrorist group and will be punished in accordance with the
131 above upon conviction by a court of law.

132 (p) Actions by persons or groups taken for political reasons to bar other persons from
133 exercising their freedom of movement, via foot or any other conveyance, are engaged in unlawful
134 restraint, kidnapping and terrorism. Persons perpetrating these actions will be charged in each
135 instance with all three crimes for each person unlawfully restrained and will be punished in
136 accordance with the above upon conviction by a court of law.

137 (q) Persons who attempt to escape from unlawful restraint, kidnapping and/or terrorism are
138 not liable or culpable for actions that may injure perpetrators or supporters of perpetrators of that
139 unlawful restraint, kidnapping and/or terrorism.

140 (r) Any person or group who prevents or obstructs by means of force, deception,
141 concealment or intimidation anyone from performing an act that might aid in the discovery,
142 apprehension, prosecution or conviction of any person or that might aid in the prevention of a
143 terrorist act is providing material support to terrorism and will be punished in accordance with the
144 above upon conviction by a court of law.

145 (s) Any person or group who suppress by any act of concealment, alteration or destruction
146 any physical evidence that might aid in the discovery, apprehension, prosecution or conviction of
147 any person or that might aid in the prevention of a terrorist act is providing material support to
148 terrorism and will be punished in accordance with the above upon conviction by a court of law.

149 (t) Any person or group who intentionally disseminates or spreads any type of contagious,
150 communicable, or infectious disease among crops, poultry, livestock, or other animals is engaged
151 in terrorism and will be identified as a terrorist/terrorist group and will be punished in accordance
152 with the above upon conviction by a court of law.

153 (u) Any person or group who conducts a terrorist act against a West Virginia citizen will be
154 charged with terrorism under this statute, provided the state in which the terrorist act occurred or
155 the federal government does not try the person for terrorism.

156 (v) Any person who has conducted a terrorist act as defined in this article is a terrorist.
157 Terrorists may not enter West Virginia, irrespective of the location where the terrorist act occurred,
158 and whether that terrorist act has been prosecuted and the person has been sentenced. Any
159 terrorist who enters West Virginia shall be deemed to be engaged in terrorism and will be punished
160 in accordance with the above upon conviction by a court of law.

161 (w) The court shall order any person convicted of an offense under this section to pay all
162 victims restitution in an amount not to exceed three times the total amount of any economic harm
163 suffered.

164 (x) The court shall order any person convicted of an offense under this section to reimburse
165 the state or any subdivision of the state for any expenses incurred by the state or the subdivision
166 incident to its response to a violation of this article.

167 (y) The charge of terrorism will be in addition to any other charges resulting from the
168 terrorist act. Sentences for terrorism will not run concurrently with any other state or federal
169 sentence for another charge. Any sentence will be served after other sentences have been
170 served. A charge will be rendered for each terrorist act. Multiple terrorist acts can be prosecuted
171 for a single incident.

172 (z) Sentences for terrorism are mandatory, and are not subject to suspension, alternative
173 sentencing, or probation.

174 (aa) The Attorney General will identify terrorist entities under West Virginia Code.

175 International terrorist groups will be identified, as well as domestic terrorist groups, specifically
176 including but not limited to any group engaged in terrorism as defined in §61-6-24(b)(3) of this
177 code. Any member or associate of these groups shall be deemed to be engaged in terrorism and
178 will be identified as a terrorist and will be punished in accordance with the above upon conviction
179 by a court of law.

180 (bb) Scope and severability:

181 (1) Nothing in this article may be construed or applied in a manner that violates or conflicts
182 with superseding federal law.

183 (2) The sections and provisions of this article are severable. If any section or provision of
184 this article is held unconstitutional or invalid, such unconstitutionality or invalidity shall not affect
185 the other sections and provisions of this article, which shall remain in full force and effect.

NOTE: The purpose of this bill is to clarify definitions of terroristic acts and groups, creates mandatory sentencing, and requires the Attorney General to identify terroristic groups and requires restitution to be paid to victims of terrorism.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.