

# SENATE BILL REPORT

## SB 6704

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As Reported By Senate Committee On:  
Judiciary, February 6, 2002

**Title:** An act relating to the state's measured response to terrorism.

**Brief Description:** Increasing penalties for terrorist acts.

**Sponsors:** Senators Kline, Hargrove, Kastama, Winsley, Oke, Keiser and Johnson.

**Brief History:**

**Committee Activity:** Judiciary: 1/31/02, 2/6/02 [DPS].

**Brief Summary of Bill**

- "Terrorist intent" is defined.
- Three new crimes with terrorist intent are created.
- Terrorist intent can be an aggravating factor for sentencing.
- Terrorists can receive a life sentence or capital punishment if they cause a death.
- The statute of limitations is extended for terrorist acts.

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### SENATE COMMITTEE ON JUDICIARY

**Majority Report:** That Substitute Senate Bill No. 6704 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kline, Chair; Kastama, Vice Chair; Costa, Hargrove, Johnson, Long, McCaslin, Poulsen, Roach and Zarelli.

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

**Background:** The terrorist events of September 11, 2001, and thereafter have expanded the stage of terrorism and heightened awareness of the scope of our vulnerability to acts of domestic and international terrorism. In response, Congress passed the USA PATRIOT Act of 2001. The new federal laws provide funding for state anti-terrorism plans, new criminal penalties and sanctions for terrorists, expanded surveillance capabilities by the federal government, and many other provisions designed to root out and punish terrorists and those who support them. On the state level, many present laws may be applied to terrorists who chose to commit crimes within Washington, including some that specifically address terrorism.

The Washington State explosives act provides criminal penalties for the malicious placement of explosives, malicious placement of imitation explosive devices, and malicious explosion of a substance. All of these offenses provide for enhanced punishment if they are committed with terrorist intent. For the purposes of violations of the explosives act, "terrorist act"

means an act that is intended to: (1) intimidate or coerce a civilian population; (2) influence the policy of a branch or level of government by intimidation or coercion; (3) affect the conduct of a branch or level of government by intimidation or coercion; or (4) retaliate against a branch or level of government for a policy or conduct of the government. Placing poison or other harmful objects in food, drinks, medicine or water is unlawful regardless of intent as is the unlawful use or possession of sources of ionizing radiation without a license.

**Summary of Substitute Bill:** For the purposes of the act, "terrorist intent" means the intent to unlawfully use physical force or violence against persons or property, public or private, to intimidate or coerce an agency or the civilian population at large in the furtherance of political or social objectives. "Population at large" means persons not selected on the basis of their individual identities or personal characteristics. "Agency" means all state agencies and all local agencies. "State agency" includes every state office, department, division, bureau, board, commission, or other state agency. "Local agency" includes every county, city, town, municipal corporation, quasi-municipal corporation, or special purpose district, or any office, department, division, bureau, board, commission, or agency, or other local public agency. Three new crimes requiring terrorist intent are created.

Persons are guilty of a hoax terrorist act if they knowingly and falsely claim to have committed a crime with terrorist intent or make any statement or take any action to cause or that is intended to cause a reasonable belief that a crime with terrorist intent has or will be committed. A hoax terrorist act is a class A felony ranked at level IX on the sentencing grid (31 to 41 months for a first offense).

A person is guilty of unlawful use of agents for terrorist purposes if the person willfully and with terrorist intent places, introduces, broadcasts, disseminates, or releases any biological agent, chemical agent, or toxin in: the air; any food prepared for the use of a human being; any water system; any heating, ventilation, or cooling system; any habitable building; any motor vehicle, street car, or train; or any vessel. "Biological agent," "chemical agent," "toxin," and "habitable building" are defined. Unlawful use of agents for terrorist purposes is a class A felony ranked at level XV on the sentencing grid (240 to 320 months for a first offense).

A person is guilty of releasing radioactive material with terrorist intent if the person releases, broadcasts, or disseminates ionizing radiation with terrorist intent. Releasing radioactive material with terrorist intent is a class A felony ranked at level XV on the sentencing grid (240 to 320 months for a first offense).

An aggravating factor is added that permits a judge to sentence outside the standard sentencing range if the current offense was committed with terrorist intent. As with all sentences outside the standard range, the offender may appeal the sentence length. If an aggravating circumstance of terrorist intent is found, the maximum sentence for a class B felony is raised to life imprisonment and the maximum sentence for a class C felony is raised to ten years imprisonment.

A "terrorist offender" is defined as an offender who commits a felony with terrorist intent and the felony results in the death of one or more persons. Terrorist offenders are sentenced to life without the possibility of release or capital punishment.

Felonies involving terrorist intent may be prosecuted at any time after their commission.

**Substitute Bill Compared to Original Bill:** The definition of terrorist intent is clarified. A hoax terrorist act is a class A felony. Persons who commit any felony with terrorist intent are subject to the criminal profiteering act. A felony committed with terrorist intent can be prosecuted at any time after commission. If a death results from a terrorist act, the person is eligible for capital punishment. The maximum penalties for class B and C felonies committed with terrorist intent are subject to increased maximum penalties.

**Appropriation:** None.

**Fiscal Note:** Requested on January 25, 2002.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Testimony For:** We have a deficiency in our present laws and this bill attempts to address that deficiency. Washington is particularly at risk because of the number of critical structures we have. We need to send a message to terrorists that Washington is not the place to commit terrorist acts. Using aggravating circumstances for present crimes, as this bill does, is a more measured response.

**Testimony Against:** We need to honor and maintain our civil liberties instead of sacrificing them in response to terrorist threats. The death penalty for an unintended death is too severe.

**Testified:** PRO: Larry Erickson, WASPC; Tom McBride, WAPA; Dick Van Wagenen (concerns). CON: Jerry Sheehan (concerns); Jennifer Shaw, WACDL.