

Chapter Sixteen: Crimes Against the State

Chapter Overview:

Treason, sedition, sabotage, espionage, and terrorism are all considered crimes against the state and are punishable under federal law. State governments have also adopted varying degrees of legislation with regard to these crimes. In the main, however, these crimes are prosecuted under federal law. This chapter of the supplement will define these crimes and include Virginia statutes that are relevant to each.

I. Treason

Section Introduction: A person commits treason by his or her involvement in an attack on the country by either levying war or aiding the enemies of the state. Below are the Florida statutes which define the elements of treason.

Virginia Code § 18.2-481. Treason defined; how proved and punished.

Treason shall consist only in:

- (1) Levying war against the Commonwealth;
- (2) Adhering to its enemies, giving them aid and comfort;
- (3) Establishing, without authority of the legislature, any government within its limits separate from the existing government;
- (4) Holding or executing, in such usurped government, any office, or professing allegiance or fidelity to it; or
- (5) Resisting the execution of the laws under color of its authority.

Such treason, if proved by the testimony of two witnesses to the same overt act, or by confession in court, shall be punishable as a Class 2 felony.

Virginia Code § 18.2-482. Misprision of treason.

If any person knowing of such treason shall not, as soon as may be, give information thereof to the Governor, or some conservator of the peace, he shall be guilty of a Class 6 felony.

II. Sedition

Section Introduction: An act of sedition is a communication intended to further the cause of hatred and contempt of the government. The following statutes are relevant to understanding the criminal nature of seditious behavior.

Virginia Code § 18.2-484. Advocacy of change in government by force, violence or other unlawful means.

It shall be unlawful for any person, group, or organization to advocate any change, by force, violence, or other unlawful means in the government of the Commonwealth of Virginia or any of its subdivisions or in the government of the United States of America.

It shall be unlawful for any person to join, assist or otherwise contribute to any group or

organization which, to the knowledge of such person, advocates or has as its purpose, aim or objective, any change, by force, violence, or other unlawful means in the government of the Commonwealth of Virginia or any of its subdivisions or in the government of the United States of America.

Violation of this section shall be punishable as a Class 6 felony.

Nothing herein shall be construed to limit or prohibit the advocacy, orally or otherwise, of any change, by peaceful means, in the government of the Commonwealth or any of its subdivisions or in the government of the United States.

Virginia Code § 18.2-485. Conspiring to incite one race to insurrection against another race.

If any person conspire with another to incite the population of one race to acts of violence and war against the population of another race, he shall, whether such acts of violence and war be made or not, be guilty of a Class 4 felony.

Virginia Code § 18.2-487. Exhibition or display.

No person shall, in any manner, for exhibition or display:

- (1) Place or cause to be placed any word, figure, mark, picture, design, drawing or advertisement of any nature upon any flag, standard, color, ensign or shield of the United States or of this Commonwealth, or authorized by any law of the United States or of this Commonwealth;
- (2) Expose to public view any such flag, standard, color, ensign or shield upon which shall have been printed, painted or otherwise produced, or to which shall have been attached, appended, affixed or annexed, any such word, figure, mark, picture, design, drawing or advertisement; or
- (3) Expose to public view for sale, manufacture or otherwise, or sell, give or have in possession for sale, for gift or for use for any purpose, any substance, being an article of merchandise, or receptacle, or thing for holding or carrying merchandise, upon or to which shall have been produced or attached any such flag, standard, color, ensign or shield, in order to advertise, call attention to, decorate, mark or distinguish such article or substance.

III. Sabotage

Section Introduction: If an individual commits a destructive act against the property of the government that will hinder the preparedness for national defense, they are guilty of sabotage. This crime is punishable by federal statutes, as well as the following Virginia statute.

Virginia Code § 18.2-483. Attempting, or instigating others, to establish usurped government.

If any person attempt to establish any such usurped government and commit any overt act therefor or by writing or speaking endeavor to instigate others to establish such government, he shall be guilty of a Class 1 misdemeanor.

IV. Espionage

Section Introduction: Anyone who engages in the giving of information to a foreign agent for the purposes of harming the United States is committing the crime of espionage. There are no Virginia statutes that pertain directly to espionage.

V. Terrorism

Section Introduction: Terrorism is a federal crime that is divided into two categories: international and domestic terrorism. The following statute defines terrorism and explains how the state government cooperates with the federal government in prosecuting this offense.

Virginia Code § 18.2-46.5. Committing, conspiring and aiding and abetting acts of terrorism prohibited; penalty.

A. Any person who commits or conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 2 felony if the base offense of such act of terrorism may be punished by life imprisonment, or a term of imprisonment of not less than twenty years.

B. Any person who commits, conspires to commit, or aids and abets the commission of an act of terrorism, as defined in § 18.2-46.4, is guilty of a Class 3 felony if the maximum penalty for the base offense of such act of terrorism is a term of imprisonment or incarceration in jail of less than twenty years.

B. Any person who solicits, invites, recruits, encourages, or otherwise causes or attempts to cause another to participate in an act or acts of terrorism, as defined in § 18.2-46.4, is guilty of a Class 4 felony.

Essay Questions:

1. Detail the elements of treason, sedition, and sabotage and the pertinent differences between the three crimes.
2. Explain the content of the separate crimes of espionage and terrorism and the connection between the two.
3. Discuss whether individuals who engage in crimes against the state should be afforded constitutional rights if they are American citizens vs. non-Americans. Should non-Americans be afforded constitutional rights if they commit offenses while on American soil?