FAQ - Material Support to Designated Entities Act

Reference: Senate Bill 1028 / House Bill 1353

1) Is the bill unconstitutional?

No. This bill was modeled on the federal Material Support statute which was upheld as constitutional by the U.S. Supreme Court. Additionally, the statute was recently applied in a holding by the 2nd Circuit Court of Appeals in a case involving two individuals who were convicted for knowingly providing material support to a known designated terrorist group. One of the individuals talked openly about his "commitment to jihad (holy war) in order to establish Sharia (Islamic) law…"

The Tennessee bill only addresses those individuals that knowingly provide material support to a known designated group that is seeking to commit acts of terrorism.

The state of Tennessee has a compelling interest to protect its citizens from acts of terrorism and most particularly from the stated sharia doctrine of jihad terrorism. The bill is carefully worded to ensure that it is a focused, targeted and the least intrusive method to meet the compelling state interest and as such, meets the constitutional standard of strict scrutiny.

Memphian Carlos Bledsoe is just one example of an individual who ascribed to the sharia doctrine of jihad and as such killed an Army recruiter in furtherance of his commitment to this doctrine.

2) Does the Tennessee bill violate 1st amendment rights?

No. The federal statute was held to not violate either the right of free speech or the right of association. With regard to the free exercise of religion, the Tennessee bill specifically excludes peaceful religious practice and as such, does not impose ANY burden on religion. The Tennessee bill only targets the secular legal, political, military violent aspects of the Sharia jihad.

3) How does the law define "Sharia"?

The bill defines Sharia precisely the way the jihadist terrorists and the Muslim Brotherhood define Sharia. It is the same Sharia law that is followed in countries such as Saudi Arabia, Iran, etc., and it is the same Sharia law that includes the doctrine of jihad.

4) Does the Tennessee bill make adherence to Sharia a crime?

No. The bill does not make adherence to Sharia a crime. In fact, simply adhering to Sharia cannot even trigger the designation provisions of the bill. To be designated a "sharia organization", more must be shown – an actual act of terrorism or the capability and intent to commit an act of terrorism. The only act punishable under the bill is with regard to those individuals who provide material support. Sections 902 and 903 make it clear that the only aspect of Sharia which the bill addresses is the secular legal, political, military violent aspects of Sharia's doctrine of jihad. So if a sharia organization or individuals seek to adhere to a peaceful version of Sharia no designation can be made. Indeed, even individuals who advocate the violent doctrine of jihad in theory are not implicated by this statute unless they also "retain the capability and intent to engage in terrorism.

5) Does this bill modify or nullify the TN Terrorism Prevention Act?

No. The TN Terrorism Prevention Act was passed in 2002 and primarily addresses acts of terrorism that involve weapons of mass destruction such as chemical agents and other hazardous materials. The law defines the term "act of terrorism" which is the definition adopted by the current bill. While the law does include an abbreviated provision regarding "material support" this provision is only triggered *after* an act of terrorism unlike the current bill which seeks to punish the provision of material support *before* the act of terrorism occurs.

6) What does the bill do?

The bill allows state and local law enforcement to act decisively BEFORE acts of terrorism occur. The bill punishes those who provide material support or resources knowing that they are providing that support to an entity that has been previously designated by the Attorney General to be a jihadist/terror entity.

This law **protects** Tennesseans, including those who engage in the peaceful religious worship of Islam, from radical extremists like Carlos Bledsoe, a Memphian, who stated clearly that he was following the call to "jihad" when he shot and killed a serviceman at the Arkansas Army recruiting station.

7) Should peaceful and law abiding Muslims support or oppose this legislation?

Since 9/11, we have heard peaceful and law abiding American Muslims complaining that the jihadists have "kidnapped" and "distorted" the peaceful version of Islam and that this results in a defamation of the peaceful worship of Islam. This statute makes that case explicitly by making it clear that there is a violent Sharia-based jihad doctrine generating terrorism and a perfectly peaceful, pietistic Islamic faith that deserves the full protection of the First Amendment. Peaceful, law abiding Muslims should quite obviously embrace this legislation as the clear statutory expression and protection of their lawful religious practices.

8) How does the bill work?

If the Attorney General receives sufficient information and can establish a factual record, he may follow the procedure articulated in the bill to make a "designation". A number of criteria must be established in order for the designation to be made. Because the law seeks to address only the sharia doctrine of jihad, the Attorney General must be able to establish that the "organization" it seeks to designate has either engaged in an act of terrorism or is planning to engage in an act of terrorism or retains the intent and capability to do so.

Once the designation is made, the Attorney General must follow very detailed administrative procedures to ensure that notice of the designation is sufficient and abundant. Thereafter, anyone who provides material support or resources (as defined in the bill) knowing that the group has been designated, may be prosecuted or fined.

Moreover, even after the designation, the designated party has both administrative and judicial recourse to appeal this designation, in addition to the fact that the Tennessee General Assembly can vote and reverse any designation it considers improper.

9) Why does the state need this law if we already have a federal statute?

As a matter of policy it is important to recognize that the federal agencies such as the FBI are not necessarily focused on wholly local domestic terrorism until it becomes a more pressing problem, whereas state and local law enforcement are positioned to intervene earlier. They are simply closer to any potential problems in their communities. Moreover, the State has a duty to preserve the safety of its citizens from home grown terrorism as evidenced by the passage of the 2002 statute. This is precisely why the state of Tennessee and most of the other states have their own version of anti-terrorism statutes.

Importantly, this is an area of the law where the federal government has not preempted state action.

10) Is the notice provision to the designees sufficient? What about notice to others about the designation?

With regard to the designees, the bill requires personal service much like a summons and complaint. The bill also goes much further than the federal publication requirement. The Tennessee bill requires publication in the newspaper, the secretary of state's website and the state administrative register.

11) Why does the bill specifically target the sharia doctrine of jihad?

Because we are told over and over again by those who commit acts of jihad terrorism that they do so because of the Sharia doctrine of jihad, this narrowly targeted bill is the only strategically sound approach to meet the state's compelling interest in protecting its citizens from this specific threat. The Sharia doctrine of jihad is the common threat doctrine that ties all jihadists together which is why all jihad terrorist attacks have strong similarities to each other.

12) Is there a threat from jihadist terrorists in Tennessee?

Yes. Carlos Bledsoe committed jihadist terror attacks. The Imam of the Shelby County Prison Farm in the Memphis area was a terrorist……..

13) What about non-jihadist terrorists?

Non-jihadist terrorists are covered by the 2002 statute which is a more generic terrorism statute. That statute addresses material support unconnected to shariah organizations. Indeed, if there were a unique doctrine of non-jihadist terrorism, we would support a narrowly focused and targeted legislative approach to that threat as well.

14) Why does the bill grant the designation authority to the Attorney General?

The Attorney General is the state's top law enforcement officer. The Attorney General has access to all intelligence information on crimes.