

## **STATE ANTI-TERRORISM LAWS**

States legislatures have passed a number of laws in response to recent acts of terrorism. The purpose of this compilation is to include some of the more common prohibitions as well as to highlight some unique statutory provisions that may be beneficial to other state and local jurisdictions in detecting and preventing future acts of terrorism. The statutes are grouped by primary purpose in the following subject areas:

- Definitions
- Criminal History Checks
- Detention Authority to Public Services Employees
- Failure to Safeguard Toxins
- False Reports
- Hindering Prosecution
- Hoaxes
- Liability/Immunity
- Poisoning
- Possession of Blueprints
- Public Records/Public Meetings
- Restitution
- Supporting Terrorism
- Threats
- Weapons of Mass Destruction
- Wiretaps

### **Definitions**

#### **West Virginia, Article 6**

##### Section 61-6-24

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

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

(B) Intended to:

(i) Intimidate or coerce the civilian population;

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

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

(iv) Retaliate against a branch or level of government for a policy or conduct of the government.

## **New Jersey**

### **2C:38-2 Crime of terrorism; definitions.**

2. a. A person is guilty of the crime of terrorism if he commits or attempts, conspires or threatens to commit any crime enumerated in subsection c. of this section with the purpose:

- (1) to promote an act of terror; or
- (2) to terrorize five or more persons; or
- (3) to influence the policy or affect the conduct of government by terror; or
- (4) to cause by an act of terror the impairment or interruption of public communications, public transportation, public or private buildings, common carriers, public utilities or other public services.

## **Alabama, Anti-Terrorism Act of 2002**

### **Section 2**

(1) ACT OF TERRORISM. An act or acts constituting a specified offense as defined in subdivision (4) for which a person may be convicted in the criminal courts of this state, or an act or acts constituting an offense in any other jurisdiction within or outside the territorial boundaries of the United States which contains all of the essential elements of a specified offense, that is intended to do the following:

- a. Intimidate or coerce a civilian population.
- b. Influence the policy of a unit of government by intimidation or coercion.
- c. Affect the conduct of a unit of government by murder, assassination, or kidnapping.

### ***Federal law***

*Note: many jurisdictions have chosen not to create a separate definition of terrorism, but simply reference the Federal statutes, 18 USC 2331, which essentially defines terrorism as follows:*

“ (A) involve violent acts or acts dangerous to human life that are a violation of the criminal laws of the United States or of any State, or that would be a criminal violation if committed within the jurisdiction of the United States or of any State;

(B) appear to be intended -

(i) to intimidate or coerce a civilian population;

(ii) to influence the policy of a government by intimidation or coercion; or

(iii) to affect the conduct of a government by assassination or kidnapping;

### *Criminal History checks*

#### **Florida**

125.5801 Criminal history record checks for certain county employees and appointees.—

Notwithstanding chapter 435, a county may require, by ordinance, employment screening for any position of county employment or appointment which the governing body of the county finds is critical to security or public safety, or for any private contractor, employee of a private contractor, vendor, repair person, or delivery person who has access to any public facility or publicly operated facility that the governing body of the county finds is critical to security or public safety. The ordinance must require each person applying for, or continuing employment in, any such position or having access to any such facility to be fingerprinted. The fingerprints shall be submitted to the Department of Law Enforcement for a state criminal history record check and to the Federal Bureau of Investigation for a national criminal history record check. The information obtained from the criminal history record checks conducted pursuant to the ordinance may be used by the county to determine an applicant's eligibility for employment or appointment and to determine an employee's eligibility for continued employment. This section is not intended to preempt or prevent any other background screening, including, but not limited to, criminal history record checks, which a county may lawfully undertake.

*Note: This provision allows FBI records checks of the identified individuals.*

### *Detention Authority to Public Services Employees*

#### **Minnesota**

Chapter 609

An employee or other person designated by a critical public service facility, utility, or pipeline to ensure the provision of services by the critical public service facility or the safe operation of the equipment or facility of the utility or pipeline who has reasonable

cause to believe that a person is violating this section [trespass or destruction of property] may detain the person as provided in this subdivision. The person detained must be promptly informed of the purpose of the detention and may not be subjected to unnecessary or unreasonable force or interrogation. The employee or other designated person must notify a peace officer promptly of the detention and may only detain the person for a reasonable period of time. No employee or other designated person is criminally or civilly liable for any detention that the employee or person reasonably believed was authorized by and conducted in conformity with this subdivision.

### **Failure to Safeguard Toxins**

#### **New Jersey**

##### **Section 2C:38-3**

b. Any manufacturer, distributor, transferor, possessor or user of any toxic chemical, biological agent, toxin or vector, or radioactive material that is related to a lawful industrial, agricultural, research, medical, pharmaceutical or other activity, who recklessly allows an unauthorized individual to obtain access to the toxic chemical or biological agent, toxin or vector or radioactive material, commits a crime of the second degree and, notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, shall be subject to a fine of up to \$250,000 for each violation.

### **False Reports**

#### **Delaware, Title 11, Section 621**

- (a) A person is guilty of terroristic threatening when:
- (1) The person threatens to commit any crime likely to result in death or in serious injury to person or property, or
  - (2) The person makes a false statement or statements;
    - a. Knowing that the statement or statements are likely to cause evacuation of a building, place of assembly or facility of public transportation; or
    - b. Knowing that the statement or statements are likely to cause serious inconvenience, or
    - c. In reckless disregard of the risk of causing terror or serious inconvenience.

#### **North Carolina, Chapter 14**

§ 14-288.23. Making a false report concerning a nuclear, biological, or chemical weapon of mass destruction; punishment; restitution.

(a) Any person who, by any means of communication to any person or group of persons, makes a report, knowing or having reason to know the report is false, that causes any person to reasonably believe that there is located at any place or structure whatsoever any nuclear, biological, or chemical weapon of mass destruction is guilty of a Class D felony.

(b) The court may order a person convicted under this section to pay restitution, including costs and consequential damages resulting from disruption of the normal activity that would have otherwise occurred but for the false report, pursuant to Article 81C of Chapter 15A of the General Statutes.

(c) For purposes of this section, the term 'report' shall include making accessible to another person by computer.

## **North Dakota, Title 12.1**

12.1-17-04. Terrorizing. A person is guilty of a class C felony if, with intent to place another human being in fear for that human being's or another's safety or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious disruption or public inconvenience, or in reckless disregard of the risk of causing such terror, disruption, or inconvenience, the person:

1. Threatens to commit any crime of violence or act dangerous to human life; or
2. Falsely informs another that a situation dangerous to human life or commission of a crime of violence is imminent knowing that the information is false.

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### **Hindering Prosecution**

## **New Jersey**

### **2C:38-4 Hindering apprehension or prosecution for terrorism.**

#### **4. Hindering Apprehension or Prosecution for terrorism..**

a. A person commits a crime if, with the purpose to hinder the detention, apprehension, investigation, prosecution, conviction or punishment of another for the crime of terrorism, he:

- (1) Harbors or conceals the other;
- (2) Provides or aids in providing a weapon, money, transportation, disguise or other means of avoiding discovery or apprehension or effecting escape;
- (3) Suppresses, by way of concealment or destruction, any evidence of the crime, or tampers with a witness, informant, document or other source of information, regardless of its admissibility in evidence, which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;
- (4) Warns the other of impending discovery or apprehension, except that this paragraph does not apply to a warning given in connection with an effort to bring another into compliance with law;
- (5) Prevents or obstructs, by means of force, intimidation or deception, anyone from performing an act which might aid in the discovery or apprehension of such person or in the lodging of a charge against him;
- (6) Aids such person to protect or expeditiously profit from an advantage derived from such crime; or
- (7) Gives false information to a law enforcement officer.

### **Hoax**

#### **Florida Statutes**

790.165 Planting of "hoax bomb" prohibited; penalties.--

- (1) For the purposes of this section, "hoax bomb" means any device or object that by its design, construction, content, or characteristics appears to be, or to contain, or is represented to be or to contain, a destructive device or explosive as defined in this chapter, but is, in fact, an inoperative facsimile or imitation of such a destructive device or explosive, or contains no destructive device or explosive as was represented.
- (3) Any person who, without lawful authority, manufactures, possesses, sells, delivers, sends, mails, displays, uses, threatens to use, attempts to use, or conspires to use, or who makes readily accessible to others, a hoax bomb commits a felony of the second degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

## **Michigan**

Sec. 204a. (1) A person who, with the intent to terrorize, frighten, intimidate, threaten, harass, or annoy any other person, possesses, delivers, sends, transports, or places a device that is constructed to represent an explosive, incendiary device, or bomb, or that is presented as an explosive, incendiary device, or bomb, is guilty of a felony punishable by imprisonment for not more than 5 years or a fine of not more than \$3,000.00, or both.

### **Liability/Immunity**

## **South Dakota**

22-14A-27. No cause of action against good faith response to terrorist act. The provisions of § § 22-14A-22 and 22-14A-24 to 22-14A-27, inclusive, may not be construed to create any cause of action against any person based upon or arising out of any act or omission relating to any good faith response to a terrorist act or an attempted terrorist act.

### **Poisoning Food/Water**

## **Florida Statutes**

859.01. Poisoning food or water.—

Whoever introduces, adds, or mingles any poison, bacterium, radioactive material, virus, or chemical compound with food, drink, medicine, or any product designed to be ingested, consumed, or applied to the body with intent to kill or injure another person, or willfully poisons or introduces, adds, or mingles any bacterium, radioactive material, virus, or chemical compound into any spring, well, or reservoir of water with such intent, commits a felony of the first degree, punishable as provided in s. [775.082](#), s. [775.083](#), or s. [775.084](#).

## **Connecticut (new law effective 10/1/2002)**

- (a) A person is guilty of contaminating a public water supply or food supply for terrorist purposes when such person, with intent to intimidate or coerce the civilian population or a unit of government, introduces a hazardous substance into (1) any storage reservoir or distribution reservoir, as those terms are defined in section 25-43 of the general statutes, or any lake or pond, or any stream tributary thereto, that is used for supplying the inhabitants of a town, city or borough with water, or (2) any source or supply of food, as defined in section 21a-92 of the general statutes, that is intended for human consumption.

## *Possession of blueprints*

### **Michigan**

Sec. 543r. (1) A person shall not obtain or possess a blueprint, an architectural or engineering diagram, security plan, or other similar information of a vulnerable target, with the intent to commit an offense prohibited under this chapter [the Michigan Anti-Terrorism Act].

(2) A person who violates this section is guilty of a felony punishable by imprisonment for not more than 20 years or a fine of not more than \$20,000.00, or both.

(3) As used in this section, "vulnerable target" means that term as defined in section 212a.

## *Public Records/ Public Meetings Exemptions*

### **Florida Statutes**

Section 119.071. General exemptions from inspection or copying of public records.--A security system plan or portion thereof for:

(1) Any property owned by or leased to the state or any of its political subdivisions; or

(4) Any privately owned or leased property

which plan or portion thereof is in the possession of any agency, as defined in s. [119.011](#), is confidential and exempt from the provisions of s. [119.07\(1\)](#) and s. 24(a), Art. I of the State Constitution. As used in this section, the term a "security system plan" includes all records, information, photographs, audio and visual presentations, schematic diagrams, surveys, recommendations, or consultations or portions thereof relating directly to the physical security of the facility or revealing security systems; threat assessments conducted by any agency as defined in s. [119.011](#) or any private entity; threat response plans; emergency evacuation plans; sheltering arrangements; or manuals for security personnel, emergency equipment, or security training. This exemption is remedial in nature and it is the intent of the Legislature that this exemption be applied to security system plans received by an agency before, on, or after the effective date of this section. Information made confidential and exempt by this section may be

disclosed by the custodial agency to another state or federal agency to prevent, detect, guard against, respond to, investigate, or manage the consequences of any attempted or actual act of terrorism, or to prosecute those persons who are responsible for such attempts or acts, and the confidential and exempt status of such information shall be retained while in the possession of the receiving agency. This section is subject to the Open Government Sunset Review Act of 1995, in accordance with s. [119.15](#), and shall stand repealed on October 2, 2006, unless reviewed and saved from repeal through reenactment by the Legislature.

#### 119.07 Inspection, examination, and duplication of records; exemptions.--

(ee) Building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency as defined in s. [119.011](#) are exempt from the provisions of subsection (1) and s. 24(a), Art. I of the State Constitution. This exemption applies to building plans, blueprints, schematic drawings, and diagrams, including draft, preliminary, and final formats, which depict the internal layout and structural elements of a building, arena, stadium, water treatment facility, or other structure owned or operated by an agency before, on, or after the effective date of this act. Information made exempt by this paragraph may be disclosed to another governmental entity if disclosure is necessary for the receiving entity to perform its duties and responsibilities; to a licensed architect, engineer, or contractor who is performing work on or related to the building, arena, stadium, water treatment facility, or other structure owned or operated by an agency; or upon a showing of good cause before a court of competent jurisdiction. The entities or persons receiving such information shall maintain the exempt status of the information. This paragraph is subject to the Open Government Sunset Review Act of 1995 in accordance with s. [119.15](#), and shall stand repealed on October 2, 2007, unless reviewed and reenacted by the Legislature.

### **Michigan**

Sec. 13. (1) A public body may exempt from disclosure as a public record under this act any of the following:

(y) Records or information of measures designed to protect the security or safety of persons or property, whether public or private, including, but not limited to, building, public works, and public water supply designs to the extent that those designs relate to the ongoing security measures of a public body, capabilities and plans for responding to a violation of the Michigan anti-terrorism act, chapter LXXXIII-A of the Michigan penal code, 1931 PA 328, MCL 750.543 to 750.543z, emergency response plans, risk planning documents, threat assessments, and domestic preparedness strategies, unless disclosure would not impair a public body's ability to protect the security or safety of persons or property or unless the public interest in disclosure outweighs the public interest in nondisclosure in the particular instance.

## **Tennessee**

10-7-503. Records open to public inspection – Exceptions.

(e) All contingency plans of law enforcement agencies prepared to respond to any violent incident, bomb threat, ongoing act of violence at a school or business, ongoing act of violence at a place of public gathering, threat involving a weapon of mass destruction, or terrorist incident shall not be open for inspection as provided in subsection (a).

## **Ohio**

Section 121.22

(G) Except as provided in division (J) of this section, the members of a public body may hold an executive session only after a majority of a quorum of the public body determines, by a roll call vote, to hold an executive session and only at a regular or special meeting for the sole purpose of the consideration of any of the following matters:

(6) Details relative to the security arrangements and emergency response protocols for a public body or a public office, if disclosure of the matters discussed could reasonably be expected to jeopardize the security of the public body or public office;

## **Maryland**

State Government Article, Section 10-618

(1) SUBJECT TO PARAGRAPH (2) OF THIS SUBSECTION, A CUSTODIAN MAY DENY INSPECTION OF:

(i) RESPONSE PROCEDURES OR PLANS PREPARED TO PREVENT OR RESPOND TO EMERGENCY SITUATIONS, THE DISCLOSURE OF WHICH WOULD REVEAL VULNERABILITY ASSESSMENTS, SPECIFIC TACTICS, SPECIFIC EMERGENCY PROCEDURES, OR SPECIFIC SECURITY PROCEDURES;

(ii) 1. BUILDING PLANS, BLUEPRINTS, SCHEMATIC DRAWINGS, DIAGRAMS, OPERATIONAL MANUALS, OR OTHER RECORDS OF AIRPORTS AND OTHER MASS TRANSIT FACILITIES, BRIDGES, TUNNELS, EMERGENCY RESPONSE FACILITIES OR STRUCTURES, BUILDINGS WHERE HAZARDOUS MATERIALS ARE STORED, ARENAS, STADIUMS, AND WASTE AND WATER SYSTEMS, THE DISCLOSURE OF WHICH WOULD REVEAL THE BUILDING'S OR STRUCTURE'S INTERNAL LAYOUT, SPECIFIC LOCATION, LIFE, SAFETY, AND SUPPORT SYSTEMS, STRUCTURAL ELEMENTS, SURVEILLANCE TECHNIQUES, ALARM OR SECURITY SYSTEMS OR TECHNOLOGIES, OPERATIONAL AND TRANSPORTATION PLANS OR PROTOCOLS, OR PERSONNEL DEPLOYMENTS; OR

2. RECORDS OF ANY OTHER BUILDING OR STRUCTURE OWNED OR OPERATED BY THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS, THE DISCLOSURE OF WHICH WOULD REVEAL THE BUILDING'S OR STRUCTURE'S LIFE, SAFETY, AND SUPPORT SYSTEMS, SURVEILLANCE TECHNIQUES, ALARM OR SECURITY SYSTEMS OR TECHNOLOGIES, OPERATIONAL AND EVACUATION PLANS OR PROTOCOLS, OR PERSONNEL DEPLOYMENTS; OR

(III) RECORDS PREPARED TO PREVENT OR RESPOND TO EMERGENCY SITUATIONS IDENTIFYING OR DESCRIBING THE NAME, LOCATION, PHARMACEUTICAL CACHE, CONTENTS, CAPACITY, EQUIPMENT, PHYSICAL FEATURES, OR CAPABILITIES OF INDIVIDUAL MEDICAL FACILITIES, STORAGE FACILITIES, OR LABORATORIES ESTABLISHED, MAINTAINED, OR REGULATED BY THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS.

(2) THE CUSTODIAN MAY DENY INSPECTION OF A PART OF A PUBLIC RECORD UNDER PARAGRAPH (1) OF THIS SUBSECTION ONLY TO THE EXTENT THAT THE INSPECTION WOULD:

(I) JEOPARDIZE THE SECURITY OF ANY STRUCTURE OWNED OR OPERATED BY THE STATE OR ANY OF ITS POLITICAL SUBDIVISIONS;

(II) FACILITATE THE PLANNING OF A TERRORIST ATTACK; OR

(III) ENDANGER THE LIFE OR PHYSICAL SAFETY OF AN INDIVIDUAL.

### Restitution

#### **Oklahoma**

1. NEW LAW A new section of law to be codified in the Oklahoma Statutes as Section 1268.4 of Title 21, unless there is created a duplication in numbering, reads as follows:

\* \* \*

B. A person convicted of terrorism hoax shall be punished by imprisonment in the State Penitentiary for a term of not more than ten (10) years. In addition to any punishment imposed for the act of terrorism hoax, the person shall be ordered to make restitution to the victim and to reimburse the cost of any emergency personnel, equipment, supplies, and other expenses incurred by the state and any political subdivision as a result of responding to such act.

## Supporting terrorism

### Michigan

Sec. 543k. (1) Any person who does any of the following is guilty of a crime punishable as provided in subsection (2):

(a) Knowingly raises, solicits, or collects material support or resources intending that the material support or resources will be used, in whole or in part, to plan, prepare, carry out, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government who knows that the material support or resources raised, solicited, or collected will be used by a terrorist or terrorist organization.

(b) Knowingly provides material support or resources to a person knowing that the person will use that support or those resources in whole or in part to plan, prepare, carry out, facilitate, or avoid apprehension for committing an act of terrorism against the United States or its citizens, this state or its citizens, or a political subdivision or any other instrumentality of this state or of a local unit of government.

### Ohio

**Sec. 2909.22.** (A) No person shall raise, solicit, collect, donate, or provide any material support or resources, with purpose that the material support or resources will be used in whole or in part to plan, prepare, carry out, or aid in either an act of terrorism or the concealment of, or an escape from, an act of terrorism.

(B) Whoever violates this section is guilty of soliciting or providing support for an act of terrorism, a felony of the third degree. Section 2909.25 of the Revised Code applies regarding an offender who is convicted of or pleads guilty to a violation of this section.

(C) A prosecution for a violation of this section does not preclude a prosecution for a violation of any other section of the Revised Code. One or more acts, a series of acts, or a course of behavior that can be prosecuted under this section or any other section of the Revised Code may be prosecuted under this section, the other section, or both sections.

## **New Jersey**

### Section 2C:38-5

b. (1) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources with the purpose or knowledge that such material support or resources will be used, in whole or in part, to aid, plan, prepare or carry out an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2) or with the purpose or knowledge that such material support or resources are to be given, in whole or in part, to a person or an organization that has committed or has the purpose to commit or has threatened to commit an act of terrorism in violation of section 2 of P.L.2002, c.26 (C.2C:38-2).

(2) It shall be unlawful for any person, charitable organization or professional fund raiser to solicit, transport or otherwise provide material support or resources to or on behalf of a person or an organization that is designated as a foreign terrorist organization by the United States Secretary of State pursuant to 8 U.S.C. s.1189. It shall not be a defense to a prosecution for a violation of this section that the actor did not know that the person or organization is designated as a foreign terrorist organization.

## **Iowa (April, 2002)**

### Sec. 5. NEW SECTION. 708A.3 SOLICITING OR PROVIDING MATERIAL SUPPORT OR RESOURCES FOR TERRORISM.

1. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources is in excess of one thousand dollars commits a class "B" felony.
2. A person who provides material support or resources to a person who commits or attempts to commit terrorism and the value of the material support or resources does not exceed one thousand dollars commits a class "C" felony.

### **Threat**

## **Michigan**

Sec. 543m. (1) A person is guilty of making a terrorist threat or of making a false report of terrorism if the person does either of the following:

(a) Threatens to commit an act of terrorism and communicates the threat to any other person.

(b) Knowingly makes a false report of an act of terrorism and communicates the false report to any other person, knowing the report is false.

(2) It is not a defense to a prosecution under this section that the defendant did not have the intent or capability of committing the act of terrorism.

## **New Jersey**

2C:12-3. Terroristic threats.

a. A person is guilty of a crime of the third degree if he threatens to commit any crime of violence with the purpose to terrorize another or to cause evacuation of a building, place of assembly, or facility of public transportation, or otherwise to cause serious public inconvenience, or in reckless disregard of the risk of causing such terror or inconvenience. A violation of this subsection is a crime of the second degree if it occurs during a declared period of national, State or county emergency. The actor shall be strictly liable upon proof that the crime occurred, in fact, during a declared period of national, State or county emergency. It shall not be a defense that the actor did not know that there was a declared period of emergency at the time the crime occurred.

b. A person is guilty of a crime of the third degree if he threatens to kill another with the purpose to put him in imminent fear of death under circumstances reasonably causing the victim to believe the immediacy of the threat and the likelihood that it will be carried out.

## **Weapons of Mass Destruction**

### **Florida Statutes**

Section 790.166

(a) "Weapon of mass destruction" means:

1. Any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors;
2. Any device or object involving a biological agent;
3. Any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or

4. Any biological agent, toxin, vector, or delivery system.

## **Vermont**

### § 3501. DEFINITIONS

(a) As used in this chapter:

(1) “Chemical warfare agents” means:

(A) Any weaponized toxic or poisonous chemical, including the following agents or any analog of the following agents:

(i) Nerve agents, including Tabun (GA), Sarin (GB), Soman (GD), GF, and VX.

(ii) Choking agents, including Phosgene (CG) and Diphosgene (DP).

(iii) Blood agents, including Hydrogen Cyanide (AC), Cyanogen Chloride (CK), and Arsine (SA).

(iv) Blister agents, including mustards (H, HD (sulfur mustard), HN-1, HN-2, HN-3 (nitrogen mustard)), arsenicals, such as Lewisite (L), urticants, such as CX, and incapacitating agents, such as BZ.

(B) A dangerous chemical or hazardous material generally utilized in an industrial or commercial process when a person knowingly and intentionally utilizes the material with the intent to cause harm, and the use places persons at risk of serious bodily injury or death, or endangers the environment.

(2) “Health care provider” means a person, partnership, corporation, facility or institution, licensed, certified or authorized, by law, to provide professional health care service in this state to an individual during that individual’s medical care, treatment or confinement.

(3) “Hoax weapon” means any substance, compound, or other item intended to convey the physical appearance or chemical properties of a weapon of mass destruction or asserted to contain a weapon of mass destruction, which is not a weapon of mass destruction or does not contain a weapon of mass destruction.

(4) “Law enforcement agency” means:

(A) A federal law enforcement agency, including the Bureau of Alcohol, Tobacco and Firearms, the Federal Bureau of Investigation, Military Police or Military Criminal Investigative Division, United States Marshals Service, Secret Service, Federal Emergency Management Agency, or the Department of Defense Threat Reduction Agency.

(B) One of the following Vermont law enforcement agencies:

(i) The department of public safety.

(ii) A municipal police department.

(iii) A sheriff’s department.

(iv) The attorney general’s office.

(v) A state’s attorney’s office.

(vi) The capitol police department.

(5) “Nuclear or radiological agents” means any improvised nuclear device (IND) which is any explosive device designed to cause a nuclear yield, any radiological dispersal device (RDD) which is any explosive device utilized to spread radioactive

material, or a simple radiological dispersal device (SRDD) which is any container designed to release radiological material as a weapon without an explosion.

(6) "Vector" means a living organism or a molecule, including a recombinant molecule, or a biological product that may be engineered as a result of biotechnology, that is capable of carrying a biological agent or toxin to a host.

(7) "Weapon of mass destruction" means a chemical warfare agent, weaponized biological or biologic warfare agent, nuclear agent, or radiological agent.

(8) "Weaponization" means the deliberate processing, preparation, packaging, or synthesis of any substance or agent for use as a weapon or munition. "Weaponized agents" means those agents or substances that have been prepared for dissemination through any explosive, thermal, pneumatic, mechanical or other means.

(9) "Weaponized biological or biologic warfare agents" means:

(A) weaponized pathogens, including bacteria, viruses, rickettsia, yeasts, or fungi;

(B) genetically-engineered pathogens;

(C) weaponized toxins;

(D) weaponized vectors; and

(E) weaponized endogenous biological regulators (EBRs).

(b) The lawful use of chemicals for legitimate mineral extraction, industrial, agricultural, or commercial purposes is not proscribed by this chapter.

#### § 3502. POSSESSION AND USE OF WEAPONS OF MASS

##### DESTRUCTION

(a) A person who knowingly and without lawful authority possesses, develops, manufactures, produces, transfers, acquires, or stockpiles any weapon of mass destruction shall be imprisoned not more than 20 years or fined not more than \$100,000.00, or both.

(b) A person who uses or directly employs against other persons a weapon of mass destruction in a form that may cause disabling illness or injury in human beings shall be imprisoned not less than 20 years nor more than life and fined not more than \$250,000.00.

(c) A person who uses a weapon of mass destruction in a form that may cause widespread damage to or disruption of water or food supplies shall be imprisoned not less than five years nor more than 30 years and fined not more than \$250,000.00.

(d) A person who uses a weapon of mass destruction against livestock or crops with the intent to cause widespread and substantial damage to livestock or crops shall be imprisoned not more than 30 years and fined not more than \$250,000.00.

(e) A person who uses a weapon of mass destruction in a form that may cause widespread and significant damage to public or private property shall be imprisoned not more than 30 years and fined not more than \$250,000.00.

(f) A person who uses recombinant technology or any other biological advance to create new pathogens or more virulent forms of existing pathogens for the purpose of creating a weapon of mass destruction shall be imprisoned not more than 20 years or fined not more than \$250,000.00, or both.

(g) A person who knowingly and intentionally places a hoax weapon in any public place, building, house, residence, facility of public transport, vehicular conveyance, train, ship, boat, aircraft, dam or reservoir for storing water, shall be imprisoned not more than five years or fined not more than \$10,000.00, or both.

(h) No university, research institution, private company, individual, or hospital engaged in scientific or public health research and, as required, registered with the Centers for Disease Control and Prevention (CDC) pursuant to part 113 (commencing with Section 113.1) of subchapter E of chapter 1 of Title 9 or pursuant to Part 72 (commencing with Section 72.1) of Subchapter E of Chapter 1 of Title 42 of the Code of Federal Regulations, or any successor provisions, shall be subject to this section.

(i) Nothing in this section shall be construed to limit or restrict prosecution under any other applicable laws.

#### § 3503. THREATS

(a) No person shall communicate a threat to use a weapon of mass destruction, knowing that the threat is likely to cause:

- (1) evacuation of a building, place of assembly, or facility of public transport; or
- (2) a person to fear serious bodily injury.

### **Minnesota**

#### [609.712] [REAL AND SIMULATED WEAPONS OF MASS DESTRUCTION.]

Subdivision 1. [DEFINITIONS.] (a) As used in this section, the following terms have the meanings given.

(b) "Biological agent" means any microorganism, virus, infectious substance, or biological product that may be engineered as a result of biotechnology, or any naturally occurring or bioengineered component of a microorganism, virus, infectious substance, or biological product, that is capable of causing: (1) death, disease, or other biological malfunction in a human, an animal, a plant, or another living organism; (2) deterioration of food, water, equipment, supplies, or material of any kind; or (3) deleterious alteration of the environment.

(c) "Simulated weapon of mass destruction" means any device, substance, or object that by its design, construction, content, or characteristics, appears to be or to contain, or is represented to be, constitute, or contain, a weapon of mass destruction, but that is, in fact, an inoperative facsimile, imitation, counterfeit, or representation of a weapon of mass destruction that does not meet the definition of a weapon of mass destruction or that does not actually contain or constitute a weapon, biological agent, toxin, vector, or delivery system prohibited by this section.

(d) "Toxin" means the toxic material of plants, animals, microorganisms, viruses, fungi, or infectious substances, or a recombinant molecule, whatever its origin or method of production, including: (1) any poisonous substance or biological product that may be engineered as a result of biotechnology or produced by a living organism; or (2) any poisonous isomer or biological product, homolog, or derivative of such a substance.

(e) "Vector" means a living organism or molecule, including a recombinant molecule or biological product that may be engineered as a result of biotechnology, capable of carrying a biological agent or toxin to a host.

(f) "Weapon of mass destruction" includes weapons, substances, devices, vectors, or delivery systems that: (1) are designed or have the capacity to cause death or great bodily harm to a considerable number of people through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors, disease organisms, biological agents, or

toxins; or (2) are designed to release radiation or radioactivity at a level dangerous to human life.

Subd. 2. [WEAPONS OF MASS DESTRUCTION.] (a) Whoever manufactures, acquires, possesses, or makes readily accessible to another a weapon of mass destruction with the intent to cause injury to another is guilty of a crime and may be sentenced to imprisonment for not more than 20 years or to payment of a fine of not more than \$100,000, or both.

(b) It is an affirmative defense to criminal liability under this subdivision if the defendant proves by a preponderance of the evidence that the conduct engaged in:

(1) was specifically authorized under state or federal law and conducted in accordance with that law; or

(2) was part of a legitimate scientific or medical research project, or constituted legitimate medical treatment.

### **Wiretap**

*Note: several states (for example, CT, FL, NJ, OH, SC) passed legislation adding terrorism to the list of predicate crimes for which wiretaps can be authorized.*