



**JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION**  
**Fiscal Impact Review**  
**2014 Session**

**Bill Number:** HB 195

**Review Requested By:** Chairman Albo

### **JLARC Staff Fiscal Estimates**

HB 195 requires the Superintendent of State Police to develop a supplemental system to the Sex Offender and Crimes Against Minors Registry that would contain information on individuals convicted of applicable offenses that weren't required to register. This will primarily include individuals that were convicted and completed any period of incarceration prior to July 1, 1994. HB 195 does not require all eligible individuals to be registered in the supplemental system, but instead allows an attorney or law enforcement officer of the Commonwealth to submit a request for inclusion of eligible individuals. The supplemental database would be available to the public through the Virginia State Police (VSP) website.

JLARC staff estimate that HB 195 would have a fiscal impact of approximately \$1,130,000 in general funds in FY2015 and \$220,000 in general funds in each fiscal year thereafter. This is based on the assumption that VSP would either replace the existing Registry with a new system that also meets the requirements of HB 195 or build and maintain the supplemental system in accordance with its technological standards and security requirements. JLARC staff's estimate of the bill's fiscal impact is lower than the original estimate developed by the Department of Planning and Budget and VSP by \$560,000 in FY2015 and \$245,000 in FY2016. This difference is attributable to differences in the assumptions JLARC staff used to determine the cost of project contractor staffing and ongoing support activities.

A possible substitute is also under consideration for HB 195. JLARC staff estimate that the fiscal impact of the substitute would be approximately the same as for the original bill for both the development and ongoing costs.

An explanation of the JLARC staff review is included on the following pages.

**Authorized for Release:**

**Hal E. Greer**  
**Director**

**Bill Summary:** HB 195 requires the Superintendent of State Police to establish, organize, and maintain within the Department of State Police a computerized supplement (Supplement) to the Sex Offender and Crimes Against Minors Registry (Registry). The Supplement would contain information about individuals convicted of offenses that would require registration under [§ 9.1-902](#) of the Code of Virginia but who are not required to register for that offense. This will primarily include individuals who were convicted and completed any period of incarceration prior to July 1, 1994 for an offense listed in [§ 9.1-902](#). (These individuals are not included in the current registry due to a 1994 cutoff date in the statute.) HB 195 does not require all eligible individuals to be registered in the supplemental system, but instead allows an attorney or law enforcement officer of the Commonwealth to submit eligible individuals for inclusion. The system will be available to the public through the Virginia State Police (VSP) website.

**Discussion of Fiscal Implications:** VSP currently operates the Registry under Chapter 9 of Title 9.1 of the Code of Virginia. The Code requires that any person convicted, serving a prison sentence, or under community supervision on or after July 1, 1994, for an offense listed in [§ 9.1-902](#), submit personal information required by the State Police. VSP developed the current Registry system in 2005, and the system has been modified throughout its life cycle to meet various Federal and Commonwealth requirements, including the most recent requirements set forth under the Sex Offender Registry and Notification Act of 2006. The Registry interfaces with multiple Commonwealth and Federal systems including the National Sex Offender Public Registry, the Commonwealth's Automated Fingerprint Identification System, DMV licensing systems, and systems used by State troopers in the field to identify an individual's criminal history. The Registry also includes federally-required functionality such as photo and mapping features, automated notifications for reregistration, and automated school notifications when registered offenders move to a new area.

#### Assumptions and Options for Supplement IT System

VSP stated that the technical and security requirements of the proposed Supplement will be similar to those of the existing Registry. JLARC staff reviewed VSP's technical assumptions for the Supplement with the Virginia Information Technologies Agency (VITA), and VITA verified that these assumptions were reasonable. According to VSP, the Supplement will need to meet current security requirements, be customized to contain the necessary data fields, and interface with existing systems. Security requirements are especially critical because any breach of the system could result in unauthorized deletions and additions to the Supplement, creating a significant legal liability for the State. The Supplement will also need to be large enough to store data on the potential universe of offenders that would be covered under HB 195. VSP's review of criminal records identified roughly 11,000 individuals who would be eligible for inclusion. This may include individuals who are deceased or have moved, but it may not include individuals who were convicted of covered offenses in other States and subsequently moved into Virginia or whose crimes were not properly coded. Although this figure may be conservative for the reasons listed, VSP stated that it is reasonable to conclude that the Supplement will be no larger than the current Registry, which has fewer than 20,000 registrants. Also, as previously indicated, only those individuals for which a request is made could be included.

Based on discussions with VSP and VITA, JLARC staff identified four options for developing a Supplement system that would meet the requirements of HB 195. VSP and VITA agreed that option 1 is the preferred option and option 2 is viable, but not preferred. They also agreed that options 3 and 4 are not prudent.

- (1) Replace existing Registry and add in Supplement (preferred option). VSP indicated that the current Registry, which was built in 2005, is approaching the end of its useful life. The ag-

ing Registry could be replaced with a newer system that would also accommodate the requirements for the Supplement set forth in HB 195. VSP and VITA independently identified this as the best option, as it would meet the bill's requirements and make the most prudent use of State funds.

Project Cost: \$1,090,000

- (2) Develop a separate Supplement system meeting VSP requirements (viable). VSP could develop an entirely new and separate Supplement system that meets VSP's technological standards and security requirements. VSP and VITA agreed that this is a viable option, but that due to the costs involved, the first option is preferable. JLARC staff estimated that a new Supplement-only system would cost the same as replacing the aging Registry.  
Project Cost: \$1,090,000
- (3) Modify existing Registry (not considered prudent). VSP could modify the existing Registry to accommodate the offenders that qualify under HB 195. However, given the age and complexity of the Registry, this would require a significant reprogramming effort by the vendor that maintains the system. VSP and VITA agreed that due to the cost and effort that are involved, the first option is preferable.  
Project Cost: Unknown (VSP indicated vendor would need to be solicited for an estimate)
- (4) Develop a separate system not meeting VSP requirements (not considered prudent). VSP could also develop an entirely new and separate Supplement system that does not meet VSP's technological standards and security requirements. JLARC staff worked with VITA to develop an estimate for this type of project, which is based on a prior informal VITA estimate of \$175,000. The estimate below differs from the prior estimate due to adjustments that account for certain up-front costs and other changes in assumptions. JLARC staff does not comment on the merits of implementation options. However, VSP and VITA agreed that this option should not be pursued because it would still be costly, and the system that would be developed may not properly secure and maintain the sensitive information required for the Supplement.  
Project Cost: \$560,000

JLARC staff generally agree with VSP estimates for options 1 and 2 and the assumptions used to develop both cost estimates. The only area of disagreement is the assumption regarding the experience level required of contract staff used to develop the system. The VSP estimates are based on the assumption that senior contract staff will be required. JLARC staff assume that less senior, less expensive staff would be used.

#### Assumptions for Ongoing Support Costs

JLARC staff reviewed VSP's assumptions about the ongoing cost of supporting the Supplement, including technical and non-technical costs. Regarding technical costs, JLARC staff disagreed with some of the assumptions made by VSP. VSP indicated that one new technology support FTE would have to be hired to support the Supplement because current resources would not be available due to existing obligations. VSP's estimate, therefore, included the full cost of hiring a new FTE. JLARC staff disagree that the full cost of this FTE should be apportioned to support the Supplement because this would not be the new FTE's only responsibility. JLARC's estimate includes only the portion of the cost of one new FTE that is attributable to support of the Supplement. Cost was apportioned based on VSP's current ratio of technical support staff to IT systems.

In addition to requiring support staff, the Supplement would require routine upgrade and maintenance, such as patches to server operating software. VSP's estimates assumed these costs would be incurred starting in FY2015, even though the project to develop the system would still be underway. JLARC staff estimates assume upgrades and maintenance will not begin until FY2016, after the project to develop the Supplement system is completed.

Finally, the Supplement will incur non-technical support costs. VSP indicated it would need to review and verify all submissions of sex offender information it receives before it could be posted to the supplemental system. For example, even if evidence of conviction was presented, VSP would need to do additional research to confirm that the documents submitted were accurate and that the conviction had not been overturned. VSP indicated that this added scrutiny would be needed to ensure that information on the Supplement is accurate and to mitigate legal liabilities, namely falsely identifying an individual as a convicted sex offender. JLARC staff find this to be a reasonable assumption.

Although JLARC staff recognize the need for VSP to verify information submitted to the Supplement, staff disagree on the number of FTEs that need to be committed. VSP indicated that two Office Service Specialists would be required to review and verify information submitted for entry into the Supplement. However, VSP estimated that each specialist could process up to 3,750 submissions over the course of a year. The number of submissions that will be received on an annual basis is unknown, but the pool of offenders that would be eligible for registration is likely no larger than the approximately 20,000 offenders that are currently in the Registry. Given the number of potential registrants, and the fact that submissions would be voluntarily provided by local officials, JLARC staff assume that no more than 2,000 submissions would be received each year. JLARC staff's estimate, therefore, only includes the portion of the non-technical support FTE cost that would be attributable to processing 2,000 submissions. The actual number of submissions could be higher or lower and would impact the ongoing support costs accordingly.

### Total Cost Estimate

JLARC staff estimate that HB 195 would have a fiscal impact of approximately \$1,130,000 (GF) in FY2015 and \$220,000 (GF) in each fiscal year thereafter. This is based on the assumption that VSP either replaces the existing Registry with a new system that also meets the requirements of HB 195 or builds and maintains a new, separate supplemental system in accordance with its technological standards and security requirements. JLARC staff's estimate of the bill's fiscal impact is lower than the original estimate developed by the Department of Planning and Budget and VSP by approximately \$560,000 in FY2015 and \$245,000 in FY2016. This difference is attributable to differences in the assumptions JLARC staff use to determine the cost of project contractor staffing and ongoing support activities, as described above. JLARC staff find that Virginia State Police's assumptions for system development requirements and project costs appear reasonable.

A possible substitute bill under consideration changes the reference to the database from a 'supplement', and allows the database to be built into the existing Registry. JLARC staff determine that the system development options discussed in this FIR would still apply to the substitute bill. Additionally, the substitute bill removes some of the validation requirements for VSP prior to entering a referred individual into the database. However, VSP indicate that they will still need to conduct similar research and validation steps to mitigate potential legal liabilities. As a result, JLARC staff estimate that the fiscal impact for the substitute bill would be approximately the same as the for the original bill for both project development and ongoing costs.

*Option 1: Replace Existing Registry and Add In Supplement (Preferred Option)*

	Year 1 General Fund (\$)	Year 2 General Fund (\$)
<b>Project</b>		
Contract Staff Expenses <sup>a</sup>	\$340,000	-
Vendor Development Services and System Hardware & Software <sup>b</sup>	750,000	-
<b>Subtotal</b>	<b>1,090,000</b>	<b>-</b>
<b>Ongoing Support</b>		
System Upgrades & Maintenance <sup>c</sup>	-	180,000
Information Technology Specialist III <sup>d</sup>	5,000	5,000
Office Services Specialist <sup>e</sup>	35,000	35,000
<b>Subtotal</b>	<b>40,000</b>	<b>220,000</b>
<b>Total</b>	<b>1,130,000</b>	<b>220,000</b>

<sup>a</sup> VSP indicated that, due to the large number of IT projects it is currently pursuing, it could not perform the project with in-house resources and would need to contract for staff. Contract staff expenses determined by (i) estimating staffing needs for a project of this scope by number and position, such as the number of programmers, (ii) estimating hours worked by each position over project, which ranged from 6-12 months depending on position, and (iii) multiplying hours worked by the hourly rate for each position under VITA's contingent labor contract with Computer Aid, Inc., which all State agencies are required to use. Assumptions were developed by State Police, vetted through VITA, and adjusted by JLARC staff. The project to replace the existing Registry has lower costs for contract staff than the project to create a new Supplement system because much of the technical work would be performed by the vendor instead of contract staff.

<sup>b</sup> VSP indicated that a project to replace the existing Registry would be carried out by a vendor that offers a commercial-off-the-shelf product that would be modified to meet the State's needs, including the special requirements proposed under HB 195. VSP would have to follow the requirements of the Virginia Public Procurement Act for soliciting and selecting a vendor.

<sup>c</sup> JLARC staff's estimate assumes that system upgrades and maintenance costs will not be incurred until FY2016, after the system has been completed. JLARC staff assumed that system upgrade and maintenance costs would be the same for a system replacing the Registry or a new Supplement system.

<sup>d</sup> VSP indicated that a new technology support FTE would have to be hired to support the Supplement because, due to existing obligations, current resources would not be available to provide support. VSP's estimate therefore included the full cost of hiring a new FTE. JLARC staff disagree that the full cost of this FTE should be apportioned to support of the Supplement because this would not be the new FTE's only obligation. JLARC's estimate includes only the portion of the cost of the new FTE that is attributable to support of the Supplement. Cost was apportioned based on VSP's current ratio of technical support staff to IT systems.

<sup>e</sup> VSP estimated that one specialist could process up to 3,750 submissions over the course of a year. The number of submissions that will be received on an annual basis is unknown, but the pool of offenders that would be eligible for registration is likely no larger than the approximately 20,000 offenders that are currently in the Registry. Given the number of potential registrants, and the fact that submissions would be voluntarily provided by local officials, JLARC staff assume that no more than 2,000 submissions would be received each year. JLARC staff's estimate therefore only includes the portion of the non-technical support FTE cost that would be attributable to processing 2,000 submissions.

*Option 2: Develop New Supplement System Meeting VSP Requirements (Viable)*

	Year 1 General Fund (\$)	Year 2 General Fund (\$)
<b>Project</b>		
Contract Staff Expenses <sup>a</sup>	690,000	-
System Hardware & Software <sup>b</sup>	400,000	-
<b>Subtotal</b>	<b>1,090,000</b>	-
<b>Ongoing Support</b>		
System Upgrades & Maintenance <sup>c</sup>	-	180,000
Information Technology Specialist III <sup>d</sup>	5,000	5,000
Office Services Specialist <sup>e</sup>	35,000	35,000
<b>Subtotal</b>	<b>40,000</b>	<b>220,000</b>
<b>Total</b>	<b>1,130,000</b>	<b>220,000</b>

<sup>a</sup> VSP indicated that, due to the large number of IT projects it is currently pursuing, it could not perform the project with in-house resources and would need to contract for staff. Contract staff expenses determined by (i) estimating staffing needs for a project of this scope by number and position, such as the number of programmers, (ii) estimating hours worked by each position over project, which ranged from 6-12 months depending on position, and (iii) multiplying hours worked by the hourly rate for each position under VITA's contingent labor contract with Computer Aid, Inc., which all State agencies are required to use. Assumptions were developed by State Police, vetted through VITA, and adjusted by JLARC staff. The project to replace the existing Registry has lower costs for contract staff than the project to create a new Supplement system because much of the technical work would be performed by the vendor instead of contract staff.

<sup>b</sup> VSP indicated that they would need to purchase new server hardware and associated operating software to accommodate the new system. VITA verified that such an expense would be necessary to establish a new system.

<sup>c</sup> JLARC staff's estimate assumes that system upgrades and maintenance costs will not be incurred until FY2016, after the system has been completed. JLARC staff assumed that system upgrade and maintenance costs would be the same for a system replacing the Registry or a new Supplement system.

<sup>d</sup> VSP indicated that a new technology support FTE would have to be hired to support the Supplement because, due to existing obligations, current resources would not be available to provide support. VSP's estimate therefore included the full cost of hiring a new FTE. JLARC staff disagree that the full cost of this FTE should be apportioned to support of the Supplement because this would not be the new FTE's only obligation. JLARC's estimate includes only the portion of the cost of the new FTE that is attributable to support of the Supplement. Cost was apportioned based on VSP's current ratio of technical support staff to IT systems.

<sup>e</sup> VSP estimated that one specialist could process up to 3,750 submissions over the course of a year. The number of submissions that will be received on an annual basis is unknown, but the pool of offenders that would be eligible for registration is likely no larger than the approximately 20,000 offenders that are currently in the Registry. Given the number of potential registrants, and the fact that submissions would be voluntarily provided by local officials, JLARC staff assume that no more than 2,000 submissions would be received each year. JLARC staff's estimate therefore only includes the portion of the non-technical support FTE cost that would be attributable to processing 2,000 submissions

**Budget Amendment Necessary:** Yes

**Agencies Affected:** Department of State Police

**Date Released, Prepared By:** 1/30/2014; Mark Gribbin, Jeff Lunardi