

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB1023ER

House of Origin	<input type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input checked="" type="checkbox"/> Enrolled

**2. Patron:** Adams, L.R.

**3. Committee:** Passed both houses.

**4. Title:** Custodial interrogations; recording.

**5. Summary:** Provides that a law enforcement officer conducting a custodial interrogation, as defined in the bill, of any person at a place of detention must make an audiovisual recording of the entirety of the interrogation. If such law enforcement officer is unable to do so, he must make an audio recording of the interrogation. An exception is provided for law enforcement officers who have good cause not to record the custodial interrogation. The failure to record the interrogation cannot affect the admissibility of the statements made by the subject of the custodial interrogation, but such failure may be considered in determining the weight given to such evidence. Any recording made pursuant to this section must be preserved until (i) the person is acquitted or the charges against him are otherwise dismissed and further prosecution of such charges is prohibited by law, or (ii) if convicted or adjudicated delinquent, the person has completed service of his sentence and any modification of sentence. Any policies, standards, and guidelines for the maintenance, exchange, storage, use, sharing, distribution, and security of data developed and adopted pursuant to Chapter 20.1 of Title 2.2 of the Code shall not apply to any audiovisual or audio recording made in accordance with this section. Any policies, standards, and guidelines for the maintenance, exchange, storage, use, sharing, distribution, and security of data for any audiovisual or audio recording made in accordance with this sections shall be developed and adopted by the law enforcement agency employing the officer cause the recording to be made, according to the provisions of this bill.

**6. Budget Amendment Necessary:** No.

**7. Fiscal Impact Estimates:** Final. See Item 8.

**8. Fiscal Implications:** This bill requires law enforcement officers conducting custodial interrogations in places of detention to make audiovisual recordings of the entirety of such interrogations. An audio recording of the interrogation must be made if the officer is unable to make an audiovisual recording. Officers are exempted from this requirement if they have good cause as to why the custodial recording was not recorded. The bill requires such recordings be preserved until the person is acquitted, the charges against him are dismissed, and further prosecution is prohibited by law, or if the person was convicted or adjudicated delinquent, he has completed any sentence, or any modification of sentence. The bill exempts any recordings made pursuant to this bill from any maintenance, exchange, storage, use,

sharing, distribution, and security policies, standards and guidelines required by the Virginia Information Technologies Agency (VITA).

According to the Department of State Police (VSP), troopers and sworn special agents conduct between 25 and 50 custodial interrogations annually that meet the requirements for audiovisual recording pursuant to this proposed legislation. Because the provisions of this bill exempt such recordings from adhering to VITA's standards for the maintenance, exchange, storage, use, sharing, distribution, and security of data, VSP expects no fiscal impact from this proposed legislation.

According to the Department of Corrections (DOC), there is no anticipated fiscal impact on agency operations as a result of the provisions of this bill. There is also no anticipated fiscal impact on public defenders as a result of the provisions of this bill. Any potential fiscal impact on Commonwealth's attorneys or local and regional jails is indeterminate at this time. There is no anticipated fiscal impact on the George Mason University Police Department, the Virginia Commonwealth University Police Department, or the University of Virginia Police Department. The impact on other institutions of higher education cannot be determined at this time.

According to the Division of Capitol Police, the agency will likely need additional funding for the evidence storage requirements of this bill. However, any potential fiscal impact is indeterminate at this time.

According to the Department of Game and Inland Fisheries (DGIF), it is estimated this bill will require an administrative FTE estimated to cost \$82,000 annually. Additionally, DGIF estimates it would need two large hard drives at a total one-time cost of \$10,000. However, according to DGIF, these costs can be absorbed within the agency's current budget.

Additionally, many sheriff's offices already record interrogations in the manner described in the bill where possible. Any potential fiscal impact on sheriff's offices cannot be determined at this time.

Any potential fiscal impact on any other state or local law enforcement agency is indeterminate at this time.

- 9. Specific Agency or Political Subdivisions Affected:** Department of State Police, Department of Corrections, Division of Capitol Police, Sheriffs, College and University Police Departments, Department of Game and Inland Fisheries, Virginia Alcoholic Beverage Control Authority, Department of Conservation and Recreation, Courts, Public Defenders, Commonwealth's Attorneys, Local law enforcement officers.

**10. Technical Amendment Necessary:** No.

**11. Other Comments:** None.