Department of Planning and Budget
2020 Special Session I - Fiscal Impact Statement

1. **Bill Number:** HB5043H2

House of Origin	☐	Introduced	☐	Substitute	☒	Engrossed
Second House	☐	In Committee	☐	Substitute	☐	Enrolled

2. **Patron:** Bourne

3. **Committee:** House Appropriations

4. **Title:** Mental health awareness response and community understanding services (Marcus) alert system.

5. **Summary:** The proposed legislation provides that the goals of a Marcus alert system shall be to:
   - provide immediate response and services by specially trained mental health service providers and registered peer recovery specialists, with law-enforcement officers who shall serve as backup if the scene becomes unstable or unsafe;
   - afford persons whose behaviors are consistent with mental illness or substance abuse problems, or both, a sense of dignity in crisis situations;
   - reduce the likelihood of physical confrontation;
   - decrease arrests and use of force incidents by law-enforcement officers;
   - identify underserved populations in historically economically disadvantaged communities whose behaviors are consistent with mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof, are directed and referred to, and provided with, appropriate care, including follow-up and wrap-around services to individuals, family members, and caregivers to reduce the likelihood of future crises;
   - provide support and assistance for mental health service providers and law-enforcement officers;
   - decrease the use of arrest and detention of persons whose behaviors are consistent with mental illness or substance abuse problems, or both, by providing better access to timely treatment;
   - provide a therapeutic location or protocol to bring individuals in crisis for assessment that is not a law-enforcement or jail facility;
   - increase public recognition and appreciation for the mental health needs of a community;
   - decrease injuries during crisis events;
   - reduce inappropriate arrests of individuals whose behaviors are consistent with mental illness in crisis situations;
   - decrease the need for mental health treatment in jail;
   - accelerate access to care for individuals in crisis through improved and streamlined referral mechanisms to mental health services;

- improve the notifications made to the community care team and the public of an individual experiencing a mental health crisis if the individual poses an immediate public safety threat or threat to self; and
- decrease the use of psychiatric hospitalizations as treatment for mental health crises.

The bill requires DCJS to assess and report on the Marcus alert system and community care teams established pursuant to this bill, and to establish training standards and publish and periodically update model policies for law enforcement personnel on the de-escalation of crisis situations, with a focus on mental health, substance abuse, and behavioral health crises.

The bill requires the Department of Criminal Justice Services (DCJS), in collaboration with the Department of Aging and Rehabilitative Services (DARS), local government organizations, and law enforcement, emergency management, mental health, behavioral health, substance abuse recovery, brain injury, and racial equity stakeholders, shall develop a detailed plan for the establishment of a Marcus alert system that uses community care teams in community service boards (CSBs) or behavioral health authority geographical areas throughout the Commonwealth. In developing the plan, the Departments, organizations, and stakeholders shall (i) inventory past and current crisis intervention teams throughout the Commonwealth that have received state funding; (ii) inventory the existence, status, and experiences of CSB mobile crisis teams and crisis stabilization units; (iii) identify any other existing cooperative relationships between CSBs and law enforcement agencies; (iv) review the prevalence of crisis situations involving mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof; and (v) identify state and local funding of emergency and crisis services.

According to the bill, the Department of Behavioral Health and Developmental Services (DBHDS) and DCJS shall submit a detailed plan, developed pursuant to the provisions of the bill, to the Joint Commission on Health Care no later than June 1, 2021. The plan shall build upon the current organizational capacities of CSBs, crisis intervention teams, state agencies, and local law enforcement agencies. The plan shall include details of how the goals of the Marcus alert system will be met, including the assignment of specific responsibilities, duties, and authorities among responsible state and local entities. The plan shall also establish criteria for the development of community care teams that shall include assessment of the effectiveness of a locality's or area's plan for community involvement, including engaging with and providing services to historically economically disadvantaged communities, training, and therapeutic response alternatives.

Additionally, no later than July 1, 2021, DBHDS shall establish five Marcus alert programs and community care teams, one located in each of the five agency regions as follows: (i) in Region 1, in the geographical area served by the Northwestern CSB; (ii) in Region 2, in the geographical area served by the Alexandria CSB; (iii) in Region 3, in the geographical area served by the Mount Rogers CSB; (iv) in Region 4, in the geographical area served by the Richmond Behavioral Health Authority; and (v) in Region 5, in the geographical area served by the Hampton-Newport News CSB. No later than July 1, 2023, DBHDS shall establish five

additional Marcus alert system programs and community care teams, one located in each of the five regions. CSBs or behavioral health authorities that serve the largest populations in each region, excluding those CSBs or authorities already selected in this subsection, shall be selected for programs. DBHDS and DCJS shall submit to the Joint Commission on Health Care an interim report by November 1, 2022, and a final report by November 1, 2023, assessing the impact and effectiveness of the teams in meeting their goals. The assessment shall include the consideration of the number of incidents, injuries to the parties involved, successes and problems encountered, the overall operation of the Marcus alert system and community care teams, and recommendations for any actions necessary to strengthen the effectiveness of the system and team response in achieving its goals. The report shall also include a specific plan to phase in a Marcus alert system and community care team in each remaining geographical area served by a CSB or behavioral health authority as required in the bill. DBHDS shall establish additional Marcus alert systems and community care teams in geographical areas served by a CSB or behavioral health authority by July 1, 2024, July 1, 2025, and July 1, 2026. No later than July 1, 2026, all CSB and behavioral health authority geographical areas shall have established a Marcus alert system that uses a community care team.

The bill also requires DBHDS, in consultation with DCJS, DARS, and law enforcement, brain injury, and mental health stakeholders, to develop a training program for all persons involved in the Marcus alert system and community care teams, and all team members and dispatchers shall receive this training.

Each community care team shall develop a protocol that permits the team to release a person whose behaviors are consistent with mental illness or substance abuse problems, or both, whom they encounter in crisis situations when the team has determined the person is sufficiently stable and to refer him for emergency treatment services. Consideration shall be given to the particular needs of non-English-speaking persons when developing such protocol and establishing each team. Additionally, teams shall only be armed with nonlethal weapons and shall only use nonlethal force. Team members shall not wear uniforms used by law enforcement officers and shall not drive or operate law enforcement-marked motor vehicles when responding to a call for service. All law enforcement members who are part of a community care teams shall wear and use and keep free from obstruction a body-worn camera system whenever such team is responding to a call for service. Teams shall not be housed in any law enforcement facility, jail, or detention center.

DBHDS and DCJS shall also assess and report on the impact and effectiveness of the teams in meeting their goals. The assessment shall include the consideration of the number of incidents, injuries to the parties involved, successes and problems encountered, the overall operation of the Marcus alert system and community care teams, and recommendations for improvement. After submitting the initial interim and final report, DBHDS and DCJS shall report annually to the Join Commission on Health Care by November 15 of each year.

6. **Budget Amendment Necessary**: Yes, Items 320, 322, 403, and 426.

7. **Fiscal Impact Estimates:** Preliminary. See below.

8. **Fiscal Implications:** The proposed legislation is expected to have a fiscal impact on state agencies.

Department of Behavioral Health and Developmental Services

The substitute bill requires DBHDS and DCJS to develop a plan for the establishment of a mental health awareness response and community understanding services (MARCUS) alert system in localities and areas throughout the Commonwealth. The development of the plan must be completed by June 1, 2021.

Under this legislation, Marcus Alert Systems will use community care teams established through Community Services Boards and Behavioral Health Authorities to respond and deliver services to an individual whose behavior is consistent with mental illness (which may be secondary to an intellectual or developmental disability), substance abuse problems, or both. Community care teams would consist of mental health clinicians, peer recovery specialists, and members of law enforcement. The legislation also requires DBHDS and DCJS to involve localities and stakeholders in identifying existing crisis services resources that may be used to meet the terms of this legislation. However, without that information, any possible mitigation of costs is unknown. For that reason, this fiscal impact statement assumes all costs will be new costs. It also assumes that each CSB/Behavioral Health Authority will require one community care team.

Using this assumption, the costs per team would include salaries, overhead, fringe benefits, and health insurance for clinicians and peer specialists. The annual salary for these clinicians would be approximately $80,000, for a total cost per clinician with fringe benefits, healthcare, and overhead to $123,039. The annual salary for peer recovery specialists would be $40,000 per year for a total cost per specialist, including fringe benefits, healthcare, and overhead, to $73,331. Additional costs for IT (computer, mobile hotspot, and iPad), personal protective equipment (PPE), and a state vehicle for each are included in the table below. To provide 24/7 coverage, a minimum of four clinicians and four peer specialists would need to be hired for each team, totaling $972,456 annually. This cost does not include salaries for any members of law enforcement who are part of the community care teams.

Per Team Costs (Non-Nova)**	**FY 2021**	**FY 2022 Ongoing**
Mental Health Clinicians - 4 per team		
Salary, Fringe, Overhead		$ 492,156
State Vehicle		$ 24,000
IT (Computer, mobile hotspot, iPad) and PPE		$ 6,067
Peer Recovery Specialists - 4 per team		
Salary, Fringe, Overhead		$ 293,324
State Vehicle		$ 24,000
IT (Computer, mobile hotspot, iPad) and PPE		$ 6,067
Program Overhead		$ 126,942
Total		**$ 972,456**

The substitute legislation phases in the creation of community care teams, with five teams required by July 1, 2021 and an additional five teams required by July 1, 2023. The remaining teams will be phased in until all CSB catchment areas have a team by FY 2027.

The legislation requires that one of the teams established by July 1, 2021, be in the Northern Virginia region, thus the salaries for that team and all subsequent teams in the region are increased by ten percent to account for salary differentials in that area. It is also assumed that in each round of phasing in new teams, one team would be in Northern Virginia, one for each of the five CSBs in the region.

Cost of establishing community care teams (in millions)							
	FY 2021	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**	**FY 2027**
5 Teams (1 NOVA)	$ -	$ 4.91	$ 4.91	$ 4.91	$ 4.91	$ 4.91	$ 4.91
5 Teams (1 NOVA)	$ -	$ -	$ -	$ 4.91	$ 4.91	$ 4.91	$ 4.91
10 Teams (1 NOVA)	$ -	$ -	$ -	$ -	$ 9.77	$ 9.77	$ 9.77
10 Teams (1 NOVA)	$ -	$ -	$ -	$ -	$ -	$ 9.77	$ 9.77
10 Teams (1 NOVA)	$ -	$ -	$ -	$ -	$ -	$ -	$ 9.77
Cost to CSBs	$ -	$ 4.91	$ 4.91	$ 9.82	$ 19.59	$ 29.37	$ 39.14
Cost per Team	Non-NoVA	$ 972,456					
	NoVA	$ 1,020,456					

While it is not unusual to assume some lead time in the cost of staffing a team prior to the date which it must be established, because the plan is not due until June 1, 2021, no costs for staffing the teams were assumed in FY 2021. Additionally, if it is determined that existing resources or crisis teams can be "redeployed" or are already providing the services required by this legislation, the cost of creating community care teams may be reduced.

The legislation also requires DBHDS and the Department of Criminal Justice Services (DCJS) to work together, with other stakeholders, to develop a "community care team training." This training must be conducted for anyone involved in the alert system and community care teams, as well as dispatchers. The final components of this bill require DBHDS and DCJS to establish protocols by which to release a person from the care of the community care teams when the individual is stable enough to do so. They also require both agencies to collect data and write an assessment of the system to the Joint Commission on Health Care, with an initial report due on November 1, 2022, and a final report due on November 1, 2023, with annual reporting due thereafter. Additionally, a public service campaign to run the first six months of FY2022 is mandated in the legislation.

To oversee the program and carry out these responsibilities, DBHDS would require two bachelor's level FTEs within the Central Office. The annual salary for these two positions would be $70,000 each, or $110,612 with fringe benefits, healthcare, and overhead. If both of

these positions require extensive travel, state vehicles would be an additional $6,000 per position. The total annual cost for these two positions would be approximately $233,224 per year, with an assumed hiring date of January 1, 2021. The estimated one-time costs to develop and advertise a public service campaign for six months is estimated at $155,000 ($80,000 for materials and development in FY 2021 and $75,000 for advertising in FY 2022).

Central Office Costs	FY21 One-time	FY21 Ongoing	FY22 One-time	FY22 Ongoing
Public Awareness Campaign				
Material Development	$ 80,000			
Advertising Campaign			$ 75,000	
Program Staff (2 FTEs)				
Salary, Fringe, Overhead	-	$ 110,612		$ 221,224
State Vehicle	-	$ 6,000		$ 12,000
Total	**$ 80,000**	**$ 116,612**	**$ 75,000**	**$ 233,224**

While the legislation does not specifically require that any state agency create the alert system, it is not clear what system will be used to dispatch community care teams. The Commonwealth could potentially provide a dispatch system through the STEP-VA crisis intervention phone hotline proposed by the Department of Behavioral Health and Developmental Services. Chapter 1289, 2020 Acts of Assembly, includes $5.0 million in nongeneral fund appropriation at DBHDS for the development of a crisis hotline in FY2021 which may be potentially used to accomplish the requirements of this bill. Chapter 1289, 2020 Acts of Assembly, included $500,000 in ongoing general fund appropriation for operations and maintenance of a hotline, and $4.7 million general fund for the initial cost of hiring clinicians to staff the hotline in FY2022, however, this funding was unallotted in Chapter 1289 and is now included as reductions in the reversion clearing account included in the introduced budget, HB5005/SB5015, currently before the General Assembly. The cost of establishing and hiring staff and maintaining the system would need to be restored in FY 2022 if this system is to be developed. The out-year costs of staffing the phone line statewide are assumed to be $9.4 million.

Department of Criminal Justice Services

According to the Department of Criminal Justice Services (DCJS), the agency would need a subject matter expert to oversee this program, and to provide guidance and direction to help establish the mental health first response and alert system, particularly within the specified program as described in the bill. Based on similar positions at the agency, DCJS estimates a program manager position would cost $122,405 annually for salary, fringe benefits, and overhead (prorated to $102,004 the first year).

Department of State Police

The proposed legislation requires law enforcement officers who participate on community care teams be armed only with non-lethal weapons, and not to wear uniforms or drive vehicles used by law enforcement officers. Additionally, all officers must be equipped with a

body-worn camera system. According to the Department of State Police (VSP), there are 50 area offices across the Commonwealth that would require officer coverage 24/7 to ensure an adequate response to any Marcus alert incidents that may occur.

The proposed legislation may result in the need for additional law enforcement officer staff, as existing patrol troopers may not be able to promptly respond to such incidents in a timely manner if they cannot do so with their existing uniforms, vehicles, and weapons. Additionally, officers who respond on community care teams may need separate training from what a typical trooper undergoes. Currently, a trooper II position costs $194,987 annually the first year ($209,201 for positions in Northern Virginia) and $108,706 annually the second year ($122,920 for positions in Northern Virginia). A taser costs approximately $3,567 per weapon, and a body camera system costs approximately $25,378 per trooper. It is indeterminate at this time the exact number of additional positions and corresponding equipment would be needed to comply with the provisions of this bill.

Colleges and Universities

The bill could have significant costs to institutions of higher education if each institution is required to supplement its police department with community care teams. These costs would be due to hiring new mental health counselors in order to provide 24/7 availability for response. Further, costs could be greater for the community college system, as several campuses have small police departments and the legislation would require a significant overhaul, with several new hires. The precise fiscal impact is hard to ascertain at this time, but preliminary estimates for staffing teams with mental health counselors are around $200,000 per year at each institution and each community college campus. Any potential fiscal impact to other colleges and universities within the Commonwealth is indeterminate at this time.

Other law enforcement agencies

Any potential fiscal impact on the Division of Capitol Police is indeterminate at this time. It is unknown how many members of the Department could be involved in a community care team, if any, and what any costs would be at this time.

Any potential fiscal impact on local law enforcement agencies cannot be determined at this time.

9. **Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services, Department of Behavioral Health and Developmental Services, Community Services Boards (CSBs), State Hospitals, Department of Aging and Rehabilitative Services, Department of State Police, Division of Capitol Police, College and University Police Departments, and Local law enforcement agencies.

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

11. **Other Comments:** None.