

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: HB5104ER

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: Price

3. Committee: Passed the House and the Senate.

4. Title: Minimum Qualifications for law-enforcement officer, etc.; disclosure of information

5. Summary: The proposed legislation provides that if a police officer, deputy sheriff, or jail officer has been employed at any time by another law-enforcement agency or jail, the hiring law-enforcement agency or jail must request from all prior employing law-enforcement agencies or jails any information (i) related to an arrest or prosecution of a former police officer, deputy sheriff, or jail officer, including any expunged arrest or criminal charge known to the agency or disclosed during the hiring process that would otherwise be prohibited from disclosure; (ii) related to a civil suit regarding a former police officer's, deputy sheriff's, or jail officer's employment or performance of his duties; (iii) obtained during the course of any internal investigation related to a former police officer's, deputy sheriff's, or jail officer's alleged criminal conduct, use of excessive force, or other official misconduct in violation of the state professional standards of conduct adopted by the Criminal Justice Services Board; and (iv) related to a former police officer, deputy sheriff, or jail officer's job performance that led to such officer's or deputy sheriff's resignation, dismissal, demotion, suspension, or transfer.

The hiring agency or jail may request this information subsequent to a conditional offer of employment; however, no police officer, deputy sheriff, or jail officer may be employed in such position until the requested information is received from all prior employing law-enforcement agencies in the Commonwealth. The hiring agency or jail must request that the police officer, deputy sheriff, or jail officer complete a waiver or release liability authorizing the hiring agency or jail to request such information as listed in this subsection from all prior employing law-enforcement agencies or jails, including law-enforcement agencies or jails located outside the Commonwealth.

Any sheriff or chief of police in the Commonwealth, any director or chief executive of any law-enforcement agency or jail in the Commonwealth, and the Director of the Department of Criminal Justice Services or his designee who receives such request for information must disclose such requested information within 14 days of receiving such request to the requesting hiring law-enforcement agency or jail.

The proposed legislation also provides that the hiring law-enforcement agency or jail may require a candidate for employment to undergo a psychological examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed clinician.

The bill requires DCJS to establish guidelines and standards for psychological examinations.

The bill also provides that any sheriff or chief of police, any director or chief executive of any agency or department employing deputy sheriffs or law-enforcement officers or jail officers, and the Director of the Department of Criminal Justice Services or his designee who discloses information about a former deputy sheriff's or law-enforcement officer's or jail officer's job performance or information requested pursuant to subsection B of §15.2-1705 to a prospective law-enforcement or jail employer of the former appointee or employee is immune from civil liability for such disclosure or its consequences unless the information disclosed by the former employer was knowingly false or deliberately misleading, was rendered with malicious purpose, or violated any civil right of the former employee or appointee.

6. Budget Amendment Necessary: Indeterminate.

7. Fiscal Impact Estimates: Final (see Item 8 below).

8. Fiscal Implications: Section 9.1-102(58) requires DCJS to establish guidelines and standards for psychological examinations. DCJS reports that it does not have any staff with the requisite subject matter expertise to comply with this requirement and, therefore, will need to hire a contractor to fulfill this requirement. To accomplish this, a Request for Proposal (RFP) would need to be issued, and therefore, the immediate fiscal impact cannot be determined at this time. Additionally, the fiscal impact on agencies which employ law-enforcement officers, deputy sheriffs, jail officers, and correctional officers is not known at this time because the required guidelines have yet to be developed.

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- The Department for Aging and Rehabilitative Services (DARS) indicates that there would likely be some minimal fiscal impact associated with ensuring that all law enforcement staff at the Wilson Workforce and Rehabilitation Center (WWRC) meet the provisions of this bill. However, based on the relatively small size of the WWRC police force (six officers) and recent structure changes, any costs are expected to be borne by the agency without the need for additional appropriation.
- The Virginia State Police reports that psychological examinations are consistent with the agency's current hiring practices.
- Capitol Police reports that conducting psychological examinations on non-certified incoming law-enforcement personnel is consistent with the agency's current hiring practices.
- According to the Department of Corrections (DOC), the provisions of §15.2-1705 only apply to its Special Investigations Unit. DOC believes, at this time, that if psychological

examinations would be implemented, such costs could be absorbed within existing resources.

- The Office of the State Inspector General reports that because the implementation of psychological examinations for law-enforcement personnel is discretionary, no fiscal impact is expected.
- To the extent that psychological examinations are conducted by the Marine Resources Commission (MRC), the agency is expected to absorb the cost within its special fund balances for Law Enforcement. Given the number of officers MRC employs, the agency estimates an annual need for approximately 10 tests annually in order to fill vacant positions. This would cost \$2,250 per year.
- To the extent that psychological examinations are conducted by the Department of Conservation and Recreation, the agency anticipates that it will be able to absorb the fiscal impact within existing resources.
- The Virginia Lottery reports that because the implementation of psychological examinations for law-enforcement personnel is discretionary, no fiscal impact is expected.
- Virginia Alcoholic Beverage Control Authority reports that conducting psychological examinations for incoming law-enforcement personnel is consistent with the agency's current hiring practices.
- Longwood University, Virginia Commonwealth University, and Old Dominion University report that no fiscal impact is expected as result of the proposed legislation.

Information from the Department of Wildlife Resources, the Department of Motor Vehicles, institutions of higher education with a campus law-enforcement department, and the Department of Juvenile Justice is not available at this time. The fiscal impact statement will be updated upon receiving information from affected agencies as needed.

Information is not available to determine the fiscal impact on local law enforcement agencies at this time.

9. Specific Agency or Political Subdivisions Affected: The Department of Criminal Justice Services, local and state law-enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.