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

1. **Bill Number:** SB5038S2

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

2. **Patron:** McPike

3. **Committee:** Finance and Appropriations

4. **Title:** Mobile crisis co-response team programs.

5. **Summary:** The proposed legislation requires the Department of Criminal Justice Services (DCJS) to advise and assist the Department of Behavioral Health and Developmental Services (DBHDS) and support local law enforcement cooperation with the development and implementation of the Marcus alert system created pursuant to this bill, including the establishment of local protocols for law enforcement participation in the system, and for reporting requirements as set out in the bill.

   The bill provides that by July 1, 2021, DCJS shall develop a written plan outlining (i) the Department's and law enforcement agencies' roles and engagement with the development of the Marcus alert system; (ii) the Department's role in the development of minimum standards, best practices, and the review and approval of the protocols for law enforcement participation in the system set forth in this section; and (iii) plans for the measurement of progress toward the goals for law enforcement participation in the system set forth in the bill. Additionally, all protocols for law enforcement participation in the system shall be developed in coordination with local behavioral health and developmental services stakeholders and approved by DBHDS. Such protocols shall provide for a specialized response by law enforcement designed to meet the goals described in the bill to ensure that individuals experiencing a mental health, substance abuse, or developmental disability-related behavioral health crisis receive a specialized response when diversion to the comprehensive crisis system is not feasible. Specialized response protocols by law enforcement, in addition to providing appropriate training, shall consider the impact to care that the presence of an officer in uniform or a marked vehicle at a response has and shall mitigate such impact when feasible through the use of plain clothes and unmarked vehicles.

   The goals of law enforcement participation, including the development of local protocols, in the behavioral health crisis system and Marcus alert system shall be:

   - ensuring that individuals experiencing behavioral health crises are served by the behavioral health crisis system when considered feasible pursuant to protocols and associated clinical guidance provided in this bill;
   - ensuring that local law enforcement departments and institutions of higher education with law enforcement officers establish standardized agreements with regional mobile

crisis hubs for the provision of law-enforcement backup and specialized response when required for a mobile crisis response;

- providing immediate response and services when diversion to the behavioral health crisis system is not feasible with a protocol that meets the minimum standards and strives for the best practices developed by DBHDS and DCJS;
- affording individuals whose behaviors are consistent with mental illness, substance abuse, intellectual or developmental disabilities, brain injury, or any combination thereof a sense of dignity in crisis situations;
- reducing the likelihood of physical confrontation and use of lethal force;
- ensuring the use of unobstructed body-worn cameras for the continuous improvement of the response team;
- identifying underserved populations in historically economically disadvantaged communities whose behaviors are consistent with mental illness, substance abuse, developmental disabilities, or any combination thereof and ensuring individuals experiencing a mental health crisis, including individuals experiencing a behavioral health crisis secondary to mental illness, substance use problem, developmental or intellectual disabilities, brain injury, or any combination thereof, are directed or 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;
- providing support and assistance for mental health service providers and law enforcement officers;
- decreasing the use of arrest and detention of persons whose behaviors are consistent with mental illness, substance abuse, developmental or intellectual disabilities, brain injury, or any combination thereof by providing better access to timely treatment;
- providing a therapeutic location or protocol to bring individuals in crisis for assessment that is not a law enforcement or jail facility;
- increasing public recognition and appreciation for the mental health needs of a community;
- decreasing injuries during crisis events;
- decreasing the need for mental health treatment in jail;
- accelerating access to care for individuals in crisis through improved and streamlined referral mechanisms to mental health and developmental services;
- improving the notifications made to the comprehensive crisis system concerning an individual experiencing a mental health crisis if the individual poses an immediate public safety threat or threat to self; and
- decreasing the use of psychiatric hospitalizations as a treatment for mental health crises.

The bill provides that by July 1, 2022, every locality must be served by a Marcus alert system. In addition to the required protocols for diversion and serving as a backup to mobile crisis or community care team response, every locality must have established, or be part of an area that has established, protocols for law enforcement participation in the Marcus alert system that has been approved by DBHDS and DCJS. DBHDS and DCJS must collaborate to ensure that DBHDS maintains purview over best practices to promote a behavioral health response to behavioral health crises whenever possible, or behavioral health response with

law enforcement backup, when necessary, and that DCJS maintains purview over requirements associated with decreased use of force and body-worn camera system policies and enforcement of such policies in the protocols.

By July 1, 2021, every locality shall establish a database for individuals with a behavioral health illness, mental health illness, developmental or intellectual disability, or brain injury, or the legal guardian or primary caregiver of such individuals, to voluntarily provide the name, address, and relevant identifying or health information for such individuals. Such database shall be made available to the 9-1-1 alert system and the Marcus alert system to provide relevant information for a law enforcement or behavioral health response to an emergency or crisis, but it shall not be used for any other purpose.

The bill sets out duties and responsibilities for DBHDS concerning crisis services and support for individuals with mental illness, substance abuse, developmental or intellectual disabilities, or brain injury who are experiencing a crisis related to mental health, substance abuse, or behavioral support needs, as follows:

- DBHDS shall develop a comprehensive crisis service continuum, with such funds as may be appropriated for such purpose, based on national best practice models and composed of a crisis call center, mobile crisis teams, crisis stabilization centers, and the Marcus alert system.
- The goals of a comprehensive crisis system shall be to (i) commit to a no-force-first approach to quality improvement in care that is characterized by engagement and collaboration; (ii) create engaging and supportive environments that are as free of barriers as possible, including the elimination of plexiglass from crisis stabilization units and minimal use of barriers between team members and those being served, to support stronger connections; (iii) work to convert those with an involuntary commitment to a voluntary commitment so as to invest individuals in their own recovery; (iv) hire credentialed peers with lived experiences that reflect the characteristics of the community served as much as possible, with attention to common characteristics such as gender, race, primary language, ethnicity, religion, veteran status, and age; (v) develop a leadership-driven, safety-oriented culture committed to dramatically reducing suicide among individuals under care that includes systematically identifying and assessing suicide risk among people receiving care and ensuring every individual has a pathway to care that is both timely and adequate to meet his needs and includes collaborative safety planning and a reduction in access to lethal means; (vi) apply a data-driven quality improvement approach to inform system changes that will lead to improved individual outcomes and better care for those at risk; and (vii) incorporate regular meetings between law enforcement and crisis providers, including emergency medical services and the 9-1-1 dispatch and response system, into the schedule so that these partners can work to continuously improve and ensure safe practices.
- By July 1, 2021, DBHDS, in collaboration with DCJS and law enforcement, mental health, behavioral health, developmental services, emergency management, brain injury, and racial equity stakeholders, shall develop a written plan for the development of a Marcus alert system. Such plan shall include (i) protocols to divert

calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis team dispatch; (ii) protocols for local law enforcement agencies to enter into memorandums of agreement with a regional mobile crisis hub regarding requests for law enforcement backup during a mobile crisis or community care team response; and (iii) development of minimum standards, best practices, and a system for the review and approval of protocols for law enforcement participation in the Marcus alert system.

- By December 1, 2021, DBHDS, in consultation with DCJS and the stakeholders identified in this bill, shall establish best-practice guidelines for mobile crisis teams in the Commonwealth and develop training requirements for call center staff, mobile crisis teams, crisis stabilization center clinical staff, and Marcus alert system users.
- DBHDS shall assess and report on the impact and effectiveness of the comprehensive crisis system in meeting its goals. The assessment shall include the number of calls to the crisis call center, number of mobile crisis responses, number of crisis responses that involved law enforcement backup, and overall function of the comprehensive crisis system. A portion of the report, focused on the function of the Marcus alert system and local protocols for law enforcement participation in the Marcus alert system, shall be written in collaboration with DCJS and shall include the number and description of approved local programs and how the programs interface with the mobile crisis hubs; the number of crisis incidents and injuries to any parties involved; a description of successes and problems encountered; and an analysis of the overall operation of any local protocols or programs, including any disparities in response and outcomes by race and ethnicity of individuals experiencing a behavioral health crisis and recommendations for improvement of the programs. DBHDS, in collaboration with DCJS, shall (i) submit a report to the Joint Commission on Health Care outlining progress toward the assessment of these factors and any assessment items that have begun collection by November 15, 2021, and (ii) submit a comprehensive report to the Joint Commission on Health Care by November 15 of 2022, 2023, and 2024.

6. **Budget Amendment Necessary**: Yes. Items 320, 322, 403, and 425.

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

8. **Fiscal Implications:** This bill requires the Department of Behavioral Health and Developmental Services (DBHDS), after working with stakeholders and law enforcement agencies, to provide a written plan for the establishment of a mental health and first alert response system (a Marcus alert system) by July 1, 2021. By July 1, 2022, every locality must establish or be served by a Marcus alert system that has protocols in place to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis team dispatch. Each locality must establish or be part of an area with protocols for law-enforcement participation in the Marcus alert system that has been approved by DBHDS and the Department of Criminal Justice Services (DCJS).

While the substitute bill does not explicitly require the creation of community care teams, nor place the requirement on the Community Services Boards to staff them, without community care or mobile crisis teams to respond to crisis services, the call center will have limited impact. The bill defines community care teams as a team of mental health service providers, peer recovery specialists, and members of law enforcement. DBHDS estimates that if the responsibility were placed on the Community Services Boards, the cost of a community care team, excluding the cost of a law enforcement officers, would be approximately $972,476 annually.

The annual salary for these mental health 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.

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 also requires that DBHDS create a continuum of crisis services, including a call center, mobile crisis services, and crisis stabilization centers to serve populations experiencing a crisis related to mental health, substance abuse, or behavioral health support needs. However, the bill also specifies that the provision of these services are to be provided “as such funds are appropriated”. This fiscal impact statement includes the estimated costs of services that had been previously proposed for comprehensive crisis services at both DBHDS and the Department of Medical Assistance Services (DMAS), in order to provide an overall estimate of what an enhanced crisis system would look like in the Commonwealth.

Chapter 1289, 2020 Acts of Assembly includes $5.0 million in nongeneral fund appropriation at DBHDS for the development of a crisis hotline in FY 2021 which would meet the requirements for a crisis call line. Chapter 1289, 2020 Acts of Assembly, also included $500,000 in ongoing general fund appropriations for operations and maintenance and $4.7 million general fund for the initial cost of hiring clinicians to staff the hotline in FY 2022 that was unallotted and is now included as a budget reduction in the reversion clearing account included in the Governor’s introduced budget, HB5005/SB5015, currently before the General

Assembly. In order to develop and operate the call center, the funding for hiring staff and maintaining the system would need to be restored in FY 2022. The out-year costs of staffing the phone line statewide are assumed to be $9.4 million.

Chapter 1289, 2020 Acts of Assembly also includes $6.5 million in FY 2022 for the establishment of additional mobile crisis teams. Pursuant to Chapters 607 and 683, 2017 Acts of Assembly, all Community Services Boards are required to offer crisis services by July 1, 2021. However, Chapter 1289, 2020 Acts of Assembly, phased in funding for new services. The amounts included in Chapter 1289 for mobile crisis units were unallotted and are included as a budget reduction in the reversion clearing account included in HB/5005/SB5015. In order to fully fund the STEP-VA crisis system, based on phasing in services beginning in FY 2022, the following funding would be needed:

STEP - VA (GF amounts)	FY 2022	FY 2023+
75 Mobile Crisis Units	$ 6,812,000	$ 20,436,000
Call Center Staffing	$ 4,732,000	$ 9,464,000
Call Center Maintenance		$ 500,000
Total GF	$ 11,544,000	$ 30,400,000

Additionally, Chapter 1289, 2020 Acts of Assembly, includes a proposal to begin enhancing community crisis services provided through the Medicaid program. Of the amounts in the table below, $1.8 million (GF) was included in FY 2022 in Chapter 1289, 2020 Acts of Assembly, but unallotted and is now proposed as a budget reduction in the reversion clearing account. The following table displays the costs as estimated by the Department of Medical Assistance Services for the new services that would be provided if this were to be funded:

Medicaid Crisis Services Proposal (DMAS)	Current	First Year	Second Year	Ongoing
Crisis Intervention	$ 4,761,084	$ 1,131,528	$ 7,355,437	$ 11,315,280
Community-Based Crisis Stabilization	$ 21,312,912	$ 21,833,399	$ 21,833,399	$ 21,833,399
23-Hour Observation		$ 355,756	$ 889,799	$ 1,423,024
Crisis Stablization Units		$ 6,947,472	$ 6,947,472	$ 6,947,472
Total All funds	$ 26,073,996	$ 30,268,155	$ 37,026,107	$ 41,519,175
New GF over current base		**$ 2,097,080**	**$ 5,476,056**	**$ 7,722,590**
New NGF over current base		**$ 2,097,080**	**$ 5,476,056**	**$ 7,722,590**

The bill requires DBHDS and DCJS to work together with other stakeholders to establish best-practice guidelines for mobile crisis teams and develop training requirements for call center staff, mobile crisis teams, crisis stabilization center clinical staff, and Marcus alert system users. To oversee the program and carry out these responsibilities, DBHDS would require two positions to work out of Central Office. The annual salary for these two positions would be $70,000 each, or $110,612 with fringe, healthcare, and overhead. If both of these positions require extensive travel, state vehicles will be an additional $6,000 per position. The total cost for these two positions will be approximately $233,224 per year.

DBHDS Central Office Costs (GF)	FY 2022	FY 2023+
Program Staff (2 FTEs)		
Salary, Fringe, Overhead	$ 221,224	$ 221,224
State Vehicle	$ 12,000	$ 12,000
Total	**$ 233,224**	**$ 233,224**

According to the Department of Criminal Justice Services (DCJS), the agency would need one program manager position to advise and assist DBHDS, serve as the liaison between DBHDS and law enforcement, develop the agency's written plan, approve local protocols, and maintain purview over the specified requirements in the protocols that are developed by localities. The estimated cost for this position is $122,405 annually (prorated to $102,004 the first year).

According to the Department of State Police (VSP), this bill would require all troopers that are involved in crisis response teams to use body-worn cameras. The agency estimates 150 existing trooper positions would be assigned to participate in crisis response, as provided in the bill. This estimate is based on VSP's assumption that approximately three troopers per area office would be needed to provide a 24/7 response to potential crises. Assuming 150 troopers would be involved on such teams, the agency would require camera hardware at a cost of $949 per trooper and vehicle router capability at a cost of $1,600 per trooper (one-time costs). Additionally, VSP would need cloud storage, software, and warranty expenses at a cost of $2,028 per trooper per year (for a five-year contract). The total estimated cost to the agency to comply with this bill is $1,903,350.

9. **Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services, Department of Behavioral Health and Developmental Services, Department of Medical Assistance Services, Department of State Police, and local law enforcement agencies.

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

11. **Other Comments:** None.