

Department of Planning and Budget 2020 Fiscal Impact Statement

1. Bill Number: HB1250ER

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: Torian

3. Committee: Passed both houses.

4. Title: Community Policing Act; data collection and reporting requirement.

5. Summary: Defines “bias-based profiling” as actions of a law enforcement officer that are based solely on the real or perceived race, ethnicity, age, gender, or any combination thereof, or other noncriminal characteristics of an individual, except when such characteristics are used in combination with other identifying factors in seeking to apprehend a suspect who matches a specific description.

The bill prohibits any sheriff, deputy sheriff, law enforcement officer, or State Police officer from engaging in bias-based profiling in the performance of their official duties. The bill requires the sheriff and police force of every locality, and State Police officers, to collect data pertaining to motor vehicle or investigative stops, to report such data to the Department of State Police (VSP) for inclusion in the Community Policing Reporting Database. The sheriff and chief of police in each locality is responsible for forwarding such data to the Superintendent of State Police.

The bill also requires that each time a law enforcement officer stops a driver of a motor vehicle, such officer must collect the following data based on his observation or information provided to the officer by the driver: (i) the race, ethnicity, age, and gender of the person stopped; (ii) the reason for the stop; (iii) the location of the stop; (iv) whether a warning, written citation, or summons was issued or whether any person was arrested; (v) if a warning, written citation, or summons was issued or an arrest was made, the warning provided, violation charged, or crime charged; and (vi) whether the vehicle or any person was searched. State and local law enforcement agencies must collect such data, and any other data as may be specified by VSP, on forms developed by VSP. State and local law enforcement agencies are also required to collect the number of complaints the agency receives alleging the use of excessive force, according to the provisions of the bill.

It requires VSP to develop and implement a uniform statewide database to collect motor vehicle and investigatory stop records, records of complaints alleging the use of excessive force, and data and information submitted by law enforcement agencies pursuant to these sections. The bill requires the Department of Criminal Justice Services (DCJS) to periodically access the database for the purposes of analyzing the data to determine the existence and prevalence of the practice of bias-based profiling and the prevalence of complaints alleging the use of excessive force. DCJS must maintain all records relating to the

analysis, validation, and interpretation of such data. The Director of DCJS may seek assistance in designing the statewide database from any accredited public or private institution of higher education in the Commonwealth, or from an independent body having the experience, staff expertise, and technical support capability to provide such assistance.

The Director of DCJS must annually report the findings and recommendations resulting from the analysis and interpretation of the data from the Database to the Governor, the General Assembly, and the Attorney General beginning on or before July 1, 2021, and each July 1 thereafter. The report must also include information regarding state or local law enforcement agencies that have failed or refused to report the required data to VSP as required. A copy of this report must be provided to each attorney for the Commonwealth of the county or city in which a reporting law enforcement agency is located.

6. **Budget Amendment Necessary:** Yes. Items 404, 425 and 426.
7. **Fiscal Impact Estimates:** Final. See below.
8. **Fiscal Implications:** The proposed legislation would require State Police troopers to collect data pertaining to any motor vehicle or investigative stops they make, and to submit it to the Superintendent for reporting. According to the provisions of the bill, the Department of State Police (VSP) is required to develop and implement a statewide database to collect this data, and data pertaining to the use of excessive force, from VSP and from all local and state law enforcement agencies.

According to VSP, the data required to be collected, with the exception of the vehicle search data, is already included on the Virginia Uniform Summons form completed by law enforcement for all investigative stops in which charges are brought. However, there is currently no method to aggregate this data on a statewide level. VSP is currently operating a pilot electronic summons project in Fairfax County that has this capability, but this system only captures data from 100 of VSP's 2,078 sworn positions. VSP's total estimated costs to implement the proposed legislation are \$4,408,893 the first year, and an ongoing cost of \$1,407,366 the second year, and 10 positions:

	Year One	Year Two
Business Analyst	\$90,000.00	\$90,000.00
Database Procurement	\$2,000,000.00	\$0.00
Database Maintenance	\$0.00	\$250,000.00
Program Support Technicians	\$71,935.00	\$71,935.00
State Police Troopers	\$1,771,958.00	\$995,431.00
Department IT Development	\$100,000.00	\$0.00
Reporting Functionality	\$375,000.00	\$0.00
VSP Total Costs	\$4,408,893.00	\$1,407,366.00

VSP estimates one-time information technology (IT) costs to implement the provisions of this bill as follows: \$2,000,000 for database procurement, \$100,000 to develop an in-house reporting mechanism for troopers to report the information they have collected, and between \$250,000-\$500,000 for reporting of aggregated statewide data from all reporting law enforcement agencies. VSP provided an estimate of \$375,000 for the statewide reporting functionality component of this bill. VSP also expects to pay \$90,000 in contract business analyst costs each year to support the IT project, and \$250,000 per year, beginning in the second year, for the maintenance of the new program.

Additionally, VSP believes it needs a minimum of one program support technician position to assist with the collection and analysis of the results from 283 state and local law enforcement agencies employing 19,404 sworn officers statewide. The cost for this position is \$71,935 annually. VSP also expects it would need additional trooper positions to comply with the in-house reporting requirements of this bill. In 2018, VSP troopers initiated 494,817 summonses and arrests that would be subject to reporting according to the provisions of this bill. Assuming two minutes of data entry per summons, the agency estimates it would need nine additional trooper positions to compensate for the time spent entering the data required of this bill. Those additional trooper positions are estimated to cost \$1,771,958 the first year and \$995,431 the second year.

This amended bill would require the Department of Criminal Justice Services (DCJS) to periodically access the Community Policing Reporting Database, which would be maintained by VSP, analyze the data to determine the existence and prevalence of the practice of bias-based profiling and the prevalence of complaints alleging the use of excessive force, and to annually report on any findings and recommendations. The agency estimates it would need one full-time researcher position to manage the analysis and reporting of this data. The total cost for this position is \$132,254 (salary and benefits).

This bill would allow the Director of DCJS to seek assistance in analyzing data from any accredited public or private institution of higher education in the Commonwealth, or from an independent body that has the appropriate resources and capability to provide such assistance. There would likely be costs associated with using higher education entities for this purpose, but these costs are indeterminate at this time and would be negotiated between DCJS and the institution in question, should DCJS choose to seek such assistance.

The bill would require law enforcement agencies to collect the required information for each arrest or summons issued, and submit the information to VSP. According to the Division of Capitol Police, the agency expects to have minimal costs associated with the collection of the information and its transmittal to the Database.

There is no anticipated fiscal impact on the Virginia Alcoholic Beverage Control Authority, the Department of Game and Inland Fisheries, or the Department of Conservation and Recreation. Any potential fiscal impact to college and university law enforcement agencies or local law enforcement agencies is indeterminate at this time.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, Department of Criminal Justice Services, Institutions of Higher Education, Office of the Attorney General, Division of Capitol Police, Department of Game and Inland Fisheries, Department of Conservation and Recreation, Commonwealth's attorneys, Local law enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.