

Department of Planning and Budget 2020 Fiscal Impact Statement

1. **Bill Number:** SB730H1

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

2. **Patron:** McClellan

3. **Committee:** House Appropriations

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 such an interrogation. If such law enforcement officer is unable to do so, he must make an audio recording of the entirety of the interrogation. An exception is provided for law enforcement officers who have good cause not to record the custodial interrogation at the place of detention. 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, including any period or condition of probation, parole, or suspension of sentence, and all appeals and habeas corpus proceedings have been completed or the time for filing such appeals or proceedings has expired.

6. **Budget Amendment Necessary:** Yes. Item 425.

7. **Fiscal Impact Estimates:** Preliminary. 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 entirety 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, including a period or condition of probation, parole, or suspension of sentence, and all appeals and habeas corpus proceedings have been completed or the deadline to file them has passed.

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. Each of these interviews would need to be stored on USB flash drives or external hard drives and maintained as evidence for the duration of time set forth in the bill. The cost for flash drives that can hold approximately two hours of audiovisual data is between \$15 for the lowest resolution drives without encryption capabilities to \$65 for high resolution drives that meet current VITA security policies with regards to encryption. With 1,500 troopers conducting 25-50 interviews per year, flash drive expenses could range from \$562,500 to \$4,875,000 annually to comply with the provisions of the proposed legislation.

Additionally, 60 VSP office locations would need to be outfitted with audiovisual capabilities. Standalone, non-integrated audiovisual recording equipment is estimated to cost VSP between \$500,000 and \$1,000,000 in one-time costs.

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: This bill is a companion to HB1023E.