

Department of Planning and Budget

2020 Fiscal Impact Statement

1. Bill Number: SB999

House of Origin	<input checked="" type="checkbox"/> Introduced	<input type="checkbox"/> Substitute	<input type="checkbox"/> Engrossed
Second House	<input type="checkbox"/> In Committee	<input type="checkbox"/> Substitute	<input type="checkbox"/> Enrolled

2. Patron: Chase

3. Committee: Judiciary

4. Title: Law-Enforcement Officers Procedural Guarantee Act.

5. Summary: This bill amends the Law-Enforcement Officers Procedural Guarantee Act concerning the conduct of investigations into a law-enforcement officer's conduct. The bill requires the commencement of an investigation within 15 days of receipt of complaint by the employing agency and requires that an officer be notified 24 hours prior to questioning or being required to provide information to the investigating agency. The bill also governs who may conduct and supervise the investigation, the manner in which the questioning of an officer may be conducted and the documentation required during such questioning, and the counsel an officer is entitled to before and during the questioning.

The bill requires that an officer is notified no later than 30 days after conclusion of an investigation of investigative findings and any recommendations for disciplinary action and allows an officer to 30 days after receiving such notification to reply to the findings in writing. The bill provides that no disciplinary charge may be brought against an officer unless the charge is filed not later than the earlier of (i) one year after the date on which the law-enforcement agency filing the charge had knowledge or reasonably should have had knowledge of an alleged violation or (ii) 90 days after the commencement of an investigation. The bill allows these requirements to be waived in writing by the officer or the officer's counsel or representative.

The bill allows an officer who has been dismissed, demoted, suspended, or transferred for punitive reasons 30 days to request a hearing and sets out requirements for notifications and documentation that the officer must be provided prior to the hearing. Under current law, the hearing panel may, on the request of either the law-enforcement officer or his agency shall, issue subpoenas requiring the testimony of witnesses who have refused or failed to appear at the hearing. The bill requires the disciplinary hearing panel to petition a court of competent jurisdiction to issue an order compelling compliance for any failure to comply with a subpoena. The bill requires the hearing board to administer an oath or affirmation to each witness, who must testify subject to the laws of perjury.

The bill requires that the prosecuting agency's burden of persuasion or standard of proof must be by clear and convincing evidence as to each charge and sets guidelines for finding an officer guilty of a charge and subject to disciplinary action by the disciplinary hearing panel. The bill provides that if the officer subject to the disciplinary hearing is found guilty, the

hearing panel must make a written recommendation of the appropriate disciplinary action and that the employing agency or other governmental entity with final disciplinary authority may not impose a penalty greater than the penalty recommended by the hearing panel. If the officer is found not guilty of the alleged violation, the matter is concluded, and no disciplinary action may be taken against the officer for the subject of the investigation and hearing. The bill further stipulates that the officer's personnel file may not contain any reference to the charge, and any pay and benefits lost or deferred during the pendency of the disposition of the charge shall be restored to the officer.

The bill's provisions do not apply in cases where i) a criminal investigation of specifically alleged conduct by a law-enforcement officer that, if proven, would constitute a definite violation of a statute providing for criminal penalties or (ii) a nondisciplinary action taken in good faith on the basis of a law-enforcement officer's employment-related performance.

6. Budget Amendment Necessary: Yes, Item 427

8. Fiscal Implications: According to the Virginia Department of State Police (VSP), the bill's requirement to complete investigations within a 30 day timeline will require the addition of eight sworn FTE. The VSP estimates the cost for these positions at \$1,570,378 in FY 2021 and \$1,138,974 each year thereafter. The VSP also reports that it may need additional office space to house the new employees at a cost of \$36,000 annually with one-time furnishing costs of \$43,750. The VSP also expects to incur additional technology costs, estimated at \$17,921 in FY2021 and \$13,860 in FY 2022.

The Virginia Port Authority believes it can absorb any costs associated with implementing the provisions of this legislation. According to the Department of Capital Police (DCP), the bill have an impact of \$4,000, however, the agency has indicated it will be able to absorb the cost.

The Virginia Marine Resources Commission, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Department of Conservation and Recreation, and the Department of Motor Vehicles are currently reviewing this bill for potential impacts.

The impact on local law enforcement agencies and campus police department of public institution of higher education of the Commonwealth employing the law-enforcement officer cannot be determined at this time.

9. Specific Agency or Political Subdivisions Affected: Department of State Police, the Division of Capitol Police, the Virginia Marine Resources Commission, the Virginia Port Authority, the Department of Game and Inland Fisheries, the Virginia Alcoholic Beverage Control Authority, the Department of Conservation and Recreation, or the Department of Motor Vehicles, campus police department of any public institution of higher education of the Commonwealth employing the law-enforcement officer, and local law enforcement agencies.

10. Technical Amendment Necessary: None

11. Other Comments: None