

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

1. Bill Number: HB5013

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

2. Patron: Jeffrey Bourne

3. Committee: Courts of Justice

4. Title: Civil action for deprivation of rights; duties and liabilities of certain employers in employing or contracting for the services of law-enforcement officers.

5. Summary: Creates a civil action for the deprivation of a person's rights by a law-enforcement officer and provides that a plaintiff may be awarded compensatory damages, punitive damages, and equitable relief, as well as reasonable attorney fees and costs. The bill further imposes upon a law-enforcement officer's employer, as defined in the bill, a duty to exercise reasonable care to control a law-enforcement officer's conduct while such officer is acting outside the scope of his employment to prevent such officer from intentionally harming, or creating a risk of harm to, third parties. The bill further states that an employer has a duty of reasonable care to third parties in the supervision and training of law-enforcement officers for whose services it employs or contracts. The bill further provides that an employer is liable to a vulnerable victim, as defined in the bill, for the tortious or criminal conduct of a law-enforcement officer it employs or contracts for his services if such conduct proximately causes injury to such victim and occurs at a place and time when the employer knew or should have known that such officer could be in contact with a vulnerable victim. The bill provides that sovereign immunity and governmental immunity shall not apply to such actions specified or created in the bill.

6. Budget Amendment Necessary: Yes, Items 57 and 285

7. Fiscal Impact Estimates: Preliminary - indeterminate, see Item 8.

7a. Expenditure Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Positions</i>	<i>Fund</i>
2021	\$2,192,730	12	GF/NGF
2022	\$4,085,460	12	GF/NGF
2023	\$4,085,460	12	GF/NGF
2024	\$4,085,460	12	GF/NGF
2025	\$4,085,460	12	GF/NGF
2026	\$4,085,460	12	GF/NGF

7b. Revenue Impact:

<i>Fiscal Year</i>	<i>Dollars</i>	<i>Fund</i>
2021	\$1,300,000	NGF
2022	\$2,600,000	NGF
2023	\$2,600,000	NGF
2024	\$2,600,000	NGF
2025	\$2,600,000	NGF
2026	\$2,600,000	NGF

- 8. Fiscal Implications:** The Office of the Attorney General and Department of Law (OAG) indicates this legislation would create the first state cause of action for this variety of claim. This legislation could substantially impact the resources of the OAG, as well as law enforcement officers, supervisors, and agencies. The number and complexity of lawsuits filed against state law enforcement agencies could substantially increase with a corresponding increase in intensive discovery, pretrial and trial work, and mediations and settlements.

The OAG indicates estimating additional resource requirements is difficult, and the needs initially might be met by hiring outside counsel to defend the cases, but the estimated cost is immeasurable at this time. The OAG might need a specialized civil trial unit devoted to these state law enforcement civil cases estimated to include six attorneys, four paralegals, and two legal secretaries, as well as servers and software support designed to manage the substantial data involved. The associated recurring personnel and support costs are estimated to be \$1,485,460 with a one-time cost of \$150,000 for information technology (servers, software).

The Department of Treasury, Division of Risk Management (DRM) estimates this bill will impact the state's Constitutional Officer and Regional Jail Risk Management Plan (VaRISK) by about \$2,600,000 per year, which would result in significant annual premium increases on localities and constitutional officers. VaRISK provides coverage for tort liability, law enforcement liability, public officials liability, and medical malpractice to constitutional officers and regional jails. Local law enforcement, other than constitutional officers, could be impacted by increased insurance premiums. DRM indicates the impact to the State Liability Plan is indeterminate at this time, but eliminating sovereign and qualified immunity will increase costs to the Plans and Plan members.

Virginia State Police and Department of Criminal Justice Services indicate this bill presents no fiscal impact. Any impact to other state agency law enforcement functions (e.g. campus police functions, Alcohol Beverage Control officers, etc.) is not know at this time.

- 9. Specific Agency or Political Subdivisions Affected:** The Office of the Attorney General and Department of Law; Department of Treasury, Division of Risk Management; Localities and constitutional officers

- 10. Technical Amendment Necessary:** No

- 11. Other Comments:** Similar to SB5065