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

1. **Bill Number:** HB5043H1

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

2. **Patron:** Bourne

3. **Committee:** Appropriations

4. **Title:** Mental health awareness response and community understanding services (Marcus) alert system.

5. **Summary:** The proposed legislation provides that by January 1, 2021, the Department of Behavioral Health and Developmental Services (DBHDS) and the Department of Criminal Justice Services, in collaboration with law enforcement and mental health stakeholders, shall support the development and establishment of a Marcus alert system that uses community care teams in localities and areas throughout the Commonwealth. The community care teams shall respond to crisis situations involving persons whose behaviors are consistent with mental illness, substance abuse problems, or both and ensure individuals experiencing a mental health crisis, including individuals experiencing a behavioral health crisis, secondary to mental illness, substance use problems, developmental or intellectual disabilities, or any combination thereof.

   The goals of the system shall be: (i) providing immediate response and services by specially trained mental health service providers, registered peer recovery specialists, and law enforcement officers, who shall serve as back up if the scene becomes unstable or unsafe; (ii) affording persons whose behaviors are consistent with mental illness, substance abuse problems, or both a sense of dignity in crisis situations; (iii) reducing the likelihood of physical confrontation; (iv) decreasing arrests and use of force incidents by law enforcement officers; (v) identifying underserved populations in historically economically disadvantaged communities whose behaviors are consistent with mental illness, substance abuse problems, or both and ensuring individuals experiencing a mental health crisis, including individuals experiencing a behavioral health crisis, secondary to mental illness, substance use problems, developmental or intellectual disabilities, or any combination thereof, are directed or referred to, or provided with appropriate care, including follow-up and wrap-around services to individuals, family members, and caregivers to reduce the likelihood of future crises; (vi) providing support and assistance for mental health service providers and law enforcement officers; (vii) decreasing the use of arrest and detention of persons whose behaviors are consistent with mental illness, substance abuse problems, or both by providing better access to timely treatment; (viii) providing a therapeutic location or protocol to bring individuals in crisis for assessment that is not a law enforcement of jail facility; (ix) increasing public recognition and appreciation for the mental health needs of a community; (x) decreasing injuries during crisis events; (xi) reducing inappropriate arrests of individuals whose behaviors are consistent with mental illness in crisis situations; (xii) decreasing the need for

mental health treatment in jail; (xiii) accelerating access to care for individuals in crisis through improved and streamlined referral mechanisms to mental health services; (xiv) improving the notifications made to the community care team and the public of an individual experiencing a mental health crisis if the individual poses an immediate public safety threat or threat to self; and (xv) decreasing the use of psychiatric hospitalizations as treatment for mental health crises. It requires DCJS to assess and report on the Marcus alert system and community care teams established pursuant to this bill.

The bill provides that DBHDS, in collaboration with DCJS, shall establish criteria for the development of community care teams that shall include assessment of the effectiveness of the locality's or area's plan for community involvement, including engaging with and providing services to historically economically disadvantaged communities, training, and therapeutic response alternatives. The bill provides that by July 1, 2021, DBHDS and DCJS shall submit to the Joint Commission on Health Care a report outlining the status of the Marcus alert system, including copies of any requests for proposals and the criteria developed for such areas. It requires that by January 1, 2022, every locality shall have established, or be part of an area that has established such a system that uses a community care team.

Additionally, the bill requires that DBHDS, in consultation with DCJS and the Department for Aging and Rehabilitative Services (DARS), and law enforcement, brain injury, and mental health stakeholders, shall develop a training program for all persons involved in the system and community care teams, and all team members and dispatchers shall receive this training.

The bill provides that each team shall develop a protocol that permits the team to release a person whose behaviors are consistent with mental illness, substance abuse problems, or both whom they encounter in crisis situations when the team has determined the person is sufficiently stable, and to refer him for emergency treatment services. Consideration shall be given to the particular needs of non-English speaking persons when developing such protocol and establishing such community care team. Teams shall only be armed with non-lethal weapons and shall only use non-lethal force. Team members shall not wear uniforms used by law enforcement officers and shall not drive or operate law enforcement-marked motor vehicles. All law enforcement members who are a part of a community care team shall wear and use and keep free from obstruction a body-worn camera system whenever such team is responding to a call for service. Teams shall not be housed in any law enforcement facility, jail, or detention center.

The bill requires DBHDS and DCJS to assess and report on the impact and effectiveness of the teams in meeting their goals. The assessment shall include the consideration of the number of incidents, injuries to the parties involved, successes and problems encountered, the overall operation of the Marcus alert system and teams, and recommendations for improvement. DBHDS and DCJS shall submit a report to the Joint Commission on Health Care by November 15, in the years 2022, 2023, and 2024.

6. **Budget Amendment Necessary**: Yes, Items 320,322, 403, and 426.

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

8. **Fiscal Implications:** The proposed legislation is expected to have a fiscal impact on state agencies.

Department of Behavioral Health and Developmental Services

This bill requires the establishment of a mental health awareness response and community understanding services (MARCUS) alert system in localities and areas throughout the Commonwealth. The development of systems must be completed by January 1, 2021, and every locality must establish a Marcus Alert System or be a part of an established regional Marcus Alert System by January 1, 2022. While the legislation does not specifically require that any state agency create the alert system, but rather support the development of a system, some type of statewide dispatch system may be necessary to meet the requirements of this legislation. The Commonwealth could potentially provide a dispatch system through the STEP-VA crisis intervention phone hotline proposed by the Department of Behavioral Health and Developmental Services. Chapter 1289, 2020 Acts of Assembly, includes $5.0 million in nongeneral fund appropriation at DBHDS for the development of a crisis hotline in FY2021 which may be potentially used to accomplish the requirements of this bill. Chapter 1289, 2020 Acts of Assembly, included $500,000 in ongoing general fund appropriation for operations and maintenance of a hotline, and $4.7 million general fund for the initial cost of hiring clinicians to staff the hotline in FY2022, however, this funding was unallotted in Chapter 1289 and is now included as reductions in the reversion clearing account included in the introduced budget, HB5005/SB5015, currently before the General Assembly. The cost of establishing and hiring staff and maintaining the system would need to be restored in FY 2022 if this system is to be developed. The out-year costs of staffing the phone line statewide are assumed to be $9.4 million.

Under this legislation, every Marcus Alert System must use community care teams to respond and deliver services to an individual whose behavior is consistent with mental illness (which may be secondary to an intellectual or developmental disability), substance abuse problems, or both. Community care teams would consist of mental health clinicians, peer recovery specialists, and members of law enforcement. The legislation does not specify who is responsible for the costs of staffing the community care teams, however, for this fiscal impact statement, it is assumed that the Community Services Boards will provide staffing and will be supported by state general fund dollars.

Using this assumption, it is estimated that the annual salary for these clinicians would be approximately $80,000, bringing the cost per clinician with fringe benefits, healthcare, and overhead to $123,039. The annual salary for peer recovery specialists is $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, assuming that teams will be fully operational during FY 2022 to meet the January 1, 2022, deadline, a minimum of four clinicians and four peer specialists would need to be hired for

each team, totaling $972,456 annually. This cost does not include salaries for any members of law enforcement who are part of the community care teams.

Because the legislation only states a locality must have or be a part of a regional cooperative that has a Marcus Alert response and community care team setup, the number of teams that will be required across the state, and thus the final cost of the legislation, is indeterminate. However, the cost per team is estimated as follows:

Per Team Costs (Non-Nova)**	**FY21 Ongoing**	**FY22 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**

If each CSB catchment area included one team, the cost would be $34.0 million annually. It is possible that some localities already have established crisis intervention teams that would partially meet the requirements of this legislation, which could mitigate the costs, however, it is unclear to what extent they exist. Additionally, DBHDS has begun to implement mobile crisis teams pursuant to the settlement agreement with the federal Department of Justice, however, those teams do not involve law enforcement and are based on a different model.

The legislation also requires DBHDS and the Department of Criminal Justice Services (DCJS) to work together, with other stakeholders, to develop a "community care team training." This training must be conducted for anyone involved in the alert system and community care teams, as well as dispatchers. The final components of this bill require DBHDS and DCJS to establish protocols by which to release a person from the care of the community care teams when the individual is stable enough to do so. They also require both agencies to collect data and write an annual report to the Joint Commission on Health Care in years 2022, 2023, and 2024. Additionally, a public service campaign to run the first six months of FY2022 is mandated in the legislation.

To oversee the program and carry out these responsibilities, DBHDS would require two bachelor's level FTEs within the Central Office. The annual salary for these two positions would be $70,000 each, or $110,612 with fringe benefits, healthcare, and overhead. If both of these positions require extensive travel, state vehicles would be an additional $6,000 per position. The total annual cost for these two positions would be approximately $233,224 per year, with an assumed hiring date of January 1, 2021. The estimated one-time costs to develop and advertise a public service campaign for six months is estimated at $155,000 ($80,000 for materials and development and $75,000 for advertising).

Central Office Costs	FY21 One-Time	FY21 Ongoing	FY22 Ongoing
Public Awareness Campaign			
Material Development and Advertising Costs	$ 155,000		
Program Staff (2 FTEs)			
Salary, Fringe, Overhead	-	$ 110,612	$ 221,224
State Vehicle	-	$ 6,000	$ 12,000
Total	**$ 155,000**	**$ 116,612**	**$ 233,224**

Department of Criminal Justice Services

According to the Department of Criminal Justice Services (DCJS), the agency would need a subject matter expert to oversee this program, and to provide guidance and direction to help establish the mental health first response and alert system, particularly within the specified program as described in the bill. Based on similar positions at the agency, DCJS estimates a program manager position would cost $122,405 annually for salary, fringe benefits, and overhead (prorated to $102,004 the first year).

Department of State Police

The proposed legislation requires law enforcement officers who participate on community care teams be armed only with non-lethal weapons, and not to wear uniforms or drive vehicles used by law enforcement officers. Additionally, all officers must be equipped with a body-worn camera system. According to the Department of State Police (VSP), there are 50 area offices across the Commonwealth that would require officer coverage 24/7 to ensure an adequate response to any Marcus alert incidents that may occur.

The proposed legislation may result in the need for additional law enforcement officer staff, as existing patrol troopers may not be able to promptly respond to such incidents in a timely manner if they cannot do so with their existing uniforms, vehicles, and weapons. Additionally, officers who respond on community care teams may need separate training from what a typical trooper undergoes. Currently, a trooper II position costs $194,987 annually the first year ($209,201 for positions in Northern Virginia) and $108,706 annually the second year ($122,920 for positions in Northern Virginia). A taser costs approximately $3,567 per weapon, and a body camera system costs approximately $25,378 per trooper. It is indeterminate at this time the exact number of additional positions and corresponding equipment would be needed to comply with the provisions of this bill.

Colleges and Universities

The bill could have significant costs to institutions of higher education if each institution is required to supplement its police department with community care teams. These costs would be due to hiring new mental health counselors in order to provide 24/7 availability for response. Further, costs could be greater for the community college system, as several campuses have small police departments and the legislation would require a significant overhaul, with several new hires. The precise fiscal impact is hard to ascertain at this time, but preliminary estimates for staffing teams with mental health counselors are around

$200,000 per year at each institution and each community college campus. Any potential fiscal impact to other colleges and universities within the Commonwealth is indeterminate at this time.

Any potential fiscal impact on the Division of Capitol Police is indeterminate at this time. It is unknown how many members of the Department could be involved in a community care team, if any, and what any costs would be at this time.

Any potential fiscal impact on local law enforcement agencies cannot be determined at this time.

9. **Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services, Department of Behavioral Health and Developmental Services, Community Services Boards (CSBs), State Hospitals, Department of Aging and Rehabilitative Services, Department of State Police, Division of Capitol Police, College and University Police Departments, and Local law enforcement agencies.

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

11. **Other Comments:** None.