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

1. **Bill Number:** HB5043H3

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

2. **Patron:** Bourne

3. **Committee:** Passed both houses.

4. **Title:** Mental health awareness response & community understanding serv. (Marcus) alert syst.; establishes.

5. **Summary:** The proposed legislation requires the Department of Criminal Justice Services (DCJS) to advise and assist the Department of Behavioral Health and Developmental Services (DBHDS) and support local law enforcement cooperation with the development and implementation of the Marcus alert system created pursuant to this bill, including the establishment of local protocols for law enforcement participation in the system, and for reporting requirements as set out in the bill.

   The bill provides that DBHDS and DCJS shall collaborate to ensure that DBHDS maintains purview over best practices to promote a behavioral health response through the use of a mobile crisis response to behavioral health crises whenever possible, or law enforcement backup of a mobile crisis response when necessary, and that DCJS maintains purview over requirements associated with decreased use of force and body-worn camera system policies and enforcement of such policies in the protocols established pursuant to the bill. It also requires that by July 1, 2021, DCJS shall develop a written plan outlining (i) the Department's and law enforcement agencies' roles and engagement with the development of the Marcus alert system; (ii) the Department's role in the development of minimum standards, best practices, and the review and approval of the protocols for law enforcement participation in the system set forth in this section; and (iii) plans for the measurement of progress toward the goals for law enforcement participation in the system set forth in the bill. Additionally, all protocols for law enforcement participation in the system shall be developed in coordination with local behavioral health and developmental services stakeholders and approved by DBHDS. Such protocols shall provide for a specialized response by law enforcement designed to meet the goals described in the bill to ensure that individuals experiencing a mental health, substance abuse, or developmental disability-related behavioral health crisis receive a specialized response when diversion to the comprehensive crisis system is not feasible. Specialized response protocols and training by law enforcement shall consider the impact to care that the presence of an officer in uniform or a marked vehicle at a response has and shall mitigate such impact when feasible through the use of plain clothes and unmarked vehicles. The specialized response protocols and training shall also set forth best practices, guidelines, and procedures regarding the role of law enforcement during a mobile crisis response, including the provisions of backup services when requested, in order

to achieve the goals set forth in the bill and to support the effective diversion of mental health crises to the comprehensive crisis system whenever feasible.

The goals of law enforcement participation, including the development of local protocols, in comprehensive crisis services and the Marcus alert system shall be:

- ensuring that individuals experiencing behavioral health crises are served by the behavioral health comprehensive crisis service system when considered feasible pursuant to protocols and associated clinical guidance provided in this bill;
- ensuring that local law enforcement departments and institutions of higher education with law enforcement officers establish standardized agreements for the provision of law enforcement backup and specialized response when required for a mobile crisis response;
- providing immediate response and services when diversion to the comprehensive crisis system continuum is not feasible with a protocol that meets the minimum standards and strives for the best practices developed by DBHDS and DCJS;
- affording individuals whose behaviors are consistent with mental illness, substance abuse, intellectual or developmental disabilities, brain injury, or any combination thereof a sense of dignity in crisis situations;
- reducing the likelihood of physical confrontation;
- decrease arrests and use-of-force incidents by law enforcement officers;
- ensuring the use of unobstructed body-worn cameras for the continuous improvement of the response team;
- identifying underserved populations in historically economically disadvantaged communities whose behaviors are consistent with mental illness, substance abuse, developmental disabilities, or any combination thereof and ensuring individuals experiencing a mental health crisis, including individuals experiencing a behavioral health crisis secondary to mental illness, substance use problem, developmental or intellectual disabilities, brain injury, or any combination thereof, are directed or referred to and provided with appropriate care, including follow-up and wrap-around services to individuals, family members, and caregivers to reduce the likelihood of future crises;
- providing support and assistance for mental health service providers and law enforcement officers;
- decreasing the use of arrest and detention of persons whose behaviors are consistent with mental illness, substance abuse, developmental or intellectual disabilities, brain injury, or any combination thereof by providing better access to timely treatment;
- providing a therapeutic location or protocol to bring individuals in crisis for assessment that is not a law enforcement or jail facility;
- increasing public recognition and appreciation for the mental health needs of a community;
- decreasing injuries during crisis events;
- decreasing the need for mental health treatment in jail;
- accelerating access to care for individuals in crisis through improved and streamlined referral mechanisms to mental health and developmental services;

- improving the notifications made to the comprehensive crisis system concerning an individual experiencing a mental health crisis if the individual poses an immediate public safety threat or threat to self; and
- decreasing the use of psychiatric hospitalizations as a treatment for mental health crises.

The bill provides that by July 1, 2021, every locality must establish a voluntary database to be made available to the 9-1-1 alert system and the Marcus alert system to provide relevant mental health information and emergency contact information for appropriate response to an emergency or crisis. Identifying and health information concerning behavioral health illness, mental health illness, development or intellectual disability, or brain injury may be voluntarily provided to the database by the individual with such illness, disability, or injury, the parent or legal guardian of such individual if he is under the age of 18, or a person appointed the guardian of such person elsewhere in the Code. An individual shall be removed from the database when he reaches the age of 18, unless he or his guardian requests that he remain in the database. Information provided to the database shall not be used for any other purpose except as set forth in this subsection.

By July 1, 2022, every locality must have established local protocols that meet the requirements set forth in the DBHDS and DCJS plan as set forth in this bill. In addition, by July 1, 2022, every locality must have established, or be part of an area that has established, protocols for law enforcement participation in the Marcus alert system that has been approved by DBHDS and DCJS.

The bill sets out duties and responsibilities for DBHDS for the provision of crisis services and support for individuals with mental illness, substance abuse, developmental or intellectual disabilities, or brain injury who are experiencing a crisis related to mental health, substance abuse, or behavioral support needs, as follows:

- DBHDS shall develop a comprehensive crisis system, with such funds as may be appropriated for such purpose, based on national best practice models and composed of a crisis call center, community care and mobile crisis teams, crisis stabilization centers, and the Marcus alert system.
- By July 1, 2021, DBHDS, in collaboration with DCJS and law enforcement, mental health, behavioral health, developmental services, emergency management, brain injury, and racial equity stakeholders, shall develop a written plan for the development of a Marcus alert system. Such plan shall: (i) inventory past and current crisis intervention teams established pursuant to the Code throughout the Commonwealth that have received state funding; (ii) inventory the existence, status, and experiences of community services board mobile crisis teams and crisis stabilization units; (iii) identify any other existing cooperative relationships between community services boards and law enforcement agencies; (iv) review the prevalence of crisis situations involving mental illness or substance abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse, developmental or intellectual disability, brain injury, or any

combination thereof; (v) identify state and local funding of emergency and crisis services; (vi) include protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center for risk assessment and engagement, including assessment for mobile crisis or community care team dispatch; (vii) include protocols for local law enforcement agencies to enter into memorandums of agreement with mobile crisis response providers regarding requests for law enforcement backup during a mobile crisis or community care team response; (viii) develop minimum standards, best practices, and a system for the review and approval of protocols for law enforcement participation in the Marcus alert system set forth the bill; (ix) assign specific responsibilities, duties, and authorities among responsible state and local entities; and (x) assess the effectiveness of a 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.

- No later than December 1, 2021, DBHDS must establish five Marcus alert programs and community care or mobile crisis teams, one located in each of the five DBHDS regions.
- No later than July 1, 2023, DBHDS must establish five additional Marcus alert system programs and community care or mobile crisis teams, one located in each of the five DBHDS regions. Community services boards or behavioral health authorities that serve the largest populations in each region, excluding those community services boards or behavioral health authorities already selected pursuant to this bill, shall be selected for programs under this subdivision.
- DBHDS shall establish additional Marcus alert systems and community care teams in geographical areas served by a community services board or behavioral health authority by July 1, 2024; July 1, 2025; and July 1, 2026. No later than July 1, 2026, all community services board and behavioral health authority geographical areas shall have established a Marcus alert system that uses a community care or mobile crisis team.
- DBHDS must also assess and report on the impact and effectiveness of the comprehensive crisis system in meeting its goals. The assessment shall include the number of calls to the crisis call center, number of mobile crisis responses, number of crisis responses that involved law enforcement backup, and overall function of the comprehensive crisis system. A portion of the report, focused on the function of the Marcus alert system and local protocols for law enforcement participation in the Marcus alert system, must be written in collaboration with DCJS and shall include the number and description of approved local programs and how the programs interface comprehensive crisis system and mobile crisis response; the number of crisis incidents and injuries to any parties involved; a description of successes and problems encountered; and an analysis of the overall operation of any local protocols or programs, including any disparities in response and outcomes by race and ethnicity of individuals experiencing a behavioral health crisis and recommendations for improvement of the programs. The report must also include a specific plan to phase in a Marcus alert system and mobile crisis response in each remaining geographical area served by a community services board or behavioral health authority as required in this bill. DBHDS, in collaboration with DCJS, shall: (i) submit a report by November

15, 2021 to the Joint Commission on Health Care outlining progress toward the assessment of these factors and any assessment items that are available for the reporting period, and (ii) submit a comprehensive annual report to the Joint Commission on Health Care by November 15 of each subsequent year.

- DBHDS and DCJS must coordinate a public service campaign to run from July 1, 2021, until January 1, 2022, announcing the development and establishment of community care teams and mental health awareness response and community understanding services (Marcus) alert systems in localities and areas throughout the Commonwealth.

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

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

8. **Fiscal Implications:** The substitute bill requires the Department of Behavioral Health and Developmental Services (DBHDS) and the Department of Criminal Justice Services (DCJS) to develop a plan for 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 the plan must be completed by July 1, 2021.

   Under this legislation, Marcus Alert Systems will use community care teams established through Community Services Boards and Behavioral Health Authorities 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 also requires DBHDS and DCJS to involve localities and stakeholders in identifying existing crisis services resources that may be used to meet the terms of this legislation. However, without that information, any possible mitigation of costs is unknown. For that reason, this fiscal impact statement assumes all costs will be new costs.

   Using this assumption, the costs per team would include salaries, overhead, fringe benefits, and health insurance for clinicians and peer specialists. The annual salary for these clinicians would be approximately $80,000, for a total cost per clinician with fringe benefits, healthcare, and overhead to $123,039. The annual salary for peer recovery specialists would be $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, 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.

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**

The substitute legislation phases in the creation of community care teams, with five teams required by December 1, 2021 and an additional five teams required by July 1, 2023. The remaining teams will be phased in until all CSB catchment areas have a team by FY 2027.

Because the legislation requires that each region have a community care or mobile crisis team by December 1, 2021, one of the teams would be in the Northern Virginia region, thus the salaries for that team and all subsequent teams in the region are increased by ten percent to account for salary differentials in that area. It is also assumed that in each round of phasing in new teams, one team would be in Northern Virginia, one for each of the five CSBs in the region. The following table shows the projected general fund costs (in millions).

	FY 2022	FY 2023	FY 2024	FY 2025	FY 2026	FY 2027
5 Teams (1 NoVA)	$ 2.86	$ 4.91	$ 4.91	$ 4.91	$ 4.91	$ 4.91
5 Teams (1 NoVA)			$ 4.91	$ 4.91	$ 4.91	$ 4.91
10 Teams (1 NoVA)				$ 9.77	$ 9.77	$ 9.77
10 Teams (1 NoVA)					$ 9.77	$ 9.77
10 Teams (1 NoVA)						$ 9.77
Costs to CSBs	**$ 2.86**	**$ 4.91**	**$ 9.82**	**$ 19.59**	**$ 29.37**	**$ 39.14**

Annualized costs per team: Non-NoVA $ 972,456
NoVA $ 1,020,456

If it is determined that existing resources or crisis teams can be "redeployed" or are already providing the services required by this legislation, the cost of creating community care teams may be reduced.

The legislation also requires both agencies to collect data and write an assessment of the system to the Joint Commission on Health Care by November 15, 2021, with annual reporting due on November 15 of each subsequent year. Additionally, a public service campaign to run the first six months of FY 2022 is mandated in the legislation.

To oversee the program and carry out these responsibilities involved in data collection and program management, DBHDS would require two employees 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 in FY 2021 and $75,000 for advertising in FY 2022).

Central Office Costs	FY21 One-time	FY21 Ongoing	FY22 One-time	FY22 Ongoing
Public Awareness Campaign				
Material Development	$ 80,000			
Advertising Campaign			$ 75,000	
Program Staff (2 FTEs)				
Salary, Fringe, Overhead	-	$ 110,612		$ 221,224
State Vehicle	-	$ 6,000		$ 12,000
Total	**$ 80,000**	**$ 116,612**	**$ 75,000**	**$ 233,224**

The substitute legislation also requires that DBHDS create a continuum of crisis services, including a call center, mobile crisis services, and crisis stabilization centers to serve populations experiencing a crisis related to mental health, substance abuse, or behavioral health support needs. However, the bill also specifies that the provision of these services are to be provided "as such funds are appropriated". This fiscal impact statement includes the estimated costs of services that had been previously proposed for comprehensive crisis services at both DBHDS and the Department of Medical Assistance Services (DMAS), in order to provide an overall estimate of what an enhanced crisis system would look like in the Commonwealth.

Chapter 1289, 2020 Acts of Assembly includes $5.0 million in nongeneral fund appropriation at DBHDS for the development of a crisis hotline in FY 2021 which would meet the requirements for a crisis call line. Chapter 1289, 2020 Acts of Assembly, also included $500,000 in ongoing general fund appropriations for operations and maintenance and $4.7 million general fund for the initial cost of hiring clinicians to staff the hotline in FY 2022 that was unallotted and is now included as a budget reduction in the reversion clearing account included in the Governor's introduced budget, HB5005/SB5015, currently before the General Assembly. In order to develop and operate the call center, the funding for hiring staff and maintaining the system would need to be added in FY 2022. The out-year costs of staffing the phone line statewide are assumed to be $9.4 million.

Chapter 1289, 2020 Acts of Assembly also includes $6.5 million in FY 2022 for the establishment of additional mobile crisis teams. Pursuant to Chapters 607 and 683, 2017 Acts of Assembly, all Community Services Boards are required to offer crisis services by July 1, 2021. However, Chapter 1289, 2020 Acts of Assembly, phased in funding for new services. The amounts included in Chapter 1289 for mobile crisis units were unallotted and are included as a budget reduction in the reversion clearing account included in HB/5005/SB5015. In order to fully fund the STEP-VA crisis system, based on phasing in services beginning in FY 2022, the following funding would be needed:

STEP - VA (GF amounts)	FY 2022	FY 2023+
75 Mobile Crisis Units	$ 6,812,000	$ 20,436,000
Call Center Staffing	$ 4,732,000	$ 9,464,000
Call Center Maintenance	$ 375,000	$ 500,000
Total GF	$ 11,919,000	$ 30,400,000

Depending on when the call center becomes operational, there would be some maintenance costs in FY 2022. Because this bill requires that community care teams be established by December 1, 2021, this estimate assumes the call center system will also be operational by the second quarter of FY 2022.

Additionally, Chapter 1289, 2020 Acts of Assembly, includes a proposal to begin enhancing community crisis services provided through the Medicaid program. Of the amounts in the table below, $1.8 million (GF) was included in FY 2022 in Chapter 1289, 2020 Acts of Assembly, but unallotted and is now proposed as a budget reduction in the reversion clearing account. The following table displays the costs as estimated by the Department of Medical Assistance Services for the new services that would be provided if this were to be funded:

Medicaid Crisis Services Proposal (DMAS)	Current	First Year	Second Year	Ongoing
Crisis Intervention	$ 4,761,084	$ 1,131,528	$ 7,355,437	$ 11,315,280
Community-Based Crisis Stabilization	$ 21,312,912	$ 21,833,399	$ 21,833,399	$ 21,833,399
23-Hour Observation		$ 355,756	$ 889,799	$ 1,423,024
Crisis Stablization Units		$ 6,947,472	$ 6,947,472	$ 6,947,472
Total All funds	$ 26,073,996	$ 30,268,155	$ 37,026,107	$ 41,519,175
New GF over current base		**$ 2,097,080**	**$ 5,476,056**	**$ 7,722,590**
New NGF over current base		**$ 2,097,080**	**$ 5,476,056**	**$ 7,722,590**

According to DCJS, the agency would need one program manager position to advise and assist DBHDS, serve as the liaison between DBHDS and law enforcement, develop the agency's written plan, approve local protocols, and maintain purview over the specified requirements in the protocols that are developed by localities. The estimated cost for this position is $122,405 annually (prorated to $102,004 the first year).

According to the Department of State Police (VSP), there is no anticipated fiscal impact on agency operations as a result of the provisions of this bill.

9. **Specific Agency or Political Subdivisions Affected:** Department of Criminal Justice Services, Department of Behavioral Health and Developmental Services, Department of Medical Assistance Services, Department of State Police, and local law enforcement agencies.

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

11. **Other Comments:** This bill is a companion to SB5038S3.