

## Department of Planning and Budget 2020 Fiscal Impact Statement

**1. Bill Number:** HB5051ER

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

**2. Patron:** Simon

**3. Committee:** Passed House and Senate.

**4. Title:** Law-enforcement officer; notice to Criminal Justice Services Board of decertification.

**5. Summary:** The proposed legislation requires the Department of Criminal Justice Services (DCJS) to adopt statewide professional standards of conduct applicable to all certified law-enforcement officers and certified jail officers.

The proposed legislation also requires any sheriff, chief of police, or agency administrator to notify the Criminal Justice Services Board (Board) in writing within 48 hours of becoming aware that any certified law-enforcement or jail officer currently employed by their respective agency has been: convicted of or pled guilty or no contest to a felony or any offense that would be a felony if committed in the Commonwealth; terminated or resigns in advance of a pending drug screening; terminated or resigns in advance of being convicted or found guilty of violating state or federal law; engaging in serious misconduct, as defined in statewide professional standards of conduct adopted by the Board; terminated or resigns while the subject of a pending internal investigation involving serious misconduct as defined in statewide professional standards of conduct adopted by the Board; terminated or resigns for an act committed while in the performance of his duties that compromises an officer's credibility, integrity, honesty, or other characteristics that constitute exculpatory or impeachment evidence in a criminal case. It also requires the Board to initiate decertification proceedings against any current or former law-enforcement or jail officer who meets the aforementioned criteria, under specified conditions. The proposed legislation also establishes that any finding of misconduct will not be considered final until all grievances or appeals have been exhausted or waived and the finding of misconduct is made final.

The proposed legislation also requires DCJS to promulgate regulations to implement the provisions of section 15.2-1707 (decertification of law enforcement), as amended by the proposed legislation, within 280 days of the effective date of the proposed legislation. DCJS is also required to report to the Chairman of the Senate Committee on the Judiciary and the Chairman of the House Committee for Courts of Justice by November 1, 2021, on the status of the regulations.

The proposed legislation also establishes that the provisions of section 15.2-1707, as amended by the proposed legislation, will apply only to offenses or misconduct committed after the effective date of the proposed legislation.

- 6. Budget Amendment Necessary:** Yes, Item 403 (DCJS) and Item 57 (OAG). The amended budget (HB5005/SB5015) includes three positions and \$302,904 the first year and \$363,485 the second year of general fund resources in Item 403 for Department of Criminal Justice Services to implement the proposed legislation. This funding assumes funding for ten months of personnel costs in FY 2021 and full funding in FY 2022.

The Office of the Attorney General believes it will need funding and one position (Assistant Attorney General), at an annual cost of \$138,599, in order to address anticipated increase in decertification hearings (\$115,499 the first year and \$138,599 the second year).

- 7. Fiscal Impact Estimates:** Final (see Item 8 below).

- 8. Fiscal Implications:** The Department of Criminal Justice Services (DCJS) states that the agency will need a program manager who is responsible for developing the professional standards of conduct required in the proposed legislation. Additionally, DCJS states that because findings of serious misconduct as defined in the new statewide professional standards of conduct would be grounds for decertification, and this may be different from what current law enforcement officers and agencies are accustomed to, such a position would also be responsible for providing training and technical assistance on the new statewide professional standards of conduct. This position also would be responsible for providing training and technical assistance on the new statewide professional standards of conduct, given the fact that findings of serious misconduct would be grounds for decertification, and that this may be different from what current law enforcement officers and agencies are accustomed. The Governor's introduced budget includes \$113,254 for this position in the first year and \$135,905 the second year (this includes \$72,000 for salary, plus benefits, fringe, and travel costs).

The Department of Criminal Justice Services (DCJS) also states that expanding the factors that allow for the decertification of a law-enforcement officer will result in more decertifications, and, therefore, as a result, more appeal hearings. However, DCJS reports that it is not possible to be certain how many additional decertifications and appeal hearings may result from the proposed legislation. Based on existing data, DCJS reports that on average the agency has reviewed seven decertifications per year since 2012. The lowest number (five decertifications) was reviewed in 2012, and the highest number (15 decertifications) was reviewed in 2018.

The agency estimates it would need two hearing officers to oversee this process, review and analyze documentation, prepare legal documents, present cases, and assist the Attorney General's Office as needed. The estimated cost for these positions is \$208,079 the first year and \$249,695 the second year (salary plus benefits) and is included in the Governor's introduced budget.

The Office of the Attorney General (OAG) is responsible for representing the Criminal Justice Services Board (Board) at decertification hearings. The OAG reports that, given the expansion in categories for which a law-enforcement officer could be subject to

decertification, it is likely that the number of decertification hearings will increase considerably over the next year or so.

Therefore, the OAG expects an impact on its resources and anticipates the need for one additional Assistant Attorney General. The general fund cost for the position is \$115,499 the first year and \$138,599 the second year.

- 9. Specific Agency or Political Subdivisions Affected:** State and local law-enforcement agencies, state and local correctional facilities, local governments, Department of Criminal Justice Services, Office of the Attorney General.

- 10. Technical Amendment Necessary:** No.

- 11. Other Comments:** None.