

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

1. Bill Number: HB5055ER

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

2. Patron: Herring

3. Committee: Passed both the House and Senate

4. Title: Law-enforcement civilian review panels; localities required, on or before 7/1/2021, to establish.

5. Summary: The bill provides that the governing body of a locality may establish a law-enforcement civilian oversight body. The proposed legislation also establishes that any law-enforcement civilian oversight body established by the governing body of a locality shall reflect the demographic diversity of the locality. A law-enforcement civilian oversight body established pursuant to this section may receive, investigate, and issue findings on complaints from civilians regarding conduct of law-enforcement officers and civilian employees of a law-enforcement agency serving under the authority of the locality. The civilian oversight body may investigate and issue findings on incidents, including the use of force by a law-enforcement officer, death or serious injury to any person held in custody, serious abuse of authority or misconduct, allegedly discriminatory stops, and other incidents regarding the conduct of law-enforcement officers or civilian employees of a law-enforcement agency serving under the authority of the locality. The bill also sets forth other duties and responsibilities as reasonably necessary for the oversight body to effectuate its lawful purpose as provided for in this section to effectively oversee the law-enforcement agencies as authorized by the locality.

Additionally, the civilian oversight body may hold hearings and, if after making a good faith effort to obtain, voluntarily, the attendance of witnesses and the production of books, papers, and other evidence necessary to perform its duties the oversight body is unable to obtain such attendance or production, it may apply to the circuit court for the locality for a subpoena compelling the attendance of such witness or the production of such books, papers, and other evidence, and the court may, upon good cause shown, cause the subpoena to be issued. Any person so subpoenaed may apply to the court that issued such subpoena to quash it. Any person currently employed by a law-enforcement agency is ineligible to serve on a civilian oversight body established pursuant to this section. However, a retired law-enforcement officer may serve on such law-enforcement civilian oversight body as an advisory, nonvoting ex officio member, if such an individual meets certain specified criteria. A law-enforcement civilian oversight body may retain legal counsel to represent the oversight body in all cases, hearings, controversies, or matters involving the interests of the oversight body. Such counsel shall be paid from funds appropriated by the locality.

The bill defines "Law-enforcement officer" to mean any person, other than a chief of police, who in his official capacity (i) is authorized by law to make arrests and (ii) is a non-probationary officer of a police department, bureau, or force of any political subdivision, or a campus police department of any public institution of higher education of the Commonwealth, where such department, bureau, or force has three or more law-enforcement officers. "Law-enforcement officer" does not include a sheriff or deputy sheriff or any law-enforcement officer who has rights afforded to him pursuant to the provisions of Chapter 5 (39.1-500 et seq.)

The proposed legislation also contains a clause stating that the provisions therein will become effective on July 1, 2021.

6. Budget Amendment Necessary: No.

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

8. Fiscal Implications: The Department of Criminal Justice Services does not anticipate a fiscal impact as a result of the proposed legislation.

The fiscal impact on local law enforcement agencies cannot be determined at this time. The bill is not expected to have a fiscal impact on state agencies with law enforcement personnel.

9. Specific Agency or Political Subdivisions Affected: The Department of Criminal Justice Services, local law-enforcement agencies.

10. Technical Amendment Necessary: No.

11. Other Comments: None.