

## **Department of Planning and Budget**

### **2020 Fiscal Impact Statement**

**1. Bill Number:** HB5109S2

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

**2. Patron:** Hope

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

**4. Title:** Department of Criminal Justice Services; law-enforcement officer training and qualifications.

**5. Summary:** The proposed legislation requires the Department of Criminal Justice Services (DCJS) to add several categories to its existing training standards and model policies for law-enforcement personnel, and as part of the guidance provided to community-policing programs in the Commonwealth. These criteria include: systemic and individual racism; bias based profiling, as defined, including implicit bias in interacting with persons who have mental illness, substance abuse disorder, or developmental or cognitive disability.

Furthermore, DCJS is required to add to its compulsory training standards for basic training and recertification, as well as its compulsory in-service training for law-enforcement, several categories, which include the aforementioned categories, and the following categories: training in de-escalation techniques; and training in the lawful use of force, including the use of deadly force only when necessary to protect the law-enforcement officer or another person. The proposed legislation also adds systemic and individual racism to the list of categories required in the compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements.

The proposed legislation also requires DCJS to establish requirements for compulsory mental health examinations for law-enforcement officers, jail officers, and correctional officers that include guidelines on the implementation of such mental health examinations. Additionally, the proposed legislation adds to the minimum qualifications to become a law-enforcement officer or a jail officer the requirement that such person undergo a psychological examination, subsequent to a conditional offer of employment, conducted under the supervision of a licensed psychologist or other licensed mental health professional.

Finally, the bill requires any criminal justice training academy approved by DCJS to employ such uniform curriculum and lesson plans and requires the DCJS to conduct annual evaluations of each criminal justice training academy's compliance with uniform curriculum and lesson plans. The bill allows approved criminal justice training academies to petition the Department to approve the use of an alternative curriculum and lesson plans developed by such academy. DCJS is also required to conduct an evaluation of each criminal justice training academy's use of an alternative curriculum and lesson plans every third year during the criminal justice training academy's recertification to ensure compliance with the uniform

curriculum and lesson plans content, and in the event that DCJS determines that the criminal justice training academy is in substantial compliance with the uniform curriculum and lesson plans, the waiver can be extended for three years. The proposed legislation also permits DCJS to revoke any waiver issued to a criminal justice training academy at any time if DCJS determines that the criminal justice training academy is not in substantial compliance with the uniform curriculum and lesson plans.

6. **Budget Amendment Necessary:** Yes, Item 403. The Governor's introduced budget (HB5005/SB5015) provides \$1 million to support contractual services for the development of a uniform curriculum in Item 403. Item 403 of the Governor's introduced budget also provides general fund support of \$605,185 in the first year and \$718,975 in the second year for five positions.
7. **Fiscal Impact Estimates:** Preliminary (see Item 8 below).
8. **Fiscal Implications:** According to DCJS, the proposed changes to the listed sections of current law would result in the following impacts:

Costs primarily funded in the Governor's introduced budget (HB5005/SB5015):

- Section 9.1-102(60) requires DCJS to develop uniform curriculum and lesson plans for the compulsory minimum entry-level standards. DCJS estimates that it would cost \$1,000,000 to hire a contractor to accomplish this requirement. This estimate is based on information from other states that have developed a uniform curriculum and lesson plans for minimum entry-level standards. This funding is included in the Governor's introduced budget (HB5005/SB5015) (Item 403).
- Section 9.1-112.1(B) requires DCJS to conduct an annual evaluation of each criminal justice training academy's compliance with uniform curriculum and lesson plans and provide assistance to any academies not meeting compliance. DCJS reports that it will need additional staffing to ensure that the 38 academies (not including the DCJS academy) and satellite academy facilities are either correctly utilizing the curriculum or that the curriculum is substantially similar to the uniform curriculum. Additionally, section 9.1-112.1(C) requires DCJS to entertain waiver requests exempting an academy from the uniform curriculum and to base any determination on whether their curriculum and lesson plans (i) meet or exceed the compulsory minimum entry-level, in-service, and advanced training standards established by the Criminal Justice Services Board pursuant to § 9.1-102 and (ii) are substantially similar to the uniform curriculum and lesson plans developed by DCJS, pursuant to § 9.1-102. DCJS is also granted permission to revoke any waiver issued to a criminal justice training academy at any time if DCJS determines that the criminal justice training academy is not in substantial compliance with the uniform curriculum and lesson plans. DCJS reports that, currently, an evaluation of compliance with existing minimum training standards and performance outcomes occurs once every three years through a recertification process. DCJS reports that conducting annual evaluations of training academies will require six additional field services coordinators since these activities cannot be absorbed within existing personnel resources. DCJS estimates that these six full-time positions will cost \$726,222 (\$65,000 per position for

salary, and \$121,037 including salary, fringe benefits, and equipment costs). The Governor's introduced budget (HB5005/SB5015) (Item 403) provides five of the six positions and general fund support of 504,321 in the first year and \$605,185 in the second year; however, the agency believes that it will need one additional position estimated first year is \$100,864 and the second year cost is estimated to be \$121,037 (including salary, fringe benefits, and equipment costs).

Costs that can be absorbed within existing resources:

- Section 9.1-102(39) requires DCJS to review and evaluate community-policing programs in the Commonwealth, and make recommendations for programs in addressing sensitivity to, and awareness of, systemic and individual racism, to include recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental disability. DCJS reports that existing resources can be used to address this requirement.
- Sections 9.1-102(42) and (54) require DCJS to establish new training standards for school resource officers and school security officers on awareness of systemic and individual racism. DCJS reports that existing training standards developed for law enforcement officers which include this topic can be used for this purpose without any fiscal impact to the agency.
- Section 9.1-102(59) requires DCJS to establish compulsory in-service training standards to include specific topics, not currently included in the in-service training standards. DCJS reports that it does not anticipate any cost to add these new topics to the in-service standards, because it is currently reviewing and updating compulsory minimum training standards, and these expanded topics can be incorporated in this review.

Additionally, the fiscal impact on certain provisions of the bill cannot be determined as follows:

- Section 9.1-102(38) requires DCJS to establish new compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of systemic and individual racism and recognizing implicit biases in interacting with persons who have a mental illness, substance use disorder, or developmental disability. DCJS reports that the compulsory minimum training standards are currently being reviewed and updated, and the agency is not anticipating any fiscal impact on its operations. According to DCJS, it is not known if these changes would increase costs for training for training academies and law enforcement agencies as it may lengthen their existing curriculum and thus increase the training time for law enforcement.
- Section 9.1-102(58) requires DCJS to establish requirements for compulsory mental health examinations for law-enforcement officers, deputy sheriffs and jail officers, and correctional officers that include guidelines for the implementation of such mental health examinations. DCJS reports that it does not have any staff with the requisite subject matter expertise to comply with this requirement and, therefore, will need to hire a contractor to fulfill this requirement. To accomplish this, a Request for Proposal (RFP) would need to be issued, and therefore, the immediate fiscal impact cannot be determined at this time. Additionally, the fiscal impact on agencies which employ law-enforcement officers, deputy sheriffs, jail

officers, and correctional officers is not known at this time because the required guidelines have yet to be developed.

- Section 9.1-102(60) requires DCJS to develop uniform curriculum and lesson plans for in-service and for advanced training standards. DCJS anticipates that a contractor will be needed to update the minimum training standards; however, the cost for contract services cannot be determined at this time.

Additionally, to the extent that an agency does not require all law enforcement officers to undergo a psychological examination, subsequent to a conditional offer of employment, the requirement added to section 15.2-1705 is likely to result in a fiscal impact on state agencies that have law enforcement personnel.

- The Department for Aging and Rehabilitative Services (DARS) indicates that there would likely be some minimal fiscal impact associated with ensuring that all law enforcement staff at the Wilson Workforce and Rehabilitation Center (WWRC) meet the provisions of this bill. However, based on the relatively small size of the WWRC police force (six officers) and recent structure changes, any costs are expected to be borne by the agency without the need for additional appropriation.
- The Virginia State Police (VSP) reports that it does not anticipate any fiscal impact as a result of the curriculum requirements established in the proposed legislation because it already provides training on the categories specified. VSP anticipates that it would petition DCJS to use an alternative curriculum, consistent with the provisions in the proposed legislation, and expects that as long as this petition is granted, no fiscal impact would result from the changes related to training. Additionally, VSP does not anticipate a fiscal impact as a result of the requirement related to psychological examinations because this is consistent with the agency's current practice.
- Capitol Police (CP) reports that it conducts psychological examinations through an agreement with a private medical professional for new law-enforcement officers; however, if an officer is transferring to the agency, CP does not conduct a psychological examination. Should the intent of the proposed legislation be to require psychological examinations for such law-enforcement officers as well, CP estimates that it would cost approximately \$1,800 annually (assuming ten law-enforcement officers at a cost of \$180 per officer). The agency has a contract with a local service provider.
- According to the Department of Corrections (DOC), the provisions of §15.2-1705 only apply to its Special Investigations Unit. DOC believes, at this time, that the costs associated with implementing the provisions of this section of the bill can be absorbed within their existing resources.
- The Office of the State Inspector General (OSIG) estimates that psychological examinations would cost approximately \$500 annually, based on the assumption that one or two new agents would be hired by the agency annually. However, the OSIG has indicated that it will be able to absorb this fiscal impact, to the extent that costs do not

exceed this estimate. These figures are based on the agency's interpretation of the proposed legislation.

- According to the Marine Resources Commission (MRC), the proposed legislation will have an expenditure impact of \$2,250 annually, which the agency expects to be able to absorb within existing resources. The agency reports that the average turnover rate for law enforcement is 12 percent annually. Given the number of officers MRC employs, the agency estimates an annual need for approximately 10 tests annually in order to fill vacant positions. This would cost \$2,250 per year. MRC reports that it can absorb this expense within its special fund balances for Law Enforcement, which are used to purchase replacement vessels and specialized equipment, to match grants, and to purchase replacement vehicles as needed.
- The Department of Conservation and Recreation (DCR) estimates that conducting psychological examinations will cost the agency approximately \$7,000 annually, based on the assumption that ten officers are hired by the agency annually; however, the agency anticipates that it will be able to absorb this fiscal impact within existing resources. These estimates are based on the agency's interpretation of the proposed legislation.
- According to the Virginia Lottery, the agency hires an average of two agents on an annual basis who would be subject to the requirement in §15.2-1705 related to psychological examinations, therefore, the agency anticipates that it will be able to absorb this fiscal impact within existing resources. The Lottery also reports that it has a total of 8 Investigator positions which would be subject to the proposed modifications related to training requirements. Lottery estimates that such modified training requirements could result in an additional cost of \$40,000 annually, for which the agency does not expect to require a budget amendment. However, in the event that modifications to training requirements result in changes which exceed these estimates, the agency may incur costs. However, those costs cannot be determined at this time. These estimates are based on the agency's interpretation of the proposed legislation.
- Virginia Alcoholic Beverage Control Authority does not anticipate a fiscal impact as a result of the requirement related to psychological examinations because this is consistent with the agency's current practice.
- Longwood University, Virginia Commonwealth University, and Old Dominion University report that no fiscal impact is expected as result of the proposed legislation.

Information from the Department for Aging and Rehabilitative Services, the Department of Wildlife Resources, the Department of Motor Vehicles, institutions of higher education with a campus law-enforcement department, and the Department of Juvenile Justice is not available at this time. The fiscal impact statement will be updated upon receiving information from affected agencies as needed.

Information is not available to determine the fiscal impact on local law enforcement agencies at this time.

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

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

**11. Other Comments:** None.