https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+SB5038
Identical to: https://lis.virginia.gov/cgi-bin/legp604.exe?202+sum+HB5043

VIRGINIA ACTS OF ASSEMBLY -- 2020 SPECIAL SESSION I

Recognized as laws to support COVID-19 response and recovery efforts:
https://www.governor.virginia.gov/newsroom/all-releases/2020/november/headline-861204-en.html

CHAPTER 42

An Act to amend and reenact § 9.1-102 of the Code of Virginia and to amend the Code of Virginia by adding in Chapter 1 of Title 9.1 an article numbered 16, consisting of a section numbered 9.1-193, and by adding a section numbered 37.2-311.1, relating to response to mental health crises; establishment of the mental health awareness response and community understanding services (Marcus) alert system.

[S 5038]

Approved November 5, 2020

Be it enacted by the General Assembly of Virginia:

1. That § 9.1-102 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Chapter 1 of Title 9.1 an article numbered 16, consisting of a section numbered 9.1-193, and by adding a section numbered 37.2-311.1 as follows:

§ 9.1-102. Powers and duties of the Board and the Department.

The Department, under the direction of the Board, which shall be the policy-making body for carrying out the duties and powers hereunder, shall have the power and duty to:

1. Adopt regulations, pursuant to the Administrative Process Act (§ 2.2-4000 et seq.), for the administration of this chapter including the authority to require the submission of reports and information by law-enforcement officers within the Commonwealth. Any proposed regulations concerning the privacy, confidentiality, and security of criminal justice information shall be submitted for review and comment to any board, commission, or committee or other body which may be established by the General Assembly to regulate the privacy, confidentiality, and security of information collected and maintained by the Commonwealth or any political subdivision thereof;

2. Establish compulsory minimum training standards subsequent to employment as a law-enforcement officer in (i) permanent positions, and (ii) temporary or probationary status, and establish the time required for completion of such training;

3. Establish minimum training standards and qualifications for certification and recertification for law-enforcement officers serving as field training officers;

4. Establish compulsory minimum curriculum requirements for in-service and advanced courses and programs for schools, whether located in or outside the Commonwealth, which are operated for the specific purpose of training law-enforcement officers;

5. Establish (i) compulsory minimum training standards for law-enforcement officers who utilize radar or an electrical or microcomputer device to measure the speed of motor vehicles as provided in § 46.2-882 and establish the time required for completion of the training and (ii) compulsory minimum qualifications for certification and recertification of instructors who provide such training;

6. [Repealed];

7. Establish compulsory minimum entry-level, in-service and advanced training standards for those persons designated to provide courthouse and courtroom security pursuant to the provisions of § 53.1-120, and to establish the time required for completion of such training;

8. Establish compulsory minimum entry-level, in-service and advanced training standards for deputy sheriffs designated to serve process pursuant to the provisions of § 8.01-293, and establish the time required for the completion of such training;

9. Establish compulsory minimum entry-level, in-service, and advanced training standards, as well as the time required for completion of such training, for persons employed as deputy sheriffs and jail officers by local criminal justice agencies and correctional officers employed by the Department of Corrections under the provisions of Title 53.1. For correctional officers employed by the Department of Corrections, such standards shall include training on the general care of pregnant women, the impact of restraints on pregnant inmates and fetuses, the impact of being placed in restrictive housing or solitary confinement on pregnant inmates, and the impact of body cavity searches on pregnant inmates;

10. Establish compulsory minimum training standards for all dispatchers employed by or in any local or state government agency, whose duties include the dispatching of law-enforcement personnel. Such training standards shall apply only to dispatchers hired on or after July 1, 1988;

11. Establish compulsory minimum training standards for all auxiliary police officers employed by or in any local or state government agency. Such training shall be graduated and based on the type of duties to be performed by the auxiliary police officers. Such training standards shall not apply to auxiliary police officers exempt pursuant to § 15.2-1731;

12. Consult and cooperate with counties, municipalities, agencies of the Commonwealth, other state and federal governmental agencies, and institutions of higher education within or outside the Commonwealth, concerning the development of police training schools and programs or courses of

instruction;

13. Approve institutions, curricula and facilities, whether located in or outside the Commonwealth, for school operation for the specific purpose of training law-enforcement officers; but this shall not prevent the holding of any such school whether approved or not;

14. Establish and maintain police training programs through such agencies and institutions as the Board deems appropriate;

15. Establish compulsory minimum qualifications of certification and recertification for instructors in criminal justice training schools approved by the Department;

16. Conduct and stimulate research by public and private agencies which shall be designed to improve police administration and law enforcement;

17. Make recommendations concerning any matter within its purview pursuant to this chapter;

18. Coordinate its activities with those of any interstate system for the exchange of criminal history record information, nominate one or more of its members to serve upon the council or committee of any such system, and participate when and as deemed appropriate in any such system's activities and programs;

19. Conduct inquiries and investigations it deems appropriate to carry out its functions under this chapter and, in conducting such inquiries and investigations, may require any criminal justice agency to submit information, reports, and statistical data with respect to its policy and operation of information systems or with respect to its collection, storage, dissemination, and usage of criminal history record information and correctional status information, and such criminal justice agencies shall submit such information, reports, and data as are reasonably required;

20. Conduct audits as required by § 9.1-131;

21. Conduct a continuing study and review of questions of individual privacy and confidentiality of criminal history record information and correctional status information;

22. Advise criminal justice agencies and initiate educational programs for such agencies with respect to matters of privacy, confidentiality, and security as they pertain to criminal history record information and correctional status information;

23. Maintain a liaison with any board, commission, committee, or other body which may be established by law, executive order, or resolution to regulate the privacy and security of information collected by the Commonwealth or any political subdivision thereof;

24. Adopt regulations establishing guidelines and standards for the collection, storage, and dissemination of criminal history record information and correctional status information, and the privacy, confidentiality, and security thereof necessary to implement state and federal statutes, regulations, and court orders;

25. Operate a statewide criminal justice research center, which shall maintain an integrated criminal justice information system, produce reports, provide technical assistance to state and local criminal justice data system users, and provide analysis and interpretation of criminal justice statistical information;

26. Develop a comprehensive, statewide, long-range plan for strengthening and improving law enforcement and the administration of criminal justice throughout the Commonwealth, and periodically update that plan;

27. Cooperate with, and advise and assist, all agencies, departments, boards and institutions of the Commonwealth, and units of general local government, or combinations thereof, including planning district commissions, in planning, developing, and administering programs, projects, comprehensive plans, and other activities for improving law enforcement and the administration of criminal justice throughout the Commonwealth, including allocating and subgranting funds for these purposes;

28. Define, develop, organize, encourage, conduct, coordinate, and administer programs, projects and activities for the Commonwealth and units of general local government, or combinations thereof, in the Commonwealth, designed to strengthen and improve law enforcement and the administration of criminal justice at every level throughout the Commonwealth;

29. Review and evaluate programs, projects, and activities, and recommend, where necessary, revisions or alterations to such programs, projects, and activities for the purpose of improving law enforcement and the administration of criminal justice;

30. Coordinate the activities and projects of the state departments, agencies, and boards of the Commonwealth and of the units of general local government, or combination thereof, including planning district commissions, relating to the preparation, adoption, administration, and implementation of comprehensive plans to strengthen and improve law enforcement and the administration of criminal justice;

31. Do all things necessary on behalf of the Commonwealth and its units of general local government, to determine and secure benefits available under the Omnibus Crime Control and Safe Streets Act of 1968 (P.L. 90-351, 82 Stat. 197), as amended, and under any other federal acts and programs for strengthening and improving law enforcement, the administration of criminal justice, and delinquency prevention and control;

32. Receive, administer, and expend all funds and other assistance available to the Board and the

Department for carrying out the purposes of this chapter and the Omnibus Crime Control and Safe Streets Act of 1968, as amended;

33. Apply for and accept grants from the United States government or any other source in carrying out the purposes of this chapter and accept any and all donations both real and personal, and grants of money from any governmental unit or public agency, or from any institution, person, firm or corporation, and may receive, utilize and dispose of the same. Any arrangements pursuant to this section shall be detailed in the annual report of the Board. Such report shall include the identity of the donor, the nature of the transaction, and the conditions, if any. Any moneys received pursuant to this section shall be deposited in the state treasury to the account of the Department. To these ends, the Board shall have the power to comply with conditions and execute such agreements as may be necessary;

34. Make and enter into all contracts and agreements necessary or incidental to the performance of its duties and execution of its powers under this chapter, including but not limited to, contracts with the United States, units of general local government or combinations thereof, in Virginia or other states, and with agencies and departments of the Commonwealth;

35. Adopt and administer reasonable regulations for the planning and implementation of programs and activities and for the allocation, expenditure and subgranting of funds available to the Commonwealth and to units of general local government, and for carrying out the purposes of this chapter and the powers and duties set forth herein;

36. Certify and decertify law-enforcement officers in accordance with §§ 15.2-1706 and 15.2-1707;

37. Establish training standards and publish and periodically update model policies for law-enforcement personnel in the following subjects:

a. The handling of family abuse, domestic violence, sexual assault, and stalking cases, including standards for determining the predominant physical aggressor in accordance with § 19.2-81.3. The Department shall provide technical support and assistance to law-enforcement agencies in carrying out the requirements set forth in subsection A of § 9.1-1301;

b. Communication with and facilitation of the safe return of individuals diagnosed with Alzheimer's disease;

c. Sensitivity to and awareness of cultural diversity and the potential for biased policing;

d. Protocols for local and regional sexual assault response teams;

e. Communication of death notifications;

f. The questioning of individuals suspected of driving while intoxicated concerning the physical location of such individual's last consumption of an alcoholic beverage and the communication of such information to the Virginia Alcoholic Beverage Control Authority;

g. Vehicle patrol duties that embody current best practices for pursuits and for responding to emergency calls;

h. Criminal investigations that embody current best practices for conducting photographic and live lineups;

i. Sensitivity to and awareness of human trafficking offenses and the identification of victims of human trafficking offenses for personnel involved in criminal investigations or assigned to vehicle or street patrol duties; and

j. Missing children, missing adults, and search and rescue protocol;

38. Establish compulsory training standards for basic training and the recertification of law-enforcement officers to ensure sensitivity to and awareness of cultural diversity and the potential for biased policing;

39. Review and evaluate community-policing programs in the Commonwealth, and recommend where necessary statewide operating procedures, guidelines, and standards which strengthen and improve such programs, including sensitivity to and awareness of cultural diversity and the potential for biased policing;

40. Establish a Virginia Law-Enforcement Accreditation Center. The Center may, in cooperation with Virginia law-enforcement agencies, provide technical assistance and administrative support, including staffing, for the establishment of voluntary state law-enforcement accreditation standards. The Center may provide accreditation assistance and training, resource material, and research into methods and procedures that will assist the Virginia law-enforcement community efforts to obtain Virginia accreditation status;

41. Promote community policing philosophy and practice throughout the Commonwealth by providing community policing training and technical assistance statewide to all law-enforcement agencies, community groups, public and private organizations and citizens; developing and distributing innovative policing curricula and training tools on general community policing philosophy and practice and contemporary critical issues facing Virginia communities; serving as a consultant to Virginia organizations with specific community policing needs; facilitating continued development and implementation of community policing programs statewide through discussion forums for community policing leaders, development of law-enforcement instructors; promoting a statewide community policing initiative; and serving as a statewide information source on the subject of community policing including, but not limited to periodic newsletters, a website and an accessible lending library;

42. Establish, in consultation with the Department of Education and the Virginia State Crime Commission, compulsory minimum standards for employment and job-entry and in-service training curricula and certification requirements for school security officers, including school security officers described in clause (b) of § 22.1-280.2:1, which training and certification shall be administered by the Virginia Center for School and Campus Safety (VCSCS) pursuant to § 9.1-184. Such training standards shall be specific to the role and responsibility of school security officers and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques such as a physical alternative to restraint; (v) disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders, and past traumatic experiences; and (viii) student behavioral dynamics, including child and adolescent development and brain research. The Department shall establish an advisory committee consisting of local school board representatives, principals, superintendents, and school security personnel to assist in the development of the standards and certification requirements in this subdivision. The Department shall require any school security officer who carries a firearm in the performance of his duties to provide proof that he has completed a training course provided by a federal, state, or local law-enforcement agency that includes training in active shooter emergency response, emergency evacuation procedure, and threat assessment;

43. License and regulate property bail bondsmen and surety bail bondsmen in accordance with Article 11 (§ 9.1-185 et seq.);

44. License and regulate bail enforcement agents in accordance with Article 12 (§ 9.1-186 et seq.);

45. In conjunction with the Virginia State Police and the State Compensation Board, advise criminal justice agencies regarding the investigation, registration, and dissemination of information requirements as they pertain to the Sex Offender and Crimes Against Minors Registry Act (§ 9.1-900 et seq.);

46. Establish minimum standards for (i) employment, (ii) job-entry and in-service training curricula, and (iii) certification requirements for campus security officers. Such training standards shall include, but not be limited to, the role and responsibility of campus security officers, relevant state and federal laws, school and personal liability issues, security awareness in the campus environment, and disaster and emergency response. The Department shall provide technical support and assistance to campus police departments and campus security departments on the establishment and implementation of policies and procedures, including but not limited to: the management of such departments, investigatory procedures, judicial referrals, the establishment and management of databases for campus safety and security information sharing, and development of uniform record keeping for disciplinary records and statistics, such as campus crime logs, judicial referrals and Clery Act statistics. The Department shall establish an advisory committee consisting of college administrators, college police chiefs, college security department chiefs, and local law-enforcement officials to assist in the development of the standards and certification requirements and training pursuant to this subdivision;

47. Assess and report, in accordance with § 9.1-190, the crisis intervention team programs established pursuant to § 9.1-187;

48. In conjunction with the Office of the Attorney General, advise law-enforcement agencies and attorneys for the Commonwealth regarding the identification, investigation, and prosecution of human trafficking offenses using the common law and existing criminal statutes in the Code of Virginia;

49. Register tow truck drivers in accordance with § 46.2-116 and carry out the provisions of § 46.2-117;

50. Administer the activities of the Virginia Sexual and Domestic Violence Program Professional Standards Committee by providing technical assistance and administrative support, including staffing, for the Committee;

51. In accordance with § 9.1-102.1, design and approve the issuance of photo-identification cards to private security services registrants registered pursuant to Article 4 (§ 9.1-138 et seq.);

52. In consultation with the State Council of Higher Education for Virginia and the Virginia Association of Campus Law Enforcement Administrators, develop multidisciplinary curricula on trauma-informed sexual assault investigation;

53. In consultation with the Department of Behavioral Health and Developmental Services, develop a model addiction recovery program that may be administered by sheriffs, deputy sheriffs, jail officers, administrators, or superintendents in any local or regional jail. Such program shall be based on any existing addiction recovery programs that are being administered by any local or regional jails in the Commonwealth. Participation in the model addiction recovery program shall be voluntary, and such program may address aspects of the recovery process, including medical and clinical recovery, peer-to-peer support, availability of mental health resources, family dynamics, and aftercare aspects of the recovery process;

54. Establish compulsory minimum training standards for certification and recertification of law-enforcement officers serving as school resource officers. Such training shall be specific to the role and responsibility of a law-enforcement officer working with students in a school environment and shall include (i) relevant state and federal laws; (ii) school and personal liability issues; (iii) security

awareness in the school environment; (iv) mediation and conflict resolution, including de-escalation techniques; (v) disaster and emergency response; (vi) awareness of cultural diversity and implicit bias; (vii) working with students with disabilities, mental health needs, substance abuse disorders, or past traumatic experiences; and (viii) student behavioral dynamics, including current child and adolescent development and brain research;

55. Establish a model policy for the operation of body-worn camera systems as defined in § 15.2-1723.1 that also addresses the storage and maintenance of body-worn camera system records;

56. Establish compulsory minimum training standards for detector canine handlers employed by the Department of Corrections, standards for the training and retention of detector canines used by the Department of Corrections, and a central database on the performance and effectiveness of such detector canines that requires the Department of Corrections to submit comprehensive information on each canine handler and detector canine, including the number and types of calls and searches, substances searched for and whether or not detected, and the number of false positives, false negatives, true positives, and true negatives;

57. Establish compulsory training standards for basic training of law-enforcement officers for recognizing and managing stress, self-care techniques, and resiliency; ~~and~~

58. *Advise and assist the Department of Behavioral Health and Developmental Services, and support local law-enforcement cooperation, with the development and implementation of the Marcus alert system, as defined in § 37.2-311.1, including the establishment of local protocols for law-enforcement participation in the Marcus alert system pursuant to § 9.1-193 and for reporting requirements pursuant to §§ 9.1-193 and 37.2-311.1; and*

59. Perform such other acts as may be necessary or convenient for the effective performance of its duties.

Article 16.

Mental Health Awareness Response and Community Understanding Services (Marcus) Alert System.

§ 9.1-193. Mental health awareness response and community understanding services (Marcus) alert system; law-enforcement protocols.

A. As used in this article, unless the context requires a different meaning:

"Area" means a combination of one or more localities or institutions of higher education contained therein that may have law-enforcement officers as defined in § 9.1-101.

"Body-worn camera system" means the same as that term is defined in § 15.2-1723.1.

"Community care team" means the same as that term is defined in § 37.2-311.1.

"Comprehensive crisis system" means the same as that term is defined in § 37.2-311.1.

"Developmental disability" means the same as that term is defined in § 37.2-100.

"Developmental services" means the same as that term is defined in § 37.2-100.

"Historically economically disadvantaged community" means the same as that term is defined in § 56-576.

"Mental health awareness response and community understanding services alert system" or "Marcus alert system" means the same as that term is defined in § 37.2-311.1.

"Mental health service provider" means the same as that term is defined in § 54.1-2400.1.

"Mobile crisis response" means the same as that term is defined in § 37.2-311.1.

"Mobile crisis team" means the same as that term is defined in § 37.2-311.1.

"Registered peer recovery specialist" means the same as that term is defined in § 54.1-3500.

"Substance abuse" means the same as that term is defined in § 37.2-100.

B. The Department of Behavioral Health and Developmental Services and the Department shall collaborate to ensure that the Department of Behavioral Health and Developmental Services 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 the Department 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 this article and § 37.2-311.1.

C. By July 1, 2021, the Department 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 Marcus alert system set forth in subsection D; and (iii) plans for the measurement of progress toward the goals for law-enforcement participation in the Marcus alert system set forth in subsection E.

D. All protocols and training for law-enforcement participation in the Marcus alert system shall be developed in coordination with local behavioral health and developmental services stakeholders and approved by the Department of Behavioral Health and Developmental Services according to standards developed pursuant to § 37.2-311.1. Such protocols and training shall provide for a specialized response by law enforcement designed to meet the goals set forth in this article 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 subsection E and to support the effective diversion of mental health crises to the comprehensive crisis system whenever feasible.

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

1. Ensuring that individuals experiencing behavioral health crises are served by the behavioral health comprehensive crisis service system when considered feasible pursuant to protocols and training and associated clinical guidance provided pursuant to Title 37.2;

2. 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;

3. 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 the Department of Behavioral Health and Developmental Services and the Department pursuant to § 37.2-311.1;

4. 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;

5. Reducing the likelihood of physical confrontation;

6. Decrease arrests and use-of-force incidents by law-enforcement officers;

7. Ensuring the use of unobstructed body-worn cameras for the continuous improvement of the response team;

8. 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;

9. Providing support and assistance for mental health service providers and law-enforcement officers;

10. 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;

11. Providing a therapeutic location or protocol to bring individuals in crisis for assessment that is not a law-enforcement or jail facility;

12. Increasing public recognition and appreciation for the mental health needs of a community;

13. Decreasing injuries during crisis events;

14. Decreasing the need for mental health treatment in jail;

15. Accelerating access to care for individuals in crisis through improved and streamlined referral mechanisms to mental health and developmental services;

16. 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

17. Decreasing the use of psychiatric hospitalizations as a treatment for mental health crises.

F. By July 1, 2021, every locality shall 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, developmental or intellectual disability, or brain injury may be voluntarily provided to the database by the individual with the behavioral health illness, mental health illness, developmental or intellectual disability, or brain injury; the parent or legal guardian of such individual if the individual is under the age of 18; or a person appointed the guardian of such person as defined in § 64.2-2000. An individual shall be removed from the database when he reaches the age of 18, unless he or his guardian, as defined in § 64.2-2000, requests that the individual remain in the database. Information provided to the database shall not be used for any other purpose except as set forth in this subsection.

G. By July 1, 2022, every locality shall have established local protocols that meet the requirements set forth in the Department of Behavioral Health and Developmental Services plan set forth in clauses (vi), (vii), and (viii) of subdivision B 2 of § 37.2-311.1. In addition, by July 1, 2022, every locality shall 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 the Department of Behavioral Health and Developmental Services and the Department.

§ 37.2-311.1. Comprehensive crisis system; Marcus alert system; powers and duties of the Department related to comprehensive mental health, substance abuse, and developmental disability crisis services.

A. As used in this section, unless the context requires a different meaning:

"Community care team" means a team of mental health service providers, and may include registered peer recovery specialists and law-enforcement officers as a team, with the mental health service providers leading such team, to help stabilize individuals in crisis situations. Law enforcement may provide backup support as needed to a community care team in accordance with the protocols and best practices developed pursuant to § 9.1-193. In addition to serving as a co-response unit, community care teams may, at the discretion of the employing locality, engage in community mental health awareness and services.

"Comprehensive crisis system" means the continuum of care established by the Department of Behavioral Health and Developmental Services pursuant to this section.

"Crisis call center" means a call center that provides crisis intervention that meets National Suicide Prevention Lifeline standards for risk assessment and engagement.

"Crisis stabilization center" means a facility providing short-term (under 24 hours) observation and crisis stabilization services to all referrals in a home-like, nonhospital environment.

"Historically economically disadvantaged community" means the same as that term is defined in § 56-576.

"Mental health awareness response and community understanding services alert system" or "Marcus alert system" means a set of protocols to (i) initiate a behavioral health response to a behavioral health crisis, including for individuals experiencing a behavioral health crisis secondary to mental illness, substance abuse, developmental disabilities, or any combination thereof; (ii) divert such individuals to the behavioral health or developmental services system whenever feasible; and (iii) facilitate a specialized response in accordance with § 9.1-193 when diversion is not feasible.

"Mobile crisis response" means the provision of professional, same-day intervention for children or adults who are experiencing crises and whose behaviors are consistent with 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. "Mobile crisis response" may be provided by a community care team or a mobile crisis team, and a locality may establish either or both types of teams to best meet its needs.

"Mobile crisis team" means a team of one or more qualified or licensed mental health professionals and may include a registered peer recovery specialist or a family support partner. A law-enforcement officer shall not be a member of a mobile crisis team, but law enforcement may provide backup support as needed to a mobile crisis team in accordance with the protocols and best practices developed pursuant to § 9.1-193.

B. The Department shall have the following duties and responsibilities 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:

1. The Department 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.

2. By July 1, 2021, the Department, in collaboration with the Department of Criminal Justice Services 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 Article 13 (§ 9.1-187 et seq.) of Chapter 1 of Title 9.1 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 in § 9.1-193; (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.

C. 1. No later than December 1, 2021, the Department shall establish five Marcus alert programs and community care or mobile crisis teams, one located in each of the five Department regions.

2. No later than July 1, 2023, the Department shall establish five additional Marcus alert system programs and community care or mobile crisis teams, one located in each of the five Department 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 under subdivision 1, shall be selected for programs under this subdivision.

3. The Department 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.

D. The Department shall 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, shall be written in collaboration with the Department of Criminal Justice Services 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 shall 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 subdivision C 3. The Department, in collaboration with the Department of Criminal Justice Services, 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.

2. That the Department of Behavioral Health and Developmental Services and the Department of Criminal Justice Services shall 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.

3. That this act shall be referred to as the Marcus-David Peters Act.