

HOUSE BILL NO. 1191

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Public Safety

on \_\_\_\_\_)

(Patron Prior to Substitute--Delegate Ransone)

A BILL to amend and reenact §§ 9.1-193 and 37.2-311.1 of the Code of Virginia, relating to Marcus alert system; optional participation.

**Be it enacted by the General Assembly of Virginia:**

**1. That §§ 9.1-193 and 37.2-311.1 of the Code of Virginia are amended and reenacted as follows:**

**§ 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.

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

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

29 B. The Department of Behavioral Health and Developmental Services and the Department shall  
30 collaborate to ensure that the Department of Behavioral Health and Developmental Services maintains  
31 purview over best practices to promote a behavioral health response through the use of a mobile crisis  
32 response to behavioral health crises whenever possible, or law-enforcement backup of a mobile crisis  
33 response when necessary, and that the Department maintains purview over requirements associated with  
34 decreased use of force and body-worn camera system policies and enforcement of such policies in the  
35 protocols established pursuant to this article and § 37.2-311.1.

36 C. By July 1, 2021, the Department shall develop a written plan outlining (i) the Department's and  
37 law-enforcement agencies' roles and engagement with the development of the Marcus alert system; (ii)  
38 the Department's role in the development of minimum standards, best practices, and the review and  
39 approval of the protocols for law-enforcement participation in the Marcus alert system set forth in  
40 subsection D; and (iii) plans for the measurement of progress toward the goals for law-enforcement  
41 participation in the Marcus alert system set forth in subsection E.

42 D. All protocols and training for law-enforcement participation in the Marcus alert system shall be  
43 developed in coordination with local behavioral health and developmental services stakeholders and  
44 approved by the Department of Behavioral Health and Developmental Services according to standards  
45 developed pursuant to § 37.2-311.1. Such protocols and training shall provide for a specialized response  
46 by law enforcement designed to meet the goals set forth in this article to ensure that individuals  
47 experiencing a mental health, substance abuse, or developmental disability-related behavioral health crisis  
48 receive a specialized response when diversion to the comprehensive crisis system is not feasible.  
49 Specialized response protocols and training by law enforcement shall consider the impact to care that the  
50 presence of an officer in uniform or a marked vehicle at a response has and shall mitigate such impact  
51 when feasible through the use of plain clothes and unmarked vehicles. The specialized response protocols  
52 and training shall also set forth best practices, guidelines, and procedures regarding the role of law  
53 enforcement during a mobile crisis response, including the provisions of backup services when requested,

54 in order to achieve the goals set forth in subsection E and to support the effective diversion of mental  
55 health crises to the comprehensive crisis system whenever feasible.

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

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

61 2. Ensuring that local law-enforcement departments and institutions of higher education with law-  
62 enforcement officers establish standardized agreements for the provision of law-enforcement backup and  
63 specialized response when required for a mobile crisis response;

64 3. Providing immediate response and services when diversion to the comprehensive crisis system  
65 continuum is not feasible with a protocol that meets the minimum standards and strives for the best  
66 practices developed by the Department of Behavioral Health and Developmental Services and the  
67 Department pursuant to § 37.2-311.1;

68 4. Affording individuals whose behaviors are consistent with mental illness, substance abuse,  
69 intellectual or developmental disabilities, brain injury, or any combination thereof a sense of dignity in  
70 crisis situations;

71 5. Reducing the likelihood of physical confrontation;

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

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

75 8. Identifying underserved populations in historically economically disadvantaged communities  
76 whose behaviors are consistent with mental illness, substance abuse, developmental disabilities, or any  
77 combination thereof and ensuring individuals experiencing a mental health crisis, including individuals  
78 experiencing a behavioral health crisis secondary to mental illness, substance use problem, developmental  
79 or intellectual disabilities, brain injury, or any combination thereof, are directed or referred to and provided

80 with appropriate care, including follow-up and wrap-around services to individuals, family members, and  
81 caregivers to reduce the likelihood of future crises;

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

84 10. Decreasing the use of arrest and detention of persons whose behaviors are consistent with  
85 mental illness, substance abuse, developmental or intellectual disabilities, brain injury, or any combination  
86 thereof by providing better access to timely treatment;

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

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

90 13. Decreasing injuries during crisis events;

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

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

94 16. Improving the notifications made to the comprehensive crisis system concerning an individual  
95 experiencing a mental health crisis if the individual poses an immediate public safety threat or threat to  
96 self; and

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

98 F. By July 1, ~~2021~~ 2023, every locality shall establish a voluntary database to be made available  
99 to the 9-1-1 alert system and the Marcus alert system to provide relevant mental health information and  
100 emergency contact information for appropriate response to an emergency or crisis. Identifying and health  
101 information concerning behavioral health illness, mental health illness, developmental or intellectual  
102 disability, or brain injury may be voluntarily provided to the database by the individual with the behavioral  
103 health illness, mental health illness, developmental or intellectual disability, or brain injury; the parent or  
104 legal guardian of such individual if the individual is under the age of 18; or a person appointed the guardian  
105 of such person as defined in § 64.2-2000. An individual shall be removed from the database when he  
106 reaches the age of 18, unless he or his guardian, as defined in § 64.2-2000, requests that the individual

107 remain in the database. Information provided to the database shall not be used for any other purpose except  
108 as set forth in this subsection.

109 G. By July 1, ~~2022~~ 2023, every locality with a population that is greater than 40,000 shall ~~have~~  
110 ~~established~~ (i) establish local protocols that meet the requirements set forth in the Department of  
111 Behavioral Health and Developmental Services plan set forth in clauses ~~(vi)~~, (vii), and (viii) of subdivision  
112 B 2 of § 37.2-311.1. ~~In addition, by~~ and (ii) have established, or be part of an area that has established,  
113 protocols for law-enforcement participation in the Marcus alert system that has been approved by the  
114 Department of Behavioral Health and Developmental Services. By July 1, ~~2022~~ 2024, every locality with  
115 a population that is less than or equal to 40,000 shall (i) establish local protocols that meet the requirements  
116 set forth in the Department of Behavioral Health and Developmental Services plan set forth in clauses  
117 (vii) and (viii) of subdivision B 2 of § 37.2-311.1 and (ii) have established, or be part of an area that has,  
118 established, protocols for law-enforcement participation in the Marcus alert system that has been approved  
119 by the Department of Behavioral Health and Developmental Services and the Department. For the  
120 purposes of this subsection, the population of a locality shall be the population of that locality as reported  
121 by the United States Census Bureau following the 2020 decennial census.

122 H. Notwithstanding the provisions of subsection G, every locality, regardless of population, shall  
123 establish local protocols to divert calls from the 9-1-1 dispatch and response system to a crisis call center  
124 for risk assessment and engagement, including assessment for mobile crisis or community care team  
125 dispatch if available, in accordance with clause (iv) of subdivision B 2 of § 37.2-311.1.

126 **§ 37.2-311.1. Comprehensive crisis system; Marcus alert system; powers and duties of the**  
127 **Department related to comprehensive mental health, substance abuse, and developmental disability**  
128 **crisis services.**

129 A. As used in this section and §§ 37.2-311.2 through 37.2-311.6, unless the context requires a  
130 different meaning:

131 "Community care team" means a team of mental health service providers, and may include  
132 registered peer recovery specialists and law-enforcement officers as a team, with the mental health service  
133 providers leading such team, to help stabilize individuals in crisis situations. Law enforcement may

134 provide backup support as needed to a community care team in accordance with the protocols and best  
135 practices developed pursuant to § 9.1-193. In addition to serving as a co-response unit, community care  
136 teams may, at the discretion of the employing locality, engage in community mental health awareness and  
137 services.

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

140 "Crisis call center" means a call center that provides crisis intervention that meets NSPL standards  
141 for risk assessment and engagement and the requirements of § 37.2-311.2.

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

144 "Fund" means the Crisis Call Center Fund established under § 37.2-311.4.

145 "Historically economically disadvantaged community" means the same as that term is defined in  
146 § 56-576.

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

153 "Mobile crisis response" means the provision of professional, same-day intervention for children  
154 or adults who are experiencing crises and whose behaviors are consistent with mental illness or substance  
155 abuse, or both, including individuals experiencing a behavioral health crisis that is secondary to mental  
156 illness, substance abuse, developmental or intellectual disability, brain injury, or any combination thereof.

157 "Mobile crisis response" may be provided by a community care team or a mobile crisis team, and a locality  
158 may establish either or both types of teams to best meet its needs.

159 "Mobile crisis team" means a team of one or more qualified or licensed mental health professionals  
160 and may include a registered peer recovery specialist or a family support partner. A law-enforcement

161 officer shall not be a member of a mobile crisis team, but law enforcement may provide backup support  
162 as needed to a mobile crisis team in accordance with the protocols and best practices developed pursuant  
163 to § 9.1-193.

164 "NSPL" or "National Suicide Prevention Lifeline" means the national suicide prevention and  
165 mental health crisis hotline established by the federal government in accordance with 42 U.S.C. § 290bb—  
166 36c to provide a national network of crisis centers linked by a toll-free number to route callers in suicidal  
167 crisis or emotional distress to the closest certified local crisis center.

168 "NSPL Administrator" means the entity designated by the federal government to administer the  
169 NSPL.

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

171 "SAMHSA" or "Substance Abuse and Mental Health Services Administration" means the agency  
172 within the U.S. Department of Health and Human Services that leads federal behavioral health efforts.

173 B. The Department shall have the following duties and responsibilities for the provision of crisis  
174 services and support for individuals with mental illness, substance abuse, developmental or intellectual  
175 disabilities, or brain injury who are experiencing a crisis related to mental health, substance abuse, or  
176 behavioral support needs:

177 1. The Department shall develop a comprehensive crisis system, with such funds as may be  
178 appropriated for such purpose, based on national best practice models and composed of a crisis call center,  
179 community care and mobile crisis teams, crisis stabilization centers, and the Marcus alert system. In  
180 addition to all requirements under this section, the crisis call center shall meet the requirements of § 37.2-  
181 311.2.

182 2. By July 1, 2021, the Department, in collaboration with the Department of Criminal Justice  
183 Services and law-enforcement, mental health, behavioral health, developmental services, emergency  
184 management, brain injury, and racial equity stakeholders, shall develop a written plan for the development  
185 of a Marcus alert system. Such plan shall (i) inventory past and current crisis intervention teams  
186 established pursuant to Article 13 (§ 9.1-187 et seq.) of Chapter 1 of Title 9.1 throughout the  
187 Commonwealth that have received state funding; (ii) inventory the existence, status, and experiences of

188 community services board mobile crisis teams and crisis stabilization units; (iii) identify any other existing  
189 cooperative relationships between community services boards and law-enforcement agencies; (iv) review  
190 the prevalence of crisis situations involving mental illness or substance abuse, or both, including  
191 individuals experiencing a behavioral health crisis that is secondary to mental illness, substance abuse,  
192 developmental or intellectual disability, brain injury, or any combination thereof; (v) identify state and  
193 local funding of emergency and crisis services; (vi) include protocols to divert calls from the 9-1-1  
194 dispatch and response system to a crisis call center for risk assessment and engagement, including  
195 assessment for mobile crisis or community care team dispatch; (vii) include protocols for local law-  
196 enforcement agencies to enter into memorandums of agreement with mobile crisis response providers  
197 regarding requests for law-enforcement backup during a mobile crisis or community care team response;  
198 (viii) develop minimum standards, best practices, and a system for the review and approval of protocols  
199 for law-enforcement participation in the Marcus alert system set forth in § 9.1-193; (ix) assign specific  
200 responsibilities, duties, and authorities among responsible state and local entities; and (x) assess the  
201 effectiveness of a locality's or area's plan for community involvement, including engaging with and  
202 providing services to historically economically disadvantaged communities, training, and therapeutic  
203 response alternatives.

204 C. 1. No later than ~~December 1, 2021~~, July 1, 2023, the Department shall establish five Marcus  
205 alert programs and community care or mobile crisis teams, one located in each of the five Department  
206 regions.

207 2. No later than July 1, ~~2023~~, 2024 the Department shall establish five additional Marcus alert  
208 system programs and community care or mobile crisis teams, one located in each of the five Department  
209 regions. Community services boards or behavioral health authorities that serve the largest populations in  
210 each region, excluding those community services boards or behavioral health authorities already selected  
211 under subdivision 1, shall be selected for programs under this subdivision.

212 3. The Department shall establish additional Marcus alert systems and community care teams in  
213 geographical areas served by a community services board or behavioral health authority by July 1, 2024;  
214 July 1, 2025; and July 1, 2026. No later than July 1, 2026, all community services board and behavioral



215 health authority geographical areas shall have established a Marcus alert system that uses a community  
216 care or mobile crisis team.

217 4. All community care teams and mobile crisis teams established under this section shall meet the  
218 standards set forth in § 37.2-311.3.

219 D. The Department shall ~~assess and report on~~ annually by November 15 to the Governor and the  
220 Chairmen of the House Committees for Courts of Justice and on Health, Welfare and Institutions, the  
221 Senate Committees on the Judiciary and Education and Health, the Behavioral Health Commission, and  
222 the Joint Commission on Health Care regarding the impact and effectiveness of the comprehensive crisis  
223 system and the effectiveness of such system in meeting its the goals set forth in this section. The  
224 assessment report shall include, for the previous calendar year, (i) a description of approved local Marcus  
225 alert programs in the Commonwealth, including the number of such programs operating in the  
226 Commonwealth, the number of such programs added in the previous calendar year, and an analysis of  
227 how such programs work to connect the Commonwealth's comprehensive crisis system and mobile crisis  
228 response programs; (ii) the number of crisis incidents occurring in the Commonwealth and the number of  
229 such incidents that involved injuries to parties involved in such incidents; (iii) the number of calls to  
230 received by the crisis call center, established pursuant to this section; (iv) the number of mobile crisis  
231 responses, undertaken by community care teams and mobile crisis teams in the Commonwealth; (v) the  
232 number of mobile crisis responses that involved law-enforcement backup, and overall function of the  
233 comprehensive crisis system. A portion of the report, focused on the function of the Marcus alert system  
234 and local protocols for law enforcement participation in the Marcus alert system, shall be written in  
235 collaboration with the Department of Criminal Justice Services and shall include the number and  
236 description of approved local programs and how the programs interface comprehensive crisis system and  
237 mobile crisis response; the number of crisis incidents and injuries to any parties involved; a description of  
238 successes and problems encountered; and an analysis of the overall operation of any local protocols or  
239 programs, including any disparities in response and outcomes by race and ethnicity of individuals  
240 experiencing a behavioral health crisis and recommendations for improvement of the programs; (vi) an  
241 analysis of the overall operation of local protocols adopted or programs established pursuant to § 9.1-193.

242 including any disparities in response and outcomes by race and ethnicity of individuals experiencing a  
243 behavioral health crisis; (vii) a description of the overall function of the Marcus alert program, including  
244 a description of any successes of the program and any challenges encountered; (viii) a description of the  
245 overall function of the comprehensive crisis system; and (ix) recommendations for improvement of the  
246 Marcus alert system and approved local Marcus alert programs. The report shall also include ~~a specific~~  
247 ~~plan to phase in~~ (a) a description of barriers to establishment of a local Marcus alert system program and  
248 community care or mobile crisis team to provide mobile crisis response in each remaining geographical  
249 area served by a community services board or behavioral health authority as required in subdivision C-3  
250 in which such program and team has not been established and (b) a plan for addressing those barriers in  
251 order to increase the number of local Marcus alert programs and community care or mobile crisis teams.  
252 The Department, ~~in collaboration with the Department of Criminal Justice Services,~~ shall ~~(i) submit a~~  
253 ~~report by November 15, 2021, to the Joint Commission on Health Care outlining progress toward the~~  
254 ~~assessment of these factors and any assessment items that are available for the reporting period and (ii)~~  
255 ~~submit a comprehensive annual report to the Joint Commission on Health Care by November 15 of each~~  
256 ~~subsequent year~~ assist the Department in the preparation of the report required by this subsection.

257 **2. The Department of Behavioral Health and Developmental Services and the Department of**  
258 **Criminal Justice Services shall convene a work group with representatives of each locality within**  
259 **the Commonwealth that has a population of less than or equal to 40,000 to identify barriers to**  
260 **establishment and implementation of the protocols outlined in subsection G of § 9.1-193 of the Code**  
261 **of Virginia, as amended by this act. The work group shall report its findings and make**  
262 **recommendations to address such barriers to the Chairmen of the House Committees for Courts of**  
263 **Justice and on Health, Welfare and Institutions, the Senate Committees on the Judiciary and**  
264 **Education and Health, the Behavioral Health Commission, and the Joint Commission on Health**  
265 **Care by December 1, 2022.**

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