

1 VIRGINIA ACTS OF ASSEMBLY — CHAPTER

2 *An Act to amend and reenact § 9.1-193 of the Code of Virginia, relating to Marcus alert system; external*
 3 *database information removal.*

4 [H 249]

5 Approved

6 **Be it enacted by the General Assembly of Virginia:**7 **1. That § 9.1-193 of the Code of Virginia is amended and reenacted as follows:**8 **§ 9.1-193. Mental health awareness response and community understanding services (Marcus) alert**
 9 **system; law-enforcement protocols.**

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

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

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

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

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

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

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

18 "Historically economically disadvantaged community" means the same as that term is defined in
 19 § 56-576.20 "Mental health awareness response and community understanding services alert system" or "Marcus alert
 21 system" means the same as that term is defined in § 37.2-311.1.

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

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

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

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

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

27 B. The Department of Behavioral Health and Developmental Services and the Department shall
 28 collaborate to ensure that the Department of Behavioral Health and Developmental Services maintains
 29 purview over best practices to promote a behavioral health response through the use of a mobile crisis
 30 response to behavioral health crises whenever possible, or law-enforcement backup of a mobile crisis
 31 response when necessary, and that the Department maintains purview over requirements associated with
 32 decreased use of force and body-worn camera system policies and enforcement of such policies in the
 33 protocols established pursuant to this article and § 37.2-311.1.34 C. By July 1, 2021, the Department shall develop a written plan outlining (i) the Department's and law-
 35 enforcement agencies' roles and engagement with the development of the Marcus alert system; (ii) the
 36 Department's role in the development of minimum standards, best practices, and the review and approval of
 37 the protocols for law-enforcement participation in the Marcus alert system set forth in subsection D; and (iii)
 38 plans for the measurement of progress toward the goals for law-enforcement participation in the Marcus alert
 39 system set forth in subsection E.40 D. All protocols and training for law-enforcement participation in the Marcus alert system shall be
 41 developed in coordination with local behavioral health and developmental services stakeholders and
 42 approved by the Department of Behavioral Health and Developmental Services according to standards
 43 developed pursuant to § 37.2-311.1. Such protocols and training shall provide for a specialized response by
 44 law enforcement designed to meet the goals set forth in this article to ensure that individuals experiencing a
 45 mental health, substance abuse, or developmental disability-related behavioral health crisis receive a
 46 specialized response when diversion to the comprehensive crisis system is not feasible. Specialized response
 47 protocols and training by law enforcement shall consider the impact to care that the presence of an officer in
 48 uniform or a marked vehicle at a response has and shall mitigate such impact when feasible through the use
 49 of plain clothes and unmarked vehicles. The specialized response protocols and training shall also set forth
 50 best practices, guidelines, and procedures regarding the role of law enforcement during a mobile crisis
 51 response, including the provisions of backup services when requested, in order to achieve the goals set forth
 52 in subsection E and to support the effective diversion of mental health crises to the comprehensive crisis
 53 system whenever feasible.54 E. The goals of law-enforcement participation, including the development of local protocols, in
 55 comprehensive crisis services and the Marcus alert system shall be:

56 1. Ensuring that individuals experiencing behavioral health crises are served by the behavioral health

57 comprehensive crisis service system when considered feasible pursuant to protocols and training and
58 associated clinical guidance provided pursuant to Title 37.2;

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

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

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

68 5. Reducing the likelihood of physical confrontation;

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

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

72 8. Identifying underserved populations in historically economically disadvantaged communities whose
73 behaviors are consistent with mental illness, substance abuse, developmental disabilities, or any combination
74 thereof and ensuring individuals experiencing a mental health crisis, including individuals experiencing a
75 behavioral health crisis secondary to mental illness, substance use problem, developmental or intellectual
76 disabilities, brain injury, or any combination thereof, are directed or referred to and provided with appropriate
77 care, including follow-up and wrap-around services to individuals, family members, and caregivers to reduce
78 the likelihood of future crises;

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

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

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

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

86 13. Decreasing injuries during crisis events;

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

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

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

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

94 F. By July 1, 2023, every locality shall establish a voluntary database to be made available to the 9-1-1
95 alert system and the Marcus alert system to provide relevant mental health information and emergency
96 contact information for appropriate response to an emergency or crisis. Identifying and health information
97 concerning behavioral health illness, mental health illness, developmental or intellectual disability, or brain
98 injury may be voluntarily provided to the database by the individual with the behavioral health illness, mental
99 health illness, developmental or intellectual disability, or brain injury; the parent or legal guardian of such
100 individual if the individual is under the age of 18; or a person appointed the guardian of such person as
101 defined in § 64.2-2000. An individual shall be removed from the database when he reaches the age of 18,
102 unless he or his guardian, as defined in § 64.2-2000, requests that the individual remain in the database, *or the*
103 *individual's information is maintained on an external database that cannot be modified by the locality.*
104 Information provided to the database shall not be used for any other purpose except as set forth in this
105 subsection.

106 G. Localities with a population that is less than or equal to 40,000 may and localities with a population
107 that is greater than 40,000 shall establish local protocols that meet the requirements set forth in the
108 Department of Behavioral Health and Developmental Services plan set forth in clauses (vii) and (viii) of
109 subdivision B 2 of § 37.2-311.1. Localities with a population that is less than or equal to 40,000 may and
110 localities with a population that is greater than 40,000 shall develop protocols for law-enforcement
111 participation in the Marcus alert system, which shall be approved by the Department of Behavioral Health
112 and Developmental Services and the Department prior to such participation. For the purposes of this
113 subsection, the population of a locality shall be the population of that locality as reported by the United States
114 Census Bureau following the 2020 decennial census.

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