

Department of Planning and Budget 2009 Fiscal Impact Statement

1. Bill Number: SB912

House of Origin	<u>X</u>	Introduced	<u> </u>	Substitute	<u> </u>	Engrossed
Second House	<u> </u>	In Committee	<u> </u>	Substitute	<u> </u>	Enrolled

2. Patron: Stuart

3. Committee: Senate Courts of Justice

4. Title: Criminal procedure; interpreter appointed for non-English-speaking defendant.

5. Summary: Provides that the cost for an interpreter for non-English speaking defendants shall be borne by the defendant who is convicted at trial of the criminal offense.

6. Fiscal Impact Estimates: Indeterminate (see Item 8)

7. Budget Amendment Necessary: No

8. Fiscal Implications: According to Supreme Court of Virginia (SCV) data, \$3,757,113 was paid for Interpreters for non-English Speakers from the Criminal Fund (Other Court Costs and Allowances) in FY08, for 57,371 individuals in criminal matters. Under Senate Bill 912, some portion of that amount would be assessed against convicted defendants as costs. However, the Supreme Court does not have data indicating how many of those individuals whose cases utilized interpreters were convicted; the amount to be assessed against those convicted defendants; nor the percentage of convicted defendants that would pay the costs assessed for interpreters. Therefore, the total amount which would be assessed under the legislation cannot be determined.

That said, SCV does have data which permits an estimate of the money which might be recouped under this legislation, though this estimate is premised on several assumptions:

Assumption #1 - Defendants with court-appointed counsel and defendants with court-appointed interpreters are convicted at comparable rates.

Assumption #2 - Both populations (defendants with court-appointed counsel and defendants with court-appointed interpreters) are comparably capable of reimbursing the Commonwealth.

Assumption #3 - A court need not find a non-English speaking defendant to be indigent to appoint an interpreter.

Assumption #4 - Courts appoint interpreters not only for defendants, but also for witnesses in criminal proceedings.

When an indigent defendant, for whom counsel has been appointed and is to be paid by public funds is convicted, the amount paid to counsel is assessed against the defendant and SCV tracks the amount collected pursuant to that assessment. Currently, 15 percent of the amount paid to court-appointed counsel (for both guilty and not guilty defendants) is reimbursed by convicted defendants. If that percentage were to hold true for the repayment of assessments for interpreters in criminal cases, then approximately \$560,000 might be recouped. Since some portion of the total \$3,757,113 paid for interpreters was paid on behalf of interpreters for witnesses, it's reasonable to expect that some amount less than \$560,000 could possibly be recouped. It should be noted that any funds recovered would be deposited to the general fund.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: No

11. Other Comments: None

Date: 1/16/2009

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