

## Department of Planning and Budget 2010 Fiscal Impact Statement

**1. Bill Number:** SB149

House of Origin      X      Introduced                  Substitute                  Engrossed  
Second House                 In Committee              Substitute                  Enrolled

**2. Patron:**        Stuart

**3. Committee:** Courts of Justice

**4. Title:**         **Certificates of analysis and affidavits**

**5. Summary:** This bill amends legislation enacted during the August 2009 Special Session in response to the United States Supreme Court decision in *Melendez-Diaz v. Massachusetts*, 557 U.S. (June 25, 2009), to state that provisions requiring a 28-day notification to the defendant must be followed only if the certificate or affidavit is to be used in lieu of testimony. The bill also states that the copies that must be filed with the clerk may be filed within two days after being provided to the defendant rather than on the same day. Testimony by two-way video conferencing is allowed with the consent of the defendant. The time limit for continuances is extended from not more than 180 days for a person who is not incarcerated and 90 days for a person who is incarcerated to nine months and five months respectively.

**6. No fiscal impact.** Final. See Item #8.

**7. Budget amendment necessary:** No

**8. Fiscal implications:** This bill does not necessitate the expenditure of additional funds since it simply allows for additional flexibility. An increase in expenses could be incurred due to allowing an incarcerated individual's trial to be continued from five months to nine months. However, there is no way to determine if this will actually result in increased incarceration times for any individual.

There may also be savings realized by allowing testimony via two-way video conference. Potential savings could include reduced travel costs for state employees such as forensic scientists and pathologists from the Office of the Chief Medical Examiner and reduced overtime costs attributable to extensive time out of the laboratory or office.

The successful use of two-way video conferencing for court testimony could result in increased demand for this ability throughout the Commonwealth. The potential future fiscal implication of such demand is indeterminate due to the following unknown information: how many requests for two-way video conferencing will be made by Commonwealth's Attorneys and subsequently allowed by defendants as a result of this legislation; how many cases can be supported on a monthly basis by a single video conference unit; how many courtrooms throughout the Commonwealth have video conferencing capability, and, where video-conferencing is not available, at what rate will courts add this capability.

The Department of Forensic Science (DFS) & the Office of the Chief Medical Examiner (OCME) are co-located at four state facilities. All four locations currently have two-way video conferencing capabilities. There are approximately 320 courts located throughout the Commonwealth. However, it is unknown how many total “courtrooms” this may represent. Approximately 180 courts have two-way video conferencing, though it is unknown if the current equipment can be used for video conference testimony or what limitations the available technology may have.

Initial videoconferencing equipment and installation for can range from \$10,000 to \$14,000, with \$1,000 for each additional monitor, to provide adequate viewing by all participants. Set-up may require a \$2,000 digital visual presenter, allowing the remote location to have an enlarged and detailed view of a document or object.

Ongoing costs would be associated with a potential expansion of videoconferencing. Line costs and data charges for each videoconferencing unit range between \$2,000 and \$6,000 annually and each unit would require a maintenance contract for the hardware and software ranging between \$4,000 and \$8,000 annually. It is estimated that one full time position would need to be added to support routine operation of the equipment for every 100 videoconferencing units, averaging \$85,000 annually.

- 9. Specific agency or political subdivisions affected:** Department of Forensic Science, Office of the Chief Medical Examiner, Commonwealth’s Attorneys, Courts, Department of Corrections, Consolidated Laboratories, and possibly others.

**10. Technical amendment necessary:** No.

**11. Other comments:** This bill is similar to SB387.

**Date:** 1/26/10/jlv

**Document:** G:\10-12\FIS\SB149.Doc Janet Vogelgesang

cc: Secretary of Public Safety