

## Department of Planning and Budget 2010 Fiscal Impact Statement

**1. Bill Number:** SB248

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

**2. Patron:** Watkins

**3. Committee:** Senate Courts of Justice

**4. Title:** **Indigent defendants; right to ex parte hearing for appointment of experts in capital cases.**

**5. Summary:** Provides that an indigent defendant who has been charged with a capital offense may move in circuit court for the appointment of experts to assist in the preparation of his defense. The presiding judge shall designate another judge in the judicial circuit who may hold an ex parte hearing on such a motion and may order the appointment of an expert. Prior to an ex parte proceeding, communication, or request, a particularized need for confidentiality must be demonstrated in an adversarial proceeding. A motion for an ex parte hearing shall be in writing and filed under seal and any ex parte hearing conducted shall be on the record and kept under seal as part of the record of the case. The court may unseal the record after the trial is concluded for good cause shown.

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

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:** According to the Supreme Court of Virginia, if this legislation results in an increase in the number of experts appointed to assist indigent defendants in capital cases, there would be a direct impact on the Criminal Fund. It is unknown how many cases may be affected by the enactment of this bill. In addition, if more indigent capital case defendants seek experts, there would likely be some increase in hearings. It is believed additional hearings can be accommodated with current resources.

**9. Specific Agency or Political Subdivisions Affected:** Courts

**10. Technical Amendment Necessary:** No

**11. Other Comments:** None

**Date:** 1/18/2010 dpb

**Document:** C:\Reginald\SB248.Doc Reginald Thompson