

## Department of Planning and Budget 2010 Fiscal Impact Statement

**1. Bill Number:** SB248ER

House of Origin	<input type="checkbox"/>	Introduced	<input type="checkbox"/>	Substitute	<input type="checkbox"/>	Engrossed
Second House	<input type="checkbox"/>	In Committee	<input type="checkbox"/>	Substitute	<input checked="" type="checkbox"/>	Enrolled

**2. Patron:** Watkins

**3. Committee:** Passed Both Houses

**4. Title:** 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:** Final (see Item 8)

**7. Budget Amendment Necessary:** No

**8. Fiscal Implications:** In FY 2009, there were 57 indigent defendants involved in capital offense cases in the Commonwealth. If this legislation results in an increase in the number of experts appointed to assist indigent defendants in capital cases, then it will have a direct impact on the Criminal Fund (general fund) that pays for indigent defense. It is not possible to determine how many cases may be affected by the enactment of this bill. In addition, if more indigent capital case defendants seek experts, there will be some increase in hearings, as ex parte hearings are provided for by this legislation. An increase in the number of hearings would involve additional time for circuit court judges and clerks; it is anticipated any 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:** 4/9/2010 dpb

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