

Department of Planning and Budget 2012 Fiscal Impact Statement

1. Bill Number: HB950

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

2. Patron: Bell, Robert B.

3. Committee: House Committee for Courts of Justice

4. Title: Costs for certain transcripts paid by the court

5. Summary: Provides that in all felony cases in which a transcript of any related prior proceedings, including but not limited to a mistrial or preliminary hearing, is provided to the defendant, a transcript shall also be made available contemporaneously to the Commonwealth. The cost of such transcript shall be included in any allowances made by the court out of the state treasury from the appropriation for criminal charges on the certificate of the court stating the nature of the service.

6. Budget Amendment Necessary: Yes, Items 43 and 44

7. Fiscal Impact Estimates: Preliminary (see Item 8)

8. Fiscal Implications: This legislation would increase expenditures from the Criminal Fund by allowing the cost of a transcript of pretrial proceedings for Commonwealth's attorneys whenever such transcript is provided to a defendant to be paid for out of the Criminal Fund. Currently, transcripts for the Commonwealth are not an authorized Criminal Fund expenditure. The only statutory authorization for payment of the cost of transcripts is for indigent defendants seeking an appeal.

The fiscal impact of this legislation cannot be specifically determined, although a conservative estimate can be made.

Data from the courts' Case Management System (CMS) for fiscal year 2011 show 23,687 indigent defendants in preliminary hearings on felony charges in the district courts (21,279 in General District Courts and 2,408 in Juvenile and Domestic Relations District Courts). CMS indicates there were 111 mistrials in felony cases involving indigent defendants. It is important to note that this figure doesn't include data from those circuit courts that have opted out of the central CMS. As such, it is believed the 111 mistrials in felony cases involving indigent defendants is a conservative estimate.

Transcripts typically are prepared at a charge per page so that the cost per transcript varies; an average transcript fee is \$4.30 per page.

Assumptions

- 1) Assume a transcript is provided to half of indigent defendants in a fiscal year for preliminary hearings and mistrials
- 2) Assume a transcript of 15 pages for a preliminary hearing, the cost per transcript would be \$64.50 (15 x \$4.30)
- 3) Assume a transcript of 100 pages for a mistrial

Using the conservative assumptions listed above, the fiscal impact for preliminary hearings would be \$763,938 (11,844 x \$64.50). In addition, the cost for transcripts in mistrials would be \$24,080 (56 x \$430). Using these assumptions, the total estimated fiscal impact of this bill would be \$788,018 (\$763,938 + \$24,080).

Note that the data relied on for this initial estimate were for cases involving indigent defendants (identified as having court appointed counsel). As this data does not include cases involving retained (or pro se) defendants, this analysis probably underestimates the number of cases potentially impacted by the legislation.

9. Specific Agency or Political Subdivisions Affected: Courts

10. Technical Amendment Necessary: Yes, The Supreme Court recommends the following for clarification:

Line 23-24 strike: *made available* after “be” add: **provided**

Line 24 before “Commonwealth” add: **attorney for the**

Line 24-25 strike: *included in any allowances made by the court*

after “be” add: **paid by the Commonwealth**

Line 25 strike: *the state treasury from*

Line 25-26 strike: *on the certificate of the court stating the nature of the service pursuant to § 19.2-332.*

11. Other Comments: None

Date: January 19, 2012

Document: g:\2012 fis\completed\hb950.doc

c: