



JOINT LEGISLATIVE AUDIT AND REVIEW COMMISSION
Fiscal Impact Review
2012 Session

Bill Number: HB 950

Review Requested By: Delegate Albo

JLARC Staff Fiscal Estimates

HB 950 would require that the Commonwealth (typically the Commonwealth's Attorney) receive a transcript (not a photocopy) at State expense whenever a transcript of felony proceedings is provided to a defendant at State expense. Payment by the State for transcripts for the Commonwealth is not authorized under current statute. Current law (at lines 27-31 of the bill) provides that transcripts be provided at State expense to indigent defendants who appeal their case. These costs are paid from the Criminal Fund administered by the courts.

Different assumptions about the proportion of cases where a transcript may be requested and the length of the transcripts yield total cost estimates for HB 950 ranging from \$263,585 to \$1,181,656 per year. These estimates are probably low because (1) they are based on data about district court cases involving indigent defendants, and the bill covers these plus cases where counsel is retained, and (2) the available data comes from the courts' case management system, which excludes data from three circuits that opted out of the system. The fiscal impact statement reported an estimated cost impact of \$788,018.

An explanation of the JLARC staff review is included on the following pages.

Authorized for Release:


Glen S. Tittermary
Director

Bill Summary: HB 950 would provide 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.

Discussion of Fiscal Implications: HB 950 would require that the Commonwealth's Attorney (CA) receive a transcript (not a photocopy) at State expense of felony proceedings whenever a transcript is provided to the defendant at State expense. Payment for transcripts for the CA is not authorized under current statute. Current law (at lines 27-31 of the bill) provides that transcripts be provided at State expense to indigent defendants who appeal their case.

Data from the Supreme Court cited in the fiscal impact statement indicates that in fiscal year 2011 there were 23,687 indigent defendants in preliminary hearings on felony charges and 111 mistrials in felony cases involving indigent defendants. These numbers are low because the data comes from the Case Management System database, and three circuits do not participate in CMS.

According to Supreme Court staff, several court reporters around Virginia were contacted to estimate a cost per page of transcription. The average cost was found to be \$4.30 per page. The fiscal impact statement assumed transcripts for preliminary hearings would be 15 pages, and for mistrials, 100 pages. Actual lengths could vary significantly.

A key assumption in estimating the cost of HB 950 is the proportion of cases in which the State would be required to provide a transcript. The fiscal impact statement assumed half of all preliminary hearings and mistrials involving indigent defendants would lead to this requirement. Data is only available for these activities involving indigent defendants, but the bill does not restrict coverage only to this group. Consequently, using a count of cases involving indigents will understate the actual costs, as noted in the fiscal impact statement.

Changes in the proportion of cases requiring a transcript and transcript length are key assumptions in estimating costs HB 950. The table illustrates how cost estimates vary based on changes in these assumptions for preliminary hearings, the principal cost driver in the bill.

Proportion of Preliminary Hearings Requiring Transcripts	Number of cases	At \$43 per 10-page transcript	At \$64.50 per 15-page transcript
25%	5,982	\$254,635	\$381,953
50%	11,844	\$509,271	\$763,906
75%	17,765	\$763,906	\$1,145,859

Adding the cost of transcripts for mistrials, assuming that 25%, 50%, and 75% of the 111 cases would result in 75 to 100 page transcripts, yields total cost estimates for HB 950 ranging from \$263,585 to \$1,181,656 per year. Since these estimates are based on cases involving indigent defendants, and the bill covers these plus cases where counsel is retained, the estimates are probably low. The costs for transcripts would be paid from the Criminal Fund administered by the courts.

The fiscal impact statement reported an estimated cost impact of \$788,018.

Budget Amendment Necessary: Yes.

Agencies Affected: Courts.

Date Released, Prepared By: 2/2/2012; Walt Smiley.

JLARC offers Fiscal Impact Reviews in accordance with Item 30D of Chapter 890 (2011 Acts of Assembly). JLARC Fiscal Impact Reviews do not comment on the merits of the bill under review.