

Department of Planning and Budget 2010 Fiscal Impact Statement

1. Bill Number: SB387

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

2. Patron: Obenshain

3. Committee: Courts of Justice

4. Title: **Certificates of analysis in criminal cases**

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 if the Commonwealth intends to have testimony by two-way video conferencing, that information must be provided to the defendant in the notice that the Commonwealth is otherwise required to provide, and the defendant must specifically object or he waives his right to object.

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

7. Budget amendment necessary: No.

8. Fiscal implications: The legislation does not necessitate the expenditure of additional funds because it simply provides additional flexibility. 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) and 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 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, and possibly others.

- 10. Technical amendment necessary:** None.

- 11. Other comments:** This bill is similar to SB149.

Date: 1/27/10/jlv

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cc: Secretary of Public Safety