

Legislative Analysis



EXPERT WITNESS: ALLOW TESTIMONY VIA VIDEO COMMUNICATIONS EQUIPMENT

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House Bill 4647

Sponsor: Rep. Kurt Heise

Committee: Judiciary

Complete to 10-11-11

A SUMMARY OF HOUSE BILL 4647 AS INTRODUCED 5-17-11

The bill would allow expert witness testimony to be given in court via video communication equipment under certain conditions.

House Bill 4647 would add a new section to the Revised Judicature Act. If a court determined that expert testimony would assist the trier of fact and that a witness was qualified to give the expert testimony, the bill would authorize the court to allow the expert witness to be sworn and testify by video communication equipment that permitted all the individuals appearing or participating to hear and speak to each other in the court, chambers, or other suitable place. Testimony by an expert witness could only be given in this manner if all parties gave consent or for good cause. A verbatim record of the testimony would have to be taken in the same manner as for other testimony.

Unless good cause was shown to waive the requirement, a party wishing to present expert testimony by video communication equipment would have to submit a motion in writing and serve a copy of the motion on all other parties at least seven days before the date set for the hearing or trial.

Unless the court otherwise directs, the cost for the use of video communication equipment would be paid by the party initiating its use. If the court initiated the use of the equipment, the cost would be shared equally by all parties, or as the court directs.

(Section 2167 of the same act allows, in a preliminary examination or grand jury proceeding, a signed report of the findings by a technician with the Department of State Police concerned with forensic science to be received in evidence in place of the technician's appearance and testimony. However, the accused or his or her attorney may request that the technician be sworn and testify by video or voice communication equipment (or in person if no equipment is available).

In addition, in a preliminary examination, the prosecuting attorney may move, in writing, to permit a forensic pathologist or medical examiner to be sworn and testify by video or voice communication equipment. The court is required to grant the motion for good cause shown.

MCL 600.2164a

FISCAL IMPACT:

Implementing this bill would not have a direct fiscal impact on the state or local governments. This law would allow for the use of video testimony by expert witnesses, though it does not mandate its usage. If a court wishes to utilize such testimony, the court would have to be properly equipped to handle video testimony. Such equipment typically includes a secure video connection, recording equipment, and cameras. The average cost to equip a courtroom with such technology is about \$22,800, though exact costs vary by court. Several courts already are equipped for such testimony and would not face additional costs.

Long term savings could result from reduced travel costs for expert witnesses. If the witness is a state employee, the reduced travel time could translate to an increase in state employee productivity. The exact savings would depend on how frequently expert video testimony is utilized, and the cost of travel compared to the cost of conducting video testimony. The initiating party would pay for the costs of utilizing video testimony by an expert witness. If the video testimony is initiated by the court, the cost is shared equally by all parties unless stated otherwise by the court.

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■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.