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BILL ANALYSIS

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House Bill 4647 (Substitute H-1 as passed by the House)
Sponsor: Representative Kurt Heise
House Committee: Judiciary
Senate Committee: Judiciary

Date Completed: 1-23-12

CONTENT

The bill would amend the Revised Judicature Act to do the following:

- **Authorize a court to allow expert testimony by video communication equipment under certain circumstances, with the consent of all parties.**
- **Require a verbatim record of video testimony.**
- **Require the party who wished to present video testimony to submit a written motion and serve a copy on the other parties at least seven days before the trial, unless that requirement was waived for good cause.**

The bill would take effect on January 1, 2012, and would apply only to actions filed on or after that date.

Under the bill, 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 court could allow the expert witness to be sworn and testify at trial 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. The video testimony would require the consent of all parties. 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 who wished 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 trial. Unless the court directed otherwise, the party who initiated the use of video communication equipment for expert testimony would have to pay the cost for its use.

Proposed MCL 600.2164a

Legislative Analyst: Patrick Affholter

FISCAL IMPACT

The bill would have an indeterminate fiscal impact on State and local government. There are several areas of potential savings, but they would vary widely based on circumstances specific to local units and how frequently video conferencing was used.

Independently of this bill, the State Court Administrative Office (SCAO) has been assisting local courts in purchasing and installing videoconferencing equipment. At least 43 courts

(across 40 counties, including nearly all in the northern parts of the State) have had this equipment installed in 2010 and 2011, and the SCAO plans to continue rolling out this technology until it is statewide in the next few years. Therefore, once installed, the marginal cost of using the equipment will be negligible. The average cost of procuring and installing the equipment at an individual court is approximately \$22,800. Thus, cost of these installations is not negligible; however, it would be inappropriate to attribute the cost to this bill.

The savings could result in a number of ways. If the State or a local unit were a party in a trial, videoconferencing could reduce overall legal costs, by eliminating the need to reimburse travel and lodging expenses of expert witnesses. If a State employee were in the role of the expert witness, videoconferencing would minimize the time the employee had to miss from fulfilling his or her primary duties.

It is important to note that the bill would allow, but not mandate, the use of videoconferencing, so if one of the parties or the judge did not consider it appropriate in a particular situation, then he or she could object to its use.

Fiscal Analyst: Dan O'Connor

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.