

Department of Planning and Budget
2026 General Assembly Session
State Fiscal Impact Statement

PUBLISHED: 3/31/2026 3:51 PM

ORIGINAL

Bill Number: HB118ER

Patron: Keys-Gamarra

Bill Title: Discovery; methods of delivery.

Bill Summary: This bill requires the Commonwealth, upon request by the accused or his counsel, to copy or photograph any discovery materials or evidence the accused is permitted to inspect and review, including relevant police reports, criminal records, and body-worn camera footage, and requires the Commonwealth to provide such copies or photographs, electronically or otherwise, to the accused or his counsel, unless such material is prohibited from being distributed by law or impossible to provide by electronic means. The bill requires the attorney for the Commonwealth in any district court to provide to counsel of record for the accused, if requested, a copy of any police report by electronic means at least 10 days prior to the date the case is set for trial or preliminary hearing, provided that counsel of record agrees to any reasonable redaction or restricted dissemination as requested by the attorney for the Commonwealth.

Budget Amendment Necessary: None

Items Impacted: N/A

Explanation: See Fiscal Summary

Fiscal Summary: According to the Commonwealth's Attorneys' Services Council (CASC), the bill is anticipated to impact operational and personnel costs of Commonwealth Attorneys' offices across the Commonwealth. The Department of Planning and Budget (DPB) determines that the fiscal impact of the bill is indeterminate.

Fiscal Analysis: The bill creates a new requirement for the Commonwealth to provide discovery materials when requested by a defense attorney. According to CASC, there are anticipated fiscal impacts on operations and on personnel workloads:

Operational Impact

According to CASC, there is currently no system in place to facilitate the requirement to provide discovery materials, and as such, CASC anticipates two fiscal impacts on operations that may arise: (i) software development costs to implement a secure electronic file sharing system and (ii) materials costs to print out discovery material that cannot be provided electronically. Based on a 2024 cost estimate from a third-party vendor, the cost of developing and implementing a secure electronic file sharing system for all 120 Commonwealth Attorneys' offices will cost approximately \$21 million. The chosen system is similar to a system currently utilized by the Indigent Defense Council (IDC) used to save and review police body camera footage. According to the IDC, the annual cost for this system is \$353,000 to provide access to approximately 450 users. However, the fiscal impact associated with software development costs is indeterminate at this

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time, as the cost estimate from 2024 is likely outdated and there is currently not enough information to reliably estimate the current cost of procuring and implementing a secure online file sharing system.

In addition to software development costs, if discovery material cannot be provided via electronic means, physical copies are required to be provided which are anticipated to increase operational costs for materials such as printer paper, toner, and ink. According to CASC, a request for one gigabyte of digital data in physical form may require approximately 153,000 to 614,000 sheets of paper, depending on the contents of the data (i.e. texts, files, images, videos, etc.). CASC estimates that the material cost of converting one gigabyte of digital data to physical form to be approximately \$13,086, however CASC notes that modern computers can hold between 250 to 500 gigabytes of data. However, it is unclear how many requests for physical copies of discovery materials will be submitted and therefore DPB determines that the fiscal impact of this bill is indeterminate.

Personnel Workload Impact

According to CASC, there are anticipated workload impacts from the substitute bill associated with collecting, reviewing, redacting, digitizing, and printing discovery material. CASC estimates that the provisions of the bill may add an additional 13,000 to upwards of 120,000 attorney work hours depending on the type and number of cases that are affected by the provisions of the bill. However, it is unclear how many defense attorneys will request the provision of discovery materials pursuant to the provisions of the bill, and therefore, the fiscal impact on personnel workloads is indeterminate at this time.

According to the Office of the Executive Secretary (OES) of the Supreme Court of Virginia, there is no material impact on the Courts.

Other: Related to SB24.