

1 HOUSE BILL NO. 404
 2 AMENDMENT IN THE NATURE OF A SUBSTITUTE
 3 (Proposed by the House Committee for Courts of Justice
 4 on _____)
 5 (Patron Prior to Substitute--Delegate Delaney)

6 A BILL to amend the Code of Virginia by adding a section numbered 19.2-188.4, relating to testimony
 7 by two-way video conferencing; certain forensic medical examination reports by sexual assault
 8 nurse examiners and sexual assault forensic examiners.

9 **Be it enacted by the General Assembly of Virginia:**

10 **1. That the Code of Virginia is amended by adding a section numbered 19.2-188.4 as follows:**

11 **§ 19.2-188.4. Two-way video testimony related to certain forensic medical examinations.**

12 A. Any testimony offered by either party in a preliminary hearing or sentencing hearing, or offered
 13 by the accused in any hearing other than a trial, by a sexual assault nurse examiner or sexual assault
 14 forensic examiner who performed a forensic medical examination may be presented using two-way video
 15 conferencing.

16 B. Any testimony offered by either party in a trial, or offered by the attorney for the
 17 Commonwealth in any hearing other than a preliminary hearing or sentencing hearing, by a sexual assault
 18 nurse examiner or sexual assault forensic examiner who performed a forensic medical examination may
 19 be presented by two-way video conferencing with the consent of the court and all parties.

20 C. The two-way video testimony permitted by this section shall comply with the provisions of
 21 subsection B of § 19.2-3.1. In addition, unless otherwise agreed to by the parties and the court, (i) all
 22 orders pertaining to witnesses apply to witnesses testifying by two-way video conferencing; (ii) upon
 23 request, all materials read or used by the witness during his testimony shall be identified on the video; and
 24 (iii) any witness testifying by two-way video conferencing shall certify at the conclusion of his testimony,
 25 under penalty of perjury, that he did not engage in any off-camera communications with any person during
 26 his testimony.

27 D. Nothing in this section shall be construed as requiring a locality to purchase a two-way
28 electronic video and audio communication system. Any decision to purchase such a system is at the
29 discretion of the locality.

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