Bill as Introduced

SB 120 - AS AMENDED BY THE SENATE

04/03/03 0975s

2003 SESSION

03-0621

03/01

SENATE BILL ***120***

AN ACT relative to testimony by video teleconference in criminal cases.

SPONSORS: Sen. Clegg, Dist 14; Sen. D'Allesandro, Dist 20; Rep. Welch, Rock 79; Rep. Tholl, Coos 2; Rep. Langley, Rock 88

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory.

Explanation: Matter added to current law appears in ***bold italics.***

Matter removed from current law appears [~~in brackets and struckthrough.~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

04/03/03 0975s

03-0621

03/01

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Three

AN ACT relative to testimony by video teleconference in criminal cases.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 New Subdivision; Testimony by Video Teleconference in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by Video Teleconference in Criminal Cases

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which the state forensic toxicologist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety laboratory. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2 Effective Date. This act shall take effect January 1, 2004.

LBAO
03-0621
5/1/03

SB 120 FISCAL NOTE

AN ACT relative to testimony by video teleconference in criminal cases.

FISCAL IMPACT:

The Departments of Safety and Health and Human Services have determined this bill, as amended by the Senate (**Senate Amendment #2003-0975s**), may have an indeterminable impact on state expenditures in FY 2004 and each year thereafter. There will be no fiscal impact on county and local expenditures or state, county and local revenues.

METHODOLOGY:

The Department of Safety has stated that implementation of this bill would require the acquisition of video conferencing equipment, and may require additional communication lines between the Department and the Administrative Office of the Courts. The Department also stated there may be some savings from reduced travel by lab personnel to the courts. The Department is unable to estimate the costs or savings.

The Department of Health and Human Services assumes if the state forensic toxicologist were called to testify via video teleconferencing, these costs would be under $10,000, and would be absorbed within the Department's operating budget.

Amendments

Rep. Stevens, Carr. 7
May 7, 2003
2003-1540h
03/05

Amendment to SB 120

Amend the bill by replacing section 1 with the following:

1 New Subdivision; Testimony by Video Teleconference in Criminal Cases. Amend RSA 516 by inserting after section 36 the following new subdivision:

Testimony by Video Teleconference in Criminal Cases

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which the state forensic toxicologist or any department of safety or department of corrections laboratory employee is summoned to testify, the state may move to take the testimony of the state forensic toxicologist or department of safety or department of corrections laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the toxicologist or at the department of safety or department of corrections laboratory. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the toxicologist or department of safety or department of corrections laboratory employee shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety or department of corrections laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety or department of corrections laboratory. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-1540h

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety or department of corrections laboratory.

Rep. Stevens, Carr. 7
Rep. Nedeau, Belk. 30
May 20, 2003
2003-1703h
03/01

Amendment to SB 120

Amend RSA 516:37 as inserted by section 1 of the bill by replacing it with the following:

516:37 Testimony by Video Teleconference in Criminal Cases.

I. In any criminal case at which a certifying scientist from the office of community and public health, a criminalist or technical specialist from the forensic laboratory of the department of safety, division of state police, or a laboratory scientist from the department of corrections is summoned to testify, the state may move to take the testimony of the scientist, criminalist, or specialist by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the certifying scientist or at the forensic laboratory or the department of corrections. Notice shall be provided to the defendant, and the defendant shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the defendant. Examination and cross-examination of the scientist, criminalist, or specialist shall proceed in the same manner as permitted at trial.

II. In any criminal case at which the defendant summons a toxicologist, criminalist, laboratory scientist, or other person of similar expertise to testify as an expert witness, the defendant may move to take the testimony of that witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by a certifying scientist from the office of community and public health, or at the forensic laboratory of the department of safety, division of state police, or at the department of corrections. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2003-1703h

AMENDED ANALYSIS

This bill permits certain testimony to be taken by video teleconference in criminal cases.

Speakers

SIGN UP SHEET

To Register Opinion If Not Speaking

Bill # SB 130 Date 4/22/2003

Committee CJ & PS

** Please Print All Information **

Name	Address	Phone	Representing	(check one) Pro	Con
~~Michael J. Iacopino 11 Water St. Concord 669-300 NHMEDIC~~					
Claire Ebel	18 Low Ave Concord	225-3080	NHCLU		concerns
Rep Sam Cataldo	Farmington		Dist 6	V	

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON SB 120

BILL TITLE: **(New Title) relative to testimony by video teleconference in criminal cases.**

DATE: **April 22, 2003**

LOB ROOM: **202** **Time Public Hearing Called to Order:** 10:02 A.M.

Time Adjourned: 10:43 A.M.

(please circle if present)

Committee Members: Reps. Welch, Tholl, Pesh, Jones, Kennedy, K. Gilbert, Nedeau, Stevens, Weare, Bemis, Bicknell, Fish, Oliver, D. Smith, Winchell, Knowles, Callaghan, Moyses an, Beruhe, Pantelakos and T. Robertson.

Bill Sponsors: Sens. Clegg, D'Allesandro, Reps. Welch, Tholl, Langley

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Sen. Clegg, sponsor, supporting
-introduced bill
-permits video teleconferencing by toxicologists thereby saving their time
-see this as more for blood tests – breath tests, etc.
-not aimed at DNA etc.

Tim Pifer, Dept. of Safety, Crime Lab Director, supporting
-his lab is most affect
-75 to 80% they are not needed
-in 3 months this year we've received 590 subpoenas - in 70 had to appear and only in 20 did they testify

Michael Iacopino, NHACDL, opposing
-recommends "assent" of defendant in every case
-at line 11- eliminate "felony" and make it applicable in all cases.
-class A misdemeanors are not included in current bill

John Vinson, Dept. of Corrections, supporting
-wants an amendment to include DOC
-submitted a copy of the proposed amendment

Brook Dupee, DHHS, supporting

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

Sub-Committee:
Chairman, Rep. Nedeau
Reps. Bickneel, Berube, Fish

Sub-Committee Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

SUBCOMMITTEE WORK SESSION ON SB 120

BILL TITLE: (New Title) relative to testimony by video teleconference in criminal cases.

DATE: 3/13/03

Subcommittee Members: Reps. See attached

Comments and Recommendations:

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote:

Respectfully submitted,

Rep.
Subcommittee Chairman/Clerk

5-13-03

SB 120

Subcommittee meeting on 5-13-03 at 9:30 A.M. Committee members present were Chairman Nedeau, Stevens and Fish. Jim Pfiffer (Dept. of Safety), Jack Wawrzynaks (Dept of Correction) and Vernica Malmberg (Health and Human Service) were in attendance.

There was discussion concerning language in both the original bill and the amendment which refers to the department of safety and department of correction laboratory employees and the fact that there is no statutory provision for either lab. John Stephen came into the meeting and after further discussion it was decided to adjourn this hearing until next Tuesday and that Asst Comm. Stephen would contact Ann Rice at the attorney General office for assistance with the wording.

Testimony

SB 120

AN ACT relative to testimony by video teleconference in criminal cases.

Be it Enacted by the Senate and House of Representatives in General Court convened:

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II. In any criminal case at which the defendant summons an expert witness to testify on matters within the jurisdiction of the state forensic toxicologist or department of safety or corrections laboratory, the defendant may move to take the testimony of the expert witness by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests conducted by the state forensic toxicologist or at the department of safety or corrections laboratory. Notice shall be provided to the state, and the state shall have an opportunity to object to the introduction of testimony by video teleconference. No video teleconference testimony shall be permitted during a felony prosecution, except with the affirmative assent of the state. Examination and cross-examination of the expert witness shall proceed in the same manner as permitted at trial.

2 Effective Date. This act shall take effect January 1, 2004.

516:37 Testimony by State Personnel in Criminal Cases. In any criminal case at which the ~~state forensic toxicologist~~certifying scientist or any department of safety laboratory employee is summoned to testify, the state may move to take the testimony of the ~~state forensic toxicologist~~certifying scientist or department of safety laboratory employee by video teleconference, provided that the testimony is limited to expert testimony or to the results of and matters relating to tests ~~conducted~~ certified by the ~~toxicologist~~ certifying scientist or conducted at the department of safety laboratory. Examination and cross-examination of the ~~toxicologist~~ certifying scientist or department of safety laboratory employee shall proceed in the same manner as permitted at trial.

2 Effective Date. This act shall take effect January 1, 2004.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on SB 120

BILL TITLE: **(New Title) relative to testimony by video teleconference in criminal cases.**

DATE: May 20, 2003

LOB ROOM: 204

Amendments:

Sponsor: Rep. Stevens/Nedeau — OLS Document #: 2003 1703h

Sponsor: Rep. — OLS Document #:

Sponsor: Rep. — OLS Document #:

Motions: (OTP,) OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Nedeau — AMENDMENT ONLY

Seconded by Rep. Kennedy

Vote: 17-1 (Please attach record of roll call vote.)

Motions: OTP, (OTP/A,) ITL, Interim Study (Please circle one.)

Moved by Rep. Nedeau

Seconded by Rep. Kennedy

Vote: 18-0 (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 18-0

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,

Rep. Stanley E. Stevens, Clerk

Bill #: SB 120 **Title:**

PH Date: / / **Exec Session Date:** 5/20/03

Motion: OTP(Amend) **Amendment #:** 1703h

MEMBER	YEAS	NAYS
Welch. David A. Chairman	✓	
Tholl. John E. V Chairman	✓	
Fesh. Bob M	✓	
Jones. Constance A	✓	
Kennedy. Richard E	✓	
Gilbert. Karl I	✓	
Nedeau. Stephen H	✓	
Stevens. Stanley E	✓	
Weare. E Albert	✓	
Bemis. Alan B	✓	
Bicknell. Elbert I	✓	
Fish. Douglas K	✓	
Oliver. James H		✓
Smith. Donald C	✓	
Winchell. George D		
Knowles. William V		
Berube. Roger R	✓	
Callaghan. Frank D		
Movsesian. Lori A	✓	
Pantelakos. Laura C	✓	
Robertson. Timothy N	✓	
	17	1

TOTAL VOTE:
Printed: 1/6/2003

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: SB120 **Title:**

PH Date: / / Consent vote **Exec Session Date:** 5 / 20 / 03

Motion: OTPA **Amendment #:**

MEMBER	YEAS	NAYS
Welch. David A. Chairman	✓	
Tholl. John E. V Chairman	✓	
Fesh. Bob M	✓	
Jones. Constance A	✓	
Kennedy. Richard E	✓	
Gilbert. Karl I	✓	
Nedeau. Stephen H	✓	
Stevens. Stanley E	✓	
Weare. E Albert	✓	
Bemis. Alan B	✓	
Bicknell. Elbert I	✓	
Fish. Douglas K	✓	
Oliver. James H	✓	
Smith. Donald C	✓	
Winchell. George D		
Knowles. William V		
Berube. Roger R	✓	
Callaghan. Frank D		
Movsesian. Lori A	✓	
Pantelakos. Laura C	✓	
Robertson. Timothy N	✓	
	18	0

TOTAL VOTE:
Printed: 1/6/2003

Committee Report

F

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **SB 120**

TITLE: (New Title) relative to testimony by video teleconference in criminal cases.

DATE: May 20, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill permits certifying scientists from the office of community and public health (Health and Human Services), criminalists or technical specialists from the Dept. of Safety (State Police Laboratory), or a laboratory scientist from the Dept. of Corrections to give testimony by video teleconference in criminal cases. Such testimony is limited to expert testimony or to the results of tests conducted by the respective scientist or criminalist. No video teleconferencing will be permitted during felony prosecution except with the assent of the defendant and in other cases the defendant shall be notified and have an opportunity to object to the introduction of testimony by video teleconferencing. When the defendant summonses a toxicologist, criminalist, laboratory scientist, or other person of similar expertise to testify as an expert witness, the defendant may also move to take such testimony by teleconferencing. Similarly, notice must be given to the state and the state shall have an opportunity to object.

Vote 17-1.

Rep. Stephen H. Nedeau
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

USE ANOTHER REPORT FOR MINORITY REPORT

CONSENT CALENDAR

Criminal Justice and Public Safety

SB 120, (New Title) relative to testimony by video teleconference in criminal cases. **OUGHT TO PASS WITH AMENDMENT**

Rep. Stephen H. Nedeau for Criminal Justice and Public Safety: This bill permits certifying scientists from the office of community and public health (Health and Human Services), criminalists or technical specialists from the Dept. of Safety (State Police Laboratory), or a laboratory scientist from the Dept. of Corrections to give testimony by video teleconference in criminal cases. Such testimony is limited to expert testimony or to the results of tests conducted by the respective scientist or criminalist. No video teleconferencing will be permitted during felony prosecution except with the assent of the defendant and in other cases the defendant shall be notified and have an opportunity to object to the introduction of testimony by video teleconferencing. When the defendant summonses a toxicologist, criminalist, laboratory scientist, or other person of similar expertise to testify as an expert witness, the defendant may also move to take such testimony by teleconferencing. Similarly, notice must be given to the state and the state shall have an opportunity to object. **Vote 17-1.**

COMMITTEE REPORT

COMMITTEE: **Criminal Justice and Public Safety**

BILL NUMBER: **SB 120**

TITLE: (New Title) relative to testimony by video teleconference in criminal cases.

DATE: May 20, 2003 CONSENT CALENDAR YES ☒ NO ☐

☐ OUGHT TO PASS

☒ OUGHT TO PASS WITH AMENDMENT

☐ INEXPEDIENT TO LEGISLATE

☐ REFER TO COMMITTEE FOR INTERIM STUDY
(Available only in second year of biennium.)

STATEMENT OF INTENT
(Include Committee Vote)

This bill permits certifying scientists from the office of community and public health (Health and Human Services), criminalists or technical specialists from the Dept. of Safety (State Police Laboratory), or a laboratory scientist from the Dept. of Corrections to give testimony by video teleconference in criminal cases. Such testimony is limited to expert testimony or to the results of tests conducted by the respective scientist or criminalist. No video teleconferencing will be permitted during felony prosectuion except with the assent of the defendant and in other cases the defendant shall be notified and have an opportunity to object to the introduction of testimony by video teleconferencing. When the defendant summonses a toxicologist, criminalist, laboratory scientist, or other person of similar expertise to testify as an expert witness, the defendant may also move to take such testimony by teleconferencing. Similarly, notice must be given to the state and the state shall have an opportunity to object.

Vote 17-1.

Rep. Stephen H. Nedeau
FOR THE COMMITTEE

Original: House Clerk
cc: Committee Bill file

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SB 120

This bill permits certifying scientists from the office of community and public health (Health and Human Services), criminalists or technical specialists from the Department of Safety (State Police Laboratory), or a laboratory scientist from the department of correction to give testimony by video teleconferencing in criminal cases. Such testimony is limited to expert testimony or to the results of tests conducted by the respective scientist or criminalist.

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