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HOUSE BILL NO. 404**AMENDMENT IN THE NATURE OF A SUBSTITUTE**

(Proposed by the House Committee for Courts of Justice
on February 11, 2022)

(Patron Prior to Substitute—Delegate Delaney)

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

Be it enacted by the General Assembly of Virginia:

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

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

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

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

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

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