



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 28

PRINTERS NO. 1589

PRIME SPONSOR: Browne

### COST / (SAVINGS)

FUND	FY 2013/14	FY 2014/15
General Fund	See "Fiscal Impact" below.	

**SUMMARY:** Senate Bill 28 makes several changes to the Crimes Code concerning child abuse. It would take effect January 1, 2014 or immediately, whichever is later.

#### ANALYSIS:

Senate Bill 28 establishes higher penalties for Simple Assault of a child and Aggravated Assault of a child under certain circumstances as summarized below.

Under current law, simple assault against a child under the age of 12 is a misdemeanor of the first degree if the perpetrator is 21 years of age or older. This legislation would lower the age of 21 to 18. This would increase the grading from a misdemeanor of the second to first degree for perpetrators ages 18, 19, and 20.

This legislation specifies that attempting to cause or intentionally, knowingly or recklessly causing serious bodily injury to a child less than 13 years of age by a person 18 years of age or older constitutes aggravated assault and is punishable as a felony of the first degree.

Under current law pertaining to aggravated assault, a person who attempts to cause or intentionally, knowingly or recklessly causes serious bodily injury to a person of any age commits a felony of the first degree. This legislation makes clear this applies when the perpetrator is a person 18 years of age or older and the victim is a child less than 13 years of age.

Under current law, attempting to cause or intentionally, knowingly or recklessly causing bodily injury to a child under 12 is a misdemeanor of the first degree, if the perpetrator is 21 years of age or older. This legislation would increase the grading of such an offense to a felony of the second degree if the victim is under 6 years of age and the perpetrator is 18 year of age or older.

Senate Bill 28 adds a new section to the Crimes code concerning false reports of child abuse, making it a misdemeanor of the second degree to intentionally or knowingly make a false report of child abuse or to intentionally or knowingly induce a child to make a false claim of child abuse.

Senate Bill 28 adds a new section 4958 to the Crimes Code concerning intimidation, retaliation, or obstruction in child abuse cases. Intimidation occurs when a person has knowledge or intends that their conduct will obstruct, impede, impair, prevent or interfere with the making of a child abuse report, conducting an investigation into suspected child abuse, or prosecuting a child abuse case. This would include attempting to intimidate any reporter, victim or witness in a child abuse case.

This new section also provides that a person commits an offense if the person harms another person by any unlawful act or engages in a course of conduct or repeatedly commits acts which threaten another person in retaliation for anything that the other person has lawfully done in the capacity of a reporter, witness or victim of child abuse.

Obstruction occurs when a person by any scheme or device or in any other manner obstructs, interferes with, impairs, impedes or perverts the investigation or prosecution of child abuse.

In general, this offense is graded as a misdemeanor of the second degree unless the offense involves violence or threats of violence, bribery, a conspiracy, or the offender has a prior conviction under this section or another similar federal or state law. In such cases it would be graded as a felony of the second degree.

**FISCAL IMPACT:** Enactment of this legislation could have a fiscal impact on the Commonwealth, primarily by increasing the potential maximum prison sentences for various offenses. This could increase the expenses of the Department of Corrections (DOC). In most cases it is not possible to predict what that impact may be due to a lack of data. What follows is an analysis of available data to provide some context for the potential magnitude of each change, by provision.

Currently, about 18 individuals aged 18, 19, or 20 are sentenced annually for simple assault of a child under 18 years of age. It is not known how many of these individuals assaulted children under 13 years old, but presumably it would be some number less than 18 that would have their offense grading raised from a misdemeanor of the second degree, with a maximum prison term of 2 years, to a misdemeanor of the first degree, with a maximum prison term of 5 years. This would likely have only a minimal fiscal impact on the DOC.

Currently, about 223 adults are sentenced annually for simple assault of a child under 12, which is a misdemeanor of the first degree with a maximum prison term of 5 years. It is not known how many of these individuals assaulted children under 6 years old, but presumably it would be some number less than that total that would have their offense raised to a felony of the second degree with a maximum prison term of 10 years. Assuming the ages of the victims in these cases are evenly distributed, about 110 would involve children under 6. This could have a fiscal impact on the DOC.

Reliable data do not exist to estimate the number of individuals who might be arrested, tried, convicted, and sentenced to prison for making false claims of child abuse. A misdemeanor of

the second degree carries a prison sentence of not more than two years, which would be served in a county prison.

Reliable data do not exist to estimate the number of individuals who might be arrested, tried, convicted, and sentenced to either county or state prison for intimidation, retaliation, or obstruction in child abuse cases. A misdemeanor of the second degree carries a prison sentence of not more than two years, which would be served in a county prison. A felony of the second degree carries a prison sentence of not more than ten years, which would most likely be served in a state correctional institution.

The current average cost of incarcerating an offender in state prison is \$35,000 per year and the average cost for state parole supervision is \$3,000 per year. The average cost for incarceration in a county jail is approximately \$70 per day, or \$25,615 per year. The average cost for supervising a county adult offender is \$860 per year.

**PREPARED BY:** Jeff Miller  
House Appropriations Committee (R)

**DATE:** December 10, 2013

*Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*