



HOUSE COMMITTEE ON APPROPRIATIONS
2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 89

PRINTER'S NO: 2180

PRIME SPONSOR: Mann

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Expenditure Increase/(Decrease):		
General Fund	*See Analysis	*See Analysis

OVERVIEW:

House Bill 89 amends Title 18 (Crimes and Offenses) by expanding the offense of sexual abuse of children to include **intentionally viewing** child pornography. The definition of "intentionally views" is the deliberate, purposeful, voluntary viewing of material depicting a child under 18 years of age engaging in a prohibited sexual act or in the simulation of such an act. The term does not include the accidental or inadvertent viewing of such material. House Bill 89 also provides a definition of "prohibited sexual act."

This legislation also provides for exceptions related Commonwealth or education, scientific, governmental, or judicial purposes.

This act takes effect in 60 days.

ANALYSIS:

According to the Department of Corrections (DOC), it is not possible to determine how many individuals would commit the offense of intentionally viewing child pornography or how many would be charged, convicted, and sentenced. At the sentencing stage, a convicted offender could receive punishment at either the state or local level. The likelihood is that there would not be an inordinate number of standalone prosecutions for intentionally viewing only.

A first offense would be graded as a third degree felony with a maximum incarceration period of seven years and a maximum \$15,000 fine. A second or subsequent offense would be graded as a second degree felony with a maximum of 10 years in prison and a maximum \$25,000 fine. The average cost in 2008 for incarcerating an offender in a state correctional institution is almost \$40,000 per year (including health care). According to the Board of Probation and Parole, in 2006 the average cost for state parole supervision was \$2,700 per year. The average cost in 2008 for incarceration in a county jail is approximately \$50 per day or \$18,250 per year. The average cost for supervising a county adult offender in 2007 was \$680 per year.

Again, it is not possible to determine how many individuals may be sentenced under this legislation; nor is it possible to predict what type of sentencing individuals may receive as are result of conviction. However, it is assumed that there may be a fiscal impact on both Commonwealth funds and local funds as a result of the enactment of this legislation.

Please note: this fiscal note was prepared independently of other proposed legislation that may similarly increase the grading of penalties for criminal offenses or creates new penalties for a new offense. Taken independently, it is possible that the Commonwealth and local governments may be able to absorb the relevant fiscal impact. If this legislation is enacted and accompanied by additional enacted legislation that will result in additional numbers of individuals being sentenced for increasing lengths of time, the cumulative effect can result in a significant impact on state and local funds by the end of this legislative session.

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General Note and Disclaimer: *This Fiscal Note was prepared pursuant to House Rule 19(a), and the elements considered and reported above are required by Section 5 of the rule. Estimates are calculated using the best information available. Actual costs and revenue impact incurred may vary from estimates.*