



HOUSE COMMITTEE ON APPROPRIATIONS

2009-10 Legislative Session

FISCAL NOTE

HOUSE BILL: 1926

PRINTER'S NO: 4477

PRIME SPONSOR: R. Taylor

FISCAL IMPACT SUMMARY	FY 2009/10	FY 2010/11
Expenditure Increase/(Decrease):		
General Fund	\$1,301,000	\$1,301,000

OVERVIEW:

Megan's Law:

House Bill 1926 amends Title 18 (Crimes and Offenses) and Title 42 (Judiciary and Judicial Procedure) further providing for the registration of sexual offenders.

The bill addresses registered sex offenders who are homeless, transient, or who lose a permanent address during their registration period (10 years or lifetime). It also provides for registration of certain out of state offenders who relocate to the Commonwealth.

Sexually violent predators (SVPs) who do not have a residence must register every 30 days with the Pennsylvania State Police (PSP) as "transients" and must appear every 30 days at an approved registration site to provide updated registration information to PSP about his or her "habitual locale."

This legislation also amends that portion of Megan's law that requires certain information to be posted on the Internet website which is accessible to the general public, including: multiple frontal view color photographs and the date the photographs were taken, along with the most recently posted frontal photographs of the offender, and a statement regarding whether the offender is current with respect to his registration requirements. The PSP will also use electronic notification to make information available to the public.

The PSP shall have standing and shall be a party in a proceeding brought by an offender or SVP who requests to be removed from the registry of sexual offenders. The PSP may certify and send to an authorized user Megan's Law records and such records shall be admissible into evidence.

Under this bill, the court may create a standard petition for indigence for use by SVPs and the parole office in the courts may request an SVP's indigence status to be reviewed. Filing fees for the determination shall be waived. Upon request of the parole office, a SVP's indigence status shall be reviewed by the court and a determination shall be made as to whether the individual will remain eligible for funded, mandatory counseling sessions. House Bill 1926 provides for the Sexual Offenders Assessment Board (SOAB) to pay for counseling sessions instead of the parole office.

Under the legislation, when it becomes law, it will apply to each person who is taken into custody or incarcerated after the law's effective date if the person, before the law's effective date, was convicted, adjudicated, or court martialled for an offense that would have subjected the person to registration if the conviction, adjudication, or court martial had occurred after the law took effect but only if the registration period would not have expired before the law took effect.

Castle Doctrine:

House Bill 1926 amends Title 18 by creating a presumption that an attacker or intruder intends to do great bodily harm, and therefore an individual can use force – including deadly force – to protect him or another if the intruder is forcefully entering a residence, dwelling, occupied vehicle, or any other place where the individual has a right to be. The amendment eliminates the duty to retreat before using lethal force outside of an individual's home, dwelling, vehicle, or any other place where the individual has a right to be. The definition of "dwelling" is expanded to include any attached porch, deck, or patio.

Title 42 is amended by creating immunity from civil liability from personal injuries sustained by the attacker or intruder.

This legislation also provides for theft to constitute a felony of the second degree if:

1. The offense is committed during a manmade disaster, a natural disaster or a war-caused disaster and constitutes a violation of §3921 (relating to theft by unlawful taking or disposition), §3925 (relating to receiving stolen property), §3928 (relating to unauthorized use of automobiles and other vehicles), or §3929 (relating to retail theft).
2. The property stolen is a firearm.
3. In the case of theft by receiving stolen property, the property received, retained, or disposed of is a firearm.
4. The property stolen is any amount of anhydrous ammonia.

This bill would also make it a felony of the first degree in the case of theft by receiving stolen property, if the property received, retained, or disposed of is a firearm and the receiver is in the business of buying or selling stolen property.

Under House Bill 40, theft constitutes a felony of the third degree if the amount involved exceeds \$2,000, or if the property stolen is an automobile, airplane, motorcycle, motorboat, or other motor-propelled vehicle, or in the case of theft by receiving stolen property, if the receiver is in the business of buying or selling stolen property.

The definition of "loaded" as it relates to a firearm is also expanded.

House Bill 40 also provides that a Commonwealth agency is not authorized to regulate the possession of firearms.

The Castle Doctrine will take effect in 60 days.

The provision regarding adding a statement on the website that an offender is current with registration requirements and the provision requiring the website to contain information about the habitual locale of transients take effect in 180 days.

The electronic notification system takes effect January 1, 2011.

The provision in Megan's Law providing for criminal penalties for failure to register takes effect in 60 days.

The remainder of the act takes effect immediately.

ANALYSIS:

Megan's Law:

The Pennsylvania Board of Probation and Parole (PBPP) estimates that it will have costs at \$1.3 million as result of doing background checks on any individual who is taken into custody or incarcerated. This \$1.3 million figure does not include additional office space and necessary equipment. PBPP may also be fiscally affected as they take individuals into custody and these individuals would need to be referred to PSP for retroactive background checks.

According to the (PBPP), the SOAB is currently paying for the mandatory monthly counseling of seven indigent SVPs. PBPP also indicates that they believe the language of parole board is vague and doesn't clarify whether it is a state parole issue or a county parole issue. Currently, certain counties pay for indigent counseling and certain counties do not; the Commonwealth funds counseling for the counties who do not. While costs are minimal now, PBPP believes that in future years costs for the SOAB could increase significantly.

Castle Doctrine:

The fiscal impact on Commonwealth funds as it relates to the "Castle Doctrine" portion of the bill is unquantifiable.

A felony of the first degree is punishable by a maximum of 20 years in a prison and a maximum fine of \$25,000. A felony of the second degree is punishable by a maximum of 10 years in prison and a maximum fine of \$25,000. A felony of the third degree is punishable by a maximum of seven years in prison and a maximum fine of \$15,000.

The average cost in 2010 for incarcerating an offender in a state correctional institution is approximately \$35,000 per year (including health care). According to the Board of Probation and Parole, in 2010 the average cost for state parole supervision was \$3,000 per year. The average cost in 2010 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 2010 was \$800 per year.

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. According to the Pennsylvania Commission on Sentencing, in 2009 there were 95 individuals who were sentenced for theft of a firearm as a receiver in the business of buying/selling stolen property.

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