



**HOUSE COMMITTEE ON APPROPRIATIONS**  
2009-10 Legislative Session

**FISCAL NOTE**

**HOUSE BILL: 2189**

**PRINTER'S NO: 3372**

**PRIME SPONSOR: Grove**

<b>FISCAL IMPACT SUMMARY</b>	<b>FY 2009/10</b>	<b>FY 2010/11</b>
<b>Expenditure Increase/(Decrease):</b>		
General Fund	\$0	\$0

**OVERVIEW:**

House Bill 2189 creates a new offense of “sexting” in Title 18 (Crimes and Offenses). This legislation adds a new §6321 (Dissemination of prohibited materials by minors via electronic communication).

The offense defined provides that any minor who knowingly transmits in an electronic communication or disseminates a depiction of himself or herself or another minor or possesses a depiction of another minor engaging in sexually explicit conduct commits a misdemeanor of the second degree. This new §6321 does not apply to electronic communications that depict either sexual intercourse or deviate sexual intercourse, or other penetration which would be subject to prosecution under existing child pornography law. Under this legislation, a minor cannot be charged under child pornography statutes if the offense falls under the new “sexting” §6321.

A second degree misdemeanor is punishable by up to two years imprisonment and/or a fine up to \$5,000. However, all proceedings involving this offense would fall under the purview of the Juvenile Act. This legislation provides for law enforcement and prosecutors to consider available diversionary alternatives for minors accused of “sexting”. Available diversions include disposition through informal adjustment or entry into a consent decree.

When a juvenile fulfills the conditions of a diversionary alternative, the record of the offense, photographs, and/or fingerprints are to be expunged. Also, a minor alleged to be delinquent solely on the basis of this offense cannot be detained in a secure facility. A minor adjudicated delinquent, where this offense is the only offense, shall not be subject to commitment to a secure facility.

This act takes effect in 60 days.

**ANALYSIS:**

Costs to the Commonwealth agencies that would be involved in this legislation are not specifically quantifiable at this time. According to the Pennsylvania Commission on Sentencing, the agency does not have any data. The Juvenile Court Judges’ Commission suggests that very little data is available and that it would be difficult to predict the impact this legislation would have on the criminal justice system.

According to the Pennsylvania State Police, who are responsible for expungement of records, costs are likely to be minor due to an assumption of few cases as a result of this legislation. The Administrative Office of Pennsylvania Courts (AOPC) indicates that there is no discernable fiscal impact to the Judiciary. AOPC also indicates that this legislation may help to avoid costs of litigation to fight child pornography charges in such cases and the costs of incarceration due to diversionary alternatives. While this legislation is expected to have minimal fiscal impact, if considered in conjunction with other legislation that increases the grading of penalties or creates new penalties, the impact to state and/or local governments may be substantial.

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**DATE:** May 24, 2010

**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.*