



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

HOUSE BILL NO. 321

PRINTERS NO. 746

PRIME SPONSOR: Toepel

### COST / (SAVINGS)

FUND	FY 2012/13	FY 2013/14
General Fund	\$0	See "Fiscal Impact" below.

**SUMMARY:** House Bill 321 amends the Crimes Code concerning the sexual abuse of children and amends the Judiciary Code concerning sentencing for offenses involving child pornography. It would take effect in 60 days.

**ANALYSIS:** The changes to the Crimes Code concern multiple offenses for the sexual abuse of children. Under this legislation, an offender convicted of multiple violations of Section 6312 of the Crimes Code, involving child pornography, at one judicial proceeding would be sentenced as a first-time offender to a third degree felony for the first count, which carries a maximum sentence of seven years and a maximum \$15,000 fine. For any offenses beyond the first, the individual would be considered a repeat offender and face a second-degree felony, with a minimum five-year and a maximum 10-year prison sentence and a maximum \$25,000 fine. Under current law, such an individual could only be sentenced as a first time offender, even for multiple counts.

This legislation adds to the Judicial Code a section concerning sentencing for offenses involving child pornography. In addition to any minimum term of imprisonment authorized or established by law for the offense, this section would require the Pennsylvania Commission on Sentencing to provide a sentence enhancement within its guidelines for a child pornography offense, specifying variations from the range of sentences applicable based on such aggravating circumstances as the age of the child, the number of images possessed by the defendant and the nature and character of the abuse depicted in the images.

**FISCAL IMPACT:** According to the Pennsylvania Commission on Sentencing (PCS) and the State Department of Corrections (DOC), House Bill 321 will substantially increase population and costs for the DOC.

A share of this increase can be attributed to the greater proportion of offenders sentenced to lengthy state prison sentences under the changes to the Crimes Code for second or subsequent offenses, the smaller percentages of offenders paroled, and the greater portion of sentences served prior to parole. The PCS analysis estimates a range for the population increase, the midpoint of which is 577 additional inmates in the third year after enactment. Based on this

number, the DOC estimates an additional cost of \$7 million per year starting in that year. However, it should be noted that this estimate assumes the DOC will be able to house these additional prisoners within current capacity. Should the DOC need to open or construct new housing units, this cost could increase substantially.

Changes to the Judicial Code concerning a sentencing enhancement for offenses involving child pornography will likely also result in a substantial increase to the DOC population. However, the exact nature of the sentencing enhancement is left to the discretion of the PCS. Therefore, it is not possible to estimate what that impact may be at this time with available data.

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House Appropriations Committee (R)

**DATE:** March 12, 2013

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