



## HOUSE COMMITTEE ON APPROPRIATIONS

# FISCAL NOTE

SENATE BILL NO. 681

PRINTERS NO. 1706

PRIME SPONSOR: Greenleaf

### COST / (SAVINGS)

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

#### SUMMARY:

Senate Bill 681 amends the Judiciary Code concerning sexual violence victim protection. It would take effect on July 1, 2015.

#### ANALYSIS:

Senate Bill 681 amends the Judiciary Code by adding a chapter entitled "Sexual Violence Victim Protection" to provide victims of sexual violence with a civil remedy requiring offenders to stay away from the victim as well as providing other appropriate relief.

The bill authorizes a sexual assault victim to petition the court for protection from the defendant in the form of a sexual violence victim protection order. A petition may also be filed by a parent or guardian. The legislation specifically provides that persons filing a petition shall not be charged fees or costs associated with the filing, issuance, registration or service of a petition, motion, complaint, or order under the act. When an order is granted, costs would be assessed to the defendant. The court may waive fees and costs where there is an inability to pay.

When a protection order is granted a surcharge of \$100 will be assessed against the defendant to be distributed as follows: \$25 to the Pennsylvania State Police (PSP), \$25 to the county sheriff, \$25 to the county court, and \$25 to the Department of Public Welfare for use for victims of sexual assault.

When a protection order is violated a defendant may be found in indirect criminal contempt and subject to a fine of at least \$300, but not more than \$1,000 and sentenced to not more than six months in prison or supervised probation. These funds will be disbursed as follows: \$50 to the county sheriff, \$50 to the county court, \$100 to the Department of Public Welfare for use for victims of sexual assault, and any remaining money to the PSP.

The court would be required to hold an expedited hearing within 10 days of the filing of a petition. The victim (plaintiff) would be required to prove, by a preponderance of the evidence, that he or she requires protection from the defendant. The court, when notifying the defendant of the date of the hearing, would be required to provide notice that the defendant may be

represented by counsel. The court may conduct ex parte proceedings and issue a temporary order when it finds that the plaintiff is in immediate and present danger. A temporary order would remain in effect until modified or terminated by the court after notice and hearing.

A protection order may prohibit the defendant from having any contact with the victim, direct the defendant to refrain from harassing or stalking the victim, and grant other appropriate relief. The bill provides that a protection order or approved consent agreement must be for a fixed period of time not to exceed 36 months. Such orders may be extended and there is no limitation on the number of extensions that may be granted. A copy of a protection order must be provided to the victim, the defendant and the appropriate law enforcement agency.

Language is added to provide that, in situations where the defendant is incarcerated and about to be released or has been released, a plaintiff does not need to show that the defendant engaged in conduct indicating continued risk or harm to the plaintiff to obtain an extension or subsequent order under the act.

Each law enforcement agency, including the Pennsylvania State Police, any police department of a city, borough, incorporated town or township and the sheriff of each county would be required to ensure that their officers, deputies and employees are familiar with the provisions of this act. Instruction concerning sexual violence victim protection orders would be required to be made part of the training curriculum of all trainee officers and deputies. All law enforcement agencies would be required to adopt a written policy regarding sexual violence victim protection orders.

A complete and systematic record and index of all valid temporary and final sexual violence victim protection orders must be entered and maintained by the PSP as a part of the registry for Protection from Abuse orders. For sexual violence protection orders, the registry must include, at a minimum:

- The names of the plaintiff and the victim, if the victim is not the same individual as the plaintiff.
- The names of other persons protected by the order.
- The name and address of the defendant.
- The date the order was entered.
- The date the order expires.
- The relief granted.
- The judicial district in which the order was entered.
- When available, the date of birth and social security number of the defendant.

The PSP must provide a form that prothonotaries can use to send a copy of the order to the PSP within 24 hours of when the order is entered by the courts. The PSP must enter orders, amendments and revocations in the registry within eight hours of receipt.

**FISCAL IMPACT:**

According to the State Police, the existing Protection From Abuse Database (PFAD) is written in an obsolete programming language, and will need to be rewritten in a modern language in order to accommodate the indexing of data for the sexual violence victim protection orders. The approximately 18-month timeframe for implementation will allow the PSP to partially complete

this development within their normal upgrade schedule and budget, however they will need to add some contract staff to complete the project on time. The PSP estimates total additional contract and hardware costs at \$160,000.

Concerning additional revenue, the fees, fines, and penalties in this Sexual Violence Victim Protection legislation are modeled after those in the Protection From Abuse Act. According to the PSP, they receive approximately \$150,000 annually to support the PFAD.

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