

# SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

**BILL NO.** House Bill 321

**PRINTER'S NO.** 2693

**AMOUNT**

Indeterminate Fiscal Impact

**FUND**

General Fund

**DATE INTRODUCED**

January 24, 2013

**PRIME SPONSOR**

Representative Toepel

**HISTORY OF BILL**

Referred to JUDICIARY, Jan. 24, 2013  
Reported as amended, Feb. 12, 2013  
First consideration, Feb. 12, 2013  
Laid on the table, Feb. 12, 2013  
Removed from table, Feb. 13, 2013  
Second consideration, March 11, 2013  
Re-committed to APPROPRIATIONS, March 11, 2013  
Re-reported as committed, March 12, 2013  
Third consideration and final passage, March 12, 2013 (195-0)  
In the Senate  
Referred to JUDICIARY, March 15, 2013  
Reported as amended, Nov. 19, 2013  
First consideration, Nov. 19, 2013  
Second consideration, Nov. 20, 2013  
Re-referred to APPROPRIATIONS, Nov. 20, 2013  
Re-reported as committed, Dec. 3, 2013

**DESCRIPTION AND PURPOSE OF BILL**

House Bill 321 amends Titles 18 (Crimes and Offenses) and 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes, further providing for the offense of sexual abuse of children; and concerning sentencing for such offenses.

Specifically, this legislation does the following:

- Amends 18 Pa.C.S.A. §3101(Definitions) revising the definition of "indecent contact" so that the definition more appropriately fits the child pornography scenario;

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- Reorganizes 18 Pa.C.S.A. §6312 (Sexual abuse of children) so that the grading of each of the offenses relating to the production, dissemination and viewing of child pornography is contained in a new subsection. The basic grading of the offenses remains the same. Production is graded as a second degree felony, dissemination and viewing are graded as a third degree felony for a first offense and a second degree felony for a second or subsequent offense;
- Establishes a sentencing enhancement that increases the grading of the offense of sexual abuse of children one grade higher if indecent contact with the child as defined in 18 Pa.C.S.A. §3101 (Definitions) is depicted. This enhancement does not apply to the grading for a second or subsequent offense so in no case will the dissemination or viewing of child pornography be more than a second degree felony; and
- Requires the Pennsylvania Commission on Sentencing to adopt a sentencing enhancement (42 Pa.C.S.A. §9720.5 Sentencing for offenses involving sexual abuse of children) for 18 Pa.C.S.A. §6312 (Sexual abuse of children) based on such aggravating circumstances as described above.

This act shall take effect January 1, 2014, or immediately, whichever occurs later.

### **FISCAL IMPACT:**

According to the Pennsylvania Commission on Sentencing (PCS), 2012 data shows a total of 175 convictions of 18 Pa.C.S.A. §6312 (Sexual abuse of children), of which 15% (27) of those convicted were sentenced to incarceration in a State Correctional Institution. It is possible that the Pennsylvania Department of Corrections (DOC) could experience an increase in population in the State Correctional Institutions based on the new sentencing enhancement, but it is not possible to determine the increase in state prison sentences, if any, due to many unknown factors. Data is not available to determine how many of the above mentioned 175 convictions contained certain factors that would trigger the new grade enhancement (depiction of indecent contact) or guideline enhancement (number of images, nature of abuse, etc.). Additionally, the Commission won't be adopting specific sentencing enhancement provisions until this legislation is enacted. These provisions are left to the discretion of the PCS.

Enactment of this legislation may result in additional costs to the Department of Corrections, although the exact amount of the impact is indeterminate at this time.