

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. House Bill 2325

PRINTER NO. 3497

AMOUNT

No Fiscal Impact

FUND

General Fund

DATE INTRODUCED

May 3, 2018

PRIME SPONSOR

Representative Everett

DESCRIPTION

House Bill 2325 amends Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes providing for procedures to protect victims and witnesses with intellectual disabilities or autism.

This legislation amends Chapter 59 of Title 42 by creating a new Subchapter E (Victims and Witnesses with Intellectual Disabilities or Autism).

§ 5993 (relating to admissibility of certain statements) provides that an out-of-court statement made by an individual with an intellectual disability or autism, who is a victim or witness describing certain criminal offenses (enumerated below), is admissible in any criminal or civil proceeding if:

- 1) The court finds that the evidence is relevant and that the time, content and circumstances of the statement provide sufficient indicia of reliability;
- 2) The individual has an intellectual disability or autism; and
- 3) The individual either testifies at the proceeding or is unavailable as a witness.

In order to make a finding that an individual is unavailable as a witness, the court must determine, based on evidence presented to it:

- 1) The mental and physical age and maturity of the individual;
- 2) The nature and duration of the offense;
- 3) The relationship of the individual to the offender;
- 4) The reliability of the assertion;
- 5) The reliability of the individual; and
- 6) Any other factor the court deems appropriate.

In making a determination that an individual is unavailable as a witness, the court may:

- 1) Observe and question the individual, either inside or outside the courtroom; and
- 2) Hear testimony of a parent or custodian or any other person, such as a person who has dealt with the individual in a medical or therapeutic setting.

The statement may not be received into evidence unless the proponent of the statement notifies the adverse party and provides detailed information about the statement.

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The following enumerated offenses under Title 18 Pa.C.S. (relating to crimes and offenses) apply to § 5993 (relating to admissibility of certain statements):

- Chapter 25 (relating to criminal homicide);
- Chapter 27 (relating to assault);
- Chapter 29 (relating to kidnapping);
- Chapter 30 (relating to human trafficking);
- Chapter 31 (relating to sexual offenses);
- Chapter 35 (relating to burglary and other criminal intrusion);
- Chapter 37 (relating to robbery);
- Chapter 30 (relating to human trafficking);
- Section 4302 (relating to incest);
- Section 4304 (relating to endangering welfare of children), if the offense involved sexual contact with victim;
- Section 6301 (a)(1)(ii) (relating to corruption of minors);
- Section 6312 (b) (relating to sexual abuse of children);
- Section 6318 (relating to unlawful contact with minor); and
- Section 6320 (relating to sexual exploitation of children).

The term “individual with an intellectual disability or autism” is defined as an individual, regardless of age, with significantly sub-average general intellectual functioning that is accompanied by significant limitations in adaptive functioning in at least two of the following skill areas:

- Communication;
- Self-care;
- Home living;
- Social and interpersonal;
- Use of community resources;
- Self-direction;
- Functional academic;
- Work; and
- Health and safety.

The term also includes an individual, regardless of age, who has an autism spectrum disorder.

This act shall take effect in 60 days.

FISCAL IMPACT:

Enactment of this legislation will have no fiscal impact on Commonwealth funds.