

SENATE APPROPRIATIONS COMMITTEE FISCAL NOTE

BILL NO. Senate Bill 1075

PRINTER NO. 2002

AMOUNT

See Fiscal Impact

FUND

General Fund

DATE INTRODUCED

April 13, 2020

PRIME SPONSOR

Senator Arnold

DESCRIPTION AND PURPOSE OF BILL

Senate Bill 1075 amends Title 18 (Crimes and Offenses) and Title 42 (Judiciary and Judicial Procedure) of the Pennsylvania Consolidated Statutes to increase the penalties of crimes related to child pornography, to create a child sexual abuse task force and to provide for a sentence enhancement for sexual abuse of children.

Section 6312 (relating to sexual abuse of children) is amended to increase the grading of child pornography offenses by one grade when the child depicted is under ten years of age or prepubescent.

The grading of offenses under 18 Pa.C.S. § 6312 (relating to sexual abuse of children) would increase as follows:

- A violation of § 6312(b) (relating to photographing, videotaping, depicting on computer or filming sexual acts) would increase from a felony of the second degree to a felony of the first degree; and
- A first offense violation of § 6312(c) (relating to dissemination of photographs, videotapes, computer depictions and films) or § 6312(d) (relating to child pornography) would increase from a felony of the third degree to a felony of the second degree.

The legislation establishes the “Child Sexual Abuse Prevention Task Force” within the Department of Human Services to develop guidance, tools and sexual abuse prevention and intervention frameworks for supporting Pennsylvania Child Welfare Services and to create long-range plans and strategies for statewide community education about child sexual abuse and its prevention. Composition of the task force shall consist of the following members:

- 1) One member of the Pennsylvania Senate, appointed by the President Pro Tempore of the Senate;
- 2) One member of the public, appointed by the President Pro Tempore of the Senate;
- 3) One member of the Pennsylvania House of Representatives, appointed by the Speaker of the House of Representatives;

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- 4) One member of the public, appointed by the Speaker of the House of Representatives;
- 5) One member of the public who is a survivor of child sexual abuse, appointed by the Governor;
- 6) The Secretary of Education, or a designee;
- 7) The Secretary of Human Services, who shall serve as chairperson of the task force;
- 8) The Secretary of Health, or a designee;
- 9) The President of the Pennsylvania District Attorney's Association, or a designee;
- 10) Two representatives of a children's advocacy center that assists in the investigation, prosecution and treatment of child sexual and physical abuse cases, appointed by the Governor;
- 11) Two medical professionals that specialize in the field of child sexual abuse, one of whom shall be appointed by the President Pro Tempore of the Senate and one of whom shall be appointed by the Speaker of the House of Representatives;
- 12) The Director of the Pennsylvania Coalition Against Rape (PCAR), or a designee;
- 13) The director of a rape crisis center located in this Commonwealth, or a designee;
- 14) A representative of an organization representing law enforcement, appointed by the Commissioner of the Pennsylvania State Police;
- 15) The Victim Advocate from the Office of Victim Advocate, or a designee;
- 16) A member of the Pennsylvania Sex Offender Assessment Board (SOAB). If possible, this member shall also be a member of the Association for the Treatment of Sexual Abusers; and
- 17) The Attorney General of Pennsylvania, or a designee.

Members of the task force may not receive per diem expenses.

The legislation requires the Pennsylvania Commission on Sentencing (commission) to provide for a sentence enhancement within its guidelines for an offense under § 6312 if the child depicted is known to the defendant. Additionally, when the increased grading provisions under 18 Pa.C.S. § 6312 (d.1)(3) apply, the commission shall provide a sentence enhancement if indecent contact with the child is depicted and the child depicted is under ten years of age or prepubescent.

This act shall take effect in 60 days.

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FISCAL IMPACT:

According to the Pennsylvania Commission on Sentencing (commission), a sentence enhancement currently exists for when a child depicted is under 13 years of age or prepubescent. According to 2018 sentencing data, there were 1,677 convictions for 18 Pa.C.S. § 6312 offenses, of which 163 of those cases would have increased the grade of offense provided for in this legislation: 134 offenses graded as a felony of the third degree would increase to a felony of the second degree and 29 offenses graded as a felony of the second degree would increase to a felony of the first degree.

As noted, the commission currently has a sentence enhancement related to this statute. Aside from some impact due to the increased grade of certain convictions, this legislation would also require the following two changes to the existing enhancement:

- Dropping the age of the child depicted from 13 to 10, would have a minor impact, since both the current enhancement and the proposed enhancement include a prepubescent child; and
- The proposed sentence enhancement provision includes circumstances where the child depicted is known to the defendant. The commission does not have any data on this and cannot provide an estimated impact on that provision.

Felony convictions carry the following possible sentences:

- Felony of the first degree may be sentenced to a term of imprisonment, the maximum of which is more than ten years;
- Felony of the second degree may be sentenced to a term of imprisonment, the maximum of which is not more than ten years; and
- Felony of the third degree may be sentenced to a term of imprisonment, the maximum of which is not more than seven years.

Of the 163 individuals mentioned above, 53 were sentenced to a term of imprisonment in a state correctional institution. With the increased grading of offenses, assuming 50% of those individuals would receive an additional two years imprisonment in a state correctional institution with a marginal cost of \$18.34 per inmate/per day, the Commonwealth would incur additional costs of approximately \$354,787.