

Department of Planning and Budget 2018 Fiscal Impact Statement

1. **Bill Number:** SB168 S2

House of Origin Introduced Substitute Engrossed
Second House In Committee Substitute Enrolled

2. **Patron:** Stanley

3. **Committee:** Courts of Justice

4. **Title:** Electronic transmission of nude or partially nude images of minors by minors; penalty.

5. **Summary:** The substitute bill establishes that knowingly transmitting, distributing, publishing, or disseminating any sexually explicit visual material to another minor without the intent to harass, intimidate, or extort money or other pecuniary gain, by any means, on any device, through any media or through the use of a computer system is punishable as a Class 1 misdemeanor. The substitute bill also establishes that knowingly possessing at least one but not more than 10 images containing sexually explicit visual material when such images are obtained with the consent of the depicted minor is punishable as a Class 2 misdemeanor. The bill authorizes the court to defer a first offense and place the offender on a minimum of six months of probation and require a minimum of 50 hours of community service. In this case, if the terms of probation are violated, the bill allows the court to enter an adjudication of guilt. The bill also authorizes the court to dismiss a first offense after the offender has fulfilled the terms of the probation without adjudication of guilt.

6. **Budget Amendment Necessary:** No

7. **Fiscal Impact Estimates:** Preliminary. See Item 8 below.

8. **Fiscal Implications:** Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. Anyone convicted of a Class 2 misdemeanor is subject to a sentence of up to six months in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Ultimately, the presiding judge will decide if there is to be any time served in jail; however, any increase in jail population will increase costs to the state. The Commonwealth presently pays the localities \$4.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds a large portion of the jails' operating costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2017), the estimated total state support for local jails averaged \$34.58 per inmate, per day in FY 2016.

According to the Department of Juvenile Justice, this bill is not expected to impact Juvenile Correctional Centers or Juvenile Detention Facilities. The provision allowing the court to

assign offenders probation and community service may have an impact on local probation officers. However, there is not enough information to estimate the potential impact.

9. Specific Agency or Political Subdivisions Affected: Local and Regional jails

10. Technical Amendment Necessary: None

11. Other Comments: None