



Susvalleypolicy.org
P.O. Box 338, Hershey, PA 17033 – 717-471-3513

**The Economic Impact of a Constitutional Amendment
to Implement Pennsylvania House Bill 14 of the 2021-22
Session**

The Susquehanna Valley Center for Public Policy

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EXECUTIVE SUMMARY

- Sexual Abuse has been an on-going problem for years nationwide. In recent years, Pennsylvania stands near the top of the list in terms of the number of cases.
- House Bill 14 would create a two-year window during which the statute of limitations would be lifted. The expected result is a large number of claims filed against Pennsylvania school districts.
- If the rate of abuse in the public schools matched that of Catholic schools, we expect approximately 10,000 claims to be filed.
- The U.S. Department of Education speculates that the problem in public schools is 100 times that of Catholic schools. If true, we expect approximately 100,000 claims to be filed.
- Employing numbers from a national study on the economic cost of sexual abuse, we estimate that 15,000 claims would be filed in Pennsylvania.
- Extrapolating the recent experience of the Ken-Ton school district in New York, we estimate that 17,500 claims would be filed in Pennsylvania.
- Analyzing 20 cases from 2012-2020, the average award per claim is estimated to be \$325,000 to \$500,000 per claimant. In the most recent Ken-Ton case, the average award was \$500,000.
- Based on all our estimates, removing the statute of limitations on filing a claim for a two-year window is expected to result in total claims ranging from \$5 billion to \$32.5 billion statewide.

Introduction

The Educator Discipline Act defines Sexual Misconduct as:

“any act, including, but not limited to, any verbal, nonverbal, written or electronic communication or physical activity, directed toward or with a child or a student regardless of the age of the child or student that is designed to establish a romantic or sexual relationship with the child or student. Such prohibited acts include, but are not limited to, the following:

- (1) sexual or romantic invitations;
- (2) dating or soliciting dates;
- (3) engaging in sexualized or romantic dialogue;
- (4) making sexually suggestive comments;
- (5) self-disclosure or physical exposure of a sexual, romantic, or erotic nature; or
- (6) any sexual, indecent, romantic, or erotic contact with the child or student.

As is apparent in the definition, sexual misconduct is a broad term encompassing any behavior designed to establish an inappropriate relationship with a child or student, ranging from inappropriate comments to sexual intercourse. It is important not to confuse sexual misconduct with sexual abuse. While the definition of sexual misconduct covers all forms of sexual contact and what is commonly referred to as sexual abuse, it also includes non-sexual behaviors that may lead up to sexual contact. In addition, while sexual misconduct may involve criminal behavior, the term also captures conduct that, although itself not illegal, is designed to prepare the student for future sexual contact. For purposes of educator misconduct, the term sexual misconduct refers to a broad set of inappropriate behaviors including sexual abuse of students.”¹

The problem of sexual abuse in the public schools is national in scope. “In the first half of this year [2022], over 180 school educators got arrested for various sex crimes. That’s roughly one teacher or school administrator arrested each day.² Sexual abuse in the public schools has been an ongoing problem for years. Most cases went unreported in the past, but as more light is shed on the issue, Pennsylvania is among the top states in the nation with respect to such crimes. From 2009 to 2013, “At least 233 teachers have lost their licenses ... because of criminal convictions, most related to sexual misconduct, child pornography and assault.”³

¹ <https://www.pspc.education.pa.gov/Educator-Discipline-System-and-Reporting/Overview-Discipline-System/Pages/Sexual-Misconduct.aspx>

² <https://townhall.com/tipsheet/mattvespa/2022/07/23/pervert-parade-an-insane-number-of-teachers-have-been-arrested-for-sex-crimes-this-year-n2610708>

³ <https://archive.triblive.com/news/pennsylvania-near-top-of-list-for-teacher-impropriety/>

Shane Crosby, Assistant Chief Counsel for the Pennsylvania Department of Education, says "The numbers are high, but there may have been more. For a while, we think there was some underreporting. I don't think school entities were trying to avoid their responsibilities, but the laws weren't clear enough. Reporting procedures are better now."⁴ Older cases may finally get reported. "The climate has changed," said Alfred Blumstein, criminologist with Carnegie Mellon University, citing news media attention to assault cases on college campuses, in the military, and among Catholic priests. "People are much more willing to talk about potential crimes ... in part, because victims are aware the rest of the world cares that this is going on."⁵ For many victims, however, the statute of limitations has expired.

Pennsylvania House Bill 14⁶ contains the following provision in Section 1(b):

AN INDIVIDUAL FOR WHOM A STATUTORY LIMITATIONS PERIOD HAS ALREADY EXPIRED, OR WHOSE CLAIM WOULD OTHERWISE BE BARRED OR LIMITED BY A STATUTORY CAP ON DAMAGES, SOVEREIGN IMMUNITY OR BY GOVERNMENTAL OR OFFICIAL IMMUNITY, SHALL HAVE A PERIOD OF TWO YEARS, WITHOUT BAR OR LIMITATION BY SUCH CAPS OR IMMUNITIES, FROM THE TIME THAT THIS SUBSECTION BECOMES EFFECTIVE TO COMMENCE AN ACTION ARISING FROM CHILDHOOD SEXUAL ABUSE, IN SUCH CASES AS PROVIDED BY LAW AT THE TIME THAT THIS SUBSECTION BECOMES EFFECTIVE.⁷

The amendment and subsequent passage would have economic consequences. "Victims of school sex abuse may make claims for financial compensation. Claims often include damages for medical treatment, psychological counseling, and pain and suffering. Compensation for pain and suffering often depends on the extent of the abuse and how it ultimately affected the individual, their relationships, their ability to enjoy life, etc."⁸

This report provides an estimate of the total dollar value of the claims that could be made during the two year period if HB 14 should pass. This report is not intended to be a forensic analysis, legal analysis, or economic analysis of any individual case. Rather, this report is solely a statistical analysis looking at historical data and forecasting the possible number of forthcoming claims and their total dollar value.

The estimated dollar value of the claims that result from this analysis is a substantially wide range. Not only is it difficult to estimate how many cases of sexual abuse have occurred in the public schools over so many years in the past, but it is also difficult to

⁴ <https://www.nbcphiladelphia.com/news/local/pa-near-top-of-list-for-teacher-sex-abuse/127610/>

⁵ <https://www.nbcphiladelphia.com/news/local/pa-near-top-of-list-for-teacher-sex-abuse/127610/>

⁶ <https://www.legis.state.pa.us/cfdocs/billinfo/billinfo.cfm?sYear=2021&sInd=0&body=H&type=B&bn=14>

⁷ <https://www.legis.state.pa.us/CFDOCS/Legis/PN/Public/btCheck.cfm?txtType=PDF&sessYr=2021-&sessInd=0&billBody=H&billTyp=B&billNbr=14>

⁸ <https://www.pasexabusecrimevictimslawcenter.com/school-teacher-sex-abuse-lawyer-pennsylvania-new-jersey/>

forecast how many victims would decide to submit a claim. In addition to forecasting the number of claims submitted, one also needs an estimate of the average dollar value per claim.

Historically, awards have been affected by the number of claimants in a case and whether the case is resolved settlement or jury trial. Historically, individual claimants tend to receive higher awards per person than larger classes receive per person from class action cases. Historically, claimants tend to receive higher awards from juries than from settlements.

In the final analysis, this report projects the possibility of between 10,000 and 100,000 claims. The analysis suggests a range between 10,000 to 17,500 claims are most likely, but there is reasonable speculation to suggest that 100,000 claims are possible. With the median historical award being about \$325,000 and with an average award of \$500,000, the total dollar value of claims could be at least \$5 billion with a high-level scenario of \$32.5 billion.

Projecting the number of claims

To estimate the potential number of claims that would be submitted regarding public school sex abuse, this report considers three methodologies. First, the experience of the Catholic Church in Pennsylvania provides one benchmark to estimate the number of claims to be made in the case of public schools. Second, a published study on the aggregate economic costs of child sex abuse in the United States provides a source of estimates one can use for Pennsylvania. Third, the recent experience in the Ken-Ton school district in New York provides an estimate of the number of claims per district.

Projecting the number of claims based on the Catholic Church experience

Regarding the Catholic Church experience, the grand jury investigation reports one thousand (1,000) cases noting that the true number of cases is in the thousands; however, lost records and reluctance to report limits the number of actual cases. “In November of 2018, seven of the eight dioceses in Pennsylvania launched a victim’s compensation fund, allowing survivors a small window to apply and receive compensation through the church without having to file suit, and without exception to those whose statute of limitations may have already passed.”⁹

To determine how this number would project up to public schools in Pennsylvania, the following adjustments can be made. Approximately 86 percent of students attend public school while 14 percent attended private school.¹⁰ Multiplying 1,500 claims by 86/14

⁹ <https://feeneylawfirm.com/pennsylvania-sexual-abuse-lawsuits/>

¹⁰ <https://www.rural.pa.gov/datagram/392/Pennsylvania-Public-and-Private-School-Students-2008-2012>

results in an estimated number of cases equal to 9,214. Since, this is an estimate, we are rounding to 10,000.

This estimate assumes that sex abuse occurs in public schools at the same rate as it does in private school. It has been argued that the rate of abuse is much higher in public schools than in the Catholic schools. “According to the Dept. of Ed, public school teachers sexually abuse children at a scale more than 100 times greater than Catholic priests.”¹¹ If this estimate is correct, one can expect 150,000 claims made against the public schools in Pennsylvania. While this higher number may be correct, it may include older cases where records have been lost or victims are deceased. Allowing for this, one could expect 100,000 claims based on this Department of Education estimate.

Projecting the number of claims based on national macroeconomic estimates

A research study published in 2018 by Elizabeth J. Letourneau, Derek S. Brown, Xiangming Fang, Ahmed Hassan, and James A. Mercy¹² estimated the total annual economic impact of child abuse in the United States. Analyzing 40,407 cases that occurred in 2015, the study estimates the total annual cost to society to be \$9.3 billion. For nonfatal cases involving females, they determine the cost to the victim to be \$283,000. Utilizing these results and adjusting for the population of Pennsylvania as a percent of the total United States, it is estimated that there had been approximately 327 cases of sex abuse by public school teachers that year in Pennsylvania. Multiplying this number by 47 years, to account for abuse dating back over time for current adults, results in an estimated number of approximately 15,000 total cases.

Summary on the estimation of the number of claims

The two different methodologies employed provide some overlap. On the lower end, there may be between 10,000 to 15,000 claims. On the higher end, there may be 100,000 claims.

The recent case of the Ken-Ton School District in New York offers a third estimate. In that one school district alone, there were 35 claims recently paid.¹³ Projecting that number of paid out claims per district onto Pennsylvania’s 500 districts yields an estimate of 17,500 claims.

¹¹ <https://go2tutors.com/teachers-more-likely-abuse-kids/> and “Has the Media Ignored Sex Abuse in School?” by Tom Hoopes, National Review Online August 24, 2006. Cited in <https://cdn-files.nsba.org/s3fs-public/09.%20Patterson%20Austin%20K12%20Sex%20Abuse%20Claims.pdf>

¹² <https://www.sciencedirect.com/science/article/abs/pii/S014521341830084X>

¹³ https://buffalonews.com/news/local/ken-ton-to-pay-17-5-million-to-settle-sexual-abuse-claims-against-retired-teacher/article_0790d10e-e767-11ec-a6ff-2b70c2def8df.html

Estimating the dollar value per claim

This report utilizes two methodologies for estimating the dollar value per claim. First, the paper by Letourneau, et al (2015) estimates the 2015 cost of abuse to be \$283,000 per female survivor. Data on males was insufficient to make a full estimate. Projecting the \$283,000 to 2022 based on the Consumer Price Index change over those seven years results in a loss of \$347,847.

Additionally, this report considers twenty (20) cases from the past eleven years dating from 2012 to 2022. The cases involve 1,719 claimants. Since the cases occur in different years, the dollar amounts have been inflated to 2022 dollars. The average award per claimant is \$544,000. If the two largest outliers are removed, the average award is \$500,000. This is consistent with the most recent case of the Ken-Ton School District in which the award per claimant is \$500,000. The median award, which is unaffected by any outliers, is \$324,000. The cases are listed in Table 1 sorted by year.

The number of plaintiffs in each case appears to affect the award per claimant. For the ten cases involving a single victim, the average award was over \$9 million. For the ten cases with multiple victims, the average award was \$492,000. The cases are listed in Table 2 sorted by the number of claimants and the award per claimant.

Estimating the Total Cost to the Commonwealth of Pennsylvania

Table 3 reports the total dollar value of awards based on assuming average awards of \$325,000, \$350,000, and \$500,000. Four scenarios are presented for the number of claims made: 10,000, 15,000, 17,500, and 100,000. For the scenario involving 10,000 claims, we expect that these cases would most likely involve fewer claimants per case and go to a jury. As such, we expect the payout per claimant to average \$500,000. In the scenario involving 100,000 claims, we expect that these cases would involve large scale class action settlements. As such, we expect the payout per claimant to be the lower estimate of \$325,000.

Also reported in Table 3 is the implied victimization rate associated with each number of claims. The percentage reported equals the number of claims divided by the 6.8 million adults aged 18-65 years.

Table 4 reports the total awards divided by the number of adults living in Pennsylvania. The number provides an estimate of the added tax burden on a per taxpayer basis. Table 5 reports the total award divided by the budgets of the state and all local governments in Pennsylvania. Table 5 offers an impression of the relative financial magnitude of the situation.

Conclusion

This report provides estimates of the total dollar value of claims that would be made during the two-year window following the passage of HB 14. The estimates are based on statistical analysis of historical information. No analysis of any individual cases was performed for this report. Based on historical data, the total dollar claim is expected to range from \$5 billion to \$32.5 billion.

Nothing contained here should be considered as an attempt to aid or hinder the passage of any legislation.

Table 1. Cases Used in the Analysis Sorted By Year

Year	Case	Total Award	Claimants	Award per Claimant	Total Award (2022\$)	Award per Claimant (2022\$)
2012	Susquehanna,PA school district	\$600,000	1	\$600,000	\$744,221	\$744,221
2014	Los Angeles school district (CA)	\$140,000,000	81	\$1,728,395	\$168,268,609	\$2,077,390
2016	Los Angeles school district (CA)	\$88,000,000	30	\$2,933,333	\$104,429,519	\$3,480,984
2016	Redlands school district (CA)	\$6,000,000	1	\$6,000,000	\$7,120,194	\$7,120,194
2017	Palm Beach FL school board	\$3,580,000	4	\$895,000	\$4,144,762	\$1,036,190
2017	Florida	\$49,300,000	1	\$49,300,000	\$57,077,308	\$57,077,308
2017	Marion Ohio school district	\$1,800,000	3	\$600,000	\$2,083,959	\$694,653
2017	Vineland NJ school board	\$275,000	1	\$275,000	\$318,383	\$318,383
2017	Diocese of NY and Brooklyn	\$1,800,000	6	\$300,000	\$2,083,959	\$347,326
2018	California Norwich diocese	\$900,000	1	\$900,000	\$1,020,843	\$1,020,843
2018	StPaul-Minn diocese	\$210,000,000	450	\$466,667	\$238,196,614	\$529,326
2018	NYC school district	\$16,000,000	1	\$16,000,000	\$18,148,313	\$18,148,313
2018	Tulsa, OK school district	\$300,000	1	\$300,000	\$340,281	\$340,281
2018	Torrance school district (CA)	\$31,000,000	22	\$1,409,091	\$35,162,357	\$1,598,289
2021	Issaquah school district (WA)	\$4,250,000	1	\$4,250,000	\$4,567,895	\$4,567,895
2022	Camden Diocese	\$87,500,000	300	\$291,667	\$87,500,000	\$291,667
2022	Phila diocese	\$78,500,000	438	\$179,224	\$78,500,000	\$179,224
2022	Santa Fe diocese	\$121,500,000	375	\$324,000	\$121,500,000	\$324,000
2022	Santa Ana Unified school district (CA)	\$1,000,000	1	\$1,000,000	\$1,000,000	\$1,000,000
2022	Seattle Public Schools	\$3,000,000	1	\$3,000,000	\$3,000,000	\$3,000,000

Table 2. Cases Used in the Analysis Sorted By Number of Claimants and Award Per Claimant

Year	Case	Total Award	Claimants	Award per Claimant	Total Award (2022\$)	Award per Claimant (2022\$)
2017	Florida	\$49,300,000	1	\$49,300,000	\$57,077,308	\$57,077,308
2018	NYC school district	\$16,000,000	1	\$16,000,000	\$18,148,313	\$18,148,313
2016	Redlands school district (CA)	\$6,000,000	1	\$6,000,000	\$7,120,194	\$7,120,194
2021	Issaquah school district (WA)	\$4,250,000	1	\$4,250,000	\$4,567,895	\$4,567,895
2022	Seattle Public Schools	\$3,000,000	1	\$3,000,000	\$3,000,000	\$3,000,000
2018	California Norwich diocese	\$900,000	1	\$900,000	\$1,020,843	\$1,020,843
2022	Santa Ana Unified school district (CA)	\$1,000,000	1	\$1,000,000	\$1,000,000	\$1,000,000
2012	Susquehanna,PA school district	\$600,000	1	\$600,000	\$744,221	\$744,221
2018	Tulsa, OK school district	\$300,000	1	\$300,000	\$340,281	\$340,281
2017	Vineland NJ school board	\$275,000	1	\$275,000	\$318,383	\$318,383
2017	Marion Ohio school district	\$1,800,000	3	\$600,000	\$2,083,959	\$694,653
2017	Palm Beach FL school board	\$3,580,000	4	\$895,000	\$4,144,762	\$1,036,190
2017	Diocese of NY and Brooklyn	\$1,800,000	6	\$300,000	\$2,083,959	\$347,326
2018	Torrance school district (CA)	\$31,000,000	22	\$1,409,091	\$35,162,357	\$1,598,289
2016	Los Angeles school district (CA)	\$88,000,000	30	\$2,933,333	\$104,429,519	\$3,480,984
2014	Los Angeles school district (CA)	\$140,000,000	81	\$1,728,395	\$168,268,609	\$2,077,390
2022	Camden Diocese	\$87,500,000	300	\$291,667	\$87,500,000	\$291,667
2022	Santa Fe diocese	\$121,500,000	375	\$324,000	\$121,500,000	\$324,000
2022	Phila diocese	\$78,500,000	438	\$179,224	\$78,500,000	\$179,224
2018	StPaul-Minn diocese	\$210,000,000	450	\$466,667	\$238,196,614	\$529,326

Table 3. Estimated Total Dollar Value of Claims

	% of Adults	Potential Number of Cases			
		10,000	15,000	17,500	100,000
Potential	\$325,000		\$4,875,000,000	\$5,687,500,000	\$32,500,000,000
Settlement per	\$350,000		\$5,250,000,000	\$6,125,000,000	
Claimant	\$500,000	\$5,000,000,000	\$7,500,000,000	\$8,750,000,000	

Table 4. Estimated Total Dollar Value of Claims Per Tax Payer

	% of Adults	Potential Number of Cases			
		10,000	15,000	17,500	100,000
Potential	\$325,000		\$471	\$550	\$3,140
Settlement per	\$350,000		\$507	\$592	
Claimant	\$500,000	\$483	\$725	\$845	

Table 5. Estimated Total Dollar Value of Claims As A Percent of State and Local Government Budget

	% of Adults	Potential Number of Cases			
		10,000	15,000	17,500	100,000
Potential	\$325,000		3.21%	3.75%	21.41%
Settlement per	\$350,000		3.46%	4.03%	
Claimant	\$500,000	3.29%	4.94%	5.76%	