



MEMORANDUM

TO: The Pennsylvania House Judiciary Committee

FROM: Elizabeth Randol, Legislative Director, ACLU of Pennsylvania

DATE: September 11, 2022

RE: OPPOSITION TO HB 2276 P.N. 2638 (MIHALEK)

Bill summary: [HB 2276](#) (PN 2638) would combine two existing offenses—[18 § 4303](#) (concealing the death of a child) and [18 § 5510](#) (abuse of corpse)—to create a new second-degree felony offense. These offenses are currently graded as first- and second-degree misdemeanors, respectively. The new offense under HB 2276 would punish a person convicted of concealing the death of a child who did so in a manner that constitutes abuse of a corpse with up to 10 years imprisonment and \$25,000 in fines.

On behalf of over 100,000 members and supporters of the ACLU of Pennsylvania, I respectfully urge you to oppose House Bill 2276.

HB 2276 was introduced in response to a tragic case in Washington County where parents concealed the death of their five-month old baby by hiding the body in a wall. The bill’s [co-sponsorship memo](#) took issue with the grading of the offenses, noting that “when our district attorney filed charges, he was surprised to learn that this horrifying conduct only supported misdemeanor charges for concealing the death of a child and abuse of corpse.” This would be a justifiable concern if one assumes that these would be the ONLY offenses charged. What is surprising is the Washington County DA’s surprise, since he charged each of the parents with **17 different offenses**, and is, in fact, [seeking the death penalty](#) in this case.

Grade	Offenses charged in Washington County case
F1	Criminal Homicide
F1	Conspiracy - Criminal Homicide
F1	Endangering Welfare of Children - Parent/Guardian/Other Commits Offense
F1	Conspiracy - Endangering Welfare of Children - Parent/Guardian/Other Commits Offense
F1	Aggravated Assault - Victim Less Than 13 and Defendant 18 or older
F1	Conspiracy - Aggravated Assault - Victim Less Than 13 and Defendant 18 or older
F2	Aggravated Assault - Victim Less Than 6 and Defendant 18 or older
F2	Conspiracy - Aggravated Assault - Victim Less Than 6 and Defendant 18 or older
F3	Fraud Obt Foodstamps/Assistance
M1	Conceal Death of Child
M1	Conspiracy - Conceal Death of Child
M2	Tamper With/Fabricate Physical Evidence
M2	Conspiracy - Tamper With/Fabricate Physical Evidence
M2	Obstruct Admin Law/Other Govt Func
M2	Conspiracy - Obstruct Admin Law/Other Govt Func
M2	Abuse Of Corpse
M2	Conspiracy - Abuse Of Corpse

Sources: Docket sheets for [Alan Hollis](#) and [Kyle Wilt](#)

Criminal law should not be created in response to particularly grievous cases. **Hard cases make bad law.** And HB 2276 is another example of this persistent and pernicious trend. These bills frequently assume that defendants are only charged with single offenses, so *of course* it sounds outrageous that the parents in this case might only get misdemeanor charges for their crime.

But that is not how the law, or prosecutors, operate. Charging is not an either/or, zero-sum game. DAs stack multiple charges for the same activity. When legislators create duplicative offenses, it adds a **new and additional offense** for prosecutors to charge. For example, if HB 2276 is enacted, it would create a new suboffense—§ 4303 (a.1) Aggravated concealment—graded as a second-degree felony. If it had been law at the time the Washington County parents were charged, it's not unreasonable to assume that the DA would have added one or two new F2 charges to their dockets—an 18th offense, § 4303 (a.1) and, perhaps, a 19th charge of conspiracy to commit aggravated concealment. It strains credulity to imagine that these docket sheets are evidence of a limited supply of offenses from which a DA could choose to charge.

Prosecutors have all the tools they need to charge defendants in criminal cases. Creating [duplicative offenses](#) endlessly bloats the crimes code and serves to expand prosecutorial power to stack charges, which results in coercive plea deals, longer periods of incarceration, and never-ending increases to PA's \$3 billion+ corrections budget.

For these reasons, we urge you to vote no on House Bill 2276.