

LBA
11/13/23

2024 SESSION JUDICIAL AND CORRECTIONAL SYSTEMS COSTS

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at:

https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

Judicial Branch	FY 2024	FY 2025
Violation and Misdemeanor Level Offenses	\$135	\$142
Complex Felony Case	\$3,703	\$3,856
Routine Criminal Case	\$857	\$900
Protective Orders	\$280	\$292
Appeals	Varies	Varies
Judicial Council	FY 2024	FY 2025
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney - Major Crimes (aggravated felonious sexual assault, felonious sexual assault and first degree assault)	\$3,120/Case administrative fee (see below*) \$300 incarceration fee (If applicable)	\$3,120/Case administrative fee (see below*) \$300 incarceration fee (If applicable)
Contract Attorney – Other Felonies	\$1,125/Case administrative fee (see below*) \$300 incarceration fee (If applicable)	\$1,125/Case administrative fee (see below*) \$300 incarceration fee (If applicable)
Contract Attorney – Misdemeanors	\$450/Case administrative fee (see below*) \$150 incarceration fee (If applicable)	\$450/Case administrative fee (see below*) \$150 incarceration fee (If applicable)
Assigned Counsel - Homicides including capital cases. Travel time to court does not count toward the cap.	\$125/Hour up to \$20,000	\$125/Hour up to \$20,000
Assigned Counsel - Major Crimes. (aggravated felonious sexual assault, felonious sexual assault, first degree assault, class A felony)	\$125/Hour up to \$12,500	\$125/Hour up to \$12,500

robbery and felony arson.) Travel time to court does not count toward the cap.		
Assigned Counsel - Other Felonies. Travel time to court does not count toward the cap.	\$90/Hour up to \$5,500	\$90/Hour up to \$5,500
Assigned Counsel- Misdemeanors. Travel time to court does not count toward the cap.	\$90/Hour up to \$2,000	\$90/Hour up to \$2,000
Assigned Counsel - Supreme Court Appeals	\$125/Hour up to \$10,000	\$125/Hour up to \$10,000
<p>*Beginning in FY 2024, administrative fees for contract attorneys, which were previously a set fee in each case, are calculated depending upon the size of the attorney's contract (i.e., contract attorneys who accept more contract cases receive a higher administrative fee).</p> <p>To be eligible for indigent defense representation and services, a person must be found indigent and be facing potential incarceration. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases assigned to contract attorneys or assigned counsel. However, the distribution of cases has shifted significantly in recent years due to excessive caseloads and staff attrition at the public defender program, a decrease in the number of lawyers participating in the contract attorney program, and other systemic factors. Although the public defender program has returned to almost full capacity, there are still delays in appointing counsel in some cases, and there is a greater reliance on the assigned counsel system to handle cases that the public defender program and contract attorney programs are unable to accept.</p>		
Department of Corrections	FY 2024	FY 2025
FY 2023 Average Cost of Incarcerating an Individual	\$71,186	\$71,186
FY 2023 Annual Marginal Cost of a General Population Inmate	\$8,386	\$8,386
FY 2023 Average Cost of Supervising an Individual on Parole/Probation	\$755	\$755
<p>The Department notes any increase in the incarcerated population will have a direct impact on overtime costs given the Department's history of challenges associated with recruitment. In addition, the NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.</p>		
NH Association of Counties	FY 2024	FY 2025
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able

to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

New Hampshire Municipal Association indicates that municipal police departments investigate most offenses, excluding homicides and other major crimes where jurisdiction resides solely in the state police. Additionally, violations and misdemeanors are often prosecuted by municipal prosecutors, who may be local police officers, attorneys hired by the municipality to prosecute, or county attorneys offices contracted by the municipality to prosecute offenses. While it is not possible to determine how many additional investigations or charges would be brought as a result of the changes contained in this bill, there may be increased municipal costs associated with the changes. Officers and prosecutors will need to be trained on the changes and it may be necessary to devote additional time and resources investigating the offense and the prosecutorial process. The additional time and resources necessary will vary by jurisdiction.

The Department of Justice states violations of the Consumer Protection Act, RSA 358-A, are enforced by the Consumer Protection and Antitrust Bureau of the Attorney General's Office. The Department states violations of the Consumer Protection Act may increase the number of investigations and enforcement actions taken by the Bureau; including issuing administrative subpoenas, entering Assurances of Discontinuance, and civil or criminal enforcement actions. Based on the number of increased investigations and enforcement actions, the Department may need additional resources.

AGENCIES CONTACTED:

Judicial Branch, Departments of Corrections and Justice, Judicial Council, New Hampshire Municipal Association, and New Hampshire Association of Counties