

HB 179-FN - AS INTRODUCED

2021 SESSION

21-0337

04/05

HOUSE BILL ***179-FN***

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

SPONSORS: Rep. Abbas, Rock. 8

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes an enhanced penalty for persons convicted of negligent homicide who have prior convictions for driving under the influence of drugs or liquor.

Explanation: Matter added to current law appears in ***bold italics***.
 Matter removed from current law appears ~~[in brackets and struckthrough]~~
 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Extended Term of Imprisonment. RSA 651:6, II(c) is repealed and reenacted to read as
2 follows:

3 (c) Has been previously convicted of driving or operating under the influence of drugs or
4 liquor under RSA 265-A:2, aggravated driving while intoxicated under RSA 265-A:3, or negligent
5 homicide under RSA 630:3, II, or under reasonably equivalent offenses in an out-of-state jurisdiction,
6 and such person is charged with an offense under RSA 630:3, II or RSA 265-A:3, I(b) or II(b).

7 2 Extended Term of Imprisonment. Amend RSA 651:6, III(a) to read as follows:

8 (a) Any felony, other than murder [œ], manslaughter, ***negligent homicide under RSA***
9 ***630:3, II, or aggravated driving while intoxicated under RSA 265-A:3, I(b) or II(b),*** a
10 minimum to be fixed by the court of not more than 10 years and a maximum to be fixed by the court
11 of not more than 30 years;

12 3 Extended Term of Imprisonment. Amend RSA 651:6, III(f)-(g) to read as follows:

13 (f) A third offense under RSA 632-A:3, life imprisonment; [œ]

14 (g) Any of the crimes listed under RSA 651:6, I(j), a minimum to be fixed by the court of
15 not less than 90 days and a maximum of not more than one year; ***or***

16 (h) ***Negligent homicide under RSA 630:3, II or aggravated driving while***
17 ***intoxicated under RSA 265-A:3, I(b) or II(b), provided that the court may consider an***
18 ***enhanced sentence of not less than 10 years or more than 20 years where the person has***
19 ***once previously been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3, II, or under***
20 ***a reasonably equivalent offense in an out-of-state jurisdiction; or***

21 (i) ***Negligent homicide under RSA 630:3, II or aggravated driving while***
22 ***intoxicated under RSA 265-A:3, I(b) or II(b), provided that the court may consider an***
23 ***enhanced sentence of not less than 15 years or more than 30 years where the person has, on***
24 ***2 or more prior occasions, been convicted under RSA 265-A:2, I, RSA 265-A:3, or RSA 630:3,***
25 ***II, or under a reasonably equivalent offense in an out-of-state jurisdiction.***

26 4 Effective Date. This act shall take effect January 1, 2022.

HB 179-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to enhanced penalties based on prior convictions for driving under the influence of drugs or liquor.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill establishes enhanced penalties for negligent homicide, based on prior convictions for driving under the influence of drugs or liquor, that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2021	FY 2022
Simple Criminal Case	\$309	\$309
Routine Criminal Felony Case	\$494	\$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case

Assigned Counsel – Felony. Homicide (Including capital cases)	\$100/Hour up to \$20,000	\$100/Hour up to \$20,000
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

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 would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

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