

HB 603-FN - AS INTRODUCED

2021 SESSION

21-0472

04/05

HOUSE BILL

603-FN

AN ACT relative to manslaughter and the use of deadly force in circumstances involving the sale or use of a controlled drug or controlled drug analog.

SPONSORS: Rep. Vincent, Straf. 17

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill expands the manslaughter statute to apply to circumstances where the conduct causing the death is directly or indirectly related to the sale, transfer, injection, or ingestion of any schedule I-IV controlled drug or controlled drug analog and provides that the use of deadly force is not justified in such circumstances. The bill also renders a dealer liable for the conduct of another resulting from the ingestion or use of a controlled drug or controlled drug analog.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 manslaughter and the use of deadly force in circumstances involving the sale or use of a controlled drug or controlled drug analog.

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

1 1 Controlled Drug Act; Penalties. Amend RSA 318-B:26, IX to read as follows:

2 IX. Any person who manufactures, sells, or dispenses methamphetamine, lysergic acid,
3 diethylamide phencyclidine (PCP) or any other controlled drug classified in schedules I or II, or any
4 controlled drug analog thereof, in violation of RSA 318-B:2, I or I-a, is strictly liable for a death, **or**
5 **any conduct of another as defined in RSA 626:8**, which results from the injection, inhalation or
6 ingestion of that substance, and may be sentenced to imprisonment for life or for such term as the
7 court may order. For purposes of this section, the person's act of manufacturing, dispensing, or
8 selling a substance is the cause of a death when:

9 2 Homicide; Manslaughter. Amend RSA 630:2, I to read as follows:

10 I. A person is guilty of manslaughter when [he] **such person** causes the death of another:

11 (a) Under the influence of extreme mental or emotional disturbance caused by extreme
12 provocation but which would otherwise constitute murder; or

13 (b) Recklessly; **or**

14 (c) **Where the conduct causing the death is directly or indirectly related to the**
15 **sale, transfer, injection, or ingestion of any schedule I-IV controlled drug or controlled**
16 **drug analog, as those terms are defined in RSA 318-B:1.**

17 3 New Paragraph; Physical Force in Defense of a Person; Use of Deadly Force Not Justified.
18 Amend RSA 627:4 by inserting after paragraph III the following new paragraph:

19 IV. A person is not justified in using deadly force if the person was involved in the illegal
20 sale, transfer, injection, or ingestion of a controlled drug or controlled drug analog, as those terms
21 are defined in RSA 318-B:1,

22 4 Effective Date. This act shall take effect January 1, 2022.

HB 603-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to manslaughter and the use of deadly force in circumstances involving the sale or use of a controlled drug or controlled drug analog.

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 expands the manslaughter statute to apply to circumstances where the conduct causing the death is directly or indirectly related to the sale, transfer, injection, or ingestion of any schedule I-IV controlled drug or controlled drug analog and provides that the use of deadly force is not justified in such circumstances. The bill also renders a dealer liable for the conduct of another resulting from the ingestion or use of a controlled drug or controlled drug analog. The bill contains penalties 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
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.		
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

The Judicial Council assumes this bill would not increase the number of cases brought because the conduct causing the death would already be covered by the manslaughter statute and conduct causing death that is related to drug use would likely be covered by other statutes as well. The proposed language could be used to charge a dealer for a sale when the buyer commits a crime, but if police have sufficient evidence of the sale to bring charges, they could already charge the dealer under the existing statutes. When considering whether to charge a person with a crime for conduct the defendant allegedly engaged in during a drug transaction, removing the availability of a self-defense justification would make the decision easier. While it is not possible to determine how often police do not bring charges because a person claims self-defense for an assault that occurred during a drug deal, the Council assumes it is not common. The Council does not expect this bill to result in a significant increase in the number of individuals being charged with a crime and estimates there will be no significant fiscal impact on indigent defense expenditures.

The Department of Justice prosecutes some drug-related offenses, including “death resulting” cases. It also prosecutes all homicides in the State. This legislation would reduce the potential sentence in “death resulting” cases and prevent criminal defendants involved in the drug trade from relying upon self-defense or defense of another defenses in homicide prosecutions. Although this would change some of the process in those cases, it is unlikely to increase the number of investigations or prosecutions of the offenses prosecuted by the Department of Justice. Any costs can likely be absorbed into the Department’s existing budget.

AGENCIES CONTACTED:

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