

HB 1215-FN - AS INTRODUCED

2022 SESSION

22-2213

04/05

HOUSE BILL                    ***1215-FN***

AN ACT                    relative to the definition of "residual amount" in the controlled drug act.

SPONSORS:            Rep. Baldasaro, Rock. 5; Sen. French, Dist 7

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill amends the definition of "residual amount" of a controlled drug and changes the penalty for such amount.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                      relative to the definition of "residual amount" in the controlled drug act.

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

1            1 Controlled Drug Act; Definitions. Amend RSA 318-B:1, XXIX-a to read as follows:

2            XXIX-a. "Residual amount" means ~~[an unusable amount]~~ **less than one gram** of a  
3 controlled substance ~~[in or on a hypodermic syringe or needle]~~.

4            2 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(e) to read as follows:

5            (e) In the case of a residual amount of a controlled substance, as defined in RSA 318-B:1,  
6 XXIX-a, a person shall be guilty of a ~~[misdemeanor]~~ **violation** if the person is not part of a ~~[service]~~  
7 syringe **service** program under RSA 318-B:43. **However, a person shall be guilty of a class A**  
8 **misdemeanor if the amount of the controlled substance is one gram or more.**

9            3 Effective Date. This act shall take effect 60 days after its passage.

LBA  
22-2213  
10/22/21

**HB 1215-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to the definition of "residual amount" in the controlled drug act.

**FISCAL IMPACT:**    ☒ **State**                    ☒ **County**                    ☐ **Local**                    ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

**METHODOLOGY:**

This 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, or how many fewer 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 Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		
NH Association of Counties	FY 2022	FY 2023

County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. 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. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

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.

**AGENCIES CONTACTED:**

Judicial Branch, Department of Justice, Judicial Council, and New Hampshire Association of Counties