

HB 1360-FN - AS AMENDED BY THE HOUSE

15Mar2022... 0088h

2022 SESSION

22-2799

04/08

HOUSE BILL ***1360-FN***

AN ACT relative to penalties for controlled drug violations.

SPONSORS: Rep. Roy, Rock. 32; Rep. Bordenet, Ches. 5

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill changes the penalty for certain schedule I, II, III, and IV drug offenses.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Two

AN ACT relative to penalties for controlled drug violations.

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, II(a) to read as follows:
- 2 (a) In the case of a controlled drug or its analog, classified in schedules I, II, III, or IV,
- 3 other than those specifically covered in this section, the person shall be guilty of a ~~[class B felony,~~
- 4 ~~except that]~~ ***misdemeanor for a first offense*** ~~[notwithstanding the provisions of RSA 651:2, IV(a),~~
- 5 ~~a fine of not more than \$25,000 may be imposed]~~. If any person commits such a violation after one or
- 6 more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a ~~[class A]~~ ***class B***
- 7 ~~felony[, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of up to \$50,000 may~~
- 8 ~~be imposed]~~.
- 9 2 Effective Date. This act shall take effect January 1, 2023.

HB 1360-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2022-0088h)

AN ACT relative to penalties for controlled drug violations.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Expenditures	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
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 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 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 – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
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.		
Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of Incarcerating an Individual	\$54,386	\$54,386
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
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, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties