

SB 258-FN-LOCAL - AS AMENDED BY THE SENATE

02/16/2022 0664s

2022 SESSION

22-2898

07/10

SENATE BILL

***258-FN-LOCAL***

AN ACT relative to the graves of African Americans alive during the period of American enslavement.

SPONSORS: Sen. Watters, Dist 4; Sen. D'Allesandro, Dist 20; Sen. Gannon, Dist 23; Sen. Sherman, Dist 24; Sen. Cavanaugh, Dist 16; Sen. Carson, Dist 14; Sen. Bradley, Dist 3; Sen. Rosenwald, Dist 13; Sen. Whitley, Dist 15; Sen. Prentiss, Dist 5; Sen. Hennessey, Dist 1; Sen. Perkins Kwoka, Dist 21; Sen. Kahn, Dist 10; Rep. DiLorenzo, Rock. 17; Rep. Harriott-Gathright, Hills. 36

COMMITTEE: Energy and Natural Resources

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ANALYSIS

This bill establishes protections and procedures for handling African American graves from the time period of American enslavement, as well as working with the relevant descendants and descendant communities.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the graves of African Americans alive during the period of American enslavement.

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

1            1 Declaration of Purpose. New Hampshire recognizes the importance of preserving African  
2 American grave sites, markers, and associated archaeological materials, fencing, gates, faunal  
3 materials, grave offerings and decorations, and other materials. Whenever such sites are located,  
4 the state supports efforts to document and preserve them and to support efforts to identify  
5 descendants and descendant communities.

6            2 New Paragraphs; Cemeteries; Definitions. Amend RSA 289:1 by inserting after paragraph  
7 VIII the following new paragraphs:

8            IX. "African American descendant community" means persons of African descent residing in  
9 the municipality, or their designated representative, and the black heritage trail of New Hampshire.

10           X. "African American grave" means the grave of an individual of African descent who was or  
11 was likely to have been alive during the period of American enslavement.

12           XI. "Descendant" means a person genealogically related to the deceased.

13           3 New Paragraph; Cemeteries; Location; Establishing Protection of African American Grave  
14 Sites. Amend RSA 289:3 by inserting after paragraph IV the following new paragraph:

15           V.(a) No African American grave site may be disturbed or removed without consultation  
16 with the descendants or descendant community, and if disturbance or removal is allowed, it shall be  
17 conducted in accordance with a memorandum of understanding with the descendant or descendant  
18 community, which shall also include a plan for appropriate historical documentation, signage, and  
19 mitigation.

20           (b) In the event of disturbance or removal, African American remains may be examined  
21 in a respectful manner, as determined by the descendant community, to determine African descent  
22 and to aid in the location of descendants. If there is evidence that the individual may be of mixed  
23 African American and Native American Descent, the provisions of the Native American graves  
24 protection and repatriation act shall be followed.

25           (c) The discovery, disposition, and identification of African American remains shall be  
26 completed in accordance with RSA 289:24 and, for instances not covered in RSA 289, in a similar  
27 fashion to the processes for Native American remains in RSA 227-C:8-a through RSA 227-C:8-j.

28           4 New Paragraphs; Cemetery Trustees; Maintenance, Repair, and Preservation of Burial  
29 Grounds; Addition of African American Graves. Amend RSA 289:14-a by inserting after paragraph  
30 V the following new paragraphs:

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1 VI. Any activities undertaken under this section involving an African American grave shall  
2 be conducted in consultation with the descendant community.

3 VII. Any African American remains, marker, gate, or associated mortuary or archaeological  
4 materials that have been removed from a site shall be returned for reburial or placement at the  
5 grave site, or if removed under the provisions of paragraph V, in consultation with the descendant  
6 community.

7 VIII. Any African American remains, marker, gate, or associated mortuary or archaeological  
8 materials that have been removed from a cemetery or burial ground shall be returned for reburial or  
9 placement at the grave site, in consultation with the descendants or descendant community. If such  
10 return is deemed to be not feasible or appropriate by the descendants or descendant community,  
11 they shall be deposited in another suitable location, under paragraph V, in consultation with the  
12 descendants or descendant community, by June 30, 2026.

13 IX. The New Hampshire division of historical resources, department of natural and cultural  
14 resources, shall serve in an advisory capacity to municipalities and the descendants and descendant  
15 community in complying with the provisions of paragraphs VI-VIII, RSA 289:3, V, and RSA 289:24.

16 5 New Subdivision; African American Graves. Amend RSA 289 by inserting after section 23 the  
17 following new subdivision:

African American Graves

18  
19 289:24 African American Graves; Duties and Procedures.

20 I. It is the policy of the state of New Hampshire that African American graves are sites of  
21 conscience with historical importance that should be identified, protected, and restored, whether in  
22 cemeteries or burial grounds, including state, county, and municipal pauper burial grounds.

23 II. In the case of identified African American graves, or sites deemed likely to contain  
24 African American graves, the provisions of RSA 289:4 and RSA 289:19-21, shall be conducted in  
25 consultation with descendants or the descendant community.

26 III. Authorities overseeing state, county, and municipal pauper burying grounds shall  
27 provide descendants and the descendant community with reasonable access to records and sites to  
28 identify and examine African American graves. Such authorities shall cooperate with efforts by  
29 descendants and the descendant community to create appropriate historical signage or other  
30 markers for African American graves.

31 IV. Notwithstanding RSA 289:14-a, VII and VIII, all New Hampshire educational or  
32 research institutions, museums, historical societies, and other collections shall inventory any  
33 remains or other materials from African American graves, and any other remains of people of  
34 African descent born after the period of American slavery by June 30, 2026. The holders of these  
35 African American grave remains and materials, and other remains of people of African descent born  
36 after the period of American slavery shall consult descendants and the descendant community for  
37 their suitable disposition and complete such disposition by June 30, 2026.

1        6 Effective Date. This act shall take effect 60 days after its passage.

**SB 258-FN-LOCAL- FISCAL NOTE**  
AS AMENDED BY THE SENATE (AMENDMENT #2022-0664s)

AN ACT                      relative to the graves of African Americans alive during the period of American enslavement.

**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	Indeterminable	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

**METHODOLOGY:**

This bill contains a violation penalty 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.

**AGENCIES CONTACTED:**

Judicial Branch