

HB 498-FN - AS AMENDED BY THE HOUSE

24Feb2021... 0255h

2021 SESSION

21-0457

04/08

HOUSE BILL

498-FN

AN ACT relative to the payment of bail commissioners.

SPONSORS: Rep. Alexander Jr., Hills. 6; Rep. Infantine, Hills. 13; Rep. Post, Hills. 4; Rep. P. Schmidt, Straf. 19; Rep. Meuse, Rock. 29; Rep. Lang, Belk. 4; Sen. Carson, Dist 14

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill requires the court to determine the offender's indigence using established criteria for the purpose of the offender's ability to pay the bail commissioner's fee.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 the payment of bail commissioners.

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

1 1 Bail and Recognizances; Determination of Indigence and Payment of Bail Commissioner Fee.

2 Amend RSA 597:2-b, I to read as follows:

3 I. The arresting officer, at the point of arrest, shall inform the offender of the availability of
4 the services of the bail commissioner. If the offender elects to utilize the bail commissioner's services
5 and is not indigent, the offender shall pay the bail commissioner's fee directly to the bail
6 commissioner. If the offender elects to utilize the services of the bail commissioner, but claims
7 indigence, the court, ***based on the uniform criteria developed to determine indigence for the***
8 ***purpose of paying a bail commissioner's fee under paragraph II,*** shall~~[, to the extent of~~
9 ~~available funding, utilize all possible means to]~~ pay the bail commissioner's fee~~;~~ and shall include
10 written evidence of fee payment in the offender's case file.

11 2 Effective Date. This act shall take effect 60 days after its passage.

HB 498-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2021-0255h)

AN ACT relative to the payment of bail commissioners.

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	In Excess of \$636,000	In Excess of \$848,000	In Excess of \$848,000
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill requires the court to determine the offender's indigence using established criteria for the purpose of the offender's ability to pay the bail commissioner's fee.

The Judicial Branch indicates this bill would amend RSA 597:2-b, I by striking the limitation on payment of bail commissioner fees for an indigent party; “to the extent of available funding.” The payment of bail commissioner fees for indigent parties is not funded in the budget. Although the number of parties that would qualify as indigent varies, the Branch estimates the fiscal impact for this bill is approximately \$848,000 calculated as follows:

- In 2019, the Circuit Court received approximately 65,750 criminal court filings. The Circuit Court estimates approximately 50% of those are class A misdemeanors, and approximately 50% of those class A misdemeanor parties are indigent.
- In 2019, the Superior Court received approximately 9,510 criminal court filings. The Superior Court estimates approximately 50% of those involve indigent parties.

Based on these 2019 figures, approximately 21,200 parties would qualify as indigent. Bail Commissioner fees are \$40.00, which would require an additional appropriation of \$848,000. Since the bill would become effective 60 days after passage, the Branch assumed a start date of September 1, 2021. The Branch suggests the estimate of 50% eligibility for State payment of bail commissioner fees may be conservative given that approximately 90% of defendants qualify for court appointed counsel. The estimate is also conservative since it was based on felonies and

Class A misdemeanor cases, although is it not unusual for a bail commissioner to be called for non-A misdemeanor cases, for example a DUI offense

The Branch expects there may be reductions to their annual cost estimate based on case-specific determinations that a party is not indigent for purposes of payment of the bail commissioner fee. Any such reduction cannot be determined until a process is established and the Courts have data on the number of parties who, on average, are not indigent for purposes of payment of the fee.

The Branch states it would also incur additional costs to develop forms for parties to complete in order to provide information about ability to pay. Bail commissioner fees are generally collected by the bail commissioners themselves without court involvement. In order to implement the bill, the Judicial Branch and bail commissioners will need to develop a process by which the status of payment to the bail commissioner can be communicated to the court and recorded by the clerk in order to avoid double payment to the bail commissioner.

AGENCIES CONTACTED:

Judicial Branch