

HB 1224-FN - AS INTRODUCED

2022 SESSION

22-2361

05/04

HOUSE BILL **1224-FN**

AN ACT prohibiting state and local governments from adopting certain mandates in response to COVID-19; and prohibiting employers and places of public accommodation from discriminating on the basis of vaccination status.

SPONSORS: Rep. Baldasaro, Rock. 5; Rep. Notter, Hills. 21; Rep. Binford, Graf. 15; Rep. Johnson, Belk. 3; Rep. Wallace, Rock. 12; Rep. Cushman, Hills. 2; Sen. Giuda, Dist 2

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill:

I. Prohibits state or local government agencies from requiring masks or other facial coverings in response to COVID-19 or other infectious disease.

II. Prohibits state or local government agencies from issuing immunity passports or similar standardized documentation of COVID-19 vaccination status.

III. Prohibits businesses from requiring documentation of COVID-19 vaccination status.

IV. Prohibits discrimination on the basis of COVID-19 vaccination status by state agencies, employers, and places of public accommodation.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 prohibiting state and local governments from adopting certain mandates in response to COVID-19; and prohibiting employers and places of public accommodation from discriminating on the basis of vaccination status.

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

1 1 New Section; Communicable Disease; Mask Mandates Prohibited. Amend RSA 141-C by
2 inserting after section 16-b the following new section:

3 141-C:16-c Mask Mandates Prohibited. No state or local government agency shall adopt or
4 enact any law, order, rule, regulation, or plan of action that requires a person in this state to wear a
5 mask or other facial covering to minimize the spread of COVID-19 or any other infectious disease.

6 2 New Subdivision; Communicable Disease; Response to COVID-19. Amend RSA 141-C by
7 inserting after section 28 the following new subdivision:

8 Response to COVID-19

9 141-C:29 Immunity Passport or Similar Documentation of COVID-19 Vaccination Status
10 Prohibited.

11 I. No state governmental entity, a political subdivision, or any agents or assigns of the entity
12 or subdivision shall issue a vaccine passport, vaccine pass, immunity passport, or other standardized
13 documentation for the purpose of certifying an individual's COVID-19 vaccination status to a third
14 party; or otherwise publish or share any individual's COVID-19 vaccination record or similar health
15 information.

16 II. No person doing business in this state shall require patrons or customers to provide any
17 documentation certifying COVID-19 vaccination or COVID-19 post-transmission recovery to gain
18 access to, entry upon, or service from the business or discriminate in any way against a patron or
19 customer on the basis of, or the failure to provide information concerning, his or her COVID-19
20 vaccination status.

21 141-C:30 Discrimination Based on Vaccination Status or Immunity Passport Prohibited.

22 I. It is an unlawful discriminatory practice for:

23 (a) A person or governmental entity to refuse, withhold from, or deny a person any local
24 or state services, goods, facilities, advantages, privileges, licensing, educational opportunities, health
25 care access, or employment opportunities based on the person's vaccination status or whether the
26 person has an immunity passport;

27 (b) An employer to refuse employment to a person, bar a person from employment, or
28 discriminate against a person in compensation or in a term, condition, or privilege of employment
29 based on the person's vaccination status or whether the person has an immunity passport; or

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1 (c) A public accommodation to exclude, limit, segregate, refuse to serve, or otherwise
2 discriminate against a person based on the person's vaccination status or whether the person has an
3 immunity passport.

4 II. In this section, "immunity passport" means a vaccine passport, vaccine pass, or any
5 standardized documentation for the purpose of certifying an individual's COVID-19 vaccination
6 status to a third party.

7 3 Effective Date. This act shall take effect upon its passage.

**HB 1224-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT prohibiting state and local governments from adopting certain mandates in response to COVID-19; and prohibiting employers and places of public accommodation from discriminating on the basis of vaccination status.

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	\$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 would amend RSA 141-C to:

- Prohibit state or local government agencies from requiring masks or other facial coverings in response to COVID-19 or other infectious disease.
- Prohibit state or local government agencies from issuing immunity passports or similar standardized documentation of COVID-19 vaccination status.
- Prohibit businesses from requiring documentation of COVID-19 vaccination status.
- Prohibit discrimination on the basis of COVID-19 vaccination status by state agencies, employers, and places of public accommodation.

The penalties for violation of the provisions RSA 141-C include a misdemeanor if a natural person, or a felony if any other person. In addition RSA 141-C permits the Department of Health and Human Services to seek injunctive relief relative to conduct in violation of RSA 141-C. These penalties 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.

The Department of Justice indicates any criminal prosecutions would not be handled by DOJ, but rather by county attorneys and local prosecutors. RSA 141-C permits the Department of Health and Human Services to seek injunctive relief related to conduct that would violate any provisions of that chapter, including the proposed legislation. Because the Department of Justice represents DHHS in all court proceedings, any increase in litigation to seek injunctive relief would increase demands on DOJ and would require additional resources. It is not possible to quantify the amount of additional resources, so any increased cost is indeterminate. The Department assumes the prohibition on mask mandates will likely invite legal challenges that will lead to litigation, which will also increase the workload of the Civil Law Bureau at the Department of Justice. That increase could require additional lawyers to represent the state. Because the number of challenges is unknown, the cost increase is indeterminate.

It is assumed that any fiscal impact would occur after FY 2022.

AGENCIES CONTACTED:

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