

SB 374-FN - AS INTRODUCED

2022 SESSION

22-3001

05/10

SENATE BILL **374-FN**

AN ACT relative to the SARS-CoV-2 vaccinations.

SPONSORS: Sen. French, Dist 7; Sen. Avard, Dist 12; Rep. Hill, Merr. 3; Rep. Hough, Belk. 3;
Rep. Silber, Belk. 2

COMMITTEE: Health and Human Services

ANALYSIS

This bill prohibits a person from requiring that an individual who had COVID-19 or who is under the age of 18 receive a vaccination against the virus as a condition for employment, education, or access to businesses or entities open to the public. The bill also establishes an exemption as a matter of conscience against a vaccination mandate. The bill establishes a criminal penalty and a private right of action for enforcement.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 SARS-CoV-2 vaccinations.

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

1 1 New Chapter; COVID Viruses and Vaccinations. Amend RSA by inserting after chapter 354-B
2 the following new chapter:

3 CHAPTER 354-C

4 COVID VIRUSES AND VACCINATIONS

5 354-C:1 SARS-CoV-2 Vaccinations; Exemptions and Limitations.

6 I. No person who can establish that they have previously been infected with the SARS-CoV-
7 2 virus, including any of its variants, shall be mandated by any person or entity, public or private, to
8 be vaccinated for the SARS-CoV-2 virus or any of its variants.

9 II. No person under the age of 18 shall be mandated to be vaccinated for the SARS-CoV-2
10 virus or any of its variants by any person or entity, public or private, as a prerequisite or
11 requirement for the following: employment, education, activities, attendance at, or access to any
12 business or entity open to the public, or the like.

13 III. No person claiming an exemption as a matter of conscience for themselves or their
14 children, shall be mandated to be vaccinated for the SARS-CoV-2 virus or any of its variants by any
15 person or entity, public or private, as a prerequisite or requirement for the following: employment,
16 education, activities, attendance, or access to any business or entity open to the public; or the like.
17 All claims for an exemption as a matter of conscience shall have the presumption of validity and
18 shall be respected.

19 354-C:2 Criminal Penalties; Enforcement.

20 I. Any person or entity, public or private, who violates the provisions of this chapter shall be
21 guilty of a Class A misdemeanor.

22 II. Any person whose rights under this chapter are violated by any person or entity may
23 bring a civil action in superior court to enforce the provisions hereof and shall be entitled to
24 equitable relief, including an injunction, civil damages in the amount of actual damages or \$1,000 a
25 day for each day of the violation, costs, and attorney fees.

26 2 Effective Date. This act shall take effect January 1, 2023.

**SB 374-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the SARS-CoV-2 vaccinations.

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 prohibits a person from requiring that an individual who had COVID-19 or who is under the age of 18 receive a vaccination against the virus as a condition for employment, education, or access to businesses or entities open to the public. The bill also establishes an exemption as a matter of conscience against a vaccination mandate. The bill establishes a criminal penalty and a private right of action for enforcement.

This bill contain a penalty 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 – 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