

SB 271-FN – AS INTRODUCED

2012 SESSION

12-2882

04/09

SENATE BILL            **271-FN**

AN ACT                establishing a criminal offense for failure to report a missing or deceased child.

SPONSORS:            Sen. Boutin, Dist 16; Sen. Odell, Dist 8; Sen. Groen, Dist 6; Sen. Bradley, Dist 3;  
Sen. Luther, Dist 12; Sen. Lambert, Dist 13; Sen. Gallus, Dist 1; Sen. Rausch,  
Dist 19; Sen. De Blois, Dist 18; Sen. Stiles, Dist 24; Rep. Shurtleff, Merr 10;  
Rep. Kotowski, Merr 9; Rep. Infantine, Hills 13

COMMITTEE:          Judiciary

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ANALYSIS

This bill establishes criminal penalties for failure to report a missing or deceased child.

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Explanation:          Matter added to current law appears in **bold italics**.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Twelve*

AN ACT                    establishing a criminal offense for failure to report a missing or deceased child.

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

1            1 New Sections; Offenses Against the Family; Failure to Report Missing Child. Amend RSA 639  
2 by inserting after section 5 the following new sections:

3            639:6 Failure to Report Missing Child.

4            I. Any person who has primary responsibility for the care and supervision of a child under  
5 12 years of age and is unable to determine the location of the child for a period of at least 24 hours  
6 shall notify the local law enforcement agency, county sheriff's department, state police, or the  
7 division of children, youth, and families that the child is missing and shall provide the agency with  
8 the child's name and date of birth, if known.

9            II. Any person who knowingly fails to comply with the provisions of paragraph I shall be  
10 guilty of a class A misdemeanor.

11           639:7 Failure to Report Deceased Child.

12           I. Any person who has primary responsibility for the care and supervision of a child under  
13 12 years of age who is deceased or who has knowledge of the location of the deceased child under 12  
14 years of age shall, within 6 hours of learning that the child is deceased, notify the local law  
15 enforcement agency, county sheriff's department, state police, or the division of children, youth, and  
16 families that the child is deceased and shall provide the agency with the child's name, date of birth,  
17 and the location of the body, if known.

18           II. Any person who knowingly fails to comply with the provisions of paragraph I shall be  
19 guilty of a class A misdemeanor.

20           3 Effective Date. This act shall take effect January 1, 2013.

LBAO  
12-2882  
Revised 01/04/12

**SB 271 FISCAL NOTE**

AN ACT                    establishing a criminal offense for failure to report a missing or deceased child.

**FISCAL IMPACT:**

The Judicial Branch, Judicial Council, and New Hampshire Association of Counties state this bill may increase state and county expenditures by an indeterminable amount in FY 2013 and each year thereafter. There will be no fiscal impact on local expenditures or state, county, and local revenue.

**METHODOLOGY:**

The Judicial Branch states this bill proposes making it a class A misdemeanor for any person who has primary responsibility for the care and supervision of a child under 12 years of age and fails to report the child as missing if they are unable to determine the location of the child for at least a day. The bill also makes it a class A misdemeanor to fail to report a deceased child if the person has primary responsibility for the care and supervision of a child under 12 years of age who is deceased and the person knows the location of the deceased child. The Branch has no information to estimate how many charges would be brought as a result of the changes contained in the bill to determine the fiscal impact on expenditures but does have information on the cost for processing a class A misdemeanor. All costs are estimated based on case weight information from the last needs assessment completed in 2005. The Branch states a class A misdemeanor will cost \$59.11 per case in FY 2013 and \$61.31 per case in FY 2014 and each year thereafter. The possibility of appeals increases the likelihood the fiscal impact on the Branch will exceed \$10,000.

The Judicial Council states this bill may result in an indeterminable increase in general fund expenditures. The Council states if an individual is found to be indigent, the flat fee of \$275 per misdemeanor is charged by a public defender or contract attorney. If an assigned counsel attorney is used the fee is \$60 per hour with a cap of \$1,400 for a misdemeanor charge. The Council also states additional costs could be incurred if an appeal is filed. The public defender, contract attorney and assigned counsel rates for Supreme Court appeals is capped at \$2,000 per case, with many assigned counsel attorneys seeking permission to exceed the fee cap. Requests to exceed the fee cap are seldom granted. Finally, expenditures would increase if services other

than counsel are requested and approved by the court during the defense of a case or during an appeal.

The New Hampshire Association of Counties states to the extent more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties may have increased expenditures. The Association is unable to determine the number of individuals who might be charged, convicted or incarcerated as a result of this bill to determine an exact fiscal impact. The average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.

The Department of Justice states this bill will have no fiscal impact on the Department. The Department does not typically prosecute the class A misdemeanor offenses created by this bill and if this bill results in a minimal increase in criminal appellate work, this cost could be absorbed by the Department.