

SB 275-FN – AS INTRODUCED

2012 SESSION

12-2968

04/09

SENATE BILL **275-FN**

AN ACT relative to causing death or serious bodily injury by means of a fraudulent act.

SPONSORS: Sen. Carson, Dist 14; Rep. Charron, Rock 7; Rep. Welch, Rock 8; Rep. Shurtleff,
Merr 10

COMMITTEE: Judiciary

ANALYSIS

This bill allows criminal prosecution for negligent homicide or second degree assault under circumstances where death or serious bodily injury is caused by a fraudulent act.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 relative to causing death or serious bodily injury by means of a fraudulent act.

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

1 1 Negligent Homicide. Amend RSA 630:3, I to read as follows:

2 I. A person is guilty of a class B felony when he **or she** causes the death of another
3 negligently **or as the result of a fraudulent act**.

4 2 Second Degree Assault. Amend RSA 631:2, I(a) to read as follows:

5 (a) Knowingly [~~or~~], recklessly, **or as the result of a fraudulent act**, causes serious
6 bodily injury to another; or

7 3 Effective Date. This act shall take effect January 1, 2013.

LBAO
12-2968
Revised 01/04/12

SB 275 FISCAL NOTE

AN ACT relative to causing death or serious bodily injury by means of a fraudulent act.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Corrections, 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 amends RSA 630:3,I and RSA 631:2, I (2) to add to negligent homicide and second degree assault, respectively, causing death or serious bodily injury as the result of a fraudulent act. The Branch has no information to estimate how many new charges would be brought as a result of the changes contained in the bill to determine the fiscal impact on expenditures. The Branch states negligent homicide and second degree assault are classified as complex criminal cases. The Branch states a complex criminal case will cost \$742.17 per case in FY 2013 and \$765.31 per case in FY 2014 and each year thereafter based case weight information from the last needs assessment completed in 2005. 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 \$756.25 per felony 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 \$4,100 for a felony 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 \$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 Department of Corrections states it is not able to determine the fiscal impact of this bill because it does not have sufficient detail to predict the number of individuals who would be

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subject to this legislation. The Department of Corrections states the average annual cost of incarcerating an individual in the general prison population for the fiscal year ending June 30, 2011 was \$33,698. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2011 was \$672.

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 states county attorneys, not the Department, typically prosecute these types of cases and if this bill results in a minimal increase in criminal appellate work, this cost could be absorbed by the Department.