

HB 264-FN – AS INTRODUCED

2013 SESSION

13-0041  
04/09

HOUSE BILL            **264-FN**

AN ACT                relative to simple assault.

SPONSORS:            Rep. Sapareto, Rock 6; Rep. Keith Murphy, Hills 7; Rep. Kelleigh Murphy, Hills 7

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill provides that an assault which does not result in harm to another shall be charged as a violation and not a misdemeanor.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Thirteen*

AN ACT                   relative to simple assault.

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

1           1 Simple Assault. Amend RSA 631:2-a to read as follows:

2           631:2-a Simple Assault.

3           I. A person is guilty of ***a misdemeanor for*** simple assault if he ***or she***:

4           (a) Purposely or knowingly causes bodily injury [~~or unprivileged physical contact~~] to  
5 another; or

6           (b) Recklessly causes bodily injury to another; or

7           (c) Negligently causes bodily injury to another by means of a deadly weapon.

8           II. Simple assault is a misdemeanor unless committed in a fight entered into by mutual  
9 consent, in which case it is a violation. ***A person is guilty of a violation for simple assault if he***  
10 ***or she purposely or knowingly causes unprivileged physical contact to another which does***  
11 ***not result in harm or injury. Any person found guilty under this paragraph shall be***  
12 ***subject to a fine not to exceed \$100 or community service not to exceed 10 hours. Nothing in***  
13 ***this paragraph shall be used as a defense by any person who is being prosecuted for an***  
14 ***offense under RSA 632-A.***

15           2 Effective Date. This act shall take effect January 1, 2014.

**HB 264-FN - FISCAL NOTE**

AN ACT                    relative to simple assault.

**FISCAL IMPACT:**

The Judicial Branch, Judicial Council, and New Hampshire Association of Counties state this bill, **as introduced**, will have an indeterminable impact on state and county expenditures in FY 2014 and each year thereafter. There is no fiscal impact on state, county, and local revenue, or local expenditures.

**METHODOLOGY:**

The Judicial Branch states this bill reduces the penalty for purposely or knowingly causing unprivileged physical contact to another from an unspecified misdemeanor to a violation. In addition, the bill increases the penalty for simple assault causing bodily injury committed in a fight entered into by mutual consent from a violation to an unspecified misdemeanor. The Branch notes that these two changes will have opposite effects, in that the first change decreases a penalty (rendering it less expensive for the Branch to process each case), while the second increases a penalty (rendering it more expensive for the branch to process each case). The Branch states that, while simple assault is the most charged crime in the criminal code, it does not segregate charges by the types identified in the bill. Consequently, the Branch is unable to estimate how many cases will be affected. The Branch is, however, able to provide the projected cost of trying each case type in the district division of the circuit court in FY 2014 and FY 2015. The Branch states the cost estimates are based on data that is more than seven years old and does not reflect the changes to the courts over that same period of time, or the impact these changes may have on the processing of these types of cases. The estimated costs are as follows:

	<b>FY 2014</b>	<b>FY 2015</b>
<b>Class A Misdemeanor</b>	\$62.71	\$64.40
<b>Class B Misdemeanor</b>	\$44.32	\$45.84
<b>Violation</b>	\$42.85	\$44.36

Accordingly, the portion of the bill that decreases the penalty for purposely or knowingly causing unprivileged physical contact would result in the following per case savings: reducing a class A misdemeanor to a violation would result in per case savings of \$19.86 in FY 2014 and \$20.04 in FY 2015, and reducing a class B misdemeanor to a violation would result in per case

savings of \$1.47 in FY 2014 and \$1.48 in FY 2015. The portion of the bill that increases the penalty for simple assault causing bodily injury in a fight entered into by mutual consent would have the opposite impact; the figures are the same, but the result would be a per case cost increase rather than a per case savings.

The Judicial Council states the bill will have an indeterminable fiscal impact on state expenditures. The Council states that by reducing the penalty for purposely or knowingly causing unprivileged physical contact, the bill will result in an unknown, but likely very small, number of charges that are now misdemeanors being charged as violations. However, by making mutually-engaged-in fights presumptively misdemeanor-level offenses, the Council states the bill will likely increase the number of misdemeanor simple assault cases in the criminal justice system. To the extent these charges are brought as class A misdemeanors, indigent and juvenile defendants may be eligible for appointed counsel at state expense. The Council states it is unable to calculate the number of new charges that might trigger the right to appointed counsel, but in such cases the state would be subject to expenditures of approximately \$275 for each case handled by a public defender or contract attorney. If the case were to go to assigned counsel, the cost would be \$60 per hour with a cap of \$1,400. 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 New Hampshire Association of Counties states to the extent the bill results in a change to the number of individuals charged, convicted, and sentenced to incarceration in a county correctional facility, county expenditures may change as a result. 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 the bill will have no fiscal impact on the Department, as the types of offenses addressed by the bill are typically prosecuted by local or county prosecutors.