

HB 274-FN – AS INTRODUCED

2013 SESSION

13-0319
04/03

HOUSE BILL

274-FN

AN ACT

requiring a mandatory minimum sentence for class B burglary.

SPONSORS:

Rep. C. McGuire, Merr 29

COMMITTEE:

Criminal Justice and Public Safety

ANALYSIS

This bill requires a mandatory minimum sentence for any person convicted of class B burglary.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT requiring a mandatory minimum sentence for class B burglary.

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

1 1 Burglary. Amend RSA 635:1, II to read as follows:

2 II. Burglary is a class B felony unless it is perpetrated in the dwelling of another at night, or
3 if, in the commission of the offense, attempt at commission, or in flight immediately after attempt or
4 commission, the actor is armed with a deadly weapon or explosives or he ***or she*** purposely,
5 knowingly, or recklessly inflicts bodily injury on anyone; in which case it is a class A felony; except
6 that if the person is armed with a deadly weapon and the deadly weapon is a firearm, he ***or she*** shall
7 be sentenced in accordance with RSA 651:2, II-g. ***Any person convicted of class B burglary***
8 ***under this section shall be incarcerated for not less than 3 years.***

9 2 Effective Date. This act shall take effect January 1, 2014.

HB 274-FN - FISCAL NOTE

AN ACT requiring a mandatory minimum sentence for class B burglary.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, and Department of Corrections state this bill, as introduced, may increase state general fund expenditures by an indeterminable amount in FY 2014 and each year thereafter. The New Hampshire Association of Counties states this bill will have an indeterminable fiscal impact on county expenditures in FY 2014 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 635:1 to provide that a burglary charged as a class B felony would require a mandatory minimum sentence of three years for any person convicted of the class B felony burglary charge. The requirement of a minimum sentence generally limits the ability of the State and the defendant to enter into a plea bargain. The result is more cases going to trial, with the possibility of longer trials due to the longer sentence. The Branch has no information on how much more trial time could result from this bill. The Branch states the cost of a jury trial day in superior court where class B felonies are tried is \$1,920 per day in FY 2014 and \$1,936 per day in FY 2015 and each year thereafter. Though the Branch has no information to estimate how many additional trial days would result, they do know that in the last two fiscal years (FY 2011 and FY 2012) over 1,000 burglary charges have been prosecuted in the superior court.

The Judicial Council states this bill does not necessarily increase or decrease the number of criminal cases brought but may impact the number of felony jury trials conducted as a result of facing a minimum mandatory sentence. The increase in potential jury trials may result in the public defender not being able to take additional cases, pushing cases to contract and assigned counsel, increasing costs as contract and assigned counsel are more expensive than public defender. The Council states this bill may increase state general fund expenditures by an indeterminable amount. The Council states if an individual is found to be indigent, the flat fee of \$756.24 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 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, 2012 was \$35,071. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2012 was \$608.

The New Hampshire Association of Counties states to the extent individuals are convicted of class B burglary and sentenced to incarceration in the state prison, not a county correctional facility, the counties may have decreased expenditures. The Association also states the minimum mandatory sentence may result in more cases going to trial in which case county attorney office expenditures will increase. There is no impact on county revenue.

The Department of Justice states this bill will not have a fiscal impact on the Department because such offenses are typically prosecuted by local and county prosecutors not the Department.