

HB 619-FN – AS INTRODUCED

2013 SESSION

13-0701
05/01

HOUSE BILL **619-FN**

AN ACT prohibiting images of a person's residence to be taken from the air.

SPONSORS: Rep. Kurk, Hills 2

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits images of a person's residence to be taken from the air by a satellite, drone, or any device not supported by the ground.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 prohibiting images of a person's residence to be taken from the air.

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

1 1 New Paragraph; Violation of Privacy; Prohibition on Aerial Images of Residence. Amend
2 RSA 644:9 by inserting after paragraph IV the following new paragraph:

3 IV-a. A person is guilty of a class A misdemeanor if such person knowingly creates or assists
4 in creating an image of the exterior of any residential dwelling in this state where such image is
5 created by or with the assistance of a satellite, drone, or any device that is not supported by the
6 ground. This prohibition shall not apply where the image does not reveal forms identifiable as
7 human beings or man-made objects. In this paragraph, "dwelling" means any building, structure, or
8 portion thereof which is occupied as, or designed or intended for occupancy as, a residence by one or
9 more individuals.

10 2 Exception. Amend RSA 644:9, V to read as follows:

11 V. Paragraphs I ~~and~~, II **and IV-a** shall not be construed to impair or limit any otherwise
12 lawful activities of law enforcement personnel, nor are paragraphs I ~~and~~, II **and IV-a** intended to
13 limit employees of governmental agencies or other entities, public or private, who, in the course and
14 scope of their employment and supported by articulable suspicion, attempt to capture any type of
15 visual image, sound recording, or other physical impression of a person during an investigation,
16 surveillance, or monitoring of conduct to obtain evidence of suspected illegal activity, the suspected
17 violation of any administrative rule or regulation, a suspected fraudulent insurance claim, or any
18 other suspected fraudulent conduct or activity involving a violation of law, or pattern of business
19 practices adversely affecting the public health or safety.

20 3 Effective Date. This act shall take effect January 1, 2014.

HB 619-FN - FISCAL NOTE

AN ACT prohibiting images of a person's residence to be taken from the air.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, and New Hampshire Municipal Association state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount 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 would add RSA 644:9, IV-a to prohibit images of person's residence to be taken from the air by a satellite, drone, or any device not supported by the ground. Violations of this prohibition are a class A misdemeanor. The Branch has no information to estimate how many cases would be impacted by this bill to determine the fiscal impact on expenditures but does have information on the cost for processing class A misdemeanors. 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 \$62.71 per case in FY 2014 and \$64.40 per case in FY 2015 and each year thereafter. However, if a single case were to be appealed to the New Hampshire Supreme Court, the fiscal impact would be in excess of \$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. 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 more individuals are charged, convicted, and sentenced to incarceration in a county correctional facility, the counties will have increased expenditures. The Association is unable to determine the number of individuals who

may 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 not have a fiscal impact on the Department because such offenses are typically prosecuted by local and county prosecutors not the Department.