

HB 673-FN – AS INTRODUCED

2013 SESSION

13-0832  
05/01

HOUSE BILL

**673-FN**

AN ACT

requiring prosecution of a law enforcement officer for failure to enforce the crime of interference with custody.

SPONSORS:

Rep. Oligny, Rock 34; Rep. Burt, Hills 6; Rep. Lambert, Hills 44; Rep. Sapareto, Rock 6; Sen. Carson, Dist 14

COMMITTEE:

Criminal Justice and Public Safety

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ANALYSIS

This bill establishes the crime of failure to enforce the law prohibiting interference with custody.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Thirteen*

AN ACT                    requiring prosecution of a law enforcement officer for failure to enforce the crime  
of interference with custody.

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

- 1            1 New Section; Abuse of Office; Failure to Enforce. Amend RSA 643 by inserting after section 2  
2 the following new section:  
3            643:3 Failure to Enforce. A state, county, or local law enforcement officer is guilty of a class B  
4 felony for knowingly failing to enforce state law on interference with custody as defined in  
5 RSA 633:4.  
6            2 Effective Date. This act shall take effect January 1, 2014.

## HB 673 FISCAL NOTE

AN ACT                    requiring prosecution of a law enforcement officer for failure to enforce the crime of interference with custody.

### FISCAL IMPACT:

The Judicial Branch, Department of Justice, Department of Corrections and New Hampshire Municipal Association state this bill, as introduced, may increase state general fund expenditures 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 establishes the crime of failure to enforce the law prohibiting interference with custody. Violation of this law is a class B felony. The Branch states violation of this bill would be treated as a routine criminal case. 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 B felony treated as a routine criminal case. All costs are estimated based on case weight information from the last needs assessment completed in 2005. The Branch states a routine criminal case will cost \$405.37 per case in FY 2014 and \$415.78 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 Department of Justice states this bill may increase state expenditures by an indeterminable amount. The Department states its Public Integrity Unit investigates and prosecutes allegations of criminal misconduct committed by public officials in their official capacity, including law enforcement officers. The Department assumes this bill will result in additional complaints to the Department which would have to be investigated and, if founded, prosecuted. This would result in the need for additional investigative and prosecutorial services. The Department is not able to determine the number of new complaints that may be filed to determine the exact fiscal impact on state expenditures.

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 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 Judicial Council states this bill will have no impact on state expenditures. The Council states that anyone gainfully employed as a law enforcement officer who allegedly commits a crime by failing to enforce state law by electing not to prosecute someone for interference with custody would likely be defended or indemnified by their insurer or employer. As a result, the Council assumes anyone prosecuted under this proposed law would be defended by private, retained counsel either paid for by themselves or by their employer, and not seek indigent defense representation.