

HB 1230-FN – AS INTRODUCED

2014 SESSION

14-2200
04/01

HOUSE BILL ***1230-FN***

AN ACT relative to imposition of consecutive sentences.

SPONSORS: Rep. Robertson, Ches 6; Rep. Warden, Hills 39; Rep. Gile, Merr 27;
Rep. O'Flaherty, Hills 12

COMMITTEE: Judiciary

ANALYSIS

This bill adds provisions for the calculation of concurrent and consecutive sentences.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to imposition of consecutive sentences.

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

1 1 New Paragraph; Sentences; Calculation of Periods. Amend RSA 651:3 by inserting after
2 paragraph III the following new paragraph:

3 IV.(a) A sentence imposed by the court may be concurrent or consecutive to any other
4 sentence which has been previously imposed or is simultaneously imposed upon the defendant. A
5 sentence shall be deemed to be a concurrent sentence unless the court expressly provides for
6 consecutive sentences. The court shall only impose consecutive sentences in accordance with this
7 paragraph and shall state its reasons in writing for imposing consecutive sentences.

8 (b) When more than one sentence of imprisonment is imposed on a person for 2 or more
9 offenses arising from the same act or through an act or omission which itself constitutes one of the
10 offenses and was a material element of the other offense, the sentences shall be imposed
11 concurrently.

12 (c) Not more than one sentence for an extended term of imprisonment shall be imposed
13 consecutively. The aggregate maximum or minimum terms of consecutive sentences imposed
14 simultaneously shall not exceed twice the maximum sentence authorized in RSA 651:2 for the most
15 serious offense charged.

16 (d) For concurrent terms of imprisonment, the minimum term shall be satisfied by
17 serving the longest minimum term imposed, and the maximum term shall be satisfied by serving the
18 longest maximum term imposed. For consecutive terms of imprisonment, the minimum terms of
19 each sentence shall be added to arrive at an aggregate minimum term and the maximum terms of
20 each sentence shall be added to arrive at an aggregate maximum term.

21 (e) Upon the expiration of the minimum term of imprisonment being served upon the
22 effective date of this paragraph, a defendant may request that consecutive sentences imposed prior
23 to the effective date of this paragraph be aggregated.

24 2 Effective Date. This act shall take effect January 1, 2015.

HB 1230-FN - FISCAL NOTE

AN ACT relative to imposition of consecutive sentences.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, and New Hampshire Association of Counties state this bill, as introduced, will have an indeterminable fiscal impact on state and county expenditures in FY 2015 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 adds RSA 651:3,IV dealing with concurrent and consecutive sentences. The bill does not add new cases to the Branch, but the requirement that judges state in writing the reasons for imposing consecutive sentences and the potential of additional hearings in cases where consecutive sentences were imposed prior to the effective date of this bill may have a fiscal impact. The Branch does not anticipate the fiscal impact would exceed \$10,000 each year.

The Judicial Council states this bill may increase expenditures by less than \$10,000 each year. The Council states litigation resulting from this bill would take place within the context of a lawyer's representation of a client and would not generate a right to a new appointment of counsel. The Council also states typically there is no right to counsel in post-conviction proceedings. If the public defender office or a contract attorney is providing services to the indigent defense clients, there should be no additional costs resulting from this bill because the public defender office and contract attorney are not paid on an hourly basis. The public defender office attorneys are salaried and contract attorneys are compensated on a per case basis. The Council states for those indigent defense clients being represented by assigned counsel where there is a need to conduct litigation over the meaning and application of the statute, there may be increased costs. Assigned counsel provides representation in less than one percent of the indigent defense cases and is paid on an hourly basis (\$60 per hour).

The Department of Justice states this bill may result in an indeterminable increase in state expenditures. The Department states this bill could make it more difficult for prosecutors to

negotiate acceptable plea bargains resulting in more cases going to trial which may have an impact on the Department.

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, though if sentences are reduced as a result of this bill the Department may have a reduction in operational costs. 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, 2013 was \$32,872. The cost to supervise an individual by the Department's division of field services for the fiscal year ending June 30, 2013 was \$570.

The New Hampshire Association of Counties states the fiscal impact of this bill is indeterminable. The Association states the average annual cost to incarcerate an individual in a county correctional facility is approximately \$35,000. There is no impact on county revenue.