

HB 1503-FN – AS AMENDED BY THE HOUSE

20Mar2014... 0412h

2014 SESSION

14-2022
04/10

HOUSE BILL

1503-FN

AN ACT relative to the penalties for negligent homicide and manslaughter causing a miscarriage or stillbirth and relative to miscarriage or stillbirth in second degree murder cases.

SPONSORS: Rep. Rideout, Coos 7; Rep. Notter, Hills 21; Rep. Cormier, Belk 8; Rep. Jones, Straf 24; Rep. Murotake, Hills 32; Sen. Cataldo, Dist 6

COMMITTEE: Criminal Justice and Public Safety

AMENDED ANALYSIS

This bill adds an enhanced term of imprisonment for manslaughter or negligent homicide causing a miscarriage or stillbirth. The bill also requires that in second degree murder convictions, the judge shall state for the record that he or she considered the miscarriage or stillbirth as a factor in pronouncing sentence and shall explain what effect, if any, the miscarriage or stillbirth had in determining the sentence.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT relative to the penalties for negligent homicide and manslaughter causing a miscarriage or stillbirth and relative to miscarriage or stillbirth in second degree murder cases.

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

1 1 Homicide; Manslaughter. Amend RSA 630:2 to read as follows:

2 630:2 Manslaughter.

3 I. A person is guilty of manslaughter when he ***or she*** causes the death of another:

4 (a) Under the influence of extreme mental or emotional disturbance caused by extreme
5 provocation but which would otherwise constitute murder; or

6 (b) Recklessly.

7 II.(a) Manslaughter shall be punishable by imprisonment for a term of not more than 30
8 years.

9 ***(b) Manslaughter which causes a miscarriage or stillbirth, as defined in RSA***
10 ***631:1, II(a) and (b), shall be punishable by imprisonment for a term of not more than 60***
11 ***years.***

12 III. In addition to any other penalty imposed, if the death of another person resulted from
13 the driving of a motor vehicle, the court may revoke the license or driving privilege of the convicted
14 person indefinitely.

15 2 Homicide; Negligent Homicide. Amend RSA 630:3 to read as follows:

16 630:3 Negligent Homicide.

17 I. A person is guilty of a class B felony when he ***or she*** causes the death of another
18 negligently. ***A person convicted of class B felony negligent homicide which causes a***
19 ***miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), shall be punished by***
20 ***imprisonment for a term of not more than 14 years.***

21 II. A person is guilty of a class A felony when in consequence of being under the influence of
22 intoxicating liquor or a controlled drug or any combination of intoxicating liquor and controlled drug
23 while operating a propelled vehicle, as defined in RSA 637:9, III or a boat as defined in RSA 265-A:1,
24 II, he or she causes the death of another. ***A person convicted of class A felony negligent***
25 ***homicide which causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b),***
26 ***shall be punished by imprisonment for a term of not more than 25 years.***

27 III. In addition to any other penalty imposed, if the death of another person resulted from
28 the negligent driving of a motor vehicle, the court may revoke the license or driving privilege of the
29 convicted person for up to 7 years. In cases where the person is convicted under paragraph II, the

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1 court shall revoke the license or driving privilege of the convicted person indefinitely and the person
2 shall not petition for eligibility to reapply for a driver's license for at least 7 years. In a case in which
3 alcohol was involved, the court may also require that the convicted person shall not have a license to
4 drive reinstated until after the division of motor vehicles receives certification of installation of an
5 ignition interlock device as described in RSA 265-A:36, which shall remain in place for a period not
6 to exceed 5 years.

7 3 Homicide; Second Degree Murder. Amend RSA 630:1-b to read as follows:

8 630:1-b Second Degree Murder.

9 I. A person is guilty of murder in the second degree if:

10 (a) He *or she* knowingly causes the death of another; or

11 (b) He *or she* causes such death recklessly under circumstances manifesting an extreme
12 indifference to the value of human life. Such recklessness and indifference are presumed if the actor
13 causes the death by the use of a deadly weapon in the commission of, or in an attempt to commit, or
14 in immediate flight after committing or attempting to commit any class A felony.

15 II. Murder in the second degree shall be punishable by imprisonment for life or for such
16 term as the court may order.

17 ***III. In cases where a person is convicted of murder in the second degree which***
18 ***causes a miscarriage or stillbirth, as defined in RSA 631:1, II(a) and (b), the judge shall***
19 ***explicitly state for the record that he or she considered the miscarriage or stillbirth as a***
20 ***factor in pronouncing sentence and shall explain what effect, if any, the miscarriage or***
21 ***stillbirth had in determining the sentence imposed.***

22 4 Effective Date. This act shall take effect January 1, 2015.

HB 1503-FN - FISCAL NOTE

AN ACT including “fetus” in the definition of “another” for the purpose of certain criminal offenses.

FISCAL IMPACT:

The Judicial Branch, Judicial Council, Department of Justice, Department of Corrections, and New Hampshire Association of Counties state this bill, **as introduced**, may increase state and county expenditures by an indeterminable amount 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 will add RSA 630:1-a, IV to include a fetus in the definition of “another” for purposes of first and second degree murder, manslaughter, negligent homicide and causing or aiding suicide. The Branch states this bill may result in an additional count in cases that would have occurred where both a fetus and someone else are victims of the crime or in a criminal case that would not otherwise have been brought in situations where the only victim is the fetus. If this bill results in an additional count in a case the fiscal impact will be less than if an entirely new criminal case is brought. The Branch has no information to estimate how many prosecutions or the severity of the charges that will be brought as a result of this bill but does have information on the cost for one full day of a jury trial. A full day (based on a 7 and half hour day) cost for a full day’s jury trial in Superior Court is \$1,982.46 in FY 2015 and \$2,025.51 in FY 2016 and each year thereafter. The cost of a day’s jury trial is as follows:

Position	FY 2015 Daily Cost	FY 2016 Daily Cost
Judge	\$979.73	\$1,004.63
Jury	\$280.00	\$280.00
Jury Mileage	\$84.00	\$84.00
Court Monitor	\$219.83	\$227.63
Deputy Clerk	\$332.78	\$343.13
Bailiff	\$86.12	\$86.12
Total	\$1,982.46	\$2,025.51

Additionally, there would be costs associated with preliminary hearings, the time to write a charge to the jury, and for clerical processing that would result in the cost of jury trial in excess of \$2,000 per day.

The Judicial Council states this bill may result in an indeterminable increase in general fund expenditures. The Council states this bill will potentially expand the number of homicide cases, typically the most costly cases in the criminal justice system. The public defender program typically handles the large majority of the appointed cases involving homicide and attempted murder charges under its contract with the state. If the public defender program does have a conflict of interest and is unable to represent the case, an assigned counsel attorney must be used. Attorneys who serve as assigned counsel are paid an hourly rate and in murder cases regularly bill the state in excess of \$50,000 per case. 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 Justice states this bill may result in an increase in expenditures. The Department states it would be responsible for handling the prosecution of all murder cases and some manslaughter cases. The Department has no information on how many new prosecutions will be brought as a result of this bill.

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, 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 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 not 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.