

HB 367-FN – AS INTRODUCED

2015 SESSION

15-0256
04/06

HOUSE BILL ***367-FN***

AN ACT redefining simple assault.

SPONSORS: Rep. Murphy, Hills 7; Rep. Itse, Rock 10; Rep. C. McGuire, Merr 29;
Rep. Beaudoin, Straf 9; Rep. Souza, Hills 43

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill redefines the type of physical contact that constitutes simple assault.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT redefining simple assault.

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

1 1 Simple Assault. Amend RSA 631:2-a to read as follows:

2 631:2-a Simple Assault.

3 I. A person is guilty of simple assault if he ***or she***:

4 (a) Purposely or knowingly causes bodily injury [~~or unprivileged physical contact~~] to
5 another; or

6 (b) ***Purposely or knowingly causes physical contact with another when the***
7 ***nature of the contact is such that the actor knows or a reasonable person should know that***
8 ***the other person will regard the contact as offensive, threatening, or provocative; or***

9 (c) ***Engages in unprivileged physical contact with another person, or causes***
10 ***such contact, whether directly, through clothing, or otherwise, where the contact can be***
11 ***reasonably construed as being for the purpose of the actor's sexual arousal or sexual***
12 ***gratification; or***

13 (d) Recklessly causes bodily injury to another; or

14 [~~(e)~~] (e) Negligently causes bodily injury to another by means of a deadly weapon.

15 II. Simple assault is a misdemeanor unless committed in a fight entered into by mutual
16 consent, in which case it is a violation.

17 2 Effective Date. This act shall take effect 60 days after its passage.

HB 367-FN - FISCAL NOTE

AN ACT redefining simple assault.

FISCAL IMPACT:

The Judicial Branch and New Hampshire Association of Counties state this bill, **as introduced**, may decrease state and county expenditures by an indeterminable amount in FY 2016 and each year thereafter. There will be no fiscal impact on local expenditures or state, county, and local revenue.

METHODOLOGY:

The Judicial Branch and New Hampshire Association of Counties state this bill amends the definition of simple assault to require that for purposely or knowingly causing physical contact to another, the nature of the contact must be such that the defendant “knows or a reasonable person should know that the other person will regard the contact as offensive, threatening, or provocative.” As a result it is assumed the number of simple assault charges may decrease. The penalty for simple assault is an unspecified misdemeanor. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor. There is no method to determine how many charges would not be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Judicial Branch has estimated for the ten year period of FY 2005 through FY 2014, there is an average of 9,000 simple assault cases brought annually in the New Hampshire courts. See table below for average cost information:

| | FY 2016 | FY 2017 |
|--|----------------|----------------|
| <u>Judicial Branch*</u> | | |
| Class B Misdemeanor | \$48 | \$51 |
| Class A Misdemeanor | \$69 | \$71 |
| Appeals | Varies | Varies |
| *It should be noted average case cost estimates for FY 2016 and FY 2017 are based on data that is more than nine years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. | | |
| <u>NH Association of Counties</u> | | |
| County Prosecution Costs | Indeterminable | Indeterminable |

| | | |
|---|----------|----------|
| Estimated Average Cost of Incarcerating an Individual | \$35,000 | \$35,000 |
|---|----------|----------|

The Judicial Council states this bill will have no fiscal impact on the Council. The Council states simple assault charges are generally brought as a class B misdemeanor when there is incidental contact resulting in no bodily injury and no pain to the victim. As a class B misdemeanor, the Council would not be called upon to provide counsel for the accused. The Council assumes this bill will not change the number of accused that might seek the assistance of counsel from the State.

The Department of Justice states simple assault offenses are typically prosecuted by local and county prosecutors, therefore this bill will have no fiscal impact on state expenditures.