

HB 560-FN - AS INTRODUCED

2015 SESSION

15-0041
04/10

HOUSE BILL

560-FN

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

SPONSORS: Rep. Rideout, Coos 7; Rep. Notter, Hills 21; Rep. Souza, Hills 43; Rep. Murotake, Hills 32; Rep. Baldasaro, Rock 5; Rep. Beaudoin, Straf 9; Rep. Richardson, Coos 4; Rep. V. Sullivan, Hills 16; Rep. Tucker, Rock 23; Rep. Bailey, Graf 14; Sen. Cataldo, Dist 6; Sen. Avard, Dist 12

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill provides that a fetus shall be included in the definition of “another” for the purpose of first and second degree murder, manslaughter, negligent homicide, and causing or aiding suicide.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

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

1 1 Homicide; Capital Murder. Amend RSA 630:1, IV to read as follows:

2 IV. As used in this section [~~and RSA 630:1-a, 1-b, 2, 3 and 4~~], the meaning of “another”
3 [~~does~~] **shall** not include a [~~fœtus~~] **fetus**.

4 2 New Paragraphs; First Degree Murder; Definition of Another; Exemption for Abortion.
5 Amend RSA 630:1-a by inserting after paragraph III the following new paragraphs:

6 IV. For the purposes of this section and RSA 630:1-b, RSA 630:2, RSA 630:3, and RSA 630:4,
7 the meaning of “another” shall mean another person, or a fetus as defined in subparagraph V(b).

8 V.(a) Nothing in this section or RSA 630:1-b, RSA 630:2, RSA 630:3, or RSA 630:4 shall
9 apply to any act committed by the woman pregnant with the fetus, to any medical procedure,
10 including abortion, performed by a physician or other licensed medical professional at the request of
11 the pregnant woman or her legal guardian, or to the lawful dispensation or administration of
12 lawfully prescribed medication. For the purposes of this section and RSA 630:1-b, RSA 630:2,
13 RSA 630:3, or RSA 630:4, “abortion” means the act of using or prescribing any instrument, medicine,
14 drug, or any other substance, device, or means with the intent to terminate the clinically diagnosable
15 pregnancy of a woman with knowledge that the termination by those means will, with reasonable
16 likelihood, cause the death of the fetus. Such use, prescription, or means is not an abortion if done
17 with the intent to save the life or preserve the health of a fetus, or to remove a dead fetus caused by
18 spontaneous abortion, or to remove an ectopic pregnancy.

19 (b) In this section, “fetus” means an unborn offspring, from the embryo stage which is
20 the end of the eighth week after conception or, in the case of in vitro fertilization, the end of the
21 eighth week after implantation, until birth.

22 3 Effective Date. This act shall take effect January 1, 2016.

HB 560-FN - FISCAL NOTE

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

FISCAL IMPACT:

The Judicial Branch, Department of Corrections, New Hampshire Association of Counties, Judicial Council, and Department of Justice state this bill, **as introduced**, may increase 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 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 provide information on the cost for one full day of a jury trial in the superior court (see table below). Additionally, there would be costs associated with preliminary hearings, time to write a charge to the jury, and for clerical processing. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the Judicial Branch, Department of Corrections, and New Hampshire Association of Counties have provided the potential costs associated with the penalties contained in this bill, where they can be determined. See table below for average cost information:

	FY 2016	FY 2017
<u>Judicial Branch*</u>		
Full-day jury trial in Superior Court	\$2,063	\$2,097
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>Department of Corrections</u>	FY 2016	FY 2017
FY 2014 Average Cost of Incarcerating an Individual	\$33,540	\$33,540
FY 2014 Average Cost of Supervising an Individual on Parole/Probation	\$535	\$535
<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 may result in an indeterminable increase in state 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. If the public defender does not have a conflict of interest and is able to represent the case, they would be appointed most of the new cases. If the public defender program is not able to take a case it would then be handled by an assigned counsel attorney. The assigned counsel hourly fee for murder cases is \$60 with a fee cap of \$20,000. The fee cap is readily increased by the Court. 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 for 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.