

HB 612-FN - AS INTRODUCED

2015 SESSION

15-0813
04/05

HOUSE BILL

612-FN

AN ACT establishing a penalty for falsifying information to obtain a protective order.

SPONSORS: Rep. Estevez, Hills 37; Rep. Manning, Rock 8

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes a criminal penalty for falsifying information to obtain a restraining order or a protective order.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT establishing a penalty for falsifying information to obtain a protective order.

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

- 1 1 New Section; Falsification in Official Matters; Frivolous Restraining Orders. Amend RSA 641
2 by inserting after section 4 the following new section:
3 641:4-a Frivolous Restraining Orders. Any person who knowingly gives or causes to be given
4 false information to any judge or law enforcement officer for the purpose of obtaining a restraining
5 order, protective order, or other court-ordered injunctive relief shall be guilty of a class B felony.
6 2 Effective Date. This act shall take effect January 1, 2016.

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HB 612-FN - FISCAL NOTE

AN ACT establishing a penalty for falsifying information to obtain a protective order.

FISCAL IMPACT:

The Judicial Branch, 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.

The New Hampshire Association of Counties was contacted on December 31, 2014 for a fiscal note worksheet, which the Association has not provided as of January 26, 2015. We are not able to determine if this bill will have a fiscal impact on county expenditures at this time.

The Department of Corrections was contacted on December 31, 2014 for a fiscal note worksheet, which the Association has not provided as of January 26, 2015. We are not able to determine if this bill will have a fiscal impact on the Department's expenditures at this time.

METHODOLOGY:

The Judicial Branch states this bill would add RSA 641:4-a to make it a class B felony to give or cause to be given to a judge or police officer false information for the purpose of obtaining a restraining order, protective order, or other court-ordered injunctive relief. The Branch has no information to estimate how many new felonies will be brought but does have information on the average cost of processing a routine criminal case, which is how this new penalty would be classified (see table below).

The Judicial Council states this bill may result in individuals that are charged with making a false claim under RSA 641:4-a, seeking the services of the indigent defense delivery system. See table below for cost information.

The Department of Justice states the offense contained in this bill is typically prosecuted by county attorneys. The Department might be marginally impacted by appeals resulting from this bill but anticipates it could manage any resulting fiscal impact with its budget.

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Though the Legislative Budget Assistant Office is still awaiting information from the Department of Corrections and New Hampshire Association of Counties, it has received information from the Department and Association providing the average cost to incarcerate an individual in a state and county correctional facility. See table below.

	FY 2016	FY 2017
<u>Judicial Branch*</u>		
Routine Criminal Felony Case	\$438	\$453
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>Judicial Council#</u>		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$756/Case	\$756/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Services other than Counsel	Indeterminable	Indeterminable
#It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
<u>Department of Corrections</u>		
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