

CHAPTER 21
SB 91 – FINAL VERSION

2015 SESSION

15-0922
09/06

SENATE BILL **91**

AN ACT relative to appointment of counsel for indigent defendants.

SPONSORS: Sen. Lasky, Dist 13; Sen. Carson, Dist 14; Sen. Pierce, Dist 5; Rep. Rowe, Hills 22;
Rep. Wall, Straf 6; Rep. Woodbury, Hills 5; Rep. Wheeler, Merr 3

COMMITTEE: Executive Departments and Administration

ANALYSIS

This bill makes a technical correction to the law relative to appointment of counsel for indigent defendants.

This bill was requested by the judicial branch.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fifteen

AN ACT relative to appointment of counsel for indigent defendants.

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

1 21:1 Appointment of Counsel. Amend RSA 604-A:2, I to read as follows:

2 I. In every criminal case in which the defendant is charged with a felony or a class A
3 misdemeanor and appears without counsel, the court before which he or she appears shall advise the
4 defendant that he or she has a right to be represented by counsel and that counsel will be appointed
5 to represent him or her if he or she is financially unable to obtain counsel. Unless the defendant
6 waives the appointment of counsel, if the defendant indicates to the court that he or she is financially
7 unable to obtain counsel, the court shall instruct the defendant to complete a financial affidavit in
8 such form as designated by the unit of cost containment. If after review of the financial affidavit and
9 application of the rules established pursuant to RSA 604-A:10, IV the [~~commissioner of~~
10 ~~administrative services,~~] **court** is satisfied that the defendant is financially unable to obtain counsel,
11 the court shall appoint counsel to represent him or her; provided, however, that in any case in which
12 the defendant is charged with a capital offense, the court may appoint 2 counsel to represent him or
13 her. Whenever defendants have such conflicting interests that they cannot be properly represented
14 by the same counsel, or when other good cause is shown, the court shall appoint separate counsel for
15 each of them. In a post-conviction proceeding in which a defendant seeks to attack the validity of an
16 underlying conviction, the court shall appoint counsel or approve a request for services other than
17 counsel when the interests of justice or judicial economy require.

18 21:2 Effective Date. This act shall take effect upon its passage.

19

20 Approved: May 5, 2015

21 Effective Date: May 5, 2015