

HB 1651-FN - AS INTRODUCED

2022 SESSION

22-2127
07/05

HOUSE BILL ***1651-FN***

AN ACT adding sexual reassignment to the definition of child abuse.

SPONSORS: Rep. Testerman, Merr. 2

COMMITTEE: Children and Family Law

ANALYSIS

This bill adds sexual reassignment to the definition of an abused child in RSA 169-C, the child protection act.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT adding sexual reassignment to the definition of child abuse.

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

1 1 Definition of Abused Child; Sexual Reassignment Added. Amend RSA 169-C:3, II(f) to read as
2 follows:

3 (f) Subjected to an act prohibited by RSA 632-A:10-d; **or**

4 **(g) Subjected to drug treatments or surgery in an attempt to alter the sex of the**
5 **child assigned at birth, except in rare cases of ambiguous genitalia. For purposes of this**
6 **subparagraph, ambiguous genitalia refers to a medical condition in which a child's**
7 **gender at birth is in question because the genitals do not appear clearly male or female.**

8 2 Effective Date. This act shall take effect January 1, 2023.

**HB 1651-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adding sexual reassignment to the definition of child abuse.

FISCAL IMPACT: ☒ **State** ☒ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill adds sexual reassignment to the definition of an abused child under RSA 169-C, the Child Protection Act. The Department of Health and Human Services states that it does not have any information to assess the potential fiscal impact. To the extent that the bill results in additional child abuse cases, it may increase costs to the state judicial and correctional systems. There is no method to determine how many charges might be brought as a result of the bill. However, the entities impacted have provided the potential costs associated with criminal penalties below:

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel		

program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		
Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of Incarcerating an Individual	\$54,386	\$54,386
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

In addition, there may be an indeterminable fiscal impact to the Judicial Branch. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

AGENCIES CONTACTED:

Department of Health and Human Services, Department of Justice, Judicial Branch, Judicial Council and New Hampshire Association of Counties