

HB 1281-FN - AS INTRODUCED

2022 SESSION

22-2796

07/04

HOUSE BILL                    ***1281-FN***

AN ACT                    relative to access to firearms confiscated from a person who is subject to a protective order.

SPONSORS:            Rep. Roy, Rock. 32

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill authorizes a person other than a peace officer to store or dispose of weapons for a person subject to a protective order requiring them to relinquish such weapons.

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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                                 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                      relative to access to firearms confiscated from a person who is subject to a protective order.

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

1            1 Protection of Persons from Domestic Violence; Temporary Relief; Custody of Deadly Weapons.  
2 Amend RSA 173-B:4, I(a)(9) to read as follows:

3                            (9) Directing the defendant to relinquish to the peace officer, in addition to the relief  
4 specified in RSA 173-B:4, I, any and all deadly weapons specified in the protective order that are in  
5 the control, ownership, or possession of the defendant, or any other person on behalf of the  
6 defendant, for the duration of the protective order. ***The subject of a protective order may at any***  
7 ***time during the pendency an order, authorize in writing any other person who is not***  
8 ***prohibited from possessing a firearm and who does not reside with the subject of the order,***  
9 ***to obtain any confiscated weapons from law enforcement custody for storage or disposal.***  
10 ***Whoever knowingly allows the subject of a protective order to have access to or possess any***  
11 ***weapons obtained from a law enforcement agency on behalf of the subject of a protective***  
12 ***order shall be guilty of a felony and may be criminally charged for any crime committed***  
13 ***with such deadly weapon.***

14            2 Effective Date. This act shall take effect January 1, 2023.

**HB 1281-FN- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT relative to access to firearms confiscated from a person who is subject to a protective order.

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

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

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

**METHODOLOGY:**

This bill contains penalties that may have an impact on the New Hampshire judicial and correctional systems. 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 entities impacted have provided the potential costs associated with these 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
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
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	\$54,386	\$54,386

Incarcerating an Individual		
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

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. 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. 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:**

Judicial Branch, Departments of Corrections and Justice, Judicial Council, and New Hampshire Association of Counties