

HB 1361-FN - AS AMENDED BY THE HOUSE

15Mar2022... 0087h

2022 SESSION

22-2800

04/11

HOUSE BILL

***1361-FN***

AN ACT

establishing a penalty for any person who transports a controlled drug into New Hampshire with the intent to distribute.

SPONSORS:

Rep. Roy, Rock. 32

COMMITTEE:

Criminal Justice and Public Safety

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AMENDED ANALYSIS

This bill establishes an additional penalty for transportation of a controlled drug into New Hampshire with the intent to distribute. The bill excludes any cannabis-type drug.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT                    establishing a penalty for any person who transports a controlled drug into New Hampshire with the intent to distribute.

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

1            1 New Paragraph; Controlled Drug Act; Penalties. Amend RSA 318-B:26 by inserting after  
2 paragraph XIII the following new paragraph:

3            XIV. In addition to any other penalty imposed under this section, any person who enters this  
4 state while possessing any substance prohibited by this chapter with the intent to distribute the  
5 substance shall be guilty of a class A felony and shall be sentenced to a minimum of 5 years  
6 imprisonment. Any vehicle or other conveyance used to transport a controlled substance into the  
7 state shall be subject to forfeiture. This paragraph shall not apply to any cannabis-type drug.

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

**HB 1361-FN- FISCAL NOTE**  
**AS INTRODUCED**

AN ACT establishing a penalty for any person who transports a controlled drug into New Hampshire with the intent to distribute.

**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