

HB 346-FN - AS INTRODUCED

2023 SESSION

23-0213
05/08

HOUSE BILL

346-FN

AN ACT relative to the right of any infant born alive to appropriate medical care and treatment.

SPONSORS: Rep. Cordelli, Carr. 7; Rep. Peternel, Carr. 6; Rep. Notter, Hills. 12; Rep. Ulery, Hills. 13; Rep. Stapleton, Sull. 6; Rep. L. Gould, Hills. 2; Rep. M. Pearson, Rock. 34; Rep. Prudhomme-O'Brien, Rock. 13; Rep. Simon, Graf. 1; Sen. Birdsell, Dist 19; Sen. Ward, Dist 8; Sen. Avard, Dist 12

COMMITTEE: Judiciary

ANALYSIS

This bill establishes the born alive infant protection act, which provides that any infant born alive shall be entitled to medically appropriate and reasonable care and treatment.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Twenty Three

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

I. Any born alive infant, including but not limited to one born in the course of an abortion, shall be treated as any other natural person under all the laws of this state which punish or remedy

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1 harm to natural persons, including laws referring to “another,” laws referring to injured persons,
2 and laws referring to deceased persons.

3 II. Any born alive infant, including but not limited to one born in the course of an abortion,
4 shall be entitled to no less protection or remedy under the state’s criminal laws, laws governing civil
5 causes of action, and laws concerning human rights and rules adopted thereto, than any other
6 natural person.

7 132-B:4 Criminal Penalties.

8 I. Any health care provider who withholds medical treatment from a born alive infant with
9 the intention of causing or hastening the infant’s death, and who thereby materially causes or
10 hastens the death of the infant, shall be guilty of a class A felony.

11 II. Any health care provider who performs an overt act with the intention of causing or
12 hastening the death of a born alive infant, and who thereby materially causes or hastens the death
13 of the infant, shall be guilty of a class A felony.

14 III. In any criminal prosecution brought pursuant to this subdivision, a directive or other
15 instruction to withhold treatment from a born alive infant shall not be a defense.

16 132-B:5 Mandatory Reporting. Any health care provider, medical facility, reproductive health
17 care facility, or employee or volunteer of a medical facility or reproductive health care facility that
18 has knowledge of a failure to comply with the provisions of this chapter shall immediately report the
19 failure to an appropriate law enforcement agency.

20 132-B:6 Severability. If any provision of this chapter or the application thereof to any person or
21 circumstances is held invalid, such invalidity shall not affect other provisions or applications of the
22 chapter which can be given effect without the invalid provision or application, and to this end the
23 provisions or applications of this chapter are declared to be severable.

24 3 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0213
12/28/22

**HB 346-FN- FISCAL NOTE
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FISCAL IMPACT: ☒ **State** ☒ **County** ☐ **Local** ☐ **None**

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
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 establishes the born alive infant protection act, which provides that any infant born alive shall be entitled to medically appropriate and reasonable care and treatment. 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 Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)	
Routine Criminal Case	\$644	\$657	\$779	
Appeals	Varies	Varies	Varies	
Department of Corrections			FY 2023	FY 2024
FY 2022 Average Cost of Incarcerating an Individual			\$64,223	\$64,223
FY 2022 Annual Marginal Cost of a General Population Inmate			\$6,123	\$6,123
FY 2022 Average Cost of Supervising an Individual on Parole/Probation			\$688	\$688
The Department notes any increase in the incarcerated population will have a direct impact on overtime costs				

given the Department's history of challenges associated with recruitment. In addition, the NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.

NH Association of Counties	FY 2023	FY 2024
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

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 and New Hampshire Association of Counties