

SB 14-FN - AS AMENDED BY THE HOUSE

4May2023... 1520h

8Jun2023... 2074h

2023 SESSION

23-0696

04/05

SENATE BILL

***14-FN***

AN ACT                    relative to the use of game cameras and relative to penalties for controlled drug violations.

SPONSORS:            Sen. Watters, Dist 4; Sen. Gendreau, Dist 1; Rep. Goley, Hills. 21

COMMITTEE:        Energy and Natural Resources

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AMENDED ANALYSIS

This bill adds a definition of "game camera" and permits the use of a game camera to take or attempt to take a game animal or fur-bearing animal.

This bill changes the penalty for certain schedule I, II, III, and IV drug offenses.

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                         Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT                      relative to the use of game cameras and relative to penalties for controlled drug violations.

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

1            1 New Paragraph; General Provisions as to Fish and Game; Game Camera. Amend RSA 207:1  
2 by inserting after paragraph XI the following new paragraph:

3            XI-a. Game Camera. Any device capable of recording and transmitting photographic or  
4 video data, with or without a wire, to a remote device, such as a computer, smartphone, or other  
5 viewing device. The term shall also include a device that merely records photographic or video data  
6 and stores such data for later use.

7            2 New Section; General Provisions as to Fish and Game; Use of Game Cameras. Amend RSA  
8 207 by inserting after section 62 the following new section:

9            207:63 Game Cameras.

10           I. Any person taking or attempting to take a game animal or fur-bearing animal may use a  
11 game camera to locate, surveil, aid or assist in any attempt to locate or surveil any game animal or  
12 fur-bearing animal, provided that no person shall take a game animal or fur-bearing animal within  
13 the same calendar day of remotely viewing any image or video of that animal from a game camera in  
14 that area.

15           II.(a) No person shall place a game camera that records or transmits images or data of any  
16 kind while unattended outside on the private property of another without the consent of the property  
17 owner or the property owner has posted signage on his or her property allowing the placement of  
18 such camera as provided in this section. A game camera placed on state owned or managed lands, or  
19 on municipally owned property, shall be exempt from requiring landowner permission.

20           (b) A property owner may permit the placement of a game camera by posting signs of  
21 durable material with any words describing the physical activity permitted, such as "Game Cameras  
22 Allowed", printed with block letters no less than 2 inches in height, and with the name and contact  
23 information of the property owner. Such signs shall be posted at gates, bars and commonly used  
24 entrances. This section shall not prevent any property owner adding to the language required by  
25 this section.

26           (c) Any permission granted by a property owner under this section shall expire on  
27 December 31st of each calendar year, unless revoked or extended by the property owner or his or her  
28 designee.

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1           III. A person who places a game camera on the private property of another, or on state  
2 owned or state managed property, shall label the camera with the name and contact information of  
3 the camera owner in a manner visible while mounted.

4           IV. A property owner shall contact a local or state law enforcement officer or conservation  
5 officer to remove and seize a game camera which was placed in violation of this section.

6           V. This section shall not prohibit:

7           (a) The lawful use of implanted or attached electronic devices by fish and game  
8 department staff, or other persons holding a scientific permit from the executive director, to identify,  
9 monitor, or track animals; or

10           (b) Any device placed or used in accordance with a warrant or in accordance with other  
11 lawful actions of law enforcement officers or personnel of the fish and game department in the  
12 performance of their official duties.

13           VI. Any person who violates this section shall be guilty of a violation and subject to a fine of  
14 up to \$125 for each offense and, for a second or subsequent conviction under this section, may forfeit  
15 the game camera and related fastening devices used during the violation of this section.

16           3 Controlled Drug Act; Penalties. Amend RSA 318-B:26, II(a) to read as follows:

17           (a) In the case of a controlled drug or its analog, classified in schedules I, II, III, or IV,  
18 other than those specifically covered in this section, the person shall be guilty of a ~~[class B felony,~~  
19 ~~except that]~~ **misdemeanor for a first offense** ~~[notwithstanding the provisions of RSA 651:2, IV(a),~~  
20 ~~a fine of not more than \$25,000 may be imposed]~~. If any person commits such a violation after one or  
21 more prior offenses as defined in RSA 318-B:27, such person shall be guilty of a ~~[class A]~~ **class B**  
22 ~~felony[, except that notwithstanding the provisions of RSA 651:2, IV(a), a fine of up to \$50,000 may~~  
23 ~~be imposed]~~.

24           4 Effective Date. This act shall take effect January 1, 2024.

**SB 14-FN- FISCAL NOTE**  
AS AMENDED BY THE HOUSE (AMENDMENT #2023-2074h)

AN ACT                      relative to the use of game cameras and relative to penalties for controlled drug violations.

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

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	\$0
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	Indeterminable	Indeterminable	Indeterminable
<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	Indeterminable	Indeterminable

**METHODOLOGY:**

This bill establishes a violation level offense relative to game cameras, and amends penalties relative to controlled drugs under RSA 318-B:26, which may have impacts 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)
Violation and Misdemeanor Level Offense	\$119	\$122	\$122
Complex Felony Case	\$3,195	\$3,244	\$3,366
Routine Criminal Case	\$644	\$657	\$779
Appeals	Varies	Varies	Varies
Judicial Council	FY 2023		FY 2024
Public Defender Program	Has contract with State to provide services.		Has contract with State to provide services.
Contract Attorney - Felony	\$825/Case \$105 administrative fee		\$825/Case \$105 administrative fee

	\$200 incarceration fee (If applicable)	\$200 incarceration fee (If applicable)
Contract Attorney – Misdemeanor	\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)	\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)
Assigned Counsel - Felony. Homicide including capital cases. Travel time to court does not count toward the cap.	\$125/Hour up to \$20,000	\$125/Hour up to \$20,000
Assigned Counsel - Felony. Travel time to court does not count toward the cap.	\$90/Hour up to \$5,500	\$90/Hour up to \$5,500
Assigned Counsel- Misdemeanor. Travel time to court does not count toward the cap.	\$90/Hour up to \$2,000	\$90/Hour up to \$2,000
Assigned Counsel - Supreme Court Appeal	\$125/Hour up to \$10,000	\$125/Hour up to \$10,000
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 of 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 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 New Hampshire 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:**

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