

**HB 271-FN - AS INTRODUCED**

2023 SESSION

23-0278

05/08

HOUSE BILL            ***271-FN***

AN ACT                repealing the fetal life protection act.

SPONSORS:            Rep. M. Smith, Straf. 10

COMMITTEE:          Judiciary

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ANALYSIS

This bill repeals the "fetal life protection act", which restricts access to abortion after 24 weeks.

The bill also repeals the civil and criminal penalties for violation of the act by medical professionals.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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                   repealing the fetal life protection act.

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

- 1           1 Repeal; Fetal Life Protection Act. RSA 329:43-RSA 329:50 and the subdivision heading
- 2 preceding RSA 329:43, relative to the fetal life protection act, are repealed.
- 3           2 Effective Date. This act shall take effect 60 days after its passage.

**HB 271-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT repealing the fetal life protection act.

**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 Decrease	Indeterminable Decrease	Indeterminable Decrease
<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 Decrease	Indeterminable Decrease	Indeterminable Decrease

**METHODOLOGY:**

This bill repeals the "fetal life protection act", which restricts access to abortion after 24 weeks. This bill may reduce the number of felony penalties and may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many fewer 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
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 \$200 incarceration fee (If applicable)		\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)
Assigned Counsel - Felony.	\$90/Hour up to \$5,500		\$90/Hour up to \$5,500

Travel time to court does not count toward the cap.		
Assigned Counsel - Supreme Court Appeal	\$125/Hour up to \$10,000	\$125/Hour up to \$10,000
<p>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.</p>		
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
<p>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.</p>		
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. Repeal of the fetal life protection act may result in fewer prosecutions and reduced expenditures for the Department and county and local prosecutors.

In addition to the felony penalty in existing RSA 329:46, RSA 329:47 provides for civil remedies and RSA 329:48 provides for review by the New Hampshire Board of Medicine. Repeal of these sections may decrease state expenditures for the following reasons;

- Repeal of the RSA 329:47, which provides for civil remedies, could result in fewer civil cases in the superior court along with any potential appeals.
- RSA 329:47 provides for review by the New Hampshire Board of Medicine. Repeal of this provision may decrease the potential for hearings before the Board of Medicine, decrease possible appeals of Board decisions to the Supreme Court and costs and decrease the need for the Department of Justice to represent the Board in any appeals.

**AGENCIES CONTACTED:**

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