

SB 122-FN - AS INTRODUCED

2021 SESSION

21-0830

11/04

SENATE BILL ***122-FN***

AN ACT adopting omnibus legislation relative to certain crimes and judicial processes and procedures.

SPONSORS: Sen. French, Dist 7

COMMITTEE: Judiciary

ANALYSIS

This bill adopts legislation relative to:

I. Allowing persons charged with driving or operating under the influence of drugs or liquor to register for an impaired driving education program after attending or waiving their arraignment.

II. Exemptions from prosecution for victims of human trafficking.

III. Bail commissioners fees.

IV. Guardianship by grandparents.

V. Immunity from arrest or prosecution for prostitution for seeking medical assistance for reporting certain crimes.

VI. Increasing the penalty for harming a service animal and making changes to the membership of the council on autism spectrum disorders.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT adopting omnibus legislation relative to certain crimes and judicial processes and procedures.

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

1 1 Sponsorship. This act consists of the following proposed legislation:

2 Part I. LSR 21-0830, relative to the impaired driver education program, sponsored by Sen.
3 French, Prime/Dist. 7; Sen. Bradley, Dist. 3; Sen. Giuda, Dist. 2; Sen. Carson, Dist. 14.

4 Part II. LSR 21-0191, relative to exemptions from prosecution for victims of human
5 trafficking, sponsored by Sen. Ward, Prime/Dist. 8.

6 Part III. LSR 21-0399, relative to bail commissioners fees, sponsored by Sen. Gannon,
7 Prime/Dist. 23; Sen. Avard, Dist. 12; Sen. Carson, Dist. 14; Sen. D'Allesandro, Dist. 20; Sen. Reagan,
8 Dist. 17; Sen. Prentiss, Dist. 5; Sen. Cavanaugh, Dist. 16; Rep. Welch, Rock. 13; Rep. Piemonte,
9 Rock. 4.

10 Part IV. LSR 21-0600, relative to guardianship by grandparents, sponsored by Sen. French,
11 Prime/Dist. 7; Sen. Avard, Dist. 12; Sen. Gannon, Dist. 23; Sen. Reagan, Dist. 17; Sen. Watters, Dist.
12 4; Sen. Whitley, Dist. 15; Sen. Hennessey, Dist. 1; Sen. Carson, Dist. 14; Sen. Kahn, Dist. 10; Sen.
13 Sherman, Dist. 24; Sen. Prentiss, Dist. 5; Sen. Giuda, Dist. 2; Sen. D'Allesandro, Dist. 20; Sen.
14 Bradley, Dist. 3; Sen. Cavanaugh, Dist. 16; Sen. Soucy, Dist. 18.

15 Part V. LSR 21-0921, relative to immunity from arrest or prosecution for prostitution for
16 seeking medical assistance for reporting certain crimes, sponsored by Sen. French, Prime/Dist. 7;
17 Sen. Reagan, Dist. 17; Sen. Watters, Dist. 4.

18 Part VI. LSR 21-0479, increasing the penalty for harming a service animal and making
19 changes to the membership of the council on autism spectrum disorders, sponsored by Sen. Bradley,
20 Prime/Dist. 3

21 2 Legislation Enacted. The general court hereby enacts the following legislation:

22

23

PART I

24

Relative to the Impaired Driver Education Program.

25

26 1 New Paragraph; Motor Vehicles; Driving or Operating Under the Influence of Drugs or Liquor;
27 Penalties for Intoxication or Under Influence of Drugs Offenses. Amend RSA 265-A:18 by inserting
after paragraph X the following new paragraph:

28

29 XI. Any person charged with violating any provision of RSA 265-A:2, 265-A:3, or 265-A:19
who would be required to complete an IDCMP if convicted may, at his or her discretion, register for

SB 122-FN - AS INTRODUCED
- Page 2 -

1 such a program after attending or waiving arraignment in a criminal proceeding. Such registration
2 shall not be considered as evidence of his or her culpability in judicial or administrative proceedings.

3 2 Effective Date. Part I of this act shall take effect 60 days after its passage.

4
5 **PART II**

6 Relative to Exemptions from Prosecution for Victims of Human Trafficking.

7 1 New Paragraph; Trafficking in Persons; Definitions. Amend RSA 633:6 by inserting after
8 paragraph VI the following new paragraph:

9 VII. "Victim of human trafficking" means:

10 (a) An individual who, at any point in time, was the victim of a trafficking in persons
11 offense under RSA 633:7, I-III, whether or not the offense was prosecuted; or

12 (b) An individual who at any point in time was the victim of a severe form of trafficking
13 in persons offense under 22 U.S.C. section 7102(11)(A), whether or not the offense was prosecuted.

14 2 Trafficking in Persons. RSA 633:7, VI is repealed and reenacted to read as follows:

15 VI. No victim of human trafficking shall be prosecuted for any offense, where the otherwise
16 chargeable conduct was committed as a result of being trafficked. Offenses include, but are not
17 limited to:

18 (a) Conduct chargeable as indecent exposure and lewdness under RSA 645:1;

19 (b) Conduct chargeable as prostitution under RSA 645:2;

20 (c) Conduct chargeable as trafficking in persons under paragraphs I-III of this section; or

21 (d) Conduct chargeable as attempt, conspiracy, criminal solicitation, being an accessory
22 to, or aiding and abetting any of the offenses listed in this subparagraph.

23 VII. A victim of human trafficking who was under 18 years of age at the time of the offense
24 shall not be subject to juvenile delinquency proceedings under RSA 169-B for any otherwise
25 chargeable offense, including but not limited to the offenses listed under paragraph VI, where the
26 conduct was committed as a result of being trafficked.

27 VIII.(a) This paragraph shall apply to:

28 (1) An individual convicted for an offense which was committed as a result of being
29 trafficked;

30 (2) An individual who was under 18 years of age at the time of the offense, who was
31 adjudicated as delinquent for an offense which was committed as a result of being trafficked; or

32 (3) An individual who entered into a diversion agreement in lieu of further criminal
33 proceedings for an offense which was committed as a result of being trafficked.

34 (b) A victim of human trafficking who was subject to a criminal penalty may, at any
35 time, file a motion with the circuit court, district division or superior court to vacate a conviction,
36 adjudication of delinquency, or diversion agreement, and the related court records and arrest

1 records, for any offense, including but not limited to the offenses listed in paragraph VI. A copy of
2 the motion to vacate shall be provided to the agency that prosecuted the offense.

3 (c) After a hearing, the court shall grant the motion to vacate the conviction,
4 adjudication of delinquency, or diversion agreement upon a finding by a preponderance of the
5 evidence that the petitioner's participation in the offense underlying the conviction, delinquency
6 adjudication, or diversion agreement was the result of being trafficked. A finding by the court that
7 the petitioner was a victim of human trafficking at the time of the offense shall be prima facie
8 evidence that the petitioner's participation in the offense was a result of being trafficked.

9 (d) The petitioner shall not be required to provide any official documentation indicating
10 that he or she was a victim of human trafficking at the time of the offense. However, if such
11 documentation is provided, it shall be prima facie evidence that the petitioner's participation in the
12 offense was a result of being trafficked. In this subparagraph, "official documentation" means:

13 (1) A copy of an official record, certification, or eligibility letter from a federal, state,
14 tribal, or local proceeding, including an approval notice or an enforcement certification generated
15 from a federal immigration proceeding, that shows the petitioner was a victim of human trafficking;
16 or

17 (2) An affidavit or sworn testimony from a member of the clergy, a medical
18 professional, a trained professional staff member of a victim services organization, or other
19 professional from whom the petitioner has sought legal counsel or other assistance in addressing the
20 trauma and other challenges associated with being a victim of human trafficking.

21 (e) In determining whether the petitioner was a victim of human trafficking at the time
22 of the offense, the court may consider any other evidence the court finds is of sufficient credibility
23 and probative value. Such evidence may include, but is not limited to:

24 (1) The affidavit or sworn testimony of the petitioner;
25 (2) Branding or other tattoos on the body of the petitioner that identify the petitioner
26 as having or having had a trafficker;

27 (3) Photographic evidence of branding or other tattoos on the body of the petitioner
28 that identify the petitioner as having or having had a trafficker;

29 (4) Affidavits or sworn testimony from police, police interview notes, or police
30 reports;

31 (5) Affidavits or sworn testimony from any person with firsthand knowledge of the
32 petitioner's involvement in the trafficking or any person who indicates that he or she was trafficked
33 or exploited by the same individual or group of individuals who trafficked the petitioner;

34 (6) Financial records showing revenues or expenses from the trafficking;

35 (7) Internet listings, print advertisements, or business cards used to promote the
36 petitioner for services; or

1 (8) Email, text messages, or voicemail records between the petitioner, the trafficker,
2 or solicitors of sex that reveal aspects of the trafficking, such as examples of the trafficker exerting
3 control over the petitioner, evidence of behavior patterns of the trafficker or the petitioner, or
4 discussion of meeting times or payments.

5 (f) Upon request of the petitioner and in lieu of the personal appearance of the petitioner
6 in the courtroom, a hearing shall be conducted on camera, by 2-way electronic audio-video
7 communication, between the petitioner, the judge, and any others present in the courtroom for the
8 hearing. If the petitioner is represented by counsel and upon request of the petitioner, the
9 petitioner's personal appearance shall be waived and counsel for petitioner shall be permitted to
10 appear on the petitioner's behalf.

11 IX. Upon request of the petitioner, the court shall not disclose or open to public inspection
12 any information identifying the petitioner, including any records of the motion hearing which could
13 provide circumstantial details that may identify the petitioner. Information regarding the petitioner
14 that is sealed pursuant to this paragraph shall be disclosed only to the following:

15 (a) The judge of the circuit court, district division or superior court and members of the
16 staff of the court as designated by the judge;

17 (b) Parties to the proceedings and their attorneys;

18 (c) With the consent of the petitioner, any individual or public or private agency or
19 institution providing educational, medical, or mental health services to the petitioner;

20 (d) When necessary for the discharge of official duties, law enforcement officers,
21 prosecutors, or law enforcement or prosecution staff; or

22 (e) When authorized by court order, any other person, subject to any conditions imposed
23 by the order, consistent with the petitioner's safety and privacy interests.

24 X.(a) An order vacating a conviction, adjudication of delinquency, or diversion agreement
25 shall:

26 (1) Nullify the conviction, delinquency adjudication, or diversion agreement;

27 (2) Vacate the conviction, delinquency adjudication, or diversion agreement due to a
28 substantive defect in the underlying criminal proceedings;

29 (3) Remove all civil disabilities and disqualifications imposed as a result of the
30 conviction, delinquency adjudication, or diversion agreement; and

31 (4) Place the petitioner in the position of never having been investigated, arrested,
32 convicted, deemed delinquent, or diverted for the offense.

33 (b) Upon a finding that the petitioner's participation in the offense underlying the
34 conviction, delinquency adjudication, or diversion agreement was a result of being trafficked and an
35 entry of an order vacating the conviction, delinquency adjudication, or diversion agreement, the
36 court shall:

SB 122-FN - AS INTRODUCED
- Page 5 -

1 (1) Order the conviction, delinquency adjudication, or diversion agreement and any
2 related court records and arrest records expunged and purged from all applicable state and federal
3 systems. The court shall enter this order regardless of whether the petitioner had any criminal
4 record prior or subsequent to the conviction, delinquency adjudication, or diversion agreement being
5 vacated.

6 (2) Order the division of state police to purge the conviction, delinquency
7 adjudication, or diversion agreement, and any related court records or arrest records from the
8 criminal history record information repository and all applicable state and federal databases. The
9 clerk of the court shall send a certified copy of the order to the division of state police, which shall
10 carry out the order and shall notify the following of the court's order: the Federal Bureau of
11 Investigation, the New Hampshire department of corrections, and any other criminal justice agency
12 that may have a record of the conviction, adjudication of delinquency, or diversion agreement and
13 related court records or arrest records.

14 (c) Upon a finding that the petitioner's participation in the offense underlying the
15 conviction, delinquency adjudication, or diversion agreement was a direct result of being trafficked
16 and an entry of an order vacating the conviction, delinquency adjudication, or diversion agreement,
17 the court may, in its discretion, grant other relief to the petitioning victim in the interests of justice.

18 (d) Vacating a conviction, delinquency adjudication, or diversion agreement shall not
19 affect any right of the person whose offense was vacated to appeal the conviction or sentence.

20 3 Effective Date. Part II of this act shall take effect upon its passage.

21
22 **PART III**

23 Relative to Bail Commissioners Fees.

24 1 Bail Commissioners; Fees. Amend RSA 597:20 to read as follows:

25 597:20 Fees. The bail commissioners in such cases shall be entitled to a fee of [~~\$40~~] **\$65**.
26 However, clerks of court or members of their staffs who are bail commissioners shall be entitled to
27 collect such fee only when called while not on active duty. In jurisdictions where the bail
28 commissioner is a full-time salaried police officer, constable, sheriff, deputy sheriff, state police
29 employee, or anyone else authorized to execute police powers, such person shall not receive the fee
30 established in this section, but instead such amount shall be remitted to the town or city in which
31 the district court is situated. If the defendant is indigent, the fee shall be waived.

32 2 Effective Date. Part III of this act shall take effect 60 days after its passage.

33
34 **PART IV**

35 Relative to Guardianship by Grandparents.

36 1 New Paragraph; Guardianship of Minors; Definition of Grandparent Added. Amend RSA
37 463:2 by inserting after paragraph III the following new paragraph:

SB 122-FN - AS INTRODUCED
- Page 6 -

1 III-a. "Grandparent" includes a great-grandparent or great-great grandparent.
2 2 Effective Date. Part IV of this act shall take effect 60 days after its passage.

PART V

Relative to Immunity from Arrest or Prosecution for
Prostitution for Seeking Medical Assistance for Reporting Certain Crimes.

1 1 New Paragraphs; Prostitution and Related Offenses; Immunity From Prosecution. Amend
2 RSA 645:2 by inserting after paragraph VI the following new paragraphs:

3 VII. As used in this section, "reports being the victim of a sexual assault" or other crime
4 means reporting the initial crime to law enforcement and assisting law enforcement to identify the
5 alleged perpetrator. It does not include further cooperation in prosecution.

6 VIII. It shall be a defense to a violation of this section that a person reports being the victim
7 of a sexual assault as defined in RSA 632-A:2, 632-A:3, or 632-A:4, incest under RSA 639:2, or
8 assault under RSA 631:1 through RSA 631:2-b. A person who reports being the victim of such an
9 offense shall not be arrested, prosecuted, or convicted for a violation of this section if the evidence for
10 the charge was gained as a proximate result of the person's reporting. Any victim seeking medical
11 treatment following a sexual assault shall be afforded all options of care outlined in the New
12 Hampshire attorney general's sexual assault medical forensic exam protocol without making a
13 report to or cooperating with law enforcement.

14 IX. Nothing in this section shall be construed to limit the admissibility of evidence in
15 connection with the investigation or prosecution of a crime involving a person who is not protected as
16 provided in paragraph VIII. Nothing in this section shall be construed to limit the lawful seizure of
17 any evidence or contraband. Nothing in this section shall be construed to limit or abridge the
18 authority of a law enforcement officer to detain or place into custody a person as part of a criminal
19 investigation who is not protected by the provisions of paragraph VIII.

20 2 Effective Date. Part V of this act shall take effect January 1, 2022.

PART VI

Increasing the Penalty for Harming a Service Animal and
Making Changes to the Membership of the Council on Autism Spectrum Disorders.

1 1 Penalty; Harming a Service Dog. Amend RSA 167-D:10, II to read as follows:

2 II. It is a ~~[misdemeanor]~~ **class B felony** if a person willfully causes physical injury to a
3 service animal or willfully allows his or her animal to cause physical injury to a service animal. If
4 the physical injury to a service animal is severe enough that a veterinarian or service animal trainer
5 determines that the service animal is incapable of returning to service, that person shall be guilty of
6 a ~~[class A misdemeanor]~~ **class A felony**.

SB 122-FN - AS INTRODUCED
- Page 7 -

1 2 Council on Autism Spectrum Disorders; Membership. RSA 171-A:32, I is repealed and
2 reenacted to read as follows:

3 I. There is established a council on autism spectrum disorders to provide leadership in
4 promoting comprehensive and quality education, health care, and services for individuals with
5 autism spectrum disorders and their families. The members of the council shall be as follows:

6 (a) The governor, or designee.

7 (b) The commissioner of the department of education, or designee.

8 (c) The commissioner of the department of health and human services, or designee.

9 (d) The director of the division of public health services, department of health and
10 human services, or designee.

11 (e) The bureau chief of the bureau of developmental services, department of health and
12 human services, or designee.

13 (f) The bureau chief of the bureau of behavioral health, department of health and human
14 services, or designee.

15 (g) The director of the Institute on Disability, University of New Hampshire, or
16 designee.

17 (h) A special education director, appointed by the New Hampshire Association of Special
18 Education Administrators, Inc.

19 (i) The president of the New Hampshire Medical Society, or designee.

20 (j) A representative of the New Hampshire Developmental Disabilities Council,
21 appointed by the council.

22 (k) An individual who has an autism spectrum disorder, appointed by the governor.

23 (l) A family member of a person who has an autism spectrum disorder, appointed by the
24 governor.

25 (m) A representative of the Community Support Network, Inc., appointed by such
26 organization.

27 (n) A representative of the New Hampshire Psychological Association, appointed by the
28 association.

29 (o) The director of the office of Medicaid business and policy, department of health and
30 human services, or designee.

31 (p) Five additional members, appointed by the council.

32 (q) A person who has an autism spectrum disorder, appointed by the council.

33 (r) A representative of the New Hampshire Nurses' Association, appointed by the
34 association.

35 (s) A licensed speech-language pathologist, appointed by the New Hampshire Speech-
36 Language-Hearing Association, Inc.

37 3 Effective Date.

SB 122-FN - AS INTRODUCED

- Page 8 -

- 1 I. Section 1 of Part VI of this act shall take effect January 1, 2022.
- 2 II. The remainder of Part VI this act shall take effect upon its passage.

**SB 122-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT adopting omnibus legislation relative to certain crimes and judicial processes and procedures.

PART I Relative to the Impaired Driver Education Program.

No fiscal impact.

PART II Relative to Exemptions from Prosecution for Victims of Human Trafficking.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	Indeterminable	Indeterminable	Indeterminable
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill exempts victims of human trafficking from prosecution for certain criminal offenses and establishes procedures for vacating a conviction, adjudication of delinquency, or diversion agreement resulting from human trafficking. The Judicial Branch does not identify in its system whether the defendants charged under these sections are victims of human trafficking. As a result, the Branch is unable to determine how many fewer charges would be filed or what fiscal impact, if any, would occur if victims of human trafficking are exempt from prosecution. The Branch assumes that, some previous convictions under RSA 645:1, 645:2 or 633:7 would now be subject to an exemption from prosecution, and anyone in that situation would file a motion to vacate as authorized by the bill. Each such motion would take judicial and staff resources to process and rule upon. Because the Branch is unable to determine how many cases fall within this category, the impact on expenditures is indeterminable.

The Department of Safety, Division of State Police's Criminal Records Unit indicates the proposed legislation will have no fiscal impact to the Department.

The Judicial Council indicates it is unclear how many future prosecution charges would not be brought as a result of this legislation. It is assumed that there would not be a significant decrease in the number of charged crimes. Therefore, the Council does not expect any reduction due to this legislation would have a meaningful impact on indigent defense expenditures.

It is assumed any fiscal impact will occur after July 1, 2021.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council and Department of Safety

PART III Relative to Bail Commissioners Fees.

No fiscal impact.

PART IV Relative to Guardianship by Grandparents.

No fiscal impact.

PART V Relative to Immunity from Arrest or Prosecution for Prostitution for Seeking Medical Assistance for Reporting Certain Crimes.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

METHODOLOGY:

This bill provides immunity from prosecution for prostitution for a person reporting to law enforcement that such person or another person is the victim of a sexual assault, incest, or assault. This bill impacts penalties that 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 2021	FY 2022
Violation Level Offense	\$53	\$53
Class B Misdemeanor	\$55	\$55
Class A Misdemeanor	\$78	\$78

Simple Criminal Case	\$309	\$309
Routine Criminal Felony Case	\$494	\$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

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 would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly less cases or handle less appeals, then costs may decrease by an indeterminable amount.

AGENCIES CONTACTED:

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

PART VI Increasing the Penalty for Harming a Service Animal and Making Changes to the Membership of the Council on Autism Spectrum Disorders.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	<input type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other			

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable

METHODOLOGY:

This bill changes 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 2021	FY 2022
Class B Misdemeanor	\$53	\$53
Class A Misdemeanor	\$55	\$55
Simple Criminal Case	\$309	\$309
Routine Criminal Felony Case	\$494	\$494
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney - Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel- Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

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 would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

The change in the membership of the Council on Autism Spectrum Disorders will have no impact on State, county or local revenues and expenditures.

AGENCIES CONTACTED:

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