

Bill as Introduced

HB 453-FN-LOCAL - AS INTRODUCED

2011 SESSION

11-0231
05/01

HOUSE BILL

453-FN-LOCAL

AN ACT making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

SPONSORS: Rep. Cebrowski, Hills 18; Rep. Kotowski, Merr 9; Rep. Seidel, Hills 20; Rep. Case, Rock 1; Rep. Merrick, Coos 2

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill makes persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive cash assistance benefits under the aid to the needy blind, aid to the permanently and totally disabled, and old age assistance programs.

The bill is a request of the department of health and human services.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

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

1 1 New Paragraph; Public Assistance Eligibility. Amend RSA 167:6 by inserting after paragraph
2 IX the following new paragraph:

3 X.(a) For purposes hereof, an individual is ineligible for cash assistance benefits under the
4 aid to the needy blind, aid to the permanently and totally disabled, and old age assistance programs
5 for any month during which he or she is:

6 (1) Fleeing to avoid prosecution for a crime which is a felony under the laws of the
7 place from which the individual flees, or which, in the case of the state of New Jersey, is a high
8 misdemeanor under the laws of that state; or

9 (2) Fleeing to avoid custody or confinement after conviction for a crime, or an
10 attempt to commit a crime, which is a felony under the laws of the place from which the individual
11 flees, or which, in the case of the state of New Jersey, is a high misdemeanor under the laws of that
12 state; or

13 (3) Violating any condition of probation or parole imposed under federal or state law.

14 (b) Suspension of benefit payments because an individual is a fugitive as described in
15 subparagraph (a)(1) or (a)(2) or a probation or parole violator as described in subparagraph (a)(3) is
16 effective on the first day of whichever of the following months is earlier:

17 (1) The month in which a warrant or order for the individual's arrest or
18 apprehension, an order requiring the individual's appearance before a court or other appropriate
19 tribunal, such as a parole board, or a similar order is issued by a court or other duly authorized
20 tribunal on the basis of an appropriate finding that the individual:

21 (A) Is fleeing, or has fled, to avoid prosecution as described in subparagraph
22 (a)(1);

23 (B) Is fleeing, or has fled, to avoid custody or confinement after conviction as
24 described in subparagraph (a)(2);

25 (C) Is violating, or has violated, a condition of his or her probation or parole as
26 described in subparagraph (a)(3); or

27 (D) The first month during which the individual fled to avoid such prosecution,
28 fled to avoid such custody or confinement after conviction, or violated a condition of his or her
29 probation or parole, if indicated in such warrant or order, or in a decision by a court or other
30 appropriate tribunal.

1 (2) If benefits are otherwise payable, they shall be resumed effective on the first
2 month throughout which the individual is determined to be no longer fleeing to avoid such
3 prosecution, fleeing to avoid such custody or confinement after conviction, or violating a condition of
4 his or her probation or parole.

5 2 Effective Date. This act shall take effect January 1, 2012.

HB 453-FN-LOCAL - AS INTRODUCED
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LBAO
11-0231
01/19/11

HB 453-FN-LOCAL - FISCAL NOTE

AN ACT making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

FISCAL IMPACT:

The Office of Legislative Budget Assistant is unable to complete a fiscal note for this bill as it is awaiting information from the Department of Health and Human Services. When completed, the fiscal note will be forwarded to the House Clerk's Office.

Speakers

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 453-FN-LOCAL

BILL TITLE: making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

DATE: February 17, 2011

LOB ROOM: 204 **Time Public Hearing Called to Order:** 11:33 a.m.

Time Adjourned: 12:18 p.m.

(please circle if present)

Committee Members: Reps. Swinford, Sagne, Welch, Fields, Fesh, Charron, Villeneuve, Antosz, Greazzo, Kreis, Parsons, Tasker, Warden, Pantelakos, Berube, Shurtleff and Ginsburg.

Bill Sponsors: Rep. Cebrowski, Hills 18; Rep. Kotowski, Merr 9; Rep. Seidel, Hills 20; Rep. Case, Rock 1; Rep. Merrick, Coos 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

Frank Case for one of the sponsors - Introduced the bill.

*Jennifer Jones - Dept of Health and Human Resources. Testimony provided.

Sarah Mattson - N. H. Legal Assistance. - Opposes. Encourages ITL of this bill. Not needed. Warrants for minor issues. Gave an example possible down shifting to towns if this bill passes. No written testimony.


Michael Skibbie - Disabilities Rights Center - Opposes bill. Gave main examples - The 85,000 figure is not a big issue in comparison to the whole, recommends ITL.

Peter Bearse - Opposes the bill. Represents Citizens for Criminal Justice Reform. Referenced SB 500 recommends to iron out the inconsistencies.

* Katherine Cooper - Criminal Defense Attornies - Written testimony. Agrees with bill in part. Has a couple of amendments.

William Kostric - Citizen - Opposes bill.

Respectfully Submitted:



Rep. Gene P. Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 453-FN-LOCAL

BILL TITLE: making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

DATE:

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LOB ROOM:

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Bill Sponsors: Rep. Cebrowski, Hills 18; Rep. Kotowski, Merr 9; Rep. Seidel, Hills 20; Rep. Case, Rock 1; Rep. Merrick, Coos 2

TESTIMONY

* Use asterisk if written testimony and/or amendments are submitted.

HB-453 F.N.-L

Make Parallels irrelevant for Aid.

- ① 11:33 FRANK CASE FOR ONE OF 8 SPONSORS - INTRODUCED
- ② 11:40 JENNIFER JONES - Dept of ~~Human Resources~~ Health and Human Resources. Testimony provided -
- ③ 11:45 Sarah Mattson N.M. legal assistance opposes encourages ITL of this ~~bill~~ bill. not needed warrants for minor issues. gave an example possible down shifting to towns if this bill passes. no written testimony
- ④ 11:50 Michael Shabbie Disabilities Rights center opposes. bill gave more examples - \$1085,000. figure is not a big issue in comparison to the whole recommends ITL,
- ⑤ 11:15 Peter Blease - opposes the bill represents Citizens for Crime and Justice Reform. referenced SB-500 recommends to iron out the inconsistencies -

~~XXXXXXXXXX~~

HB 453

⑥

12:10

Katherine Cooper Criminal Defense
Attornis: Written Testimony Agrees with
Bill in part. Has a couple of amendments

⑦ 12:15

WILLIAM KOSTRIC - CITIZEN, opposes bill -

CLOSED - 12:18

Testimony

HB 453

AN ACT making persons fleeing to avoid
prosecution or custody or violating parole or probation
ineligible to receive certain disability aid

Testimony of Jennifer R. Jones, Esq
General Counsel and Legislative Liaison
NH DHHS, Division of Family Assistance

Aid to the Permanently and Totally Disabled (APTD) is a State Supplemental Program, which provides medical assistance (Medicaid) and cash assistance to individuals who have a disability which prevents them from working for a period of at least 48 months. This program is similar to the Federal Supplemental Security Income (SSI) program, except that SSI only requires a disability of 12 months to qualify for benefits.

This program currently provides cash assistance and medical assistance for approximately 8,749 (as of December 2010) individuals and provides medical assistance to an additional 5,748 individuals, which is a 5.6% increase over the previous year. The medical assistance provided for all recipients is divided between the state and federal governments, while the cash assistance is paid for with solely general funds.

By rule, the Department requires that individual who is a recipient of an any State Supplemental Program maximize their income by applying for any federal benefits for which they may be available: Social Security Disability, Supplemental Security Income, Veteran's benefits, etc. Further, the individual is required to undertake any and all appeals should there be an adverse finding from any of these programs.

The Federal government has a law that states that applicants are ineligible for benefits if they are a fleeing felon or probation/parole violator and the federal government undertakes a check through the National Crime Index Computer (NCIC) system to determine if the applicant meets these disqualifying criteria.

The Department receives notifications from the Social Security Administration of all decisions made for these recipients and the Department tracks these decisions to ensure that the recipient has timely filed their required appeals.

Through this cross match and tracking system, the Department has become aware of a small, but significant, number of recipients of APTD who have been disqualified from Social Security benefits due to their status as a fleeing felon or probation/parole violator. At this time, the Department has no authority to also disqualify these recipients from receiving APTD.

Specifically, due to the cross match and tracking system, the Department is aware of nine current recipients of APTD who are disqualified from federal benefits due to their status as a fleeing felon or probation/parole violator.

While this represents approximately 1/10th of 1% of the APTD caseload, there are public policy reasons for disqualifying these individuals from public welfare benefits and the Department seeks the authority to terminate benefits for these individuals and any other similar individuals in the future through this legislation. The Department estimates that there will be a modest budget savings of approximately \$81,000. per year.

The language proposed on this legislation is identical to the federal law on this matter.

Finally, the Department notes that, due to federal restrictions on confidentiality, neither the Department nor the Social Security Administration may disclose any information about any applicant or recipient to law enforcement agencies. This law does not affect that Federal prohibition.

**WRITTEN TESTIMONY OF
Katherine Cooper**

on behalf of
THE NEW HAMPSHIRE ASSOCIATION OF CRIMINAL DEFENSE LAWYERS

before
**THE NEW HAMPSHIRE HOUSE OF REPRESENTATIVES,
CRIMINAL JUSTICE AND PUBLIC SAFETY COMMITTEE**

**HB 453
February 17, 2011**

I. INTRODUCTION

The New Hampshire Association of Criminal Defense Lawyers (NHACDL) consists of approximately 300 Granite State lawyers whose practices include a significant amount of criminal defense work. Our membership includes private practitioners, and state and federal public defenders. NHACDL is the local affiliate of the National Association of Criminal Defense Lawyers and shares its mission to ensure due process and fairness in the administration of the criminal justice system. NHACDL provides its membership with significant continuing legal education opportunities in the field of criminal defense. Additionally, NHACDL facilitates communication amongst the members of our organization on the issues which confront criminal defense practitioners on a daily basis. NHACDL will also, from time to time, take public positions with respect to important cases before the courts, or proposed legislation that affects fairness, individual rights and due process in the administration of the criminal justice system.

NHACDL would like to propose a few amendments to HB 453 in order to make the state statute more clear to criminal practitioners. The bill uses

addresses offenders "fleeing." Use of the word "abscond" would offer more clarity and is the proper term of art for the criminal realm and, it is believed, truly what the statute intends to cover. The term "abscond" is found in other areas in the criminal statutes and case law and refers to a person who has left the area in an effort to avoid prosecution or imprisonment.

Second, the lead off sentence of X.(a) states: "... for any month during which he or she is:" There needs to be a finder of fact for these accusations before a person's benefits can legally be taken away. If the term "abscond" is used, the Department of Health and Human Services could use the criminal court's findings that a person has absconded. Therefore, this portion of the statute should be clarified to state "... for any month during which a court find that he or she is:"

Third, the termination of benefits for ANY probation or parole violation is neither fair nor fiscally smart. Most violations of probation and parole are of a technical or minor nature. If a person is late for curfew, misses an appointment or has one positive test for alcohol, they should not lose their benefits. On the contrary, these offenders should continue to live in the community, and the recipients of these benefits are clearly people who have no other resources to support themselves. It is suggested that line X(a)3 and line X(b)1(C) be removed, or the language amended to state "absconding from probation or parole" rather than merely violating probation or parole.

Current corrections philosophy involves keeping people in the community where they have better outcomes and which leads to lower recidivism rates.

These funding streams are crucial for maintaining an existence for those who qualify for them. Therefore, NHACDL requests these minor changes to make the statute better and to keep societal costs lower overall.

Contact Information

Katherine Cooper, Esq., Executive Director
New Hampshire Association of Criminal Defense Lawyers
764 Chestnut Street
Manchester, N.H. 03104
(603) 624-7777-o (603)674-4885 -c
Katherine@nhacd.org
www.nhacd.org

The New Hampshire Association of Criminal Defense Lawyers (NHACDL) is a voluntary bar association consisting of more than three hundred New Hampshire lawyers who devote a significant part of their practice to representing the criminally accused. NHACDL members include state and federal public defenders and private practitioners. NHACDL is an affiliate of the National Association of Criminal Defense Lawyers and shares its mission to ensure justice and due process and promote the proper and fair administration of criminal justice.

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 453-FN-LOCAL

BILL TITLE: making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

DATE: February 22, 2011

LOB ROOM: 204

Amendments:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Sponsor: Rep. OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Mark Warden

Seconded by Rep. Philip E. Ginsburg

Vote: 14-3 (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.


Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE: 14-3

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Respectfully submitted,


Rep. Gene Charron, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 453-FN-LOCAL

BILL TITLE: making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

DATE: 2-22-11

LOB ROOM: 204

Amendments:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Sponsor: Rep.

OLS Document #:

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep. Warden

Seconded by Rep. Gimberg

Vote: (Please attach record of roll call vote.)

Motions: OTP, OTP/A, ITL, Interim Study (Please circle one.)

Moved by Rep.

Seconded by Rep.

Vote: (Please attach record of roll call vote.)

CONSENT CALENDAR VOTE:

(Vote to place on Consent Calendar must be unanimous.)

Statement of Intent: Refer to Committee Report

Consent

Respectfully submitted,

Rep. Gene Chapron, Clerk

Gene F. Chapron

CRIMINAL JUSTICE AND PUBLIC SAFETY

Bill #: 453 ^{FN. 4} Title: INELEGIBLE TO RECEIVE DISABILITY AID

PH Date: 02/17/11

Exec Session Date: 2/22/2011

Motion: ITL

Amendment #: —

MEMBER	YEAS	NAYS
Swinford, Elaine B, Chairman	✓	
Gagne, Larry G, V Chairman	✓	
Welch, David A	✓	
Fields, Dennis H	✓	
Fesh, Robert M	✓	
Charron, Gene P	✓	
Villeneuve, Moe	✓	
Antosz, Jason P	✓	
Greazzo, Phil J		✓
Kreis, Kenneth	✓	
Parsons, Robbie L		✓
Tasker, Kyle J	✓	
Warden, Mark	✓	
Pantelakos, Laura C	✓	
Berube, Roger R	✓	
Shurtleff, Stephen J		✓
Ginsburg, Philip E	✓	
	14	3
TOTAL VOTE:		

Committee Report

CONSENT CALENDAR

March 15, 2011

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on CRIMINAL JUSTICE AND PUBLIC SAFETY to which was referred HB453-FN-L,

AN ACT making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid. Having considered the same, report the same with the following Resolution:
RESOLVED, That it is **INEXPEDIENT TO LEGISLATE**.

Rep. Mark Warden

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	CRIMINAL JUSTICE AND PUBLIC SAFETY
Bill Number:	HB453-FN-L
Title:	making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.
Date:	February 22, 2011
Consent Calendar:	YES
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

The committee felt this bill would add bureaucratic requirements to an already-overburdened department. Supporters didn't demonstrate a real need for the legislation. According to a representative from DHHS, the number of cases that would fall into this new regulation would be approximately 1/10 of 1% of total cases, making it insignificant and unnecessary. By including in regulation what is illegal in other states and at the federal level, constantly changing criteria would make enforcement difficult.

Vote 14-3.

Rep. Mark Warden
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

CRIMINAL JUSTICE AND PUBLIC SAFETY

HB453-FN-L, making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid. **INEXPEDIENT TO LEGISLATE.**

Rep. Mark Warden for CRIMINAL JUSTICE AND PUBLIC SAFETY. The committee felt this bill would add bureaucratic requirements to an already-overburdened department. Supporters didn't demonstrate a real need for the legislation. According to a representative from DHHS, the number of cases that would fall into this new regulation would be approximately 1/10 of 1% of total cases, making it insignificant and unnecessary. By including in regulation what is illegal in other states and at the federal level, constantly changing criteria would make enforcement difficult. **Vote 14-3.**

Original: House Clerk
Cc: Committee Bill File

Johnston, Judith

From: Warden, Mark
Sent: Sunday, March 06, 2011 5:28 PM
To: Johnston, Judith
Cc: Swinford, Elaine
Subject: blurb for HB 453

Elaine, please proofread this majority report and let me know if it is acceptable or if you'd like to see changes.

Judy, you can cut and paste this to your forms as we discussed previously.

Thank you.

Mark

COMMITTEE: Criminal Justice and Public Safety - Committee motion ITL

HB 453-FN-LOCAL ANALYSIS

This bill makes persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive cash assistance benefits under the aid to the needy blind, aid to the permanently and totally disabled, and old age assistance programs.

Majority Report for HB 453

The committee felt this bill would add bureaucratic requirements to an already-overburdened department. Supporters didn't demonstrate a real need for the legislation. According to a representative from DHHS, the number of cases that would fall into this new regulation would be approximately 1/10 of 1% of total cases, making it insignificant and unnecessary. By including in regulation what is illegal in other states and at the federal level, constantly changing criteria would make enforcement difficult.

Rep. Mark Warden

Rep. Elaine Swinford

COMMITTEE REPORT

COMMITTEE: Criminal Justice and Public Safety

BILL NUMBER: HB 453-FN-local

TITLE: making persons fleeing to avoid prosecution or custody or violating parole or probation ineligible to receive certain disability aid.

DATE: Feb 22, 2011 CONSENT CALENDAR: YES NO

- OUGHT TO PASS
- OUGHT TO PASS W/ AMENDMENT
- INEXPEDIENT TO LEGISLATE
- INTERIM STUDY (Available only 2nd year of biennium)

Amendment No. _____

STATEMENT OF INTENT:

See attached blue

COMMITTEE VOTE: 14-3

RESPECTFULLY SUBMITTED,

- Copy to Committee Bill File
- Use Another Report for Minority Report

Rep. Mark Warden
For the Committee