
Committee Report

CONSENT CALENDAR

February 7, 2019

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

**The Committee on Criminal Justice and Public Safety to
which was referred HB 518-FN,**

**AN ACT repealing certain statutes concerning
reimbursement of cost of care by inmates. Having
considered the same, report the same with the
recommendation that the bill OUGHT TO PASS.**

Rep. David Welch

FOR THE COMMITTEE

COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 518-FN
Title:	repealing certain statutes concerning reimbursement of cost of care by inmates.
Date:	February 7, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS

STATEMENT OF INTENT

Under current law, the Department of Corrections can sue a current or former inmate to recover the cost of that person's incarceration, currently estimated to be in excess of \$36,000 per year. These costs are not imposed by a jury or contemplated by the criminal justice system. The vast majority of state prisoners will be released into society, and it is in everybody's interest to enable these people to reintegrate into society and become productive citizens. Allowing the government to target select individuals with additional fines of tens of thousands of dollars - or even hundred of thousands of dollars- is not fair and could saddle such individuals with debt they are unable to pay off. This bill would repeal the statutory provisions that allow the government to go after people for the cost of their incarceration. Put simply, this is an unfair law. Moreover, these provisions are rarely and inconsistently used.

Vote 20-0.

Rep. David Welch
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Criminal Justice and Public Safety

HB 518-FN, repealing certain statutes concerning reimbursement of cost of care by inmates.
OUGHT TO PASS.

Rep. David Welch for Criminal Justice and Public Safety. Under current law, the Department of Corrections can sue a current or former inmate to recover the cost of that person's incarceration, currently estimated to be in excess of \$36,000 per year. These costs are not imposed by a jury or contemplated by the criminal justice system. The vast majority of state prisoners will be released into society, and it is in everybody's interest to enable these people to reintegrate into society and become productive citizens. Allowing the government to target select individuals with additional fines of tens of thousands of dollars - or even hundred of thousands of dollars- is not fair and could saddle such individuals with debt they are unable to pay off. This bill would repeal the statutory provisions that allow the government to go after people for the cost of their incarceration. Put simply, this is an unfair law. Moreover, these provisions are rarely and inconsistently used. **Vote 20-0.**

Original: House Clerk

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COMMITTEE REPORT

Committee:	Criminal Justice and Public Safety
Bill Number:	HB 518-FN
Title:	repealing certain statutes concerning reimbursement of cost of care by inmates.
Date:	February 7, 2019
Consent Calendar:	CONSENT
Recommendation:	OUGHT TO PASS <<Amendment #>>

STATEMENT OF INTENT

Under current law, the Department of Corrections can sue a current or former inmate to recover the cost of that person's incarceration, currently estimated to be in excess of \$36,000 per year. These costs are not imposed by a jury or contemplated by the criminal justice system. The vast majority of state prisoners will be released into society, and it is in everybody's interest to enable these people to reintegrate into society and become productive citizens. Allowing the government to target select individuals with additional fines of tens of thousands of dollars - or even hundred of thousands of dollars- is not fair and could saddle such individuals with debt they are unable to pay off. This bill would repeal the statutory provisions that allow the government to go after people for the cost of their incarceration. Put simply, this is an unfair law. Moreover, these provisions are rarely and inconsistently used.

Vote 20-0.

Rep. David Welch
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

COMMITTEE REPORT

COMMITTEE:

Criminal Justice + Public Safety

BILL NUMBER:

HB518-FN

TITLE:

DATE:

2/7/19

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

COMMITTEE VOTE:

20-0

RESPECTFULLY SUBMITTED,

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

Rep. _____

David Welch

For the Committee

"Under current law, the Department of Corrections can sue a current or former inmate to recover the cost of that person's incarceration, currently estimated to be in excess of \$36,000 per year. These costs are not imposed by a jury or contemplated by the criminal justice system. The vast majority of state prisoners will be released into society, and it is in everybody's interest to enable these people to reintegrate into society and become productive citizens. Allowing the government to target select individuals with additional fines of tens of thousands of dollars – or even hundred of thousands of dollars – is not fair and could saddle such individuals with debt they are unable to pay off.

This bill would repeal the statutory provisions that allow the government to go after people for the cost of their incarceration. Put simply, this is an unfair law. Moreover, these provisions are rarely and inconsistently used, ~~as the~~ ~~ACB will discuss in their testimony.~~ Repealing these laws will not impact the state's budget."

HB 518-PM

Voting Sheets

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 518-FN

BILL TITLE: repealing certain statutes concerning reimbursement of cost of care by inmates.

DATE: February 7, 2019

LOB ROOM: 204

MOTIONS: OUGHT TO PASS

Moved by Rep. Welch

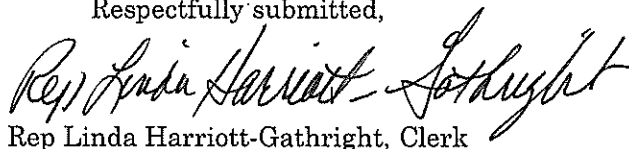
Seconded by Rep. McNally

Vote: 20-0

CONSENT CALENDAR: YES

Statement of Intent: Refer to Committee Report

Respectfully submitted,



Rep Linda Harriott-Gathright, Clerk

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

EXECUTIVE SESSION on HB 518-FN

BILL TITLE: repealing certain statutes concerning reimbursement of cost of care by inmates.

DATE:

LOB ROOM: 204

MOTION: (Please check one box)

OTP ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)
Moved by Rep. Welch Seconded by Rep. Medally Vote: 20/0

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)
Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)
Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

MOTION: (Please check one box)

OTP OTP/A ITL Retain (1st year) Adoption of Amendment # _____
 Interim Study (2nd year) (if offered)
Moved by Rep. _____ Seconded by Rep. _____ Vote: _____

CONSENT CALENDAR: YES NO

Minority Report? _____ Yes _____ No If yes, author, Rep: _____ Motion _____

Respectfully submitted: Rep. Linda Harriott-Gathright
Rep Linda Harriott-Gathright, Clerk



2019 SESSION

Criminal Justice and Public Safety

Bill #: HB 518 - FN Motion: HB 518 - FN ^{OTP} AM #: _____ Exec Session Date: 2/7/19

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Cushing, Robert Renny Chairman	✓		
Rodd, Beth Vice Chairman	✓		
Pantelakos, Laura C.	✓		
O'Hearne, Andrew S.	✓		
Harriott-Gathright, Linda C. Clerk	✓		
Opderbecke, Linn	✓		
Bordenet, John	✓		
Meuse, David	✓		
Murphy, Nancy A.	✓		
Newman, Ray E.	✓		
Radhakrishnan, Julie	✓		
Swinburne, Sandy L.	✓		
Welch, David A.	✓		
Fields, Dennis H.	✓		
Burt, John A.	✓		
Green, Dennis E.	✓		
McNally, Jody L.	✓		
Testerman, Dave	✓		
Wallace, Scott	✓		
Abbas, Daryl A.	✓		
TOTAL VOTE:	20	0	

Hearing Minutes

HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 518-FN

BILL TITLE: repealing certain statutes concerning reimbursement of cost of care by inmates.

DATE: January 24, 2019

LOB ROOM: 204 **Time Public Hearing Called to Order:** 1:00 p.m.

Time Adjourned: 1:25 p.m.

Committee Members: Reps. Cushing, Rodd, Harriott-Gathright, Pantelakos, O'Hearne, Opderbecke, Bordenet, Meuse, Murphy, R. Newman, Radhakrishman, Swinburne, Welch, Fields, Burt, Green, McNally, Testerman, Wallace and Abbas

Bill Sponsors:

Rep. Welch

Rep. Keans

TESTIMONY

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

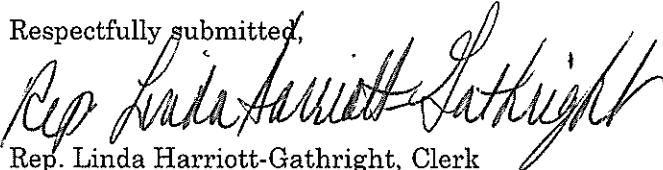
Rep. Welch, Sponsor - Sponsor for NH Civil Liberty Law.- Doc can sue for the incarceration 2 yrs or more. Current chair of the Parole Board supports.

*Henry Klementowitz & Eric Cable - CCLU - supports- additional penalties with a peripheral eye, support policy and procedural changes.

Chris Dornan, CCJA - supports

Robin Maddaus, Director of Admin. POC. complete forms and then send to DOJ.

Respectfully submitted,


Rep. Linda Harriott-Gathright, Clerk

HB 518-N

⑤

Rep Welch Rock 13
Sponsor for NH Civil Liberty Law

Doc can sue for the incarceration
2yrs or more

Current Chair of the Parole Board

①

Henry Klementowitz & Eric Cable ACLU-NH

Support

Additional penalties

Perpetual eye -

Policy and procedure

11 people in 10 years

Chris Donin

~~Oppose~~
Support

Robin Maddaus Direct of Adm DOC

Complete forms then → send to DOJ

After denied review and send to DOJ

2,500
State
Prison

3 PRO



AMERICAN CIVIL LIBERTIES UNION
FOUNDATION

New Hampshire



Statement by Henry Klementowicz, Staff Attorney, ACLU-NH
House Criminal Justice and Public Safety Committee
House Bill 518
January 24, 2019

I submit this testimony on behalf of the American Civil Liberties Union of New Hampshire (“ACLU-NH”)—a non-partisan, non-profit organization working to protect civil liberties throughout the state for over 50 years. House Bill 518 (HB 518) would remove the ability of the Department of Corrections to sue inmates and former inmates for the cost of their incarceration. We respectfully urge the Committee to vote HB 518 *Ought to Pass*.

Under current law, the Department of Corrections can sue a current or former inmate to recover the cost of that person’s incarceration, currently estimated to be in excess of \$36,000 per year. These costs are not imposed by a jury or contemplated by the criminal justice system. Instead, the statutes, RSA 622:53- :58, allow the government to sue an inmate who *has already been sentenced to a term of incarceration*, and impose additional penalties beyond prison, fines, forfeiture and restitution.

The vast majority of state prisoners will be released into society, and it is in everybody’s interest to enable these people to reintegrate into society and become productive citizens. Adding a bill of tens of thousands of dollars makes it that much harder for that to occur. Former inmates already face felony convictions and gaps in their work histories that make finding employment difficult.

ACLU-NH represents Eric Cable in *Cable v. State of New Hampshire*, 217-2018-CV-00133 in Merrimack County Superior Court, and has challenged the statutes’ application to him as an unconstitutional violation of his Right to Remedy enshrined by Part I, Article 14 of the New Hampshire Constitution. That challenge remains pending. Laws that are bad policy and can be used unconstitutionally should not remain on the books.

These statutes used infrequently. The fiscal note states that only two inmates pay cost-of-care. ACLU-NH is aware of only twelve times in the past ten years that the government has sought to recover this money. In addition to not being a large source of revenue, the fact that these cases are so rarely brought means that enforcement can be arbitrary and potentially retaliatory.

Sincerely,

Henry Klementowicz
Staff Attorney, ACLU-NH

Fiscal Note

**HB 518-FN- FISCAL NOTE
 AS INTRODUCED**

AN ACT repealing certain statutes concerning reimbursement of cost of care by inmates.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	Potential Decrease of \$102,000	Potential Decrease of \$102,000	Potential Decrease of \$102,000	Potential Decrease of \$102,000
Expenditures	\$0	\$0	\$0	\$0
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill repeals the statute relating to reimbursement of the cost of care by inmates. The Department of Corrections indicates this bill would reduce general fund unrestricted revenue by an estimated \$81,230 in FY 2020 and each year thereafter. The Department estimated the revenue loss for FY 2020 based on the FY 2018 average annual cost of incarceration for one person of \$40,615. Currently, two individuals pay cost of care. The Department receives 59% of the cost of care reimbursement collected by the Department of Justice and the remaining 41% is deposited into the general fund. The Department states it received \$43,910 in FY 2016, \$65,783 in FY 2017 and \$65,419 in FY 2018. The Department assumes loss of this revenue would be made up with general funds.

The Department of Justice indicates it currently seeks reimbursement through the court process for the cost of care while the inmate is at the Department of Corrections. The average annual debt collected on behalf of the Department of Corrections over the past 4 years is \$102,000. Of this amount \$60,200 is disbursed to the Department of Corrections and \$41,800 is used to fund the Department of Justice unit responsible for debt collection for other agencies. If the statute relating to reimbursement of the cost of care by inmates is repealed, annual revenue to the State would decrease by \$102,000 on average.

AGENCIES CONTACTED:

Departments of Corrections and Justice

Bill as Introduced

HB 518-FN - AS INTRODUCED

2019 SESSION

19-0246
04/01

HOUSE BILL

518-FN

AN ACT

repealing certain statutes concerning reimbursement of cost of care by inmates.

SPONSORS:

Rep. Welch, Rock. 13; Rep. Keans, Straf. 23

COMMITTEE:

Criminal Justice and Public Safety

ANALYSIS

This bill repeals the subdivision relating to reimbursement of cost of care by inmates.

Explanation:

Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through.~~]

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 Nineteen

AN ACT repealing certain statutes concerning reimbursement of cost of care by inmates.

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

- 1 1 Repeal. The subdivision heading preceding RSA 622:53 and RSA 622:53 through RSA 622:58,
- 2 relative to reimbursement of cost of care by inmates, are repealed.
- 3 2 Effective Date. This act shall take effect 60 days after its passage.

HB 518-FN- FISCAL NOTE
AS INTRODUCED

AN ACT repealing certain statutes concerning reimbursement of cost of care by inmates.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2020	FY 2021	FY 2022	FY 2023
Appropriation	\$0	\$0	\$0	\$0
Revenue	(\$81,230)	(\$81,230)	(\$81,230)	(\$81,230)
Expenditures	\$0	\$0	\$0	\$0
<i>Funding Source:</i>	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

METHODOLOGY:

This bill repeals the statute relating to reimbursement of the cost of care by inmates. The Department of Corrections indicates this bill would reduce general fund unrestricted revenue by an estimated \$81,230 in FY 2020 and each year thereafter. The Department estimated the revenue loss for FY 2020 based on the FY 2018 average annual cost of incarceration for one person of \$40,615. Currently, two individuals pay cost of care. The Department receives 59% of the cost of care reimbursement collected by the Department of Justice and the remaining 41% is deposited into the general fund. The Department states it received \$43,910 in FY 2016, \$65,783 in FY 2017 and \$65,419 in FY 2018. The Department assumes loss of this revenue would be made up with general funds.

The Department of Justice indicates it currently seeks reimbursement through the court process for the cost of care while the inmate is at the Department of Corrections. The Department states it seeks reimbursement infrequently and repeal of these statutory subdivisions would have no fiscal impact on the Department of Justice.

AGENCIES CONTACTED:

Departments of Corrections and Justice