

CONSENT CALENDAR

February 22, 2022

HOUSE OF REPRESENTATIVES

REPORT OF COMMITTEE

The Committee on Health, Human Services and Elderly Affairs to which was referred HB 1616-FN,

AN ACT relative to the prohibition against a minor's possession of hypodermic needles without a

prescription. Having considered the same, report the

same with the following resolution: RESOLVED, that it

is INEXPEDIENT TO LEGISLATE.

Rep. Beth Folsom

FOR THE COMMITTEE

Original: House Clerk

Cc: Committee Bill File

COMMITTEE REPORT

Committee:	Health, Human Services and Elderly Affairs
Bill Number:	HB 1616-FN
Title:	relative to the prohibition against a minor's possession of hypodermic needles without a prescription.
Date:	February 22, 2022
Consent Calendar:	CONSENT
Recommendation:	INEXPEDIENT TO LEGISLATE

STATEMENT OF INTENT

This bill represents a concern raised by a constituent focusing upon what instances a minor would be allowed to be in legal possession of a hypodermic needle. In discussions with the sponsor of this bill, a decision was made that rather than have a study committee formed, a group of stakeholders should gather to produce a bill to present possible policy recommendations. Doing this would alleviate the need to staff another committee. Moreover, doing this would more quickly address the need this bill.

Vote 20-0.

Rep. Beth Folsom
FOR THE COMMITTEE

Original: House Clerk
Cc: Committee Bill File

CONSENT CALENDAR

Health, Human Services and Elderly Affairs

HB 1616-FN, relative to the prohibition against a minor's possession of hypodermic needles without a prescription. **INEXPEDIENT TO LEGISLATE.**

Rep. Beth Folsom for Health, Human Services and Elderly Affairs. This bill represents a concern raised by a constituent focusing upon what instances a minor would be allowed to be in legal possession of a hypodermic needle. In discussions with the sponsor of this bill, a decision was made that rather than have a study committee formed, a group of stakeholders should gather to produce a bill to present possible policy recommendations. Doing this would alleviate the need to staff another committee. Moreover, doing this would more quickly address the need this bill. **Vote 20-0.**

Original: House Clerk

Cc: Committee Bill File

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

EXECUTIVE SESSION on Bill # 1616-FN

BILL TITLE: An Act relative to the prohibition against a minor's possession of hypodermic needles without a prescription.

DATE: 2/22/2022

LOB ROOM: 210-11

MOTION: (Please check one box)

ITL

Moved by Rep. Folsom Seconded by Rep. Merchant Vote: 20-0

CONSENT CALENDAR: YES NO

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

Respectfully submitted: _____ baf _____
Rep. Beth Folsom, Clerk

STATE OF NEW HAMPSHIRE
OFFICE OF THE HOUSE CLERK



9/28/2021 11:15:01 AM
Roll Call Committee Registers
Report

2022 SESSION

Health, Human Services and Elderly Affairs

Bill #: 1616-FN **Motion:** ITL **AM #:** _____ **Exec Session Date:** 2/22/2022

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Pearson, Mark A. Chairman	Y		
Layon, Erica J. Vice Chairman	Y		
McMahon, Charles E.	Y		
Acton, Dennis F.	Y		
Gay, Betty I.	Y		
Cushman, Leah P.	Y		
Folsom, Beth A. Clerk	Y		
Kelsey, Niki	Y		
King, Bill C.	Y		
Kofalt, Jim	Y		
DeLemus, Susan	Y		
Weber, Lucy M.	Y		
MacKay, James R.	Y		
Snow, Kendall A.	Y		
Knirk, Jerry L.	Y		
Salloway, Jeffrey C.			absent
Cannon, Gerri D.	Y		
Nutter-Upham, Frances E.	Y		
Schapiro, Joe	Y		
Woods, Gary L.	Y		
Merchant, Gary	Y		
TOTAL VOTE:	20	0	

HOUSE COMMITTEE ON HEALTH, HUMAN SERVICES AND ELDERLY AFFAIRS

PUBLIC HEARING on Bill # HB1616-FN

BILL TITLE: An Act relative to the prohibition against a minor's possession of hypodermic needles without a prescription.

DATE: 01/12/2022

ROOM: LOB 210-11

Time Public Hearing Called to Order: 9:50 am

Time Adjourned: 10:10 am

Committee Members: Reps. M. Pearson, Layon, Folsom, Acton, Gay, Cushman, Kelsey, B. King, Kofalt, Weber, MacKay, Query, Knirk, Salloway, Cannon, Nutter-Upham, Schapiro, Woods and Merchant, Murray

TESTIMONY

Representative Yokela presented the bill -

Four main points, unintended consequences, under pharmacy RSA's, criminal vs mental health, authorized agent

Shouldn't this be more suited to be handled by Criminal Justice or Judiciary committees

Is a commission necessary

list of exceptions for minor in amendment

possible refer to Oversight Commission for HHS agencies

Abby Rogers/ DHHS no position on bill

Here for any questions.

Capt. Joe Ebert, Lt. Bill Bright/ New Hampshire state police

Is not opposed to the bill in total but not repealing before study.

Respectfully submitted,

Rep. Beth Folsom, Clerk

House Remote Testify

Health, Human Services and Elderly Affairs Committee Testify List for Bill HB1616 on
Support: 0 Oppose: 1 Neutral: 0 Total to Testify: 0

[Export to Excel](#)

<u>Name</u>	<u>City, State</u> <u>Email Address</u>	<u>Title</u>	<u>Representing</u>	<u>Position</u>	<u>Testifying</u>	<u>Non-Germane</u>
Bryfonski, John	Bedford Police Department, NH jbryfonski@bedfordnh.org	A Member of the Public	Myself	Oppose	No	No

HB 1616 Testimony

Chairman and Members of the Health, Human Services, and Elderly Affairs Committee,

Imagine a 17 year old being asked to watch their younger sibling and being given an EpiPen or insulin to administer to their sibling if they should need it while the parents are out. Would you believe that the parents and the babysitter have both committed a crime in that situation?

Imagine a 12 year old has just found out they could have an antephialtic episode and they let their friend hold their new EpiPen while they show their friend how to administer it if they were ever incapacitated. Would you believe both kids have committed a crime?

Imagine a teenager trying to volunteer their time cleaning up the side of the roads and alleys around town and finds a used needle on the ground and picks it up and takes it to their police station or pharmacy for proper disposal. Would you believe that that teenager doing so would have committed a crime?

Imagine a child drops their last needle, which he was prescribed, to administer his insulin at school and goes to the school nurse to ask for a replacement and the nurse has one, but cannot give it to the child even if they had the parents permission because it is against the law?

Just last week we were asked to pass a bill which said we would not institutionalize minors for anything but the worst crimes. We have started, with the help of this committee, to move away from the policies of treating addiction criminally and move more toward seeing it as a medical issue. In the past we have restricted the use of syringes to try to stem the issue of drug use but the CDC now recommends access to clean non-prescription syringes to reduce the transmission of blood-borne pathogens. However, as some of my examples show there are legitimate reasons a minor may have under their control or possess a hypodermic syringe/needle or "any instrument adapted for the administration of drugs by injection."

There is not an exception for minors acting as an authorized agent for a person holding a lawful prescription like there is for all other medications which require a prescription (RSA 318:42). The statute in RSA 318:55 just lists "misdemeanor" and "felony" without the class of those charges. In RSA 625:9, it states that misdemeanor without a classification shall be presumed to be a class B unless the state files a notice of intent to seek a class A misdemeanor penalty. A class

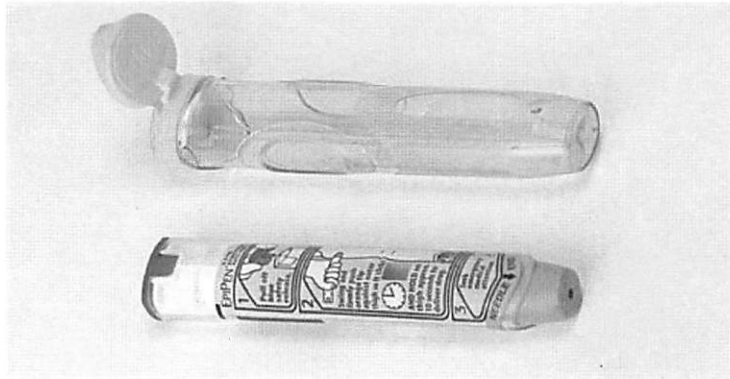
B misdemeanor can result in a maximum fine of \$1,200 while a class A misdemeanor can result in penalties of jail time up to one year, a fine of \$2,000 and the possibility of probation.

There may have been a view that police and DA's would use discretion and not charge every person that breaks the law, but that opens the door to discriminatory practices and even the use of this law as a tacket in family/divorce court against the opposing party. I believe we should not be fining kids up to \$2,000 and a year in prison depending on how the DA/Police chooses to charge the minor.

What my bill seeks to do is remove the criminal penalties for children. Also, have the committee look at if we should be removing the crime of providing them to children, if the law should be moved to a different section of law with different penalties, and if there should be an authorized agent exception like there is for prescription drugs so a parent would be allowed to have their child help them administer their medicine when they are sick and too weak to administer it to themselves.

Thank you for considering my testimony,

Honorable Josh Yokela
Rockingham District 33
Fremont, Danville, Brentwood



TITLE XXX OCCUPATIONS AND PROFESSIONS

CHAPTER 318 PHARMACISTS AND PHARMACIES

Possession and Sale of Drugs and Devices for Administration of Drugs

Section 318:52-e

318:52-e Control or Possession of Hypodermic or Like Instruments Without Prescription Prohibited for Minors. – No person under 18 years of age shall have under such person's control or possess a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of drugs by injection, unless the person has received a written or oral prescription issued under RSA 318:52-c. For the purpose of this subdivision, no such prescription shall be valid which has been outstanding for more than one year.

318:52-c Sale of Hypodermic Syringes and Needles. –

I. No person shall sell, furnish, or give to any person, under 18 years of age, an instrument commonly known as a hypodermic syringe, hypodermic needle, or any instrument adapted for the administration of drugs by injection without the written or oral prescription of a licensed physician, physician assistant, dentist, veterinarian, podiatrist, or advanced practice registered nurse. Such prescription shall contain the name and address of the patient, the date of the prescription, the description of the instrument prescribed, and the number of instruments prescribed.

II. The following conditions shall apply to all purchases of hypodermic syringes or needles:

- Retailers and dispensers of hypodermic syringes, needles, or any instrument adapted for the administration of drugs by injection shall provide to each purchaser at the time of purchase information regarding the safe disposal of hypodermic syringes or needles, including local disposal locations or a telephone number to call for such information, if appropriate.
- Retailers and dispensers shall also provide purchasers with information on drug addiction treatment, including a local telephone number to get assistance, if appropriate.

Source. 1971, 135:1. 1973, 453:12. 1981, 484:15. 1989, 34:2. 1992, 102:1. 1994, 333:14. 1999, 213:5. 2000, 176:1. 2005, 177:135. 2009, 54:5. 2012, 171:26. XII. eff. Aug. 10, 2012. 2017, 117:2, eff. June 16, 2017.

allowed to expire on June 11, 2021. See also 2021, 91:501, eff. July 1, 2021, regarding application of Emergency Orders.

318:42 Dealing in or Possessing Prescription Drugs. –

It shall be unlawful for any person who is not a licensed pharmacist in a pharmacy registered in accordance with the provisions of this chapter to manufacture, compound, dispense, sell, offer for sale or have in possession any prescription drug as defined in RSA 318:1, XVII, provided that this section shall not prevent the following:

I. Persons from possessing prescription drugs dispensed to them pursuant to a lawful prescription or who are acting as an authorized agent for a person holding a lawful prescription. For purposes of this section, an authorized agent shall mean any person, including but not limited to a family member or caregiver, who has the intent to deliver the prescription drug to the person to whom the prescription drugs are lawfully prescribed.

Penalty

Section 318:55

318:55 Fines and Imprisonment; Penalties. –

I. Any person violating the provisions of this chapter, except as otherwise provided, shall be guilty of a misdemeanor if a natural person, or guilty of a felony if any other person.

II. In addition to the penalties under paragraph I, the board may impose a civil penalty not to exceed \$5,000 per violation upon any person who willfully or repeatedly violates any provision of this chapter.

III. For any order issued in resolution of a disciplinary proceeding before the board, the board may require that any licensee, permittee, registrant, or certificate holder found guilty of a charge involving any drug law or rule to pay to the board a sum not to exceed the reasonable cost of investigation and prosecution of the proceeding. The sum shall not exceed \$5,000. The costs to be assessed shall be fixed by the board and any sums recovered shall be paid to the state treasurer for deposit in the office of professional licensure and certification fund.

Source. 1909, 162:4. 1921, 122:30. PL 210:54. 1933, 61:2. RL 256:55. RSA 318:55. 1973, 528:203; 529:70. 1989, 258:4. 2007, 202:13, eff. Jan. 1, 2008. 2021, 197:104, eff. July 1, 2021.

Access to clean syringes

Interventions Changing the Context

All HI-5 Interventions

- School-based Programs to Increase Physical Activity
- School-Based Violence Prevention
- Safe Routes to School (SRTS)
- Motorcycle Injury Prevention
- Tobacco Control Interventions
- **Access to clean syringes**
- Pricing Strategies for Alcohol Products
- Multi-Component Worksite Obesity Prevention
- Early Childhood Education
- Clean Diesel Bus Fleets
- Public Transportation System: Introduction or Expansion
- Home Improvement Loans and Grants
- Earned Income Tax Credits
- Water Fluoridation



Improving access to prevent the spread of HIV and HCV



What are policies that support access to clean syringes?

Regulatory, legislative, and other policies that support access to clean needles and syringes

Selected Resources

- HHS Implementation Guidance [\[link\]](#) related to Consolidated Appropriations Act, 2016 (Pub. L. 114-113)
- Centers for Disease Control and Prevention: Syringe Services Programs
- North American Syringe Exchange Network [\[link\]](#)

allow for the legal sale of needles without prescriptions, and include programs to distribute clean needles and safely dispose of used needles.^[1,2] The purpose of these policies is to reduce the transmission of blood-borne pathogens, including HIV, hepatitis B virus (HBV), and hepatitis C virus (HCV). Policies that authorize the legal sale and exchange of clean needles and syringes are typically enacted at the state level. Sixteen states have passed laws authorizing needle and syringe exchanges.^[3] Moving toward this goal, California law supports access to clean needles through the nonprescription sale of syringes and needles.^[4] Several states have statutes that remove syringes from lists of illegal drug paraphernalia.^[3] In order to reduce potential needle stick injuries among police officers, North Carolina legalized needle possession among people who alert police officers to the presence of needles prior to a search.^[5]

What is the public health issue?

Injection drug use (IDU) is a risk factor for contracting blood-borne pathogens such as HIV and HCV, and sharing syringes provides a direct route of transmission for diseases.^[6] It is estimated that in 2013, 3,096 of the estimated 47,352 diagnoses of HIV infection in the United States were attributed to IDU.^[7] Among persons who inject drugs (PWID), HCV is approximately 10-fold more transmissible than HIV; 50-90% of HIV-infected PWID are co-infected with HCV. ID use has been shown to be the

most common means of HCV transmission in the U.S., and an estimated 33 percent of PWID aged 18-30 years are HCV-infected. Older and former PWID have an estimated prevalence of 70-90% due to the increased risk of continued injection drug use and needle sharing in the 1970's and 1980's before risks of bloodborne virus transmission were widely known.^[8]

The lifetime cost of HIV treatment is estimated to be \$379,668 (in 2010 dollars).^[9, 10] The initial market prices of HCV treatment ranged from \$84,000 to \$96,000 in 2014.^[11] Since 2014, the cost of HCV medications has fallen to an estimated \$40,000 for Medicaid programs. Some payers have negotiated greater reductions in HCV drug costs. HCV treatment can save \$14.3 billion in health costs while costing \$69.5 billion to implement, raising budgetary issues for Medicaid and other insurance plans.

PWID can substantially reduce their risk of acquiring and transmitting HIV, HBV, HCV, and other blood-borne infections by using a sterile needle or syringe for every injection.^[11] Research shows that barriers such as prescription requirements and legal restrictions on needle possession and distribution can prevent access to clean needles and syringes.^[12] Prevention of HCV among PWID is most effective when needle or syringe exchange programs are combined with other prevention services such as behavior-change counseling and addiction treatment services. HCV treatment provides another option for preventing transmission among PWID. A number of models suggest that even modest increases in HCV treatment of PWID can lead to substantial declines in prevalence and incidence of HCV infection when combined with other services.^[13-15]

What is the evidence of health impact and cost effectiveness?

A systematic review of 15 studies analyzing needle-syringe programs (NSP) found that NSP's were associated with decreases in the prevalence of HIV and HCV and decreases in the incidence of HIV.^[1] For example, a series of three-year longitudinal studies investigating the effect of New York's legalization of syringe exchange programs between 1990 and 2002 found decreases in:

- HIV prevalence from 50 percent to 17 percent ($p < .001$)^[16]
- Person-years at risk for HIV, from 3.55 to 0.77 per 100 person-years ($p < .001$)^[16]

Another study that examined the effect of New York's exchange program on the prevalence of HCV infection between 1990 and 2001 found that it was associated with a reduction in prevalence from 80 percent to 59 percent among HIV-negative intravenous drug users ($p < 0.034$).^[1, 17] An evaluation examining the District of Columbia's lift of the Congressional ban on syringe exchange programs, which allowed the D.C. Department of Health to initiate an exchange program, showed a 70 percent decrease in new HIV cases among IDU and a total of 120 HIV cases averted in two years^[18].




A cost-effectiveness analysis of a New York City needle syringe exchange estimated that the program would result in a baseline one year savings to the government of \$1,300 to \$3,000 per client.^[19] Another cost-effectiveness analysis estimated that expanding access to clean syringes through an additional annual U.S. investment of \$10 million would result in:

- 194 HIV infections averted in one year
- A lifetime treatment cost savings of \$75.8 million¹
- A return on investment of \$7.58 for every \$1 spent (from the national perspective)^[20]

¹ Net present value in U.S. 2011 dollars

For questions or additional information, email healthpolicynews@cdc.gov.

References

1. Abdul-Quader, A.S., et al., *Effectiveness of structural-level needle/syringe programs to reduce HCV and HIV infection among people who inject drugs: a systematic review*. *AIDS and Behavior*, 2013. 17(9): p. 2878-2892.
2. Fowler, W. *Syringe Services Programs: A Proven Public Health Strategy*. Knowledge Center 2010 September 28, 2010 [cited 2016 June 6]; Available from: [Syringe Services Programs: A Proven Public Health Strategy](#) .
3. Coleman, A. *Needle Exchange Legality By State*. Knowledge Center 2015 June 25, 2016 [cited 2016 June 6]; Available from: [Needle Exchange Legality By State](#) .
4. California Department of Public Health, *Access to Sterile Syringes*. 2016 5/2/2016 [cited 2016 June 6]; Available from: [Access to Sterile Syringes](#) .

HB 1616-FN - AS INTRODUCED

2022 SESSION

22-2130

05/11

HOUSE BILL ***1616-FN***

AN ACT relative to the prohibition against a minor's possession of hypodermic needles without a prescription.

SPONSORS: Rep. Yokela, Rock. 33

COMMITTEE: Health, Human Services and Elderly Affairs

ANALYSIS

This bill repeals the prohibition on minors possessing hypodermic needles without a prescription. The bill also establishes a commission to study the possession of hypodermic needles by minors.

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 Two

AN ACT relative to the prohibition against a minor's possession of hypodermic needles without a prescription.

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

1 1 Repeal. RSA 318:52-e, prohibiting minors from possessing hypodermic needles without a
2 prescription, is repealed.

3 2 New Section; Commission Established to Study the Possession of Hypodermic Syringes and
4 Needles by Minors. Amend RSA 318 by inserting after section 52-e the following new section:

5 318:52-f Commission Established to Study the Possession of Hypodermic Syringes and Needles
6 by Minors. There is established a commission to study the possession of hypodermic syringes and
7 needles by minors.

8 I. The members of the commission shall be as follows:

9 (a) Two members of the house of representatives, from the health, human services and
10 elderly affairs committee, appointed by the speaker of the house of representatives.

11 (b) One member of the senate, appointed by the president of the senate.

12 (c) A police officer, appointed by the governor.

13 (d) A school nurse, appointed by the governor.

14 (e) A pharmacist, appointed by the governor.

15 II. Legislative members of the commission shall receive mileage at the legislative rate when
16 attending to the duties of the commission.

17 III. The commission shall study the scope and application of RSA 318:52-c, relative to the
18 sale of hypodermic syringes and needles, including:

19 (a) Whether the restriction should be eliminated or exempt school nurses.

20 (b) If the law should be moved to a different section with different penalties.

21 (c) If an authorized agent clause should be added to match the requirements of
22 possessing prescription drugs in RSA 318:42.

23 IV. The commission shall solicit information and testimony from any individual or entity the
24 commission deems relevant to its study.

25 V. The members of the study commission shall elect a chairperson from among the
26 members. The first meeting of the commission shall be called by the first-named house member.
27 The first meeting of the commission shall be held within 45 days of the effective date of this section.

28 Two members of the commission shall constitute a quorum.

HB 1616-FN - AS INTRODUCED

- Page 2 -

1 VI. The commission shall report its findings and any recommendations for proposed
2 legislation to the speaker of the house of representatives, the president of the senate, the house
3 clerk, the senate clerk, the governor, and the state library on or before November 1, 2022.

4 3 Repeal. RSA 318:52-f, relative to the commission to study the possession of hypodermic
5 syringes and needles by minors, is repealed.

6 4 Effective Date.

7 I. Section 1 of this act shall take effect January 1, 2023.

8 II. Section 3 of this act shall take effect November 1, 2022.

9 III. The remainder of this act shall take effect upon its passage.

**HB 1616-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to the prohibition against a minor's possession of hypodermic needles without a prescription.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable decrease	Indeterminable decrease	Indeterminable decrease
Funding Source:	<input checked="" 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 repeals RSA 318:52-e, prohibiting minors from possessing hypodermic needles without a prescription. As this offense is currently an unspecified misdemeanor, the bill may reduce costs for the New Hampshire judicial and correctional systems. There is no method to determine the number of charges that might be reduced as a result of the bill. However, the entities impacted have provided the costs associated with misdemeanor cases below. It is assumed that any fiscal impact will begin in FY 2023.

Judicial Council	FY 2022	FY 2023
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
<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 to 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>		

NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

With respect to the impact on the Judicial Branch, the fiscal impact is indeterminable. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council and New Hampshire Association of Counties