

**HB 581-FN - AS INTRODUCED**

2023 SESSION

23-0429

04/10

HOUSE BILL            ***581-FN***

AN ACT                repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.

SPONSORS:            Rep. Santonastaso, Ches. 18

COMMITTEE:          Criminal Justice and Public Safety

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ANALYSIS

This bill repeals the controlled drug act effective July 1, 2025, and establishes a committee to recommend legislation to make the necessary policy and statutory changes to accompany the repeal.

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Explanation:          Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears ~~[in brackets and struckthrough.]~~  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Three*

AN ACT                    repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.

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

1            1 Repeal. RSA 318-B, relative to the controlled drug act, is repealed.

2            2 Committee Established.

3            I. There is established a committee to study the statutory and policy changes to state law  
4 necessary to implement the repeal of the controlled drug act in New Hampshire. The members of  
5 the committee shall be as follows:

6                    (a) Four members of the house of representatives, appointed by the speaker of the house  
7 of representatives.

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

9            II. Members of the committee shall receive mileage at the legislative rate when attending to  
10 the duties of the committee.

11            III. The committee shall study the statutory and policy changes to state law necessary to  
12 implement the repeal of the controlled drug act in New Hampshire. The committee may solicit  
13 testimony from any individual or organization that has information or expertise related to the  
14 committee's objective.

15            IV. The members of the study committee shall elect a chairperson from among the members.  
16 The first meeting of the committee shall be called by the first-named house member. The first  
17 meeting of the committee shall be held within 45 days of the effective date of this section. Four  
18 members of the committee shall constitute a quorum.

19            V. The committee shall report its findings and make recommendations for proposed  
20 legislation to the speaker of the house of representatives, the president of the senate, the house  
21 clerk, the senate clerk, the governor, and the state library on or before September 1, 2024.

22            3 Effective Date.

23                    I. Section 1 of this act shall take effect July 1, 2025.

24                    II. The remainder of this act shall take effect upon its passage.

**HB 581-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.

**FISCAL IMPACT:**     State                     County                     Local                     None

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
<b>Appropriation</b>	\$0	\$0	\$0	Indeterminable Decrease
<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	Indeterminable
<b>Funding Source:</b>	<input checked="" type="checkbox"/> General forfeiture funds	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input checked="" type="checkbox"/> Other - Drug

**COUNTY:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	Indeterminable

**LOCAL:**

<b>Revenue</b>	\$0	\$0	\$0	\$0
<b>Expenditures</b>	\$0	\$0	\$0	Indeterminable

The Department of Health and Human Services was contacted for a fiscal note worksheet on December 30, 2022, which they have not provided as of January 9, 2023.

**METHODOLOGY:**

This bill repeals the controlled drug act effective July 1, 2025, and establishes a committee to study statutory changes needed to implement said repeal. The Department of Justice notes that, among other things, the repeal of RSA 318-B will freeze drug forfeiture funds which will disallow yearly payments to the Police Standards and Training Council, as well as allocations to the Department of Health and Human Services, the Department of Justice Drug Task Force, and local police department for certain drug interdiction efforts. The Department also notes that it has a dedicated drug unit to enforce the state's drug laws; because the premise of the bill is that the newly-established study committee will recommend possible replacement statutes prior to the repeal of the existing statutes in 2025, the fiscal impact on the drug unit and the Department overall is unknown.

The New Hampshire Municipal Association states that it is unable to quantify the bill's impact on local law enforcement costs.

Because RSA 318-B contains many criminal penalties, its repeal may impact 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 bill. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
Violation and Misdemeanor Level Offense	\$119	\$122	\$122
Complex Felony Case	\$3,195	\$3,244	\$3,366
Routine Criminal Case	\$644	\$657	\$779
Appeals	Varies	Varies	Varies
Judicial Council	FY 2023		FY 2024
Public Defender Program	Has contract with State to provide services.		Has contract with State to provide services.
Contract Attorney - Felony	\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)		\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)
Contract Attorney – Misdemeanor	\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)		\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)
Assigned Counsel - Felony. Homicide including capital cases. Travel time to court does not count toward the cap.	\$125/Hour up to \$20,000		\$125/Hour up to \$20,000
Assigned Counsel - Felony. Travel time to court does not count toward the cap.	\$90/Hour up to \$5,500		\$90/Hour up to \$5,500
Assigned Counsel- Misdemeanor. Travel time to court does not count toward the cap.	\$90/Hour up to \$2,000		\$90/Hour up to \$2,000
Assigned Counsel - Supreme Court Appeal	\$125/Hour up to \$10,000		\$125/Hour up to \$10,000
It should be noted that a person needs to be found indigent and have the potential of being incarcerated to be eligible for indigent defense services. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake of new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of			

representation have increased due to travel time and multiple appointments.		
Department of Corrections	FY 2023	FY 2024
FY 2022 Average Cost of Incarcerating an Individual	\$64,223	\$64,223
FY 2022 Annual Marginal Cost of a General Population Inmate	\$6,123	\$6,123
FY 2022 Average Cost of Supervising an Individual on Parole/Probation	\$688	\$688
The Department notes any increase in the incarcerated population will have a direct impact on overtime costs given the Department's history of challenges associated with recruitment. In addition, the NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.		
NH Association of Counties	FY 2023	FY 2024
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

Many offenses are prosecuted by local and county prosecutors. When the Department of Justice has investigative and prosecutorial responsibility or is involved in an appeal, the Department may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

**AGENCIES CONTACTED:**

Judicial Branch, Departments of Corrections, Justice, and Health and Human Services, Judicial Council, New Hampshire Association of Counties, and New Hampshire Municipal Association

**REGULAR CALENDAR**

**February 10, 2023**

**HOUSE OF REPRESENTATIVES**

**REPORT OF COMMITTEE**

**The Committee on Criminal Justice and Public Safety  
to which was referred HB 581-FN,**

**AN ACT repealing the controlled drug act and  
establishing a committee to study the policy and  
statutory changes necessary to implement the repeal.**

**Having considered the same, report the same with the  
following resolution: RESOLVED, that it is  
INEXPEDIENT TO LEGISLATE.**

**Rep. Karen Reid**

**FOR THE COMMITTEE**

## COMMITTEE REPORT

Committee:	<b>Criminal Justice and Public Safety</b>
Bill Number:	<b>HB 581-FN</b>
Title:	<b>repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.</b>
Date:	<b>February 10, 2023</b>
Consent Calendar:	<b>REGULAR</b>
Recommendation:	<b>INEXPEDIENT TO LEGISLATE</b>

### STATEMENT OF INTENT

The controlled drug act was established in 1970 and with amendments has served as an important guide to both health care providers and law enforcement. The current opioid crisis is evidence of why some substances must be controlled in order for a free society to function safely. Even though illegal and with the risk of arrest and incarceration, thousands of people have overdosed and died. The majority believes that the number of deaths would be far greater were there no mechanism at all to interdict the availability of these substances. The majority believes that drug use rarely ever only effects just the users, be it someone killed in an automobile accident because of impaired operation or simply the cost of public resources required to provide care for those who overdose or lose their jobs and cannot sustain themselves and their families. At the time of the drafting of the U.S. and New Hampshire Constitutions the framers were well aware of substances such as opium, alcohol, and marijuana, yet saw no reason to specifically prohibit the government from controlling their use and availability as it did with arms, nor has society since supported such an amendment.

Vote 17-3.

Rep. Karen Reid  
FOR THE COMMITTEE

Original: House Clerk  
Cc: Committee Bill File

## REGULAR CALENDAR

Criminal Justice and Public Safety

**HB 581-FN**, repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal. **INEXPEDIENT TO LEGISLATE.**

Rep. Karen Reid for Criminal Justice and Public Safety. The controlled drug act was established in 1970 and with amendments has served as an important guide to both health care providers and law enforcement. The current opioid crisis is evidence of why some substances must be controlled in order for a free society to function safely. Even though illegal and with the risk of arrest and incarceration, thousands of people have overdosed and died. The majority believes that the number of deaths would be far greater were there no mechanism at all to interdict the availability of these substances. The majority believes that drug use rarely ever only effects just the users, be it someone killed in an automobile accident because of impaired operation or simply the cost of public resources required to provide care for those who overdose or lose their jobs and cannot sustain themselves and their families. At the time of the drafting of the U.S. and New Hampshire Constitutions the framers were well aware of substances such as opium, alcohol, and marijuana, yet saw no reason to specifically prohibit the government from controlling their use and availability as it did with arms, nor has society since supported such an amendment. **Vote 17-3.**

Original: House Clerk

Cc: Committee Bill File





HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY

PUBLIC HEARING ON HB 581-FN

**BILL TITLE:** repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.

**DATE:** January 26, 2023

**LOB ROOM:** 202-204                      **Time Public Hearing Called to Order:** 11:21 a.m.

**Time Adjourned:** 11:44 a.m.

**Committee Members:** Reps. Roy, Rhodes, A. Murray, Pratt, Sytek, Proulx, Janvrin, D. Mannion, Reid, Stone, Tenczar, Harriott-Gathright, Meuse, Bouldin, Bradley, N. Murphy, R. Newman, Newell, Selig and Wheeler

**Bill Sponsors:**  
Rep. Santonastaso

TESTIMONY

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

Rep Santonastaso introduces his bill

- Deletes the controlled drug act of NH and establishes a study for repercussions. Posits that overturning the 18th ammendment is grounds for overturning controlled drugs. Prohibiting sales and possession is unconstitutional. This leads to the over criminalization of society and labels people as criminals who have done harm to no one. Arbitrary drug laws and arbitrary enforcement of them has impacted the public's view of law enforcement, led to more crime and violence, and costs the people too much money. Decriminalizing drugs could lead to less need for large, militarized police forces.
- Rep Bouldin mentions that 318-B offers NH certain protections from federal regulations when it comes to harm reduction efforts, is that Santonastaso's intent? He says no and would be open to an amendment to protect those exceptions and supports the government funding harm reduction efforts
- Rep Murphy how would passage of this bill reduce harm? Rep Santonastaso mentions how drugs are cut by other substances that make them more dangerous and lethal because they are not regulated right now.
- Rep Newman asks when a repeal would be effective, Rep Santonastaso says July 1 2025
- Rep Reid asks what would change with this repeal, Rep Santonastaso says substances would be legal and able to be sold but that the market would regulate itself in order to prevent sales to children and other access concerns
- Rep Pratt asks if this is similar to the legislation that passed in Oregon, Santonastaso says it's a complete repeal with no regulations

- Rep Newell would the study committee also focus on testing and studying and labeling and how would we know the drugs are clean, Rep Santonastaso says independent organizations would regulate the market

Bonnie Freeman, Shire Free Church

- Supports the bill
- The government is hindering human beings from exploring their own consciousness and holding back society as a whole. It is our right to put whatever we want into our own bodies and people will do so whether this bill is passed or not.

Ian Freeman, Shire Free Church

- Supports the bill
- The war on drugs has failed. It has damaged countless human lives and done monumental harm to our country as a whole. The drugs are more dangerous than they have ever been because of the expanse of the black market. We would see price of drugs go down and quality go up if the market was legalized and opened to regulation. It shouldn't be a crime to have a medical condition, addiction, and throwing someone in prison for it doesn't help anything.
- Rep Proulx asks would it not make it easier for more people to get addictions if these drugs became more accessible, Freeman says the drugs are already extremely accessible and making them legal wouldn't make a significant difference

Respectfully submitted,

Rep. Alissandra Murray, Clerk

# House Remote Testify

## Criminal Justice and Public Safety Committee Testify List for Bill HB581 on 2023- Support: 8 Oppose: 4 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>	<u>?</u>
Horgan, Kathryn	CONCORD, NH khorgan@dupontgroup.com	A Lobbyist	NH Association of Counties	Oppose	No	No	1
Castrucci, Dianne	Laconia, NH castrucci.dianne@gmail.com	A Member of the Public	Myself	Oppose	No	No	1
Creem, Jeffrey	Nashua, NH jeff@thecreems.com	A Member of the Public	Myself	Support	No	No	1
AXELMAN, ELLIOT	Hooksett, NH alu.axelman@gmail.com	A Member of the Public	Myself	Support	No	No	1
Medeiros, Jesse	Plainfield, NH bgtrck458@gmail.com	A Member of the Public	Myself	Support	No	No	1
Karney, Stephen	Amherst, NH stephenakarney@gmail.com	A Member of the Public	Myself	Support	No	No	1
Richardson, Daniel	Nashua, NH daniel6_22@comcast.net	A Member of the Public	Myself	Oppose	No	No	1
Pierre, Sandra	Marlow, NH spierre@mailbox.org	An Elected Official	Myself	Support	No	No	1
Dunn, Robert	Manchester, NH rdunn@rcbm.org	A Lobbyist	Roman Catholic Bishop of Manchester	Oppose	No	No	1
Homer, Brian	Stratford, NH bpnahxomep@gmail.com	A Member of the Public	Myself	Support	No	No	1
Alleman, Bill	Weare, NH gencourt@allemanse.com	A Member of the Public	Myself	Support	No	No	1
Daves, Stephen	Deerfield, NH stephen@stephendaves.com	A Member of the Public	Myself	Support	No	No	1

In light of the increasingly intense debate throughout the US about the government's role in Americans' health and safety, I must admit that there's something about this debate that I've never quite understood. The national debate and political proposals and policies seem to focus primarily on firearms, cannabis, sugar, salt, and calories, opioids, and tons of other nutritional labeling regulations while giving the nation's most dangerous substances a pass.

Considering that I've treated thousands of patients who called an ambulance for medical emergencies involving COPD, heart disease, strokes, vascular disease, and lung cancer, I know all too well that the single biggest detriment to our health is undisputedly smoking cigarettes. The CDC estimates that over 16 million Americans are living with diseases caused by smoking. Cheeseburgers and alcohol are probably responsible for a significant amount of death and disability in the US, as well. So, why is cannabis federally illegal? Why are sugar, salt, and calories so tightly regulated by local governments? Why are guns regulated by infinite laws throughout the country while cigarettes, alcohol, and cheeseburgers remain readily available to all Americans?

In order to appreciate the simple, true numbers that demonstrate the top causes of death in the US, I recommend reading this list posted by the US government Center for Disease Control. Heart disease kills the most people in the US every year. Cancer kills the 2nd most people in the US each year. Accidents are in 3rd place, though they cause less than a third of the deaths that cancer does. Just below accidents is lung disease, killing 100,000 Americans each year. Stroke is the 5th leading cause of death. Alzheimer's is 6th. Diabetes is 7th. The CDC lists the Flu/Pneumonia in 8th place. Kidney disease is in 9th place and suicide is the 10th leading cause of death in the union.

### Number of deaths for leading causes of death:

- Heart disease: 647,457 (**CHEESEBURGERS**) (**SMOKING**)
- Cancer: 599,108 (**SMOKING**)
- Accidents (unintentional injuries): 169,936 (**ALCOHOL**)
- Chronic lower respiratory diseases: 160,201 (**SMOKING**)
- Stroke (cerebrovascular diseases): 146,383 (**SMOKING**)
- Alzheimer's disease: 121,404 (**ALCOHOL**)
- Diabetes: 83,564 (**CHEESEBURGERS**)
- Influenza and Pneumonia: 55,672 (**SMOKING**)
- Nephritis, nephrotic syndrome and nephrosis: 50,633
- Intentional self-harm (suicide): 47,173 (**ALCOHOL**)

So far, nearly every single leading cause of death could be caused (at least in part) by smoking cigarettes. Yet, every adult in the US could buy and smoke as many cigarettes as they want! Imagine how many lives we could save and how much we'd save on healthcare costs if we banned smoking!

Heart disease has remained the leading cause of death in the US. It's common knowledge that cheeseburgers contribute to heart attacks due to the cholesterol, fats, carbs, meat, and the other unhealthy substances that find their way into the traditional burger. Recently, the link between red meat and cancer is becoming more concrete. Being that cheeseburgers contribute to the #1 and #2 causes of death, prohibiting them is a no-brainer.

According to the NIAAA, 80,000 Americans die each year from alcohol related causes. This means that alcohol kills as many people as diabetes – the 7th leading cause of death in the US! Additionally, alcoholism is the leading addiction in the union and damages relationships perhaps as much as anything in the history of humanity.

Another massive part of this debate that seems to be totally neglected by media, politicians, writers, doctors, and Facebook experts is fitness. Studies show that exercise/remaining fit is the best way to live a long, healthy life. The CDC says that exercise could reduce the risk of nearly every one of the leading causes of death in the US. My experience in fitness and medicine lead me to believe that fitness is extremely important to our health. Now that the majority of Americans agree that the government has the responsibility and authority to encourage healthy living, why wouldn't they start passing some fitness laws? Once again, fitness regulations are a no-brainer. The US government could mimic the Japanese government's fitness mandates. America could go further than Japan, though. The federal government should mandate that doctors measure and record BMI (body mass index) of every patient once a year. Patients with a BMI greater than 30 – who are obese according to the CDC – would receive a hefty fine (or perhaps imprisoned).

Americans agree that the government has the authority to protect 'Life, Liberty, and the Pursuit of Happiness'. People who suffer from these diseases and people who die from these top causes of mortality certainly can no longer enjoy any of the three aforementioned things that the government has a responsibility to protect. If a few new regulations could save millions of lives, why wouldn't we implement them?

Dianne Castrucci

Please do not pass this bill. I think it will be detrimental to our communities and residents.



Brian Homer

The war on drugs is a war that was birth at the time to control certain classes of people by President Richard Nixon in the 1970's with the creation of the controlled substances act. President Nixon at the time is quoted as having said many antisemitic, racist remarks in regards to drugs and the people at the time who were suspected of using them. This was a tactic that was used to control unwanted persons from gaining political power at the time. In 1994 Nixon domestic policy adviser John Ehrlichman was even quoted in a public interview as saying that the drugwar is politically motivated with this quote ""The Nixon campaign in 1968, and the Nixon White House after that, had two enemies: the antiwar left and black people," Ehrlichman said to journalist Dan Baum in 1994. "You understand what I'm saying? We knew we couldn't make it illegal to be either against the war or blacks, but by getting the public to associate the hippies with marijuana and blacks with heroin, and then criminalizing both heavily, we could disrupt those communities."

The best approach is proper education and harm reduction by researching and also not using false and dangerous propaganda that is misleading and damaging. By education in the proper use, the proper set and setting can harm be reduced.

Furthermore there are groups and individuals who use certain controlled substances in this state as part of their Bona fides religious and spiritual use some of the substances prohibited are deemed as sacraments used in their religious worship.

With respect t



Stephen Daves

This bill is long overdue and will allow the people of New Hampshire who need help with substance abuse to actually get the assistance they need without fear of punishment from the Government that is supposed to be helping them. The War on Drugs is failed, and the Drugs have won. The current solution of making the taxpayer pay to house (prison) people with substance abuse issues, is horrid, and focus on voluntary treatment should be offered in its place.

**HOUSE COMMITTEE ON CRIMINAL JUSTICE AND PUBLIC SAFETY**

**EXECUTIVE SESSION on HB 581-FN**

**BILL TITLE:** repealing the controlled drug act and establishing a committee to study the policy and statutory changes necessary to implement the repeal.

**DATE:** February 10, 2023

**LOB ROOM:** 202-204

**MOTIONS: INEXPEDIENT TO LEGISLATE**

Moved by Rep. Reid

Seconded by Rep. D. Mannion

Vote: 17-3

**CONSENT CALENDAR: NO**

**Statement of Intent:** Refer to Committee Report

Respectfully submitted,

Rep Alissandra Murray, Clerk



STATE OF NEW HAMPSHIRE  
OFFICE OF THE HOUSE CLERK

1/10/2023 9:55:43 AM  
Roll Call Committee Registers  
Report

2023 SESSION

Criminal Justice and Public Safety

Bill #: 581-FN Motion: ZTL AM #: \_\_\_\_\_ Exec Session Date: 2/10/23

<u>Members</u>	<u>YEAS</u>	<u>Nays</u>	<u>NV</u>
Roy, Terry Chairman	17		
Rhodes, Jennifer M. Vice Chairman	1		
Pratt, Kevin M.	2		
Sytek, John	3		
Proulx, Mark L.	4		
Janvrin, Jason A.	5		
Mannion, Dennis	6		
Reid, Karen A	7		
Stone, Jonathan F.	8		
Tenczar, Jeffrey	9		
Harriott-Gathright, Linda C.	10		
Meuse, David	11		
Bouldin, Amanda C.	12		
Bradley, Amy Clerk	13		
Murphy, Nancy A.	14		
Newman, Ray E.		1	
Murray, Alissandra		2	
Newell, Jodi K	15		
Selig, Loren <i>Nutting-Wong</i>	16		
Wheeler, Jonah O		3	
<b>TOTAL VOTE:</b>	<b>17</b>	<b>3</b>	