

HB 551-FN - AS INTRODUCED

2017 SESSION

17-0270

04/03

HOUSE BILL ***551-FN***

AN ACT regulating the use of a cell site simulator device.

SPONSORS: Rep. Kurk, Hills. 2; Rep. Murotake, Hills. 32; Rep. T. Smith, Hills. 17; Sen. Avar, Dist 12; Sen. Watters, Dist 4

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill regulates the use of cell site simulator devices and establishes a criminal penalty for misuse of such devices.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

In the Year of Our Lord Two Thousand Seventeen

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

III. A legally recognized exception to the warrant requirement of the Fourth Amendment of

1 the United States Constitution.

2 570-C:3 Law Enforcement Use. A law enforcement agency authorized to use a cell site
3 simulator device in accordance with this chapter shall:

4 I. Limit the collection of any information or metadata to the target specified in the
5 applicable court order.

6 II. Permanently delete any information or metadata collected from any party not specified
7 in the applicable court order immediately following such collection and not transmit, use, or retain
8 such information or metadata for any purpose.

9 III. Delete any information or metadata collected from the target specified in the court
10 order within 30 days if there is no longer reason to believe that such information or metadata is
11 evidence of a crime.

12 570-C:4 Penalty. Any person who violates any provision of this chapter shall be guilty of a class
13 A misdemeanor and, notwithstanding RSA 651:2, IV(a), may be fined up to \$10,000.

14 2 Effective Date. This act shall take effect January 1, 2018.

**HB 551-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT regulating the use of a cell site simulator device.

FISCAL IMPACT: ☒ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2018	FY 2019	FY 2020	FY 2021
Appropriation	\$0	\$0	\$0	\$0
Revenue	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
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	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill contains a penalty that may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many charges would be brought as a result of the changes contained in this bill to determine the fiscal impact on expenditures. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2018	FY 2019
Class A Misdemeanor	\$71	\$72
Warrant Request in the Circuit Court	\$117	\$119
Warrant Request in the Superior Court	\$274	\$279
Appeals	Varies	Varies
It should be noted average case cost estimates for FY 2018 and FY 2019 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney –	\$275/Case	\$275/Case*

Misdemeanor		
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. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%).</p> <p><i>* The Council's budget request for the FY 2018-19 biennium includes an increase to \$300 per case for contract attorney misdemeanor cases.</i></p>		
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$85 to \$110	\$85 to \$110

To the extend a violation of the provisions of the bill involved a government official, the Department of Justice would become involved in an investigation and prosecution under the proposed statute. The Department cannot estimate how many cases might arise and it is not able to determine the fiscal impact. It is anticipated that the majority of cases would be prosecuted by local or county prosecutors.

There is no fiscal impact to the Department of Corrections since the terms of incarceration for those found guilty of a misdemeanor are served at county correctional facilities.

Proposed RSA 570-C:4 provides for a fine of up to \$10,000. Unrestricted fine revenue to the State general fund may increase by an indeterminable amount.

The New Hampshire Municipal Association did not identify any effect on municipal revenues or expenditures.

AGENCIES CONTACTED:

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