

HB 296-FN - AS AMENDED BY THE SENATE

05/13/2021 1147s

05/13/2021 1470s

2021 SESSION

21-0473

04/08

HOUSE BILL ***296-FN***

AN ACT establishing the crime of unsolicited disclosure of an intimate image.

SPONSORS: Rep. Nutting-Wong, Hills. 32; Rep. Frost, Straf. 16

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes the offense of unsolicited disclosure of an intimate image.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty One

AN ACT establishing the crime of unsolicited disclosure of an intimate image.

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

1 1 New Section; Breaches of the Peace; Unsolicited Disclosure of an Intimate Image. Amend RSA
2 644 by inserting after section 9-a the following new section:

3 644:9-b Unsolicited Disclosure of an Intimate Image.

4 I. In this section:

5 (a) "Intimate body parts" means the genitals, pubic area, or anus of any person.

6 (b) "Intimate image" means a photograph, film, videotape, recording, or any other
7 reproduction of an image of an individual with fully or partially exposed intimate body parts or
8 engaged in sexually explicit conduct.

9 (c) "Send by electronic device" means to send using a cellular telephone or any other
10 electronic communication device, including devices capable of sending text messages or e-mails.

11 (d) "Sexually explicit conduct" shall have the same meaning as in RSA 649-A:2, III.

12 II. A person commits the offense of unsolicited disclosure of an intimate image when:

13 (a) The person sends by electronic device an unsolicited intimate image depicting
14 sexually explicit conduct to a recipient with the intent to harass the recipient; and

15 (b) The person knows that the recipient has not consented to receiving the image, and
16 the recipient has not consented to receiving the image; and

17 (c) The recipient was harassed by the receipt of the image.

18 III. Any person who violates the provisions of this section shall be guilty of a violation for a
19 first offense, and a misdemeanor for a second or subsequent offense if the court finds that the person
20 has previously been convicted of a violation of this section at the time of the subsequent act.

21 2 Effective Date. This act shall take effect January 1, 2022.

HB 296-FN- FISCAL NOTE

AS AMENDED BY THE SENATE (AMENDMENTS #2021-1147s and #2021-1470s)

AN ACT establishing the crime of unsolicited disclosure of an intimate image.

FISCAL IMPACT: ☐ State ☒ County ☐ Local ☐ None

STATE:	Estimated Increase / (Decrease)			
	FY 2021	FY 2022	FY 2023	FY 2024
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	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	\$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill contains penalties 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 2021	FY 2022
Violation Level Offense	\$53	\$53
Class B Misdemeanor	\$55	\$55
Class A Misdemeanor	\$78	\$78
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2021 and FY 2022 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. An unspecified misdemeanor can be either class A or class B, with the presumption being a class B misdemeanor.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney –	\$300/Case	\$300/Case

Misdemeanor		
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
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%).		
Department of Corrections		
FY 2020 Average Cost of Incarcerating an Individual	\$47,691	\$47,691
FY 2020 Annual Marginal Cost of a General Population Inmate	\$6,407	\$6,407
FY 2020 Average Cost of Supervising an Individual on Parole/Probation	\$584	\$584
NH Association of Counties		
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$120	\$105 to \$120

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 would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

AGENCIES CONTACTED:

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