

HB 129-FN - AS INTRODUCED

2021 SESSION

21-0074

05/04

HOUSE BILL ***129-FN***

AN ACT prohibiting the installation or use of electronic tracking software.

SPONSORS: Rep. Testerman, Merr. 2

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits a person from, without consent, installing or activating an application on an electronic device that can track an individual's proximity to similar equipment or otherwise relay the individual's location information.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT prohibiting the installation or use of electronic tracking software.

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

1 1 Electronic Device Location Information; Conditions of Use of Location Information; Proximity
2 Applications. Amend RSA 644-A:4 to read as follows:

3 644-A:4 Conditions of Use of Location Information. No individual or person shall, without
4 consent, place, locate, or install an electronic device on the person or property of another and obtain
5 location information from such electronic device. ***Nor shall an individual or person, without***
6 ***consent, place, install, or activate an application on an electronic device that can track an***
7 ***individual's proximity to similar equipment or relay an individual's location to a similar***
8 ***device or to a central monitoring station or other similar agency.*** No such consent shall be
9 required by the parent, foster parent, or legal guardian of a minor, or by the legal guardian for the
10 subject of his or her guardianship, or for persons under house arrest or probation or parole
11 supervision who are issued ankle bracelets.

12 2 Effective Date. This act shall take effect January 1, 2022.

**HB 129-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT prohibiting the installation or use of electronic tracking software.

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, which amends RSA 644:A:4, 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
Class B Misdemeanor	\$55	\$55
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.		
Judicial Council		
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Misdemeanor	\$300/Case	\$300/Case
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.

RSA 644-A:6 provides penalties for violation of RSA 644-A. In addition to a class B misdemeanor penalty, an individual or person who is injured as a result of a violation of this chapter may file a civil action against a government entity, individual, or person that fails to comply with the provisions of the chapter. The cost to the Judicial Branch of an average routine civil case in the superior court in fiscal year 2022 is \$526. These numbers do not consider the cost of any appeals that may be taken following trial.

AGENCIES CONTACTED:

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