

HB 611-FN - AS AMENDED BY THE HOUSE

13Mar2025... 0638h

2025 SESSION

25-0364
09/11

HOUSE BILL

611-FN

AN ACT relative to repayment regarding appointed counsel for indigent criminal defendants.

SPONSORS: Rep. Scherr, Rock. 26; Rep. Roy, Rock. 31; Rep. M. Smith, Straf. 10; Rep. Turer, Rock. 6; Rep. Berch, Ches. 6; Sen. Innis, Dist 7; Sen. Fenton, Dist 10

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill amends the requirements and process for the repayment of counsel fees for indigent criminal defendants, reverting to a prior version of the law under which the repayment may be required regardless of conviction.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to repayment regarding appointed counsel for indigent criminal defendants.

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

1 1 Adequate Representation for Indigent Defendants in Criminal Cases; Repayment. RSA 604-
2 A:9, I, I-a, I-b, and I-c are repealed and reenacted to read as follows:

3 I. Any adult defendant who has had counsel or a public defender assigned to the defendant
4 at the expense of the state shall be ordered by the court under paragraph I-b to repay the state
5 through the unit of cost containment, the fees and expenses paid by the state on the defendant's
6 behalf according to a schedule established by the administrator of the cost containment unit with the
7 approval of the administrative justices of the courts on such terms as the court may order consistent
8 with the defendant's present or future ability to pay, such ability to be determined by the unit of cost
9 containment. The state may collect from the defendant a service charge of up to 10 percent of the
10 total amount of fees and expenses owed by such defendant. At no time shall the defendant be
11 required to repay, for legal services, an amount greater than the state's flat rate for a contract
12 attorney as established contractually pursuant to RSA 604-B. If the defendant is placed on
13 probation or sentenced to a period of conditional discharge, the defendant shall repay the state,
14 through the department of corrections, all fees and expenses paid on his behalf on such terms as the
15 court may order consistent with the defendant's present or future ability to pay.

16 I-a. Notwithstanding the provisions of paragraph I, any juvenile charged with being
17 delinquent who has had counsel or a public defender assigned to him or her at the expense of the
18 state, or any person liable for the support of the juvenile pursuant to RSA 604-A:2-a, shall be ordered
19 by the court to repay the state through the unit of cost containment, the fees and expenses paid by
20 the state on the defendant's behalf according to a schedule established by the administrator of the
21 cost containment unit with the approval of the administrative justices of the courts on such terms as
22 the court may order consistent with the defendant's present or future ability to pay. The office of
23 cost containment may collect from the defendant or the person liable for his support a service charge
24 of up to 10 percent of the total amount of fees and expenses owed by such defendant. At no time
25 shall the defendant be required to repay, for legal services, an amount greater than the state's flat
26 rate for a contract attorney as established contractually pursuant to RSA 604-B. Liability for
27 repayment under this paragraph shall end when the juvenile reaches the age of majority, except in a
28 case where the juvenile was certified and tried as an adult.

29 I-b. The court shall enter a separate order, pursuant to the rules adopted by the
30 commissioner of administrative services under RSA 604-A:10, IV, setting forth the terms of

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1 repayment of fees and expenses to the state, or if the court finds that the defendant is financially
2 unable to make such payment or payments setting forth the reasons therefor. A copy of each order
3 shall be forwarded to the commissioner of administrative services. Any defendant subject to an
4 order under this section may petition the court for relief from the obligation imposed by this section,
5 which may be granted only upon a finding that the defendant is unable to comply with the terms of
6 the court's order or any modification of the order by the court. If the court does not order full
7 payment for representation under RSA 604-A, the commissioner of administrative services or his
8 designee shall perform an investigation to determine the defendant's present financial condition and
9 his ability to make repayment and may petition the court for a new repayment order at any time
10 within 6 years from the date of the original order.

11 I-c. In a case where counsel has been appointed, the defendant shall be required to notify the
12 clerk of the court and the office of cost containment of each change of mail address and actual street
13 address. Whenever notice to the defendant is required, notice to the last mail address on file shall
14 be deemed notice to and binding on the defendant.

15 2 Adequate Representation for Indigent Defendants in Criminal Cases; Repayment. Amend
16 RSA 604-A:9, II to read as follows:

17 II. All petitions for court appointed counsel shall bear the following words in capital letters:
18 I UNDERSTAND THAT I MAY BE REQUIRED TO REPAY THE SERVICES PROVIDED TO ME
19 BY COURT APPOINTED COUNSEL ~~[IF I AM CONVICTED]~~ UNLESS THE COURT FINDS THAT
20 I AM OR WILL BE FINANCIALLY UNABLE TO PAY.

21 3 Appointment of Counsel for Nonpayment or Performance; Reference Change. Amend RSA
22 604-A:2-f, IV to read as follows:

23 IV. When the court appoints counsel to represent a defendant in a proceeding under this
24 section, the court shall grant the defendant relief from the obligation to repay the state for appointed
25 counsel fees under ~~[RSA 604-A:9, I(b)]~~ **RSA 604-A:9, I-b**, if the court determines that the defendant
26 is financially unable to repay.

27 4 Effective Date. This act shall take effect January 1, 2026.

**HB 611-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT #2025-0638h)**

AN ACT relative to repayment regarding appointed counsel for indigent criminal defendants.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	\$450,000	\$650,000	Indeterminable
<i>Revenue Fund(s)</i>	General Fund			
Expenditures*	\$0	\$626,436	\$864,218	Indeterminable
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This amended bill proposes to reinstate the Office of Cost Containment (OCC) and revert to collecting from all adult defendants who receive counsel or public defender services at the state's expense. Currently, the OCC only collects from defendants who are found guilty, which has rendered the office unprofitable.

The Department of Administrative Services (DAS) notes that the OCC originally operated with ten employees prior to previous legislative changes and is now functioning with four. To fulfill the reinstated collection purpose, DAS anticipates hiring two additional employees in FY 2026 and another two in FY 2027, bringing the total workforce to eight. However, the expenses in FY 2026 and FY 2027 would still surpass the revenue collected. The General Fund is estimated to decrease by \$176,436 in FY 2026 and \$214,218 in FY 2027. It remains uncertain when, or if, the office will become profitable, as it is unclear which defendants would comply with payment obligations.

AGENCIES CONTACTED:

Department of Administrative Services