

Rep. D. McGuire, Merr. 14  
Rep. Lynn, Rock. 17  
February 28, 2025  
2025-0638h  
09/05

Amendment to HB 611-FN

1 Amend the title of the bill by replacing it with the following:

2

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

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5 Amend the bill by replacing all after the enacting clause with the following:

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7 1 Adequate Representation for Indigent Defendants in Criminal Cases; Repayment. RSA 604-  
8 A:9, I, I-a, I-b, and I-c are repealed and reenacted to read as follows:

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

22 I-a. Notwithstanding the provisions of paragraph I, any juvenile charged with being  
23 delinquent who has had counsel or a public defender assigned to him or her at the expense of the  
24 state, or any person liable for the support of the juvenile pursuant to RSA 604-A:2-a, shall be ordered  
25 by the court to repay the state through the unit of cost containment, the fees and expenses paid by  
26 the state on the defendant's behalf according to a schedule established by the administrator of the  
27 cost containment unit with the approval of the administrative justices of the courts on such terms as  
28 the court may order consistent with the defendant's present or future ability to pay. The office of  
29 cost containment may collect from the defendant or the person liable for his support a service charge  
30 of up to 10 percent of the total amount of fees and expenses owed by such defendant. At no time  
31 shall the defendant be required to repay, for legal services, an amount greater than the state's flat

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1 rate for a contract attorney as established contractually pursuant to RSA 604-B. Liability for  
2 repayment under this paragraph shall end when the juvenile reaches the age of majority, except in a  
3 case where the juvenile was certified and tried as an adult.

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

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

20 2 Adequate Representation for Indigent Defendants in Criminal Cases; Repayment. Amend  
21 RSA 604-A:9, II to read as follows:

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

26 3 Appointment of Counsel for Nonpayment or Performance; Reference Change. Amend RSA  
27 604-A:2-f, IV to read as follows:

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

32 4 Effective Date. This act shall take effect January 1, 2026.

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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.