HB 1027-FN - AS INTRODUCED

2022 SESSION

22-2312
04/05

HOUSE BILL ***1027-FN***

AN ACT establishing the crime of undermining legislative process by false claim of emergency.

SPONSORS: Rep. Baxter, Rock. 20; Rep. Yokela, Rock. 33

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill establishes the crime of subversion of the legislative process-treason for any act to subvert the legislative process based on a false claim of emergency caused by COVID-19.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2312
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT establishing the crime of undermining legislative process by false claim of emergency.

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

1 Findings: The general court hereby finds that:

I. The legislative process is core to our republic.

II. Anyone using emergency powers or an emergency process to create laws or regulations outside of an emergency to bypass the legislative process undermines the United States Constitution and our institutions.

III. The existence of COVID-19 has been widely known since February of 2020.

IV. The risk to people and the method of COVID-19 spread is widely known.

V. There are known treatments and preventative measures which are common knowledge.

VI. The population of the United States is aware of the risks and dangers of COVID-19.

VII. COVID-19 will not be eradicated from the Earth.

VIII. While the virus is a concern, citizens are free to mitigate based on their own comfort level of risk, and there is no longer an emergency caused by COVID-19.

IX. President Joseph Biden has colluded with the United States Department of Labor's Occupational Safety and Health Administration (OSHA) to enact rules which bypass the legislative process under a false claim of an emergency.

X. Any rules issued under that false claim of an emergency have undermined the United States Constitution.

XI. Anyone trying to enforce such emergency rules or regulations on citizens or businesses within New Hampshire is aiding in the act of treason and therefore is also guilty of treason against the state.

2 New Chapter; Subversion of the Legislative Process-Treason. Amend RSA by inserting after chapter 648 the following new chapter:

CHAPTER 648-A

SUBVERSION OF THE LEGISLATIVE PROCESS-TREASON

648-A:1 Purpose. The legislative process is core to our republic and attacks against that process are attacks against our state.

648-A:2 Definitions. In this chapter:

I. "Subvert the legislative process" means any process which does not give full review of laws, rules, or regulations including public comment and oversight.

II. "False claim of emergency caused by COVID-19" means any claim of emergency for COVID-19 in which the risks and preventive actions for the virus are known to the public and for which treatments are available including emergency use authorization or off-label use, and shall include any claim of emergency which uses COVID-19 as the reason after January 1, 2021.

648-A:3 Prohibited Acts.

I. No person, including an agent of the state or federal government, shall seek or conspire to subvert the legislative process under a false claim of emergency caused by COVID-19.

II. No person, including an agent of the state or federal government, shall seek to enforce laws, rules, or regulations in which the process of adoption or passage subverted the legislative process under a false claim of emergency caused by COVID-19.

648-A:4 Penalties. Any person, including an agent of the state, who violates any provision of this chapter shall be guilty of a class A felony, and shall be incarcerated for a term of not less than 20 years. This chapter shall supersede a defense or immunity enacted prior to the effective date of this chapter.

3 Effective Date. This act shall take effect January 1, 2023.

LBA
22-2312
10/7/21

HB 1027-FN- FISCAL NOTE
AS INTRODUCED

AN ACT establishing the crime of undermining legislative process by false claim of emergency.

FISCAL IMPACT: [X] State [X] County [ ] Local [ ] None

	Estimated Increase / (Decrease)			
STATE:	**FY 2022**	**FY 2023**	**FY 2024**	**FY 2025**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] 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 Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	$825/Case	$825/Case
Assigned Counsel – Felony	$60/Hour up to $4,100	$60/Hour up to $4,100
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. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). Beginning in March of 2021, the public defender program has had to close intake to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel program have had to absorb significantly more cases. The system is experiencing significant delays in appointing counsel and the costs of representation have increased due to travel time and multiple appointments.		
Department of Corrections	FY 2022	FY 2023
FY 2021 Average Cost of	$54,386	$54,386

Incarcerating an Individual		
FY 2021 Annual Marginal Cost of a General Population Inmate	$5,715	$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	$603	$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	$105 to $125	$105 to $125

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. 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. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

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 may be able to absorb the cost within its existing budget. However, if the Department needs to prosecute significantly more cases or handle more appeals, then costs will increase by an indeterminable amount.

AGENCIES CONTACTED:

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