HB 1511-FN - AS INTRODUCED

2018 SESSION

18-2330
04/03

HOUSE BILL ***1511-FN***

AN ACT relative to the death of a fetus for the purpose of certain homicide charges.

SPONSORS: Rep. Wuelper, Straf. 3; Rep. Gould, Hills. 7; Rep. Baldasaro, Rock. 5; Rep. Souza, Hills. 43; Rep. Notter, Hills. 21; Rep. Itse, Rock. 10

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill amends the definition of "fetus" for the purpose of certain homicide charges and removes the immunity from criminal charges for acts committed by a pregnant woman relative to the fetus.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

18-2330
04/03

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eighteen

AN ACT relative to the death of a fetus for the purpose of certain homicide charges.

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

1 First Degree Murder; Definition of Fetus and Exceptions. Amend RSA 630:1-a, V to read as follows:

V.(a) Nothing in paragraph IV shall apply to:

(1) [~~Any act committed by the pregnant woman;~~

~~(2) Any act committed at the request or direction of the pregnant woman or for the benefit of the pregnant woman;~~

~~(3)~~] Any act performed by a physician or other medical professional in the course of such physician's or medical professional's professional duties[~~, including but not limited to, an act that results in the termination of a pregnancy~~]; or

[~~(4)~~] ***(2)*** Any act taken in furtherance of the lawful dispensation or administration of prescription or nonprescription medication.

(b) In this section[~~:~~

~~(1)~~] "Fetus" means an unborn offspring, from the embryo stage which is the end of the [~~twentieth~~] ***eighth*** week after conception or, in the case of in vitro fertilization, the end of the [~~twentieth~~] ***eighth*** week after implantation, until birth.

[~~(2) "Pregnant" means the female reproductive condition of having one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.~~

~~(3) "Pregnancy" means one or more developing embryos or fetuses implanted in the uterus or elsewhere in the female body.~~]

2 Effective Date. This act shall take effect January 1, 2019.

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HB 1511-FN- FISCAL NOTE
AS INTRODUCED

AN ACT relative to the death of a fetus for the purpose of certain homicide charges.

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

	Estimated Increase / (Decrease)			
STATE:	**FY 2019**	**FY 2020**	**FY 2021**	**FY 2022**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

METHODOLOGY:

This bill contains a penalty 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 2019	FY 2020
Complex Criminal Case	$891	$916
Appeals	Varies	Varies
It should be noted that average case cost estimates for FY 2019 and FY 2020 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		
Assigned Counsel – Felony. Homicide (Including capital cases)	$100/Hour up to $20,000	$100/Hour up to $20,000
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. Due to the time consuming and complex nature of these cases, they are not assigned through the contract program, would be given to assigned counsel and two attorneys would be appointed.		
Department of Corrections		
FY 2017 Average Cost of Incarcerating an Individual	$36,960	$36,960
FY 2017 Annual Marginal Cost of a General Population	$4,555	$4,555

Inmate		
FY 2017 Average Cost of Supervising an Individual on Parole/Probation	$557	$557

The Department of Justice prosecutes all murder cases and some manslaughter cases but it cannot estimate how many additional cases would be brought as a result of this bill and therefore is unable to determine the additional cost.

The New Hampshire Association of Counties determined this bill would have no impact on county expenditures or revenues.

AGENCIES CONTACTED:

Judicial Branch, Department of Justice, Judicial Council and New Hampshire Association of Counties