HB 1151-FN - AS INTRODUCED

2022 SESSION

22-2431
04/05

HOUSE BILL ***1151-FN***

AN ACT prohibiting the display of a deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, or demonstration.

SPONSORS: Rep. Meuse, Rock. 29; Rep. Berch, Ches. 1; Rep. Horrigan, Straf. 6; Rep. DiLorenzo, Rock. 17; Rep. R. Newman, Hills. 29; Rep. Altschiller, Rock. 19; Rep. Weston, Graf. 8; Rep. Klein-Knight, Hills. 11

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the open carry or display of a firearm at a parade funeral procession, picket line, march, rally, vigil, demonstration, or other similar event.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2431
04/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT prohibiting the display of a deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, or demonstration.

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

1 New Subdivision; Open Carry or Display of a Firearm Prohibited. Amend RSA 159 by inserting after section 26 the following new subdivision:

Open Carry or Display of a Firearm Prohibited

159:27 Definitions. In this subdivision:

I. "Public property" includes, but is not limited to areas owned or operated under the control of the state and any of its political subdivisions including public ways, sidewalks, driveways, parking lots, parks, walkways, recreational fields, greenways, plazas, rights-of-way, and other public grounds.

II. "Spectator" means any person engaged in a counter-protest or observing the parade, procession, picket line, rally, march or demonstration who is within 100 feet of participants.

159:28 Open Carry or Display of Deadly Weapons Prohibited at Parades, Funeral Processions, Picket Lines, Lawful Marches, and Demonstrations.

I. No person shall openly carry or display a loaded or unloaded pistol, revolver, firearm, or other deadly weapon as defined in RSA 625:11, V, whether licensed or unlicensed, while participating in, affiliated with, or present as a spectator at any parade, funeral procession, picket line, march, rally, vigil, or demonstration or other event organized or held for political, religious, or other First Amendment related purpose taking place upon any public property owned or under the control of the state or any of its political subdivisions.

II. No person, spectator, or counter-protest participant shall openly carry or display a firearm or other deadly weapon as defined in RSA 625:11, V within 100 feet of any event mentioned in paragraph I.

III This section shall apply regardless of whether or not a permit has been secured by event organizers.

IV. This section shall also apply to persons in private vehicles who are parked or traveling on public property within 100 feet of the closest event participant.

V. Nothing in this section shall be construed to preclude or limit a prosecution or conviction for a violation of any other provision of law governing the actions of participants or spectators.

159:29 Penalty. Any person who violates any provision of this subdivision shall be guilty of a violation for the first offense and fined $100. Any person who violates any provision of this

subdivision after being found guilty of a first offense shall be guilty of a misdemeanor for each subsequent offense.

159:30 Exceptions.

I. There shall be a presumption that no rifle or gun carried on a rack in a pickup truck violates the provisions of this subdivision.

II. This subdivision shall not apply to federal law enforcement officers, sheriffs, police officers, or other duly appointed peace and other law enforcement officers when on duty; nor to the regular and ordinary transportation of pistols or revolvers as merchandise; nor to members of the armed services of the United States when on duty; nor to the national guard when on duty; nor to duly authorized military, police, or civil organizations when parading or serving in honor guards at funerals.

III. This subdivision shall not apply to spectators or protesters legally carrying concealed firearms or other deadly weapons.

IV. This subdivision shall not apply to free speech actions listed in this subdivision where the primary purpose of the action is to peacefully advocate for Second Amendment rights. However, this exception shall not apply to planned or impromptu counter-protests, counter-rallies, counter-marches, or counter-demonstrations conducted in response to another group expressing its First Amendment rights at the same time and location.

159:31 Rights Preserved. Nothing in this subdivision shall be construed to reduce or limit a person who is not prohibited from owning a firearm under RSA 159 from carrying a concealed firearm at or in the vicinity of an event listed in RSA 159:28, I. Nothing in this subdivision shall be construed to reduce or limit a person from engaging in lawful self-defense or defense of property as specified in RSA 627.

2 Effective Date. This act shall take effect 60 days after its passage.

LBA
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Redraft 10/27/21

HB 1151-FN- FISCAL NOTE
AS INTRODUCED

AN ACT prohibiting the display of a deadly weapon at a parade, funeral procession, picket line, march, rally, vigil, or demonstration.

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 – 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. 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.		

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