HB 216-FN - AS INTRODUCED

2023 SESSION

23-0430
04/05

HOUSE BILL ***216-FN***

AN ACT exempting dimethyltryptamine from the controlled drug act.

SPONSORS: Rep. Santonastaso, Ches. 18

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill exempts dimethyltryptamine from the controlled drug act.

- -

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT exempting dimethyltryptamine from the controlled drug act.

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

1 New Section; Controlled Drug Act; Exemption for Dimethyltryptamine. Amend RSA 318-B by inserting after section 1-c the following new section:

318-B:1-d Exemption for Dimethyltryptamine. Dimethyltryptamine shall be exempt from the provisions of this chapter.

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

LBA
23-0430
12/16/22

HB 216-FN- FISCAL NOTE
AS INTRODUCED

AN ACT exempting dimethyltryptamine from the controlled drug act.

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

	Estimated Increase / (Decrease)			
STATE:	**FY 2023**	**FY 2024**	**FY 2025**	**FY 2026**
Appropriation	$0	$0	$0	$0
Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease
Funding Source:	[X] General	[ ] Education	[ ] Highway	[ ] Other

COUNTY:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Decrease	Indeterminable Decrease	Indeterminable Decrease

METHODOLOGY:

This bill exempts dimethyltryptamine from the provisions of RSA 318-B, the Controlled Drug Act. As such, individuals in possession of the drug would no longer be subject to the criminal penalties imposed by that statute. There is no method to determine how many fewer charges will be brought as a result of the bill. However, the entities impacted have provided the potential costs associated with these penalties below.

Judicial Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
Violation and Misdemeanor Level Offense	$119	$122	$122
Complex Felony Case	$3,195	$3,244	$3,366
Routine Criminal Case	$644	$657	$779
Appeals	Varies	Varies	Varies
Judicial Council	FY 2023		FY 2024
Public Defender Program	Has contract with State to provide services.		Has contract with State to provide services.
Contract Attorney - Felony	$825/Case		$825/Case

	$105 administrative fee $200 incarceration fee (If applicable)	$105 administrative fee $200 incarceration fee (If applicable)
Contract Attorney – Misdemeanor	$300/Case $70 administrative fee $100 incarceration fee (If applicable)	$300/Case $70 administrative fee $100 incarceration fee (If applicable)
Contract Attorney - Major Crimes (aggravated felonious sexual assault, felonious sexual assault and first degree assault)	$2,490/Case $140 administrative fee $200 incarceration fee (If applicable)	$2,490/Case $140 administrative fee $200 incarceration fee (If applicable)
Assigned Counsel - Felony. Homicide including capital cases. Travel time to court does not count toward the cap.	$125/Hour up to $20,000	$125/Hour up to $20,000
Assigned Counsel - Felony. Travel time to court does not count toward the cap.	$90/Hour up to $5,500	$90/Hour up to $5,500
Assigned Counsel- Misdemeanor. Travel time to court does not count toward the cap.	$90/Hour up to $2,000	$90/Hour up to $2,000
Assigned Counsel - Supreme Court Appeal	$125/Hour up to $10,000	$125/Hour up to $10,000

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. 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 of 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 2023	FY 2024
FY 2022 Average Cost of Incarcerating an Individual	$64,223	$64,223
FY 2022 Annual Marginal Cost of a General Population Inmate	$6,123	$6,123
FY 2022 Average Cost of Supervising an Individual on Parole/Probation	$688	$688

The Department notes any increase in the incarcerated population will have a direct impact on overtime costs given the Department's history of challenges associated with recruitment. In addition, the NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.

NH Association of Counties	FY 2023	FY 2024
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	$105 to $125	$105 to $125

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.

It is assumed any fiscal impact will begin in FY 2024.

AGENCIES CONTACTED:

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