HB 107-FN - AS AMENDED BY THE HOUSE

22Mar2023... 0586h

2023 SESSION

23-0045
05/04

HOUSE BILL ***107-FN***

AN ACT relative to employment restrictions for registered sex offenders.

SPONSORS: Rep. Verville, Rock. 2; Rep. Roy, Rock. 31; Rep. Alexander Jr., Hills. 29

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits a person convicted of certain sexual assault offenses from hiring or otherwise engaging in any employment or volunteer service which provides direct services to a minor, or supervision or oversight of a minor.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to employment restrictions for registered sex offenders.

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

1 Sexual Assault and Related Offenses; Prohibition From Contact With a Minor. Amend RSA 632-A:10 to read as follows:

632-A:10 Prohibition From [~~Child Care Service of Persons Convicted of Certain Offenses~~] ***Employment in Businesses Providing Direct Services to Minors or Direct Supervision or Oversight of Minors***.

I. A person is guilty of a class A felony if, having been convicted in this or any other jurisdiction of any felonious offense involving child sexual abuse images, or of a felonious physical assault on a minor, or of any sexual assault, he or she knowingly [~~undertakes~~] ***engages in*** employment or volunteer service***,*** [~~involving the care, instruction or guidance of minor children, including, but not limited to, service as a teacher, a coach, or worker of any type in child athletics, a day care worker, a boy or girl scout master or leader or worker, a summer camp counselor or worker of any type, a guidance counselor, or a school administrator of any type~~] ***either as the employer or provider of such service or as an employee or volunteer, that consists of acting as a public or private school teacher, school administrator, guidance counselor, coach, a worker of any kind in child athletics, a day care worker, a boy or girl scout master or leader or worker, a camp counselor, or any employment or volunteer activity that provides services exclusively or predominantly to minors, that involves direct supervision of minors, or that involves one on one work with minors, or any employment or volunteer service that involves the direct supervision of minors, or one on one work with other minor employees.***

II. A person is guilty of a class B felony if, having been convicted in this or any other jurisdiction of any of the offenses specified in paragraph I of this section, he ***or she*** knowingly fails to provide information of such conviction when [~~applying or volunteering for service or employment of any type involving the care, instruction, or guidance of minor children, including, but not limited to, the types of services set forth in paragraph I~~] ***offering employment or volunteer service opportunities or applying for or engaging in employment or volunteer service of the kind specified in paragraph I***.

III. A person is guilty of a class B felony if, having been convicted in this or any other jurisdiction of any of the offenses specified in paragraph I of this section, he ***or she*** knowingly fails to provide information of such conviction when making application for initial teacher certification in this state.

2 Effective Date. This act shall take effect January 1, 2024.

LBA
23-0045
Amended 3/28/23

HB 107-FN- FISCAL NOTE

AS AMENDED BY THE HOUSE (AMENDMENT #2023-0586h)

AN ACT relative to employment restrictions for registered sex offenders.

FISCAL IMPACT: [X] State [X] County [X] 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 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

LOCAL:

Revenue	$0	$0	$0	$0
Expenditures	$0	Indeterminable Increase	Indeterminable Increase	Indeterminable Increase

METHODOLOGY:

This bill prohibits a person convicted of certain sexual assault offenses from hiring or otherwise engaging in any employment or volunteer service which provides direct services to a minor, or supervision or oversight of a minor. 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 Branch	FY 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
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 $105 administrative fee $200 incarceration fee (If applicable)	$825/Case $105 administrative fee $200 incarceration fee (If applicable)
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 - 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.

The Department of Safety, Division of State Police indicates this bill would increase state and local expenditures by an indeterminable amount. The Division assumes local government police departments would be impacted with more criminal work related to having to track where offenders may be working with minors. The Division also assumes the bill would create

additional work within the Sex Offender Registry talking calls and notifying local jurisdictions on specifics related to where offenders work and provide services for minors.

AGENCIES CONTACTED:

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