HB 144-FN - AS INTRODUCED

2023 SESSION

23-0585
04/08

HOUSE BILL ***144-FN***

AN ACT restoring firearm ownership rights to ex-felons.

SPONSORS: Rep. Gerhard, Merr. 25

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill provides that a non-violent felon who has completed the term of incarceration, and all other conditions of the sentence, shall have the right to possess and use a firearm.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT restoring firearm ownership rights to ex-felons.

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

1 Pistols and Revolvers; Convicted Felons. RSA 159:3 is repealed and reenacted to read as follows:

159:3 Convicted Felons. Except as provided in RSA 159:3-a, upon completion of a term of incarceration, including all other conditions and requirements of the sentence, a person who was convicted of a felony that did not involve committing an act of violence shall have the right to possess and use a pistol, revolver, or other firearm in accordance with the provisions of this chapter. In this section, "act of violence" shall mean physical harm inflicted upon another individual.

2 Armed Career Criminals; Exceptions for Nonviolent Controlled Drug Act Offenses. Amend RSA 159:3-a, I to read as follows:

I. No person who has been convicted of any combination of 3 or more felonies in this state or any other state under homicide, assault, sexual assault, arson, burglary, robbery, extortion, child sexual abuse images, or ***an offense under the*** controlled drug laws ***that involves an act of violence or threat of violence***, shall own or have in his or her possession or under his or her control, a pistol, revolver, rifle, shotgun, or any other firearm. ***In this paragraph, "act of violence" means attempting to cause or purposely or recklessly causing bodily injury or serious bodily injury with or without a deadly weapon; and the term " threat of violence " means placing or attempting to place another in fear of imminent bodily injury either by physical menace or by threats to commit a crime against the person of the other.***

3 Pistols and Revolvers; Exceptions. Amend RSA 159:5 to read as follows:

159:5 Exceptions. The provisions of [~~RSA 159:3 and 4~~] ***RSA 159:4*** shall not apply to marshals, sheriffs, policemen or other duly appointed peace and other law enforcement officers, or bailiffs and court officers responsible for court security; 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 organizations by law authorized to purchase or receive such weapons; nor to duly authorized military or civil organizations when parading, or the members thereof when at, or going to or from, their customary places of assembly.

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

LBA
23-0585
12/16/22

HB 144-FN- FISCAL NOTE
AS INTRODUCED

AN ACT restoring firearm ownership rights to ex-felons.

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 provides that a non-violent felon who has completed the term of incarceration, and all other conditions of the sentence, shall have the right to possess and use a firearm. The bill impacts a number of felony penalties and may have an impact on the New Hampshire judicial and correctional systems. There is no method to determine how many fewer 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 fewer cases or handle more appeals, then costs will decrease by an indeterminable amount.

AGENCIES CONTACTED:

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