

SB 15-FN - AS AMENDED BY THE HOUSE

01/30/2025 0165s
7Jan2026... 3096h

2025 SESSION

25-0229
09/06

SENATE BILL ***15-FN***

AN ACT relative to incorporating hard labor as a sentencing option for capital murder and serious sexual assaults on children, defining hard labor, establishing medical exemptions and penalties for abuse thereof, providing alternative punitive measures for legitimate medical exemptions, and authorizing jury determination of hard labor in qualifying cases.

SPONSORS: Sen. Gannon, Dist 23; Sen. Gray, Dist 6; Sen. Lang, Dist 2; Sen. Birdsell, Dist 19; Sen. Avar, Dist 12; Sen. Abbas, Dist 22; Rep. Litchfield, Rock. 32; Rep. Khan, Rock. 30; Rep. Vose, Rock. 5; Rep. L. Walsh, Rock. 15; Rep. Bernardy, Rock. 36

COMMITTEE: Judiciary

AMENDED ANALYSIS

This bill incorporates hard labor as a sentencing option for certain offenses; establishes medical exemptions and penalties for abuse thereof; provides alternative punitive measures for legitimate medical exemptions; and establishes a sentencing appeals panel for prosecution appeals related to hard labor sentences.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to incorporating hard labor as a sentencing option for capital murder and serious sexual assaults on children, defining hard labor, establishing medical exemptions and penalties for abuse thereof, providing alternative punitive measures for legitimate medical exemptions, and authorizing jury determination of hard labor in qualifying cases.

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

1 1 New Paragraph; Hard Labor for Certain Offenses. Amend RSA 651:2 by inserting after
2 paragraph II-h the following new paragraph:

3 II-i.(a) In any case in which the defendant is convicted of capital murder under RSA 630:1 or
4 aggravated felonious sexual assault on a child under the age of 13 under RSA 632-A:2, I(a), I(b), or
5 I(c), the court shall conduct a separate sentencing hearing before the same jury that determined
6 guilt, unless the defendant waives a jury and elects sentencing by the court.

7 (b) At the sentencing hearing, the state and the defendant may present evidence and
8 argument relevant to the imposition of hard labor. The jury shall be instructed that hard labor may
9 be imposed only if it finds beyond a reasonable doubt that:

- 10 (1) The defendant's conduct was especially heinous, atrocious, or cruel; or
11 (2) The defendant acted with deliberate cruelty; or
12 (3) The offense involved the infliction of serious physical, emotional, or psychological
13 injury on the victim; and
14 (4) The aggravating factors substantially outweigh any mitigating factors presented.

15 (c) A verdict to impose hard labor requires the affirmative vote of at least 9 jurors in a
16 12-person jury. If fewer than 9 jurors vote to impose hard labor, the sentence shall be life
17 imprisonment without parole.

18 (d) If hard labor is imposed, the sentence shall be life imprisonment at hard labor
19 without parole, to be served as defined in RSA 622:7. The defendant shall perform hard labor for the
20 duration of their natural life, subject only to medical exemptions under RSA 622:7-a or suspension
21 under RSA 622:7, III.

22 (e) The court shall enter the sentence in accordance with the jury's verdict. There shall
23 be no judicial departure from a jury verdict imposing or rejecting hard labor.

24 2 Duties of the Commissioner. Amend RSA 622:7, IX to read as follows:

25 IX. To ~~[conduct and manage the industries at the prisons.]~~ **establish and operate an**
26 **industries program to aid in the rehabilitation of inmates of the state prisons, which shall**
27 **include a hard labor component for sentences designated under RSA 651:2, II-i.**

(a) *As used in this paragraph, “hard labor” means the mandatory performance of physically intensive manual labor tasks assigned by the commissioner of corrections, designed to serve as punishment, deterrence, and, where appropriate, rehabilitation for offenders sentenced under RSA 651:2, II-i. Such labor shall include, but not be limited to, activities such as agricultural fieldwork, construction or infrastructure maintenance, sanitation and waste management, manufacturing or assembly work requiring significant physical exertion, or other comparable tasks that demand prolonged physical effort under supervised conditions. No hard labor assignment shall pose an unreasonable risk of serious injury or be conducted without regard to the offender’s health and safety.*

(b) *Hard labor assignments shall require no less than 8 hours per day, 5 days per week, unless adjusted for documented medical, age-related, or security reasons, and shall be performed in compliance with basic health and safety standards to prevent injury or undue hardship. The commissioner shall have the final authority to determine the specific tasks to be accomplished, the conditions under which they will be performed, and whether hard labor will occur on any given day based on the commissioner’s determination that it is safe for the public, staff, and offenders. This determination may include considerations such as staffing levels, equipment availability, weather conditions, or any other factors affecting safety. If the commissioner determines that there is insufficient staffing to safely supervise inmates in hard labor, the commissioner may suspend hard labor for any or all affected inmates, and alternative punitive measures shall be implemented in accordance with RSA 622:7-d. Compensation, if any, shall be at the prevailing prison wage rate but shall not exceed rates for non-hard labor assignments. The commissioner may incorporate rehabilitative components, such as vocational training, but the primary purpose for designated offenses shall be punitive retribution and societal deterrence. Refusal to participate without valid exemption may result in disciplinary measures, including loss of good time credits under RSA 651-A:22 or extended confinement.*

(c) *The commissioner shall ensure that all staff involved in assigning or supervising hard labor receive training on compliance with the Eighth Amendment to the United States Constitution and part I, article 18 of the New Hampshire constitution to prevent cruel and unusual punishment.*

3 New Sections; Medical Exemption from Hard Labor and Prevention of Abuse. Amend RSA 622 by inserting after section 7-b the following new sections:

622:7-c Medical Exemptions from Hard Labor; Prevention of Abuse.

I. An offender may be exempted from hard labor only upon a determination of medical inability by a qualified physician employed by or contracted with the department of corrections. “Medical inability” means a documented physical or mental condition that substantially impairs the offender’s capacity to perform the essential functions of assigned hard labor tasks, even with

1 reasonable accommodations, as certified in writing with reference to specific diagnostic criteria, such
2 as based on standards from the American Medical Association or equivalent.

3 II. The determination shall be based on an in-person evaluation, including review of medical
4 records, and may incorporate standardized assessments for malingering, such as the Structured
5 Inventory of Malingered Symptomatology (SIMS) or similar validated tools.

6 III. If the initial evaluation supports an exemption, a second opinion from an independent
7 physician or medical review board appointed by the commissioner may be required at the discretion
8 of the department or upon challenge by correctional staff.

9 IV. Exemptions shall be reviewed at least every 6 months, or sooner if the offender's
10 condition improves or new evidence suggests abuse. Failure to cooperate with evaluations may
11 result in revocation of the exemption and disciplinary action.

12 V. An offender who knowingly submits a false or exaggerated claim of medical inability, or
13 who malingers to avoid hard labor, commits a disciplinary offense punishable by:

- 14 (a) Loss of good time credits (up to 90 days per incident) under RSA 651-A:22;
- 15 (b) Extension of the minimum sentence by up to 6 months for repeated offenses;
- 16 (c) Confinement in restrictive housing; or
- 17 (d) Other sanctions as determined by department policy, consistent with due process.

18 VI. The department shall maintain records of all exemption requests, determinations, and
19 reviews, and submit an annual report to the legislature on exemption rates, patterns, and any
20 detected instances of abuse, including recommendations for improvements.

21 622:7-d Alternative Punitive Measures for Medical Exemptions.

22 I. If an offender sentenced to hard labor under RSA 651:2, II(i) receives a legitimate medical
23 exemption under RSA 622:7-a or if hard labor is suspended due to insufficient staffing under RSA
24 622:7, III, the commissioner shall impose alternative punitive measures to ensure the sentence
25 maintains a retributive component, including but not limited to:

26 (a) Placement in a restrictive housing unit (RHU) or special housing unit (SHU),
27 involving up to 23 hours per day of isolation with minimal privileges, subject to periodic reviews
28 every 6 months;

29 (b) Suspension or denial of privileges, including but not limited to non-contact visits
30 only, limited telephone access, no recreation time beyond basic exercise, no canteen purchases except
31 essentials, and no entertainment electronics;

32 (c) Automatic loss of good conduct credits under RSA 651-A:22 or earned time credits
33 under RSA 651-A:22-a, up to the maximum allowable, to extend the effective term of confinement;

34 (d) Higher security classification, such as C-4 or C-5, with enhanced supervision,
35 reduced yard time, and limited property;

36 (e) Mandatory participation in non-physical burdensome requirements, such as victim-
37 impact programs, administrative duties if feasible, or restitution deductions from inmate funds.

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1 II. These measures shall be tailored to the severity of the offense and the offender's
2 classification, ensuring compliance with constitutional standards, and shall prioritize retribution
3 and deterrence in lieu of hard labor.

4 4 Severability. If any provision of this act or the application thereof to any person or
5 circumstance is held invalid, such invalidity shall not affect other provisions or applications of the
6 act which can be given effect without the invalid provision or application, and to this end the
7 provisions of this act are declared to be severable.

8 5 Effective Date. This act shall take effect 6 months after its passage.

SB 15-FN- FISCAL NOTE
AS AMENDED BY THE HOUSE (AMENDMENT # 2025-3096h)

AN ACT relative to incorporating hard labor as a sentencing option for capital murder and serious sexual assaults on children, defining hard labor, establishing medical exemptions and penalties for abuse thereof, providing alternative punitive measures for legitimate medical exemptions, and authorizing jury determination of hard labor in qualifying cases.

FISCAL IMPACT: This bill does not provide funding, nor does it authorize new positions.

Estimated State Impact				
	FY 2026	FY 2027	FY 2028	FY 2029
Revenue	\$0	\$0	\$0	\$0
Revenue Fund(s)	None			
Expenditures*	\$0	Indeterminable Increase \$2,800,000 to \$3,300,000	Indeterminable Increase \$2,900,000 to \$3,400,000	Indeterminable Increase \$3,000,000 to \$3,500,000
Funding Source(s)	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
Funding Source(s)	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

The Office of Legislative Budget Assistant is unable to provide a complete fiscal note for this bill, as amended, as it is awaiting information from the Department of Justice. The Department was originally contacted on 01/08/26 and again on 02/10/26 for a fiscal note worksheet. When completed, a revised fiscal note will be forwarded to the Clerk's Office

METHODOLOGY:

This bill incorporates hard labor as a sentencing option for capital murder and aggravated felonious sexual assault on a child under the age of 13, establishes requirements for sentencing hearings, defines hard labor, provides for medical exemptions and alternative punitive measures, and establishes related procedures.

The Department of Corrections states this bill would result in a significant increase in state expenditures beginning in FY 2027. The Department indicates implementation of a hard labor program would require additional staffing, including approximately four Program Coordinators, four Shop Managers, and eighteen Correctional Officers across facilities (See table below). The Department further states the requirement that inmates perform a minimum of eight hours of

hard labor per day would necessitate additional staffing across shifts due to operational constraints such as inmate counts, meals, and medical needs. Based on these assumptions, the Department estimates an increase in state expenditures of approximately \$2,302,000 in FY 2027, \$2,350,000 in FY 2028, and \$2,450,000 in FY 2029.

Department of Corrections Positions Requested				
Position Title	Number of Positions Request	FY 2027	FY 2028	FY 2029
Program Coordinators (SOC21-05, Step 1)	4	\$356,000	\$364,000	\$380,000
Shop Managers (SOC51-04, Step 1)	4	\$308,000	\$312,000	\$324,000
Correctional Officers (SOC33C-01 Step1)	18	\$1,638,000	\$1,674,000	\$1,746,000
Total	26	\$2,302,000	\$2,350,000	\$2,450,000

The Department also notes there are currently approximately 181 incarcerated individuals convicted of offenses that would be subject to the provisions of this bill. The Department states the average annual cost of incarcerating an individual in the general population was \$81,753 for the fiscal year ending June 30, 2025.

The Judicial Branch states this bill would increase the number and length of sentencing hearings by requiring separate sentencing proceedings in qualifying cases, including jury sentencing hearings unless waived by the defendant. The Branch indicates these hearings could last two to three days and would increase demands on court resources, including juror costs and staffing. The Branch assumes the need for at least one additional Superior Court judge and supporting staff, and estimates the fiscal impact would be indeterminable, but more than \$500,000 and less than \$1,000,000 annually beginning in FY 2027.

The Judicial Council states it does not have sufficient data to determine whether this bill would have an impact on indigent defense expenditures and therefore reports the fiscal impact as indeterminable.

AGENCIES CONTACTED:

Department of Corrections, Judicial Branch, Department of Justice and Judicial Council