

HB 611-FN - AS INTRODUCED

2025 SESSION

25-0364
09/11

HOUSE BILL

611-FN

AN ACT abolishing recoupment procedures regarding appointed counsel for indigent criminal defendants.

SPONSORS: Rep. Scherr, Rock. 26; Rep. Roy, Rock. 31; Rep. M. Smith, Straf. 10; Rep. Turer, Rock. 6; Rep. Berch, Ches. 6; Sen. Innis, Dist 7; Sen. Fenton, Dist 10

COMMITTEE: Judiciary

ANALYSIS

This bill abolishes the repayment requirement and recoupment procedures for indigent criminal defendants who are appointed counsel.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT abolishing recoupment procedures regarding appointed counsel for indigent criminal defendants.

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

1 1 Adequate Representation for Indigent Defendants in Criminal Cases; Determination of
2 Financial Ability. Amend RSA 604-A:2-c to read as follows:

3 604-A:2-c Determination of Financial Ability. The determination of a defendant's financial
4 ability to obtain counsel shall be made by comparing the defendant's assets and incomes with the
5 minimum cost of obtaining qualified private counsel. The defendant's assets shall include all real
6 and personal property owned in any manner by the defendant, excluding only those assets which are
7 exempt from attachment and execution under RSA 511:2. The defendant's income shall include all
8 income, whether earned or not, from any source, unless exempt from attachment under any state or
9 federal law, and shall be reduced only by the amount of expenses which are reasonably necessary for
10 the maintenance of the defendant and his dependents. In determining a defendant's financial ability
11 to obtain counsel, the rules adopted by the commissioner under RSA 604-A:10, IV, shall contain a
12 method for considering the defendant's ability to borrow some or all of the necessary funds. ~~[The~~
13 ~~rules shall also consider the possibility of the defendant paying his counsel fees in periodic~~
14 ~~installments.]~~

15 2 Adequate Representation for Indigent Defendants in Criminal Cases; Appointment of Counsel
16 for Nonpayment or Nonperformance; Cross-Reference Deleted. Amend RSA 604-A:2-f, IV to read as
17 follows:

18 IV. When the court appoints counsel to represent a defendant in a proceeding under this
19 section, the court shall grant the defendant relief from the obligation to repay the state for appointed
20 counsel fees ~~[under RSA 604-A:9, I(b),]~~ if the court determines that the defendant is financially
21 unable to repay.

22 3 Adequate Representation for Indigent Defendants in Criminal Cases; Commissioner of
23 Administrative Services. Amend RSA 604-A:10, IV to read as follows:

24 IV. The commissioner of administrative services shall, with the approval of the attorney
25 general, adopt rules pursuant to RSA 541-A, governing determinations of eligibility for payment of
26 indigent defense expenditures~~[- determinations of repayment schedules, financial and credit~~
27 ~~investigations,]~~ and any other matters the commissioner deems necessary or advisable for the
28 performance of duties under this chapter.

29 4 Repeal. The following are repealed:

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1 I. RSA 604-A:2-a, relative to additional inquiry regarding appointed counsel for indigent
2 criminal defendants.

3 II. RSA 604-A:2-d, relative to partial liability regarding appointed counsel for indigent
4 criminal defendants.

5 III. RSA 604-A:9, relative to repayment regarding appointed counsel for indigent criminal
6 defendants.

7 5 Effective Date. This act shall take effect January 1, 2026.

HB 611-FN- FISCAL NOTE
AS INTRODUCED

AN ACT abolishing recoupment procedures regarding appointed counsel for indigent criminal defendants.

FISCAL IMPACT:

Estimated State Impact				
	FY 2025	FY 2026	FY 2027	FY 2028
Revenue	\$0	(\$320,208)	(\$320,208)	\$0
<i>Revenue Fund(s)</i>	General Fund			
Expenditures*	\$0	Maximum (\$371,094)	Maximum (\$383,554)	\$0
<i>Funding Source(s)</i>	General Fund			
Appropriations*	\$0	\$0	\$0	\$0
<i>Funding Source(s)</i>	None			

*Expenditure = Cost of bill

*Appropriation = Authorized funding to cover cost of bill

METHODOLOGY:

This bill modifies the process for determining whether a criminal defendant qualifies for state-appointed counsel by adjusting the assessment of assets, income, and borrowing ability. It removes the requirement for courts to establish repayment schedules for indigent defense costs and eliminates provisions requiring defendants to repay the state for legal counsel fees if they cannot afford them. Additionally, the bill repeals the cost recovery functions of the Office of Cost Containment (OCC) under the Department of Administrative Services (DAS).

The Department of Administrative Services (DAS) states eliminating the cost recovery functions of the Office of Cost Containment (OCC) will result in the elimination of the OCC's operational budget. The OCC, which currently employs four staff members, is responsible for recouping legal defense costs from indigent defendants. With the repeal, the OCC's role would no longer exist, and the agency's funding requests of \$371,094 for FY26 and \$383,554 for FY27 would no longer be necessary. To the extent these eliminated positions have unused leave time the payout might reduce the savings in expenditures by an indeterminable amount.

Due to previous legislative changes, collections have already declined significantly, from \$1.932 million in FY20 to \$402,000 in FY24. Projections for FY25 estimate collections at approximately \$320,208.

AGENCIES CONTACTED:

Department of Administrative Services