

SB 399-FN - AS AMENDED BY THE SENATE

02/03/2022 0333s

2022 SESSION

22-2858

05/10

SENATE BILL

399-FN

AN ACT

relative to certain provisions of the fetal life protection act requiring an ultrasound examination.

SPONSORS:

Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Cavanaugh, Dist 16; Sen. D'Allesandro, Dist 20; Sen. Perkins Kwoka, Dist 21; Sen. Whitley, Dist 15; Sen. Sherman, Dist 24; Sen. Prentiss, Dist 5; Sen. Soucy, Dist 18; Sen. Kahn, Dist 10; Rep. M. Smith, Straf. 6; Rep. Simpson, Rock. 36; Rep. Amanda Bouldin, Hills. 12; Rep. Rogers, Merr. 28; Rep. Cushing, Rock. 21

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill construes the obstetric ultrasound examination requirement to determine probable gestational age prior to an abortion.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to certain provisions of the fetal life protection act requiring an ultrasound examination.

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

1 1 Fetal Life Protection Act; Prohibitions; Ultrasound Examination Requirement. Amend RSA
2 329:44, I to read as follows:

3 I. Except in the case of a medical emergency as specifically defined in paragraph III, no
4 abortion shall be performed, induced, or attempted by any health care provider unless a health care
5 provider has first made a determination of the probable gestational age of the fetus. In making such
6 a determination, the health care provider shall make such inquiries of the pregnant woman and
7 perform or cause to be performed all such medical examinations, imaging studies, and tests as a
8 reasonably prudent health care provider in the community, knowledgeable about the medical facts
9 and conditions of both the woman and the fetus involved, would consider necessary to perform and
10 consider in making an accurate diagnosis with respect to gestational age, provided, however, that
11 the health care provider shall conduct an obstetric ultrasound examination of the patient for the
12 purpose of making the determination. ***This subdivision shall be construed to require the***
13 ***performance of an ultrasound only if the provider either knows that the fetus has a***
14 ***gestational age of at least 24 weeks or is conscious of a substantial risk that the fetus has a***
15 ***gestational age of at least 24 weeks.***

16 2 Effective Date. This act shall take effect upon its passage.

**SB 399-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT repealing the fetal health protection act.

FISCAL IMPACT: State County Local None

STATE:	Estimated Increase / (Decrease)			
	FY 2022	FY 2023	FY 2024	FY 2025
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable decrease	Indeterminable decrease	Indeterminable decrease	Indeterminable decrease
Funding Source:	<input checked="" type="checkbox"/> General	<input type="checkbox"/> Education	<input type="checkbox"/> Highway	<input type="checkbox"/> Other

COUNTY:

Revenue	\$0	\$0	\$0	\$0
Expenditures	Indeterminable decrease	Indeterminable decrease	Indeterminable decrease	Indeterminable decrease

METHODOLOGY:

This bill repeals RSA 329:43 through 329:50, relative to the fetal health protection act. Since the bill removes a felony offense from statute, it may decrease costs for the judicial and correctional systems. There is no method to determine how many fewer charges may be brought as a result of the changes contained in the bill. However, the entities impacted have provided the costs associated with felony cases below.

Judicial Council	FY 2022	FY 2023
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Felony	\$825/Case	\$825/Case
Assigned Counsel – Felony. Homicide (Including capital cases)	\$100/Hour up to \$20,000	\$100/Hour up to \$20,000
Assigned Counsel – Felony	\$60/Hour up to \$4,100	\$60/Hour up to \$4,100
Assigned Counsel – Misdemeanor	\$60/Hour up to \$1,400	\$60/Hour up to \$1,400
<p>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 to new cases due to excessive caseloads. Due to these closures, the contract and assigned counsel</p>		

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 2022	FY 2023
FY 2021 Average Cost of Incarcerating an Individual	\$54,386	\$54,386
FY 2021 Annual Marginal Cost of a General Population Inmate	\$5,715	\$5,715
FY 2021 Average Cost of Supervising an Individual on Parole/Probation	\$603	\$603
NH Association of Counties	FY 2022	FY 2023
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

With respect to the Judicial Branch, the fiscal impact is indeterminable. In the past the Judicial Branch has used averaged caseload data based on time studies to estimate the fiscal impact of proposed legislation. The per case data on costs for routine criminal cases currently available to the Judicial Branch are based on studies of judicial and clerical weighted caseload times for processing average routine criminal cases that are more than fifteen years old so the data does not have current validity. A new case study is being conducted and updated estimates will be available in the future.

AGENCIES CONTACTED:

Judicial Branch, Judicial Council, Department of Corrections and New Hampshire Association of Counties