

**HB 605-FN - AS AMENDED BY THE SENATE**

05/30/2019 1953s

2019 SESSION

19-0653

08/04

HOUSE BILL **605-FN**

AN ACT relative to criminal penalties for possession, transfer, or manufacture of animal fighting paraphernalia with the intent to be present at, aiding in, or contributing to such fighting.

SPONSORS: Rep. Rogers, Merr. 28; Rep. Horrigan, Straf. 6; Rep. Burroughs, Carr. 1; Rep. Read, Rock. 17; Rep. Schultz, Merr. 18; Rep. Marsh, Carr. 8; Rep. Baldasaro, Rock. 5; Sen. Bradley, Dist 3

COMMITTEE: Criminal Justice and Public Safety

## ANALYSIS

This bill creates criminal penalties for possession, transfer, or manufacture of animal fighting paraphernalia with the intent to be present at, aiding in, or contributing to such fighting.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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

AN ACT relative to criminal penalties for possession, transfer, or manufacture of animal fighting paraphernalia with the intent to be present at, aiding in, or contributing to such fighting.

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

1 Exhibitions of Fighting Animals; Sale or Transfer Prohibited. Amend RSA 644:8-a, I to read as follows:

I. No person shall ***offer for sale, sell, loan, export***, keep, breed, or train any bird, dog, or other animal, with the intent that it or its offspring shall be engaged or used in an exhibition of fighting, or shall establish or promote an exhibition of the fighting thereof.

Whoever violates the provisions of this paragraph shall be guilty of a class B felony.

2 Exhibitions of Fighting Animals; Paraphernalia and Assistance Prohibited. Amend RSA 644:8-a, III-V to read as follows:

***III.(a) Any person who possesses, owns, buys, sells, transfers, or manufactures animal fighting paraphernalia with the intent to engage in or otherwise promote or facilitate such fighting shall be guilty of a class B felony.***

***(b) For purposes of this section, "animal fighting paraphernalia" means equipment, products, implements, and materials of any kind that are used, intended for use, or designed for use in the training, preparation, conditioning, or furtherance of animal***

*fighting, and includes, but is not limited to, the following: breaking sticks, cat mills, fighting pits, springpoles, unprescribed anabolic steroids, unprescribed anti-inflammatory steroids, unprescribed antibiotics, treatment supplies or gaffs, slashers, heels, or any other sharp implement designed to be attached in place of the natural spur of a cock or game fowl.*

*(c) In determining whether an object is animal fighting paraphernalia, the court shall consider any prior convictions under federal or state law relating to animal fighting, the proximity of the object in time and space to the direct violation of this section, direct or circumstantial evidence of the intent of the accused to deliver the object to persons whom he or she knows or should reasonably know intends to use the object to facilitate a violation of this section, oral or written instructions provided with or in the vicinity of the object concerning its use, descriptive materials accompanying the object which explain or depict its use, and all other logically relevant factors.*

IV. All animals so kept, bred, or trained by a person charged with violating the provisions of paragraph I may be seized by the arresting officer, pursuant to RSA 595-A:6 and RSA 644:8. Upon said person's conviction, said animals may, at the discretion of the court, be destroyed in a humane manner by a licensed veterinarian. The costs, if any, incurred in boarding the animals, pending disposition of the case, and in disposing of the animals, upon a conviction of said person for violating paragraph I, shall be borne by the person so convicted.

~~IV.] V.~~ V. Upon conviction of a violation of this section, all animals used or to be used in training, fighting, or baiting, and all equipment, paraphernalia, and money involved in a violation of this section may be forfeited to the state at the discretion of the court, pursuant to RSA 595-A:6. Proceeds of any such forfeiture shall be used to reimburse local government and state agencies for the costs of prosecution of animal fighting cases. Proceeds which are not needed for such reimbursement shall be deposited in the companion animal neutering fund, established in RSA 437-A:4-a.

~~V.] VI.~~ VI. In addition to other penalties prescribed by law, ~~[the court may issue an order prohibiting a person who is convicted of a violation of this section from owning or possessing any animals within the species that is the subject of the conviction, or any animals kept for the purpose of training, fighting, or baiting, for a period of time determined by the court.]~~ ***the court shall issue an order prohibiting or limiting a person who is convicted of a violation of this section from owning or possessing any animals for a period not less than 5 years, and may add other reasonable restrictions on future ownership or possession of animals as necessary for the protection of the animals. Any animal involved in a violation of a court order prohibiting or limiting ownership or possession of animals shall be subject to immediate forfeiture. Any person violating such order may, in addition to being held in criminal contempt of court or subject to a probation violation, be fined in the amount of \$1,000 in any court of competent jurisdiction for each animal held in unlawful ownership or possession. For purposes of this section, a reasonable restriction on future ownership or possession may include limiting a person from engaging in any employment in the care of animals or other similar contact as the court sees fit.***

3 Effective Date. This act shall take effect 90 days after its passage.

LBAO  
19-0653  
12/31/18

**HB 605-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to criminal penalties for possession, transfer, or manufacture of animal fighting paraphernalia with the intent to be present at, aiding in, or contributing to such fighting.

**FISCAL IMPACT:**    ☒ **State**            ☒ **County**            ☐ **Local**            ☐ **None**

| STATE:                 | Estimated Increase / (Decrease)                                                                                                                |                         |                         |                         |
|------------------------|------------------------------------------------------------------------------------------------------------------------------------------------|-------------------------|-------------------------|-------------------------|
|                        | FY 2020                                                                                                                                        | FY 2021                 | FY 2022                 | FY 2023                 |
| <b>Appropriation</b>   | \$0                                                                                                                                            | \$0                     | \$0                     | \$0                     |
| <b>Revenue</b>         | \$0                                                                                                                                            | \$0                     | \$0                     | \$0                     |
| <b>Expenditures</b>    | Indeterminable Increase                                                                                                                        | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |
| <b>Funding Source:</b> | <input checked="" type="checkbox"/> General <input type="checkbox"/> Education <input type="checkbox"/> Highway <input type="checkbox"/> Other |                         |                         |                         |

**COUNTY:**

|                     |                         |                         |                         |                         |
|---------------------|-------------------------|-------------------------|-------------------------|-------------------------|
| <b>Revenue</b>      | \$0                     | \$0                     | \$0                     | \$0                     |
| <b>Expenditures</b> | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |

**METHODOLOGY:**

This bill creates criminal penalties for possession, transfer, or manufacture of animal fighting paraphernalia with the intent to be present at, aiding in, or contributing to such fighting.

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 2020                                      | FY 2021                                      |
| Routine Criminal Felony Case - class B felony                                                                                                                                                                                                                                                                                              | \$481                                        | \$486                                        |
| Appeals                                                                                                                                                                                                                                                                                                                                    | Varies                                       | Varies                                       |
| It should be noted that average case cost estimates for FY 2020 and FY 2021 are based on data that is more than ten years old and does not reflect changes to the courts over that same period of time or the impact these changes may have on processing the various case types.                                                          |                                              |                                              |
| Judicial Council                                                                                                                                                                                                                                                                                                                           |                                              |                                              |
| 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                                                                                                                                                                                                                                                                                                                  | \$60/Hour up to \$4,100                      | \$60/Hour up to \$4,100                      |
| 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. The majority of indigent cases (approximately 85%) are handled by the public defender program, with the remaining cases going to contract attorneys (14%) or assigned counsel (1%). |                                              |                                              |
| Department of Corrections                                                                                                                                                                                                                                                                                                                  |                                              |                                              |
| FY 2018 Average Cost of Incarcerating an Individual                                                                                                                                                                                                                                                                                        | \$40,615                                     | \$40,615                                     |
| FY 2018 Annual Marginal Cost of a General Population Inmate                                                                                                                                                                                                                                                                                | \$4,620                                      | \$4,620                                      |
| FY 2018 Average Cost of                                                                                                                                                                                                                                                                                                                    |                                              |                                              |

|                                                             |                |                |
|-------------------------------------------------------------|----------------|----------------|
| Supervising an Individual on Parole/Probation               | \$571          | \$571          |
| NH Association of Counties                                  |                |                |
| County Prosecution Costs                                    | Indeterminable | Indeterminable |
| Estimated Average Daily Cost of Incarcerating an Individual | \$105 to \$120 | \$105 to \$120 |

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 would likely absorb the cost within its existing budget. If the Department needs to prosecute significantly more cases or handle more appeals, then costs may increase by an indeterminable amount.

**AGENCIES CONTACTED:**

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