

**HB 1096-FN - AS INTRODUCED**

2022 SESSION

22-2425

11/04

HOUSE BILL ***1096-FN***

AN ACT prohibiting open carrying or display of a deadly weapon within 100 feet of a polling place.

SPONSORS: Rep. Meuse, Rock. 29; Rep. Heath, Hills. 14; Rep. Ward, Rock. 28; Rep. R. Newman, Hills. 29; Rep. Berch, Ches. 1; Rep. Weston, Graf. 8; Rep. Bradley, Hills. 43; Rep. Hamblet, Rock. 31

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill prohibits the open carrying or display of a deadly weapon within 100 feet of a polling place.

Explanation: Matter added to current law appears in ***bold italics***.  
Matter removed from current law appears [~~in brackets and struck through~~].  
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

22-2425

11/04

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Twenty Two*

AN ACT prohibiting open carrying or display of a deadly weapon within 100 feet of a polling place.

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

1 New Section; Elections; Prohibited Acts; Openly Carrying or Displaying Deadly Weapon. Amend RSA 659 by inserting after section 40-a the following new section:

659:40-b Open Carry or Display of Deadly Weapon at Polling Place Prohibited.

I. No person shall openly carry or display a loaded or unloaded pistol, revolver, firearm, or other deadly weapon, as defined in RSA 625:11, V, whether licensed or unlicensed, within 100 feet of a polling place or the preferred area for electioneering established pursuant to RSA 659:43, III during any day when a federal, state, or municipal election is held.

II. For the purposes of this section, "polling place" shall mean:

(a) The interior of any building where an eligible person may vote during any day when an election for federal, state, or municipal offices is held;

(b) Parking areas, paths of travel, curbs, lawns, patios, plazas, and exterior stairs and ramps within a radius of 100 feet of a building where voting in a federal, state, or municipal election is taking place; and

(c) Areas within a radius of 100 feet of the preferred area for electioneering established pursuant to RSA 659:43, III. III. A notice containing the provisions of paragraph I shall be conspicuously posted at each public entrance to a building being utilized as a polling place on the day of any federal, state, or municipal election.

IV. Any person who violates this section shall be guilty of a violation and fined \$500 for a first offense and shall be guilty of a misdemeanor for each subsequent offense.

V.(a) This section shall not apply to United States Marshals, sheriffs, or other law enforcement officers when on duty at a polling place; nor to voters or election officials legally carrying concealed firearms or other deadly weapons who do not openly carry or display those weapons.

(b) This section shall not apply to any person who secures a rifle or shotgun on a rack in a pickup truck and who does not remove such rifle or shotgun while such truck is located at the polling place.

VI. Nothing in this section shall preclude prosecution or sentencing for any other violation of RSA 659:34-45.

2 New Section; Pistols and Revolvers; Open Carry and Display at Polling Place Prohibited. Amend RSA 159 by inserting after section 19-a the following new section:

159:19-b Open Carry or Display of Deadly Weapon Prohibited at a Polling Place. Pursuant to RSA 659:40-b, no person shall openly carry or display a loaded or unloaded pistol, revolver, firearm, or other deadly weapon, as defined in RSA 625:11, V, whether licensed or unlicensed, within 100 feet of a polling place or the preferred area for electioneering established pursuant to RSA 659:43, III during any day when a federal, state, or municipal election is held.

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

LBA  
22-2425  
10/13/21

**HB 1096-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT prohibiting open carrying or display of a deadly weapon within 100 feet of a polling place.

**FISCAL IMPACT:**     State                     County                     Local                     None

| STATE:                 | Estimated Increase / (Decrease)             |                                    |                                  |                                |
|------------------------|---|------------------------------------|----------------------------------|--------------------------------|
|                        | FY 2022                                     | FY 2023                            | FY 2024                          | FY 2025                        |
| <b>Appropriation</b>   | \$0   | \$0                                | \$0                              | \$0                            |
| <b>Revenue</b>         | \$0   | \$0                                | \$0                              | \$0                            |
| <b>Expenditures</b>    | \$0   | 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> | \$0 | Indeterminable Increase | Indeterminable Increase | Indeterminable Increase |

**METHODOLOGY:**

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 Council  | FY 2022                                      | FY 2023                                      |
|---|--|--|
| Public Defender Program   | Has contract with State to provide services. | Has contract with State to provide services. |
| Contract Attorney – Misdemeanor   | \$300/Case                                   | \$300/Case                                   |
| Assigned Counsel – Misdemeanor  | \$60/Hour up to \$1,400                      | \$60/Hour up to \$1,400                      |
| 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 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. |  |  |
| 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                               |

This bill contains penalties that will have an indeterminable impact on the Judicial Branch system. 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. 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.

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 more cases or handle more appeals, then costs will increase by an indeterminable amount.

It is assumed any fiscal impact would not occur until FY 2023.

**AGENCIES CONTACTED:**

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

