

HB 32-FN - AS INTRODUCED

2023 SESSION

23-0069

04/08

HOUSE BILL **32-FN**

AN ACT relative to possession or discharge of a firearm in a safe school zone.

SPONSORS: Rep. Shurtleff, Merr. 15; Rep. M. Paige, Rock. 11; Rep. Levesque, Straf. 4; Rep. Edgar, Rock. 29; Rep. Schuett, Merr. 12

COMMITTEE: Criminal Justice and Public Safety

ANALYSIS

This bill adds a criminal offense for the possession or discharge of a firearm in a safe school zone.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

23-0069

04/08

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Three

AN ACT relative to possession or discharge of a firearm in a safe school zone.

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

1 Safe School Zones; Definitions. Amend RSA 193-D:1 to read as follows:

193-D:1 Definitions. In this chapter:

I. "Act of theft, destruction, or violence" means an act set forth in the following statutes regardless of the age of the perpetrator:

- (a) Any of the offenses enumerated in RSA 189:13-a, V.
- (b)(1) Any first or second degree assault under RSA 631.
- (2) Any simple assault under RSA 631:2-a.
- (c) Criminal mischief under RSA 634:2.
- (d) Unlawful possession or sale of a firearm ***under RSA 193-D:10***, or other dangerous weapon under RSA 159.
- (e) Arson under RSA 634:1.
- (f) Burglary under RSA 635.
- (g) Robbery under RSA 636.
- (h) Theft under RSA 637.
- (i) Illegal sale or possession of a controlled drug under RSA 318-B.
- (j) Criminal threatening under RSA 631:4.

II. "Safe school zone" means an area inclusive of any school property or school buses ***including any area:***

(a) In, or on the grounds of, a public, nonpublic, or private school; or

(b) Within a distance of 1,000 feet from the grounds of a public, nonpublic, or private school.

III. "School" means any public or private elementary, secondary, or [~~secondary-vocational-technical~~] ***career technical education*** school in New Hampshire. It shall not include home schools under RSA 193-A.

IV. "School employee" means any school administrator, teacher, or other employee of any public or private school, school district, school department, or school administrative unit, or any person providing or performing continuing contract services for any public or private school, school district, school department, or school administrative unit.

V. "School property" means all real property, physical plant and equipment used for school purposes, including but not limited to school playgrounds and buses, whether public or private.

VI. "School purposes" means school-sponsored programs, including but not limited to educational or extra-curricular activities.

2 New Subdivision; Prohibitions Against Possession or Discharge of a Firearm in a Safe School Zone. Amend RSA 193-D by inserting after section 9 the following new subdivision:

Prohibitions Against Possession or Discharge of a Firearm in a Safe School Zone.

193-D:10 Prohibitions Against Possession or Discharge of a Firearm in a Safe School Zone.

I. It shall be unlawful for any individual knowingly to possess a firearm at a place that the individual knows, or has reasonable cause to believe, is a safe school zone.

II. This subdivision shall not apply to the possession of a firearm:

- (a) On private property not part of school grounds;

(b) If the individual possessing the firearm is licensed to do so and law enforcement authorities have verified that the individual is qualified under state law to receive the license;

(c) Which is:

(1) Not loaded; and

(2) In a locked container, or a locked firearms rack which is in a motor vehicle;

(d) By an individual for use in a program approved by a school in the safe school zone;

(e) By an individual in accordance with a contract entered into between a school in the school zone and the individual or an employer of the individual;

(f) By a law enforcement officer acting in his or her official capacity; or

(g) That is unloaded and is possessed by an individual while traversing school premises for the purpose of gaining access to public or private lands open to hunting, if the entry on school premises is authorized by school authorities.

III. Except as provided in paragraph IV, it shall be unlawful for any person, knowingly or with reckless disregard for the safety of another, to discharge or attempt to discharge a firearm at a place that the person knows is a safe school zone.

IV. Paragraph III shall not apply to the discharge of a firearm:

(a) On private property not part of school grounds;

(b) As part of a program approved by a school in the safe school zone, by an individual who is participating in the program;

(c) By an individual in accordance with a contract entered into between a school in a safe school zone and the individual or an employer of the individual; or

(d) By a law enforcement officer acting in his or her official capacity.

V. Any person who is convicted of violating any provision of this subdivision shall be guilty of a class B misdemeanor for a first offense; a class A misdemeanor for a second offense, and a class B felony for a third or subsequent offense.

3 Effective Date. This act shall take effect January 1, 2024.

LBA

23-0069

10/20/22

**HB 32-FN- FISCAL NOTE
AS INTRODUCED**

AN ACT relative to possession or discharge of a firearm in a safe school zone.

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

STATE:	Estimated Increase / (Decrease)			
	FY 2023	FY 2024	FY 2025	FY 2026
Appropriation	\$0	\$0	\$0	\$0
Revenue	\$0	\$0	\$0	\$0
Expenditures	\$0	Indeterminable	Indeterminable	Indeterminable
Funding Source:	[X] General	[] Education	[] Highway	[] Other

COUNTY:

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

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, if any, 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 2023	FY 2024 through 12/31/23	FY 2024 (Starting 1/1/24 with repeal of Felonies First)
Violation and Misdemeanor Level Offense	\$119	\$122	\$122
Complex Felony Case	\$3,195	\$3,244	\$3,366
Routine Criminal Case	\$644	\$657	\$779
Appeals	Varies	Varies	Varies

Judicial Council	FY 2023	FY 2024
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney - Felony	\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)	\$825/Case \$105 administrative fee \$200 incarceration fee (If applicable)
Contract Attorney – Misdemeanor	\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)	\$300/Case \$70 administrative fee \$100 incarceration fee (If applicable)

Assigned Counsel - Felony. Homicide including capital cases. Travel time to court does not count toward the cap.	\$125/Hour up to \$20,000	\$125/Hour up to \$20,000
Assigned Counsel - Felony. Travel time to court does not count toward the cap.	\$90/Hour up to \$5,500	\$90/Hour up to \$5,500
Assigned Counsel- Misdemeanor. Travel time to court does not count toward the cap.	\$90/Hour up to \$2,000	\$90/Hour up to \$2,000
Assigned Counsel - Supreme Court Appeal	\$125/Hour up to \$10,000	\$125/Hour up to \$10,000
<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 of 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.</p>		
Department of Corrections	FY 2023	FY 2024
FY 2022 Average Cost of Incarcerating an Individual	\$64,223	\$64,223
FY 2022 Annual Marginal Cost of a General Population Inmate	\$6,123	\$6,123
FY 2022 Average Cost of Supervising an Individual on Parole/Probation	\$688	\$688
<p>The Department notes any increase in the incarcerated population will have a direct impact on overtime costs given the Department's history of challenges associated with recruitment. In addition, the New Hampshire State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.</p>		
NH Association of Counties	FY 2023	FY 2024
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	\$105 to \$125	\$105 to \$125

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.

AGENCIES CONTACTED:

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