

**HB 609-FN - AS INTRODUCED**

2019 SESSION

19-0044  
04/06

HOUSE BILL ***609-FN***

AN ACT relative to penalties for possession or distribution of child erotica.

SPONSORS: Rep. Panasiti, Hills. 22

COMMITTEE: Criminal Justice and Public Safety

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ANALYSIS

This bill establishes a criminal penalty for possession or distribution of child erotica images.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

19-0044  
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STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Nineteen*

AN ACT relative to penalties for possession or distribution of child erotica.

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

1 New Paragraphs; Child Sexual Abuse Images; Definition. Amend RSA 649-A:2 by inserting after paragraph VII the following new paragraphs:

VIII. "Commercially available" means for sale to the general public.

IX. "Purely prurient purposes" means for the specific purpose of sexual gratification or sexual arousal from viewing the visual representations.

2 New Section; Possession or Distribution of Child Erotica. Amend RSA 649-A by inserting after section 3-b the following new section:

649-A:3-c Possession or Distribution of Child Erotica. Any person who purposely or knowingly produces, possesses, displays, distributes, or disseminates, in any form, any visual representation of a partially-clothed child, where the visual representations are unrelated to the sale of a commercially available legal product and are used for purely prurient purposes, shall be guilty of a class A misdemeanor and sentenced to imprisonment for not more that one year, or a fine not to exceed \$1,000, or both.

3 Effective Date. This act shall take effect January 1, 2020.

LBAO  
19-0044  
1/11/19

**HB 609-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT relative to penalties for possession or distribution of child erotica.

**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 establishes a criminal penalty for possession or distribution of child erotica images 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
Class A Misdemeanor	\$76	\$77
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 – 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. 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%).		
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, Department of Justice, and New Hampshire Association of Counties

