

2026 SESSION JUDICIAL AND CORRECTIONAL SYSTEMS COSTS

This bill adds, deletes, or modifies a criminal penalty, or changes statute to which there is a penalty for violation. Therefore, this bill may have an impact on the judicial and correctional systems, which could affect prosecution, incarceration, probation, and parole costs, for the state, as well as county and local governments. A summary of such costs can be found at:

https://gencourt.state.nh.us/lba/Budget/Fiscal_Notes/JudicialCorrectionalCosts.pdf

Judicial Branch	FY 2026	FY 2027
Violation and Misdemeanor Level Offenses	\$132	\$140
Complex Felony Case	\$3,443	\$3,580
Routine Criminal Case	\$712	\$751
Appeals	Varies	Varies
Protective Orders	\$269	\$280
Judicial Council	FY 2026	FY 2027
Public Defender Program	Has contract with State to provide services.	Has contract with State to provide services.
Contract Attorney – Other Felonies (Non-major crimes)	\$1,500/Case administrative fee (see below*) \$300 incarceration fee (If applicable)	\$1,500/Case administrative fee (see below*) \$300 incarceration fee (If applicable)
Contract Attorney – Misdemeanors	\$900/Case administrative fee (see below*) \$150 incarceration fee (If applicable)	\$900/Case administrative fee (see below*) \$150 incarceration fee (If applicable)
Assigned Counsel - Homicides including capital cases. Travel time to court does not count toward the cap.	\$150/Hour up to \$30,000	\$150/Hour up to \$30,000
Assigned Counsel - Major Crimes. (Aggravated felonious sexual assault, felonious sexual assault, first degree assault, class A felony robbery and felony arson.) Travel time to court does not count toward the cap.	\$150/Hour up to \$19,000	\$150/Hour up to \$19,000
Assigned Counsel - Other Felonies. Travel time to court does not count toward the cap.	\$125/Hour up to \$8,000	\$125/Hour up to \$8,000

Assigned Counsel- Misdemeanors. Travel time to court does not count toward the cap.	\$125/Hour up to \$3,000	\$125/Hour up to \$3,000
Assigned Counsel - Supreme Court Appeals	\$125/Hour up to \$14,000	\$125/Hour up to \$14,000

**Administrative fees for contract attorneys, which were previously a set fee in each case, are calculated depending upon the size of the attorney's contract (i.e., contract attorneys who accept more contract cases receive a higher administrative fee).*

The costs in the table above do not include the amounts necessary for services other than counsel (experts, investigation, translators, evaluations, and other necessary litigation costs). In calendar year 2024, these costs were \$3.81 million. The fees for contract attorneys and assigned counsel indigent defense cases are likely to increase as the Judicial Council seeks to ensure an adequate number of attorneys are available for these cases. To be eligible for indigent defense representation and services, a person must be found to be indigent and be facing potential incarceration. Historically, approximately 85% of the indigent defense caseload has been handled by the public defender program, with the remaining cases assigned to contract attorneys or assigned counsel. However, the distribution of cases has shifted significantly in recent years due to excessive caseloads and staff attrition at the public defender program, a decrease in the number of lawyers participating in the contract attorney program, and other systemic factors. There are still delays in appointing counsel in some cases, and there is a greater reliance on the assigned counsel system to handle cases that the public defender program and contract attorney programs are unable to accept.

Department of Corrections (Prior year average costs are assumed for FY 2026 and FY 2027)	FY 2026	FY 2027
Average Cost of Incarcerating an Individual	\$81,753	\$81,753
Annual Marginal Cost of a General Population Inmate	\$8,483	\$8,483
Average Cost of Supervising an Individual on Parole/Probation	\$3,016	\$3,016

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 NH State Prison for Men has a degrading infrastructure which will only be exacerbated if an increase in the incarcerated population were to occur.

NH Association of Counties	FY 2026	FY 2027
County Prosecution Costs	Indeterminable	Indeterminable
Estimated Average Daily Cost of Incarcerating an Individual	Indeterminable	Indeterminable

The Association of Counties states that the counties are responsible for those sentenced to jail for less than a year or individuals who are being held pretrial. An average daily cost for an inmate held at a county facility

cannot be determined as the cost depends on a variety of factors, including but not limited to short stays, increasing medical cost, wage increases and increases in the cost food and supplies.

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.

Violations of the Consumer Protection Act, RSA 358-A, are enforced by the Consumer Protection and Antitrust Bureau of the Attorney General's Office. The Department of Justice states such violations may increase the number of investigations and enforcement actions taken by the Bureau; including issuing administrative subpoenas, entering Assurances of Discontinuance, and civil or criminal enforcement actions. Based on the number of increased investigations and enforcement actions, the Department may need additional resources.

New Hampshire Municipal Association indicates that municipal police departments investigate most offenses, excluding homicides and other major crimes where jurisdiction resides solely in the state police. Additionally, violations and misdemeanors are often prosecuted by municipal prosecutors, who may be local police officers, attorneys hired by the municipality to prosecute, or county attorneys' offices contracted by the municipality to prosecute offenses. While it is not possible to determine how many additional investigations or charges would be brought because of the changes contained in this bill, there may be increased municipal costs associated with the changes. Officers and prosecutors will need to be trained on the changes, and it may be necessary to devote additional time and resources investigating the offense and the prosecutorial process. The additional time and resources necessary will vary by jurisdiction.

AGENCIES CONTACTED:

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