

# Bill as Introduced

SB 123 - AS INTRODUCED

2011 SESSION

11-1069

01/05

SENATE BILL **123**

AN ACT relative to notification if a person found incompetent to stand trial and civilly committed is released into the community.

SPONSORS: Sen. Bradley, Dist 3; Sen. Barnes, Jr., Dist 17; Sen. Boutin, Dist 16; Sen. Carson, Dist 14; Sen. De Blois, Dist 18; Sen. Gallus, Dist 1; Sen. Lambert, Dist 13; Sen. Odell, Dist 8; Sen. Stiles, Dist 24; Sen. White, Dist 9; Rep. Sorg, Graf 3

COMMITTEE: Judiciary

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ANALYSIS

This bill clarifies the notification required if a person found incompetent to stand trial and civilly committed is released into the community.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

*In the Year of Our Lord Two Thousand Eleven*

AN ACT                   relative to notification if a person found incompetent to stand trial and civilly committed is released into the community.

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

1           1 Notification Authorized. Amend RSA 135:17-b to read as follows:

2           135:17-b Notification Authorized. Notwithstanding any provision of law to the contrary, in the  
3 event that a person who has been charged with murder, pursuant to RSA 630:1, I-a, or I-b,  
4 manslaughter, or aggravated felonious sexual assault, found incompetent to stand trial pursuant to  
5 RSA 135:17-a, and civilly committed pursuant to RSA 135-C, is discharged to the community, either  
6 conditionally or [~~otherwise~~] **absolutely**, the department of health and human services shall  
7 immediately notify the attorney general, who shall notify the family of the [~~homicide~~] victim, **or the**  
8 **victim of aggravated felonious sexual assault if an adult**, and the law enforcement agency in  
9 the community to which the person is being discharged. **For purposes of this section, discharge**  
10 **shall include the initial authorization by the administrative review committee of**  
11 **New Hampshire hospital to allow a person to leave the grounds of the hospital**  
12 **unaccompanied by a hospital staff member**

13           2 Applicability. RSA 135:17-b as amended by section 1 of this act shall be applicable to the  
14 discharge of any qualified individual who is under an order of civil commitment on or after  
15 September 11, 2010.

16           3 Effective Date. This act shall take effect 60 days after its passage.

CHAPTER 251  
SB 123 - FINAL VERSION

06/22/11 2414CofC

2011 SESSION

11-1069  
01/05

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06/22/11 2414CofC

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1 251:1 Notification Authorized. Amend RSA 135:17-b to read as follows:

2 135:17-b Notification Authorized. Notwithstanding any provision of law to the contrary, in the  
3 event that a person who has been charged with murder, pursuant to RSA 630:1, I-a, or I-b,  
4 manslaughter, or aggravated felonious sexual assault, found incompetent to stand trial pursuant to  
5 RSA 135:17-a, and civilly committed pursuant to RSA 135-C, is discharged to the community, either  
6 conditionally or [~~otherwise~~] **absolutely**, the department of health and human services shall  
7 immediately notify the attorney general, who shall notify the family of the [~~homicide~~] victim, **or the**  
8 **victim of aggravated felonious sexual assault if an adult**, and the law enforcement agency in  
9 the community to which the person is being discharged. **For purposes of this section, discharge**  
10 **shall include the initial authorization by the administrative review committee of**  
11 **New Hampshire hospital to allow a person to leave the grounds of the hospital**  
12 **unaccompanied by a hospital staff member.**

13 251:2 Applicability. RSA 135:17-b as amended by section 1 of this act shall be applicable to the  
14 discharge of any qualified individual who is under an order of civil commitment on or after  
15 September 11, 2010.

16 251:3 Effective Date. This act shall take effect 60 days after its passage.

17 Approved: July 13, 2011

18 Effective Date: September 11, 2011

# Amendments

Rep. Kreis, Merr. 6  
Rep. Itse, Rock. 9  
April 26, 2011  
2011-1589h  
01/04

## Amendment to SB 123

Amend the title of the bill by replacing it with the following:

AN ACT           relative to notification if a person found incompetent to stand trial and civilly committed is released into the community and relative to the prosecution of certain accused persons who have been found incompetent to stand trial.

Amend the bill by inserting after section 2 the following and renumbering the original section 3 to read as 4:

3 Limitations. Amend RSA 625:8, VI to read as follows:

VI. The period of limitations does not run:

(a) During any time when the accused is continuously absent from the state or has no reasonably ascertained place of abode or work within this state; ~~or~~

(b) During any time when a prosecution is pending against the accused in this state based on the same conduct; *or*

(c) *During any time that a person who has been charged with murder pursuant to RSA 630:1, RSA 630:1-a, or RSA 630:1-b, manslaughter or aggravated felonious sexual assault is found and remains incompetent to stand trial pursuant to RSA 135:17-a.*

2011-1589h

## AMENDED ANALYSIS

This bill clarifies the notification required if a person found incompetent to stand trial and civilly committed is released into the community. The bill also provides that the period of limitations on prosecution shall not run anytime that a person who has been charged with certain crimes is found and remains incompetent to stand trial.



# Committee Minutes

**SENATE CALENDAR NOTICE  
JUDICIARY**

Senator Matthew Houde Chairman  
 Senator Sharon Carson V Chairman  
 Senator Fenton Groen  
 Senator Jim Luther

For Use by Senate Clerk's Office ONLY	
<input type="checkbox"/>	Bill Status
<input type="checkbox"/>	Docket
<input type="checkbox"/>	Calendar
Proof: <input type="checkbox"/>	Calendar <input type="checkbox"/> Bill Status

**Date: February 15, 2011**

**HEARINGS**

**Thursday**

**2/24/2011**

JUDICIARY

LOB 101

2:30 PM

(Name of Committee)

(Place)

(Time)

**EXECUTIVE SESSION MAY FOLLOW**

2:30 PM SB52-FN  
 3:00 PM SB180  
 3:15 PM SB123 ✓

excluding persons convicted of violent crimes and sexually violent persons from mandatory early release on probation or parole.  
 establishing a committee to study the availability of community supervision programs for prisoners released on probation or parole.  
 relative to notification if a person found incompetent to stand trial and civilly committed is released into the community.

**Sponsors:**

**SB52-FN**

Sen. Peter Bragdon  
 Sen. Sharon Carson  
 Sen. Jim Rausch

Sen. John Gallus  
 Sen. David Boutin  
 Sen. James Forsythe

Sen. Jeb Bradley  
 Sen. John Barnes, Jr.

Sen. Bob Odell  
 Sen. Gary Lambert

**SB180**

Sen. Sylvia Larsen  
 Rep. Stephen Shurtleff

Sen. Amanda Merrill

Sen. Lou D'Allesandro

Sen. Molly Kelly

**SB123**

Sen. Jeb Bradley  
 Sen. Sharon Carson  
 Sen. Bob Odell

Rep. Gregory Sorg  
 Sen. Tom De Blois  
 Sen. Nancy Stiles

Sen. John Barnes, Jr.  
 Sen. John Gallus  
 Sen. Raymond White

Sen. David Boutin  
 Sen. Gary Lambert

Susan Duncan 271-8631

Sen. Matthew Houde

Chairman

# Judiciary Committee

## Hearing Report

**TO:** Members of the Senate

**FROM:** Susan Duncan, Senior Legislative Aide

**RE:** Hearing report on SB 123 – **relative to notification if a person found incompetent to stand trial and civilly committed is released into the community.**

**HEARING DATE:** February 24, 2011

**MEMBERS OF THE COMMITTEE PRESENT:** Senators Houde, Carson, Luther and Groen

**MEMBERS OF THE COMMITTEE ABSENT:** No one

**Sponsor(s):** Senators Bradley, Barnes, Boutin, Carson, De Blois and Gallus; Lambert, Odell, Stiles and White; Representative Sorg

**What the bill does:** This bill clarifies the notification required if a person found incompetent to stand trial and civilly committed is released into the community.

**Who supports the bill:** Senator Bradley; Senator Stiles; Senator Barnes; Senator Carson; Senator Boutin; Senator White; Senator Gallus; Senator Lambert; Attorney Ann Rice, Department of Justice; John Wallace, DHHS;

**Who opposes the bill:** Chris Dornin, Citizens for Criminal Justice Reform; Attorney Michael Skibbie, the Disabilities Rights Center; Peter Bearse, Citizens for Criminal Justice Reform

### **Summary of testimony received:**

- **Senator Houde** opened the hearing at 4:53 p.m. and called on the bill's prime sponsor.
- **Senator Bradley** introduced the legislation and explained that an incident in his district brought to light a year ago involving an alleged murdered who was subsequently released back into the community. Then this individual was civilly committed again. As a result, an amendment was adopted requiring notification of the victim's family. The Attorney General subsequently came in and asked for this bill to accomplish clarifications.

- **Attorney Rice** testified in support and explained that they requested that Senator Bradley please file this in order to clarify language from last year's bill. She explained that "murder" is not specifically defined in statute, and this provides needed clarification. She explained that this is particularly important in violent crimes. She also said that this defines "discharge" and whether it means a conditional discharge or an absolute discharge. She explained that she had worked together with John Wallace of DHHS in coming up with the proposed language.
- The last part of the bill clarifies to whom this applies – is it everyone who was already released – or only those released in the future. She explained that the date of September 11, 2010 is included as this is the effective date of last year's legislation – clarifying that this legislation deals with all those released after that date.
- **John Wallace** testified in support. He spoke regarding the discharge language and how the prior language had used "conditional or otherwise" – and yet there are only two types of discharge, conditional or absolute.
- He noted for the record that this deals with a very small population of people but those who are involved in the restoration of competency, if possible. He further noted that they are not a corrections facility but a treatment facility. He said that even though they had dealt with the mental health issues, this would not involve the individual being released.
- He explained that at NH Hospital, a conditional discharge is not like probation or parole. Their discharge orders would read something like "John Doe is conditionally discharged back to (facility name) on (date)."
- He said that the process now is that they would call the Attorney General's office who would subsequently notify the victim and law enforcement where the person is being discharged.
- He said that this also raised issues such as actions that would allow the individual freedoms short of discharge such as the use of the ward, the hospital campus or cafeteria (where they could possibly be seen by others). Mr. Wallace explained that there are levels of ability to move about with or without supervisions – and that there is a point at which someone gets to go off campus without supervision. These actions are gradually increased over time as the person earns the ability to handle more "freedom."
- He said that it did not make a lot of sense to notify everyone each time an alert is sent out – but that to say to the victims, this person is out and about is reasonable as it is not a substantial number of cases. He said that he believes that these corrections just make the process clearer.
- **Chris Dornin** clarified that he had signed in opposed to the legislation but that after listening to the hearing, it actually sounds like a good idea.
- **Senator Houde** closed the hearing at 5:07 p.m.

**Funding:** Not applicable.

**Future Action:** The Committee took the legislation under consideration.

sfd

[file: SB 123 report]

Date: February 28, 2011

# Speakers



# Committee Report

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STATE OF NEW HAMPSHIRE  
SENATE  
REPORT OF THE COMMITTEE

Date: March 11, 2011

THE COMMITTEE ON Judiciary

to which was referred Senate Bill 123

AN ACT                      relative to notification if a person found incompetent to  
stand trial and civilly committed is released into the  
community

Having considered the same, the committee recommends that the Bill:

**OUGHT TO PASS**

BY A VOTE OF:    4 - 0

AMENDMENT #        s

Senator Sharon M. Carson  
For the Committee

Susan Duncan 271-8631

## New Hampshire General Court - Bill Status System

**Docket of SB123**

Docket Abbreviations

**Bill Title:** relative to notification if a person found incompetent to stand trial and civilly committed is released into the community.

Official Docket of **SB123**:

Date	Body	Description
1/19/2011	S	Introduced and Referred to Judiciary, <b>SJ 3</b> , Pg.37
2/15/2011	S	Hearing: 2/24/11, Room 101, LOB, 3:15 p.m.; <b>SC12</b>
3/11/2011	S	Committee Report: Ought to Pass, 3/23/11; <b>SC16</b>
3/23/2011	S	Ought to Pass, MA, VV; OT3rdg; <b>SJ 10</b> , Pg.185
3/23/2011	S	Passed by Third Reading Resolution; <b>SJ 10</b> , Pg.187
3/28/2011	H	Introduced and Referred to Criminal Justice and Public Safety [3/17/2011]; <b>HJ 30</b> , PG.1037
3/30/2011	H	Public Hearing: 4/7/2011 10:00 AM LOB 204
4/7/2011	H	==CANCELLED== Executive Session: 4/14/2011 1:00 PM LOB 204
4/19/2011	H	Full Committee Work Session: 4/26/2011 10:15 AM LOB 204
4/26/2011	H	Executive Session: 5/3/2011 10:00 AM LOB 204
5/3/2011	H	Committee Report: Ought to Pass with Amendment #1589h(NT) for May 18 (Vote 15-1; CC); <b>HC 39</b> , PG.1320
5/3/2011	H	Proposed Committee Amendment <b>#2011-1589h</b> (New Title); <b>HC 39</b> , PG.1348
5/18/2011	H	Amendment #1589h(NT) Adopted, VV; <b>HJ 44</b> , PG.1532-1533
5/18/2011	H	Ought to Pass with Amendment #1589h(NT): MA VV; <b>HJ 44</b> , PG.1532-1533
6/8/2011	S	Sen. Houde Moved Nonconcur with House Amendment 1589h; NT, Requests C of C, MA, VV; <b>SJ 20</b> , Pg.549
6/8/2011	S	President Appoints: Senators Houde, Groen and Luther; <b>SJ 20</b> , Pg.549
6/8/2011	H	House Accedes to Senate Request for C of C (Rep Swinford): MA VV; <b>HJ 51</b> , PG.1723
6/8/2011	H	Speaker Appoints: Reps Swinford, Kreis, Gagne, and Welch; <b>HJ 51</b> , PG.1723
6/9/2011	S	Committee of Conference Meeting: 6/14/2011, 12:30 p.m., Room 101, LOB
6/16/2011	H	Conference Committee Report <b>#2011-2414c</b> , as Passed by Senate, Filed; <b>HC 49A</b> , PG.1687
6/22/2011	H	Conference Committee Report #2414c Adopted, VV
6/22/2011	S	Conference Committee Report 2414c; Adopted, VV
6/22/2011	H	Enrolled
6/22/2011	S	Enrolled
7/13/2011	S	Signed by the Governor on 07/13/2011; Effective 09/11/2011; Chapter 0251

NH House

NH Senate

# Other Referrals

# COMMITTEE REPORT FILE INVENTORY

           ORIGINAL REFERRAL

           RE-REFERRAL

1. THIS INVENTORY IS TO BE SIGNED AND DATED BY THE COMMITTEE AIDE AND PLACED INSIDE THE FOLDER AS THE FIRST ITEM IN THE COMMITTEE FILE.
2. PLACE ALL DOCUMENTS IN THE FOLDER FOLLOWING THE INVENTORY IN THE ORDER LISTED.
3. THE DOCUMENTS WHICH HAVE AN "X" BESIDE THEM ARE CONFIRMED AS BEING IN THE FOLDER.
4. THE COMPLETED FILE IS THEN DELIVERED TO THE CALENDAR CLERK.

- DOCKET (Submit only the latest docket found in Bill Status)
- COMMITTEE REPORT
- CALENDAR NOTICE
- HEARING REPORT
- PREPARED TESTIMONY AND OTHER SUBMISSIONS HANDED IN AT THE PUBLIC HEARING

SIGN-UP SHEET(S) (1)

**ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:**

- AMENDMENT # 1589K                                 - AMENDMENT #             
           - AMENDMENT #                                            - AMENDMENT #           

**ALL AVAILABLE VERSIONS OF THE BILL:**

AS INTRODUCED                                 AS AMENDED BY THE HOUSE  
 FINAL VERSION                                 AS AMENDED BY THE SENATE

           OTHER (Anything else deemed important but not listed above, such as amended fiscal notes):  
          

DATE DELIVERED TO SENATE CLERK

7/21/11

By:

Susan J. DeLoach  
COMMITTEE AIDE