

Bill as Introduced

SB 64 -- AS INTRODUCED

2011 SESSION

11-0926
09/05

SENATE BILL *64*

AN ACT removing the oath requirement for criminal complaints filed by police officers.

SPONSORS: Sen. Houde, Dist 5; Rep. Sorg, Graf 3

COMMITTEE: Judiciary

ANALYSIS

This bill removes the oath requirement for criminal complaints filed by police officers.

This bill was requested by the supreme court and the department of safety.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 removing the oath requirement for criminal complaints filed by police officers.

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

1 1 Criminal Complaints. Amend RSA 592-A:7, I to read as follows:

2 I. Criminal proceedings before a district court shall be begun by complaint, signed and under
3 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
4 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, [~~for~~
5 ~~a violation level offense~~] shall not require a signature or an oath. Any complaint filed electronically
6 shall include notice that making a false statement on the complaint may result in criminal
7 prosecution.

8 2 Effective Date. This act shall take effect upon its passage.

SB 64 - AS AMENDED BY THE SENATE

02/23/11 0300s

2011 SESSION

11-0926

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SENATE BILL

64

AN ACT

removing the oath requirement for criminal complaints filed by police officers.

SPONSORS:

Sen. Houde, Dist 5; Rep. Sorg, Graf 3

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill removes the oath requirement for criminal complaints filed by police officers.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

SB 64 - AS AMENDED BY THE SENATE

02/23/11 0300s

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

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

1 1 Criminal Complaints. Amend RSA 592-A:7, I to read as follows:

2 I. Criminal proceedings before a district court shall be begun by complaint, signed and under
3 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
4 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for
5 a violation-level offense *or misdemeanor* shall not require a signature or an oath. [~~Any complaint~~
6 ~~filed electronically~~] *All complaints* shall include notice that making a false statement on the
7 complaint may result in criminal prosecution.

8 2 Effective Date. This act shall take effect upon its passage.

CHAPTER 217
SB 64 - FINAL VERSION

02/23/11 0300s
18May2011... 1696h

2011 SESSION

11-0926
09/05

SENATE BILL

64

AN ACT

removing the oath requirement for class B misdemeanor criminal complaints filed by police officers.

SPONSORS:

Sen. Houde, Dist 5; Rep. Sorg, Graf 3

COMMITTEE:

Judiciary

AMENDED ANALYSIS

This bill removes the oath requirement for class B misdemeanor criminal complaints filed by police officers. The bill also requires a police officer filing a criminal complaint to sign the complaint.

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.

CHAPTER 217
SB 64 – FINAL VERSION

02/23/11 0300s
18May2011... 1696h

11-0926
09/05

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Eleven

AN ACT removing the oath requirement for class B misdemeanor criminal complaints filed by police officers.

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

1 217:1 Criminal Complaints. Amend RSA 592-A:7, I to read as follows:

2 I. Criminal proceedings before a district court shall be begun by complaint, signed and under
3 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
4 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for
5 a violation-level offense **or a class B misdemeanor** shall not require ~~[a signature or]~~ an oath. ~~[Any~~
6 ~~complaint]~~ **All complaints** filed ~~[electronically]~~ **by a police officer** shall include **the officer's**
7 **signature and printed name and** notice that making a false statement on the complaint may
8 result in criminal prosecution.

9 217:2 Warrants. Amend RSA 592-A:8 to read as follows:

10 592-A:8 Warrants. A justice of the peace or justice of the district ~~[or municipal]~~ court, upon such
11 complaint **when signed under oath**, may issue a warrant for the arrest of the person so charged
12 with an offense committed or triable in the county, directed to the sheriff of any county or his deputy
13 or to any constable or police officer of any town in the county.

14 217:3 Criminal Complaints. Amend RSA 592-A:7, I to read as follows:

15 I. Criminal proceedings before a ~~[district]~~ **circuit** court shall be begun by complaint, signed
16 and under oath, addressed to such court, briefly setting forth, by name or description, the party
17 accused and the offense charged, provided that a complaint filed by a police officer, as defined in RSA
18 188-F:23, I, for a violation-level offense **or a class B misdemeanor** shall not require ~~[a signature~~
19 ~~or]~~ an oath. ~~[Any complaint]~~ **All complaints** filed ~~[electronically]~~ **by a police officer** shall include
20 **the officer's signature and printed name and** notice that making a false statement on the
21 complaint may result in criminal prosecution.

22 217:4 Warrants. Amend RSA 592-A:8 to read as follows:

23 592-A:8 Warrants. A justice of the peace or justice of the ~~[district or municipal]~~ **circuit** court,
24 upon such complaint **when signed under oath**, may issue a warrant for the arrest of the person so
25 charged with an offense committed or triable in the county, directed to the sheriff of any county or
26 his deputy or to any constable or police officer of any town in the county.

27 217:5 Contingency. If HB 609-FN of the 2011 legislative session becomes law, sections 3 and 4

CHAPTER 217
SB 64 – FINAL VERSION
- Page 2 -

1 of this act shall take effect January 1, 2012 and sections 1 and 2 of this act shall not take effect. If
2 HB 609-FN does not become law, sections 1 and 2 of this act shall take effect January 1, 2012 and
3 sections 3 and 4 of this act shall not take effect.

4 217:6 Effective Date. This act shall take effect January 1, 2012.

5 Approved: June 28, 2011

6 Effective Date: January 1, 2012

Amendments

Sen. Houde, Dist. 5
February 8, 2011
2011-0220s
01/09

Amendment to SB 64

1 Amend RSA 592-A:7, I as inserted by section 1 of the bill by replacing it with the following:

2

3 I. Criminal proceedings before a district court shall be begun by complaint, signed and under
4 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
5 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for
6 a violation-level offense *or misdemeanor* shall not require a signature or an oath. [~~Any complaint~~
7 ~~filed electronically~~] *All complaints* shall include notice that making a false statement on the
8 complaint may result in criminal prosecution.



2011-0220s

AMENDED ANALYSIS

This bill removes the oath requirement for criminal complaints filed by police officers.

Senate Judiciary
February 11, 2011
2011-0300s
04/01

Amendment to SB 64

1 Amend RSA 592-A:7, I as inserted by section 1 of the bill by replacing it with the following:

2

3 I. Criminal proceedings before a district court shall be begun by complaint, signed and under
4 oath, addressed to such court, briefly setting forth, by name or description, the party accused and the
5 offense charged, provided that a complaint filed by a police officer, as defined in RSA 188-F:23, I, for
6 a violation-level offense *or misdemeanor* shall not require a signature or an oath. [~~Any complaint~~
7 ~~filed electronically~~] *All complaints* shall include notice that making a false statement on the
8 complaint may result in criminal prosecution.

Amendment to SB 64

- Page 2 -

2011-0300s

AMENDED ANALYSIS

This bill removes the oath requirement for criminal complaints filed by police officers.

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: January 25, 2011

HEARINGS

Thursday

2/3/2011

JUDICIARY

LOB 101

1:00 PM

(Name of Committee)

(Place)

(Time)

EXECUTIVE SESSION MAY FOLLOW

1:00 PM SB36

relative to the permanent siting of the Hampton-Exeter District Court.

1:15 PM SB65

making technical corrections to a law relative to court facility financing.

1:30 PM SB64 ✓

removing the oath requirement for criminal complaints filed by police officers.

1:45 PM SB63

relative to the list of bail bondsmen and prohibiting law enforcement and corrections officers from indicating preferences for bail bond companies.

Sponsors:

SB36

Sen. Lou D'Allesandro

Sen. Russell Prescott

Sen. Matthew Houde

SB65

Sen. Matthew Houde

Rep. Gregory Sorg

SB64

Sen. Matthew Houde

Rep. Gregory Sorg

SB63

Sen. John Barnes, Jr.

Rep. Daniel Itse

Rep. Timothy Comerford

Judiciary Committee

Hearing Report

TO: Members of the Senate

FROM: Susan Duncan, Senior Legislative Aide

RE: Hearing report on SB 64 – removing the oath requirement for criminal complaints filed by police officers.

HEARING DATE: February 3, 2011

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

MEMBERS OF THE COMMITTEE ABSENT: No one

Sponsor(s): Senator Houde; Representative Sorg

What the bill does: This bill removes the oath requirement for criminal complaints filed by police officers and was requested by the Supreme Court and the Department of Safety.

Who supports the bill: Senator Houde; The Honorable Edwin Kelly, Supervisory Judge of the Family Division and District Court; Attorney Chris Casco of the NH Department of Safety

Who opposes the bill: No one

Summary of testimony received:

- **Senator Carson** opened the hearing at 1:30 p.m. and called on the bill's prime sponsor.
- **Senator Houde** testified in support and explained that he had filed this legislation at the request of the Supreme Court and Department of Safety.
- By way of background, in 2003, the oath requirement was removed for violation level offenses. In order to recognize and acknowledge the seriousness of filing falsely, under 592-A:7 I, the oath is referenced with the language: "Any complaint filed electronically shall include notice that making a false statement on the complaint may result in criminal prosecution."

- Senator Houde explained that as the court system continues to seek efficiencies and move to establish the ability to file either electronically or in person, it clarifies that regardless of how one files, it is still subject to prosecution if one files false claims.
- **Judge Kelly** appeared on behalf of the Judicial Branch in support of the legislation.
- He noted that in the District Court around 100,000 criminal and violation offenses are filed each year. Generally each officer has to come in and swear under oath – or have a JP or Notary at the police station take the oath (if there's one available).
- He stated that obviously when a case goes to trial, everything is again under oath.
- He noted that it is more efficient for the courts as well as for the police to be able to do this.
- He also testified that as the courts are heading toward more electronic filing, this becomes necessary.
- Judge Kelly spoke of the "J-1" process whereby a police officer sitting in the cruiser files a report on his or her laptop. The data would automatically populate data in the system elsewhere. He said that as we move in this direction, the oath requirements need to be done in this manner.
- With the recommended changes taking place in the court system, they are also moving toward more electronic filing.
- **Senator Groen** inquired about the wording in the bill and said that it appears to eliminate any oath, whether a felony or any violation. He asked what circumstances would an officer be either unwilling or unable to provide a signature under oath? Judge Kelly clarified that he was in no way suggesting that any police officer would be unwilling to provide a statement under oath – merely that in some cases, a JP or Notary may not be available to take the oath. He did agree that this would include felonies filed in the District Court.
- **Senator Groen** asked if we could have wording that would correct this issue – could we have an electronic signature, which he sees often in his business. He acknowledged that there are many ways of taking an oath and wondered as we move toward electronic filing, which he is definitely in support of, that it is clear that the officers are still filing under oath. Judge Kelly responded that it is certainly possible to continue to put the affirmation in the document. He noted, having served as a Judge for 25 years now, he said that he cannot remember a case where the voracity has been challenged prior to a trial – and acknowledged that, of course, this is what the trial is all about.

- **Senator Houde** inquired that if it strikes violation, then could it be any filing? And wondered if perhaps a more incremental step such as misdemeanors and violation level offenses would make sense.
- Judge Kelly acknowledged that the current language strikes it for everything but noted that if the Committee is uncomfortable in striking it for felonies, it certainly makes sense to include a notice.
- **Attorney Chris Casco**, the Chief Hearings Office for the Department of Safety, testified in support of the bill.
- He explained that this will ease the administrative burden on the courts and police without compromising quality.
- He noted that in no way would this change the trial process. The police (or prosecutors) would still have to prove the charges beyond a reasonable doubt.
- He noted that in the establishment of the proposed Administrative Traffic Court in the Department of Safety (proposed under the new court restructuring proposals), changes will be coming to allow them to go to easier filing which will be more efficient, less costly, and less administratively burdensome.
- He agreed with Judge Kelly that he is aware of no cases where the officer was unwilling to take an oath. Generally it is due to the inability to find a Notary or Justice of the Peace to administer the oath.
- The hearing ended at 1:45 p.m.

Funding: Not applicable.

Future Action: The Committee took the bill under advisement.

Senator Houde asked Susan to please have an amendment drafted for the Committee to consider.

sfd

[file: HB 64 report]

Date: February 7, 2011

Speakers

Testimony

TITLE XXVII
CORPORATIONS, ASSOCIATIONS,
AND PROPRIETORS OF COMMON
LANDS

CHAPTER 294-E
UNIFORM ELECTRONIC TRANSACTIONS ACT

Section 294-E:7

294-E:7 Legal Recognition of Electronic Records, Electronic Signatures, and Electronic Contracts. –

I. A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

II. A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

III. If a law requires a record to be in writing, an electronic record satisfies the law.

IV. If a law requires a signature, an electronic signature satisfies the law.

Source. 2001, 265:1, eff. Sept. 11, 2001.

Re: SB 64

Committee Report

STATE OF NEW HAMPSHIRE
SENATE
REPORT OF THE COMMITTEE

Date: February 14, 2011

THE COMMITTEE ON Judiciary

to which was referred Senate Bill 64

AN ACT removing the oath requirement for criminal complaints
filed by police officers.

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

OUGHT TO PASS WITH AMENDMENT

BY A VOTE OF: 4 - 0

AMENDMENT # 0300s

Senator Fenton Groen
For the Committee

Susan Duncan 271-8631

New Hampshire General Court - Bill Status System

Docket of SB64

Docket Abbreviations

Bill Title: (New Title) removing the oath requirement for class B misdemeanor criminal complaints filed by police officers.

Official Docket of SB64:

Date	Body	Description
1/19/2011	S	Introduced and Referred to Judiciary, SJ 3 , Pg.34
1/26/2011	S	Hearing: 2/3/2011, Room 101, LOB, 1:30 p.m.; SC9
2/15/2011	S	Committee Report: Ought to Pass with Amendment #2011-0300s , 2/23/11; SC12
2/23/2011	S	Committee Amendment 0300s, AA, VV; SJ 7 , Pg.75
2/23/2011	S	Ought to Pass with Amendment 0300s, MA, VV; OT3rdg; SJ 7 , Pg.75
2/23/2011	S	Passed by Third Reading Resolution; SJ 7 , Pg.77
3/16/2011	H	Introduced and Referred to Judiciary; HJ 28 , Pg.882
3/29/2011	H	Public Hearing: 4/5/2011 10:30 AM LOB 208
4/14/2011	H	Subcommittee Work Session: 4/26/2011 1:00 PM LOB 208
4/27/2011	H	Executive Session: 5/3/2011 10:00 AM LOB 208
5/11/2011	H	Committee Report: Ought to Pass with Amendment #1696h(NT) for May 18 (Vote 16-0; CC); HC 39 , PG.1321
5/11/2011	H	Proposed Committee Amendment #2011-1696h (New Title); HC 39 , PG.1341-1342
5/18/2011	H	Amendment #1696h(NT) Adopted, VV; HJ 44 , PG.1534-1535
5/18/2011	H	Ought to Pass with Amendment #1696h(NT): MA VV; HJ 44 , PG.1534-1535
6/8/2011	S	Sen. Houde Concurs with House Amendment #1696h, NT, MA, VV; SJ 20 , Pg.551
6/8/2011	H	Enrolled
6/8/2011	S	Enrolled
6/28/2011	S	Signed by the Governor on 06/28/2011; Effective 01/01/2012; Chapter 0217

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) Ø
- ALL AMENDMENTS (passed or not) CONSIDERED BY COMMITTEE:
- | | |
|----------------------------------------------------------------|----------------------------------------------|
| <input checked="" type="checkbox"/> - AMENDMENT # <u>0220s</u> | <input type="checkbox"/> - AMENDMENT # _____ |
| <input checked="" type="checkbox"/> - AMENDMENT # <u>0300s</u> | <input type="checkbox"/> - AMENDMENT # _____ |

- ALL AVAILABLE VERSIONS OF THE BILL:
- | | |
|---------------------------------------------------|---------------------------------------------------|
| <input checked="" type="checkbox"/> AS INTRODUCED | <input type="checkbox"/> AS AMENDED BY THE HOUSE |
| <input type="checkbox"/> FINAL VERSION | <input type="checkbox"/> AS AMENDED BY THE SENATE |

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

Ø

DATE DELIVERED TO SENATE CLERK

7/21/11

BY: *Susan A. DeLoach*

COMMITTEE AIDE